

TOWN OF MIDDLEBURY



CHARTER

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PREAMBLE

We the proprietors and inhabitants of the Town of Middlebury, Connecticut, being duly qualified electors of the State of Connecticut, and in the exercise of those privileges, liberties and powers that we have enjoyed since 1807, in order to preserve and protect the property and personal well-being and to promote the individual and general welfare of all our citizens, do hereby declare that this Charter shall constitute our form of Government.

CHAPTER I

INCORPORATION AND GENERAL POWERS

SECTION 101 INCORPORATION

All the inhabitants dwelling within the territorial limits of the Town of Middlebury as heretofore constituted shall continue to be a body politic and corporate under the name of "The Town of Middlebury," hereinafter called "The Town," and as such shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by said Town and not inconsistent with the provisions of this Charter, the additional powers and privileges herein conferred and all powers and privileges conferred upon the Town under the general laws of the State.

SECTION 102 RIGHTS AND OBLIGATIONS

All property, both real and personal, all rights of action and rights of every description and all securities and liens vested or inchoate in said Town as of the effective date of this Charter are continued in said Town, and said Town shall continue to be liable for all debts and obligations of every kind for which said Town shall be liable on said date, whether accrued or not. Nothing herein shall be construed to affect the right of said Town to collect any assessment, charge, debt or lien. If any contract has been entered into by said Town prior to the effective date of this Charter or any bond undertaking has been given by or in favor of said Town that contains provisions that the same may be enforced by any commission, board, department or officer therein named, which is abolished by the provisions of this Charter, such contracts, bonds or undertakings shall be in no manner impaired but shall continue in full force and effect and the powers conferred and the duties imposed with reference to the same upon any such commission, board, department or officer shall, except as otherwise provided in this Charter, thereafter be exercised and discharged by the First Selectman of the said Town.

SECTION 103 GENERAL GRANT OF POWERS

The Town shall have, in addition to the powers specifically granted by the Charter, all powers fairly implied in or incident to the powers expressly granted herein and all other powers incident to the management of the property, government and affairs of the Town, including the power to enter into contracts with the United States or any Federal agency, the State of Connecticut or any political subdivision thereof for services and the use of facilities, the exercise of which is not expressly forbidden by the Constitution and General Statutes of the State of Connecticut. The enumeration of particular powers in this and any other Chapter of this Charter shall not be construed as limiting this general grant of power but shall be considered as an addition thereto.

SECTION 104 EXISTING LAWS AND ORDINANCES

All general laws in their application to the Town and all ordinances and by-laws of the Town shall continue in full force and effect, except insofar as they are inconsistent with the provisions of this Charter. All special acts or parts of special acts relating to the Town of Middlebury inconsistent with the provisions of this Charter are repealed.

SECTION 105 CONDUCT OF MEETINGS

All meetings of any Board or Commission of the Town of Middlebury shall be conducted in accordance with *Robert's Rules of Order*.

CHAPTER II

OFFICERS AND ELECTIONS

SECTION 201 GENERAL

Nominations and elections of Federal and State officers, including Registrars of Voters, and of such elective Town officers, boards, commissions and authorities as are provided for in this Chapter shall be conducted, and the Registrars of Voters shall prepare lists of electors qualified to vote, therefore, in the manner prescribed in the Constitution and the General Statutes and special laws of the State of Connecticut applicable to the Town. The election of Town officers shall be held biennially on the first Tuesday after the first Monday in November in the odd-numbered years.

SECTION 202 ELECTED TOWN OFFICERS, BOARDS, COMMISSIONS AND AUTHORITIES

The following officers and members of boards, commissions and authorities shall be elected for the terms herein specified commencing on the first Monday of December following their election, unless otherwise provided herein, to perform the duties prescribed in this Charter and in the General Statutes, including but not limited to the specific statutes herein referred to (the following shall become effective for the November 2, 2021, municipal election).

First Selectman and Board of Selectmen

A. (1) First Selectman

The First Selectman shall be elected at the Town election in the manner provided in Section 9-188 of the Connecticut General Statutes, as the same may be amended from time to time, for a term of four (4) years to perform the duties in Chapters III and IV of this Charter and Chapter 91 of the Connecticut General Statutes, as the same may be amended from time to time, except as modified by this Charter.

A. (2) Board of Selectmen

Two (2) members of the Board of Selectmen shall be elected at the Town election in the manner provided in Section 9-188 of the Connecticut General Statutes, as the same may be amended from time to time, for a term of two (2) years to perform the duties in Chapters III and IV of this Charter and Chapter 91 of the Connecticut General Statutes, as the same may be amended from time to time, except as modified by this Charter.

No individual shall be eligible to be a candidate of the offices of both First Selectman and Selectmen during the same election cycle. The offices of First Selectman and Board of Selectmen shall constitute a three-member (3) Board for the purposes of the provisions of minority representation as set forth in Sections 209 and 503 of this Charter. No political party shall nominate more than one (1) candidate for the office of Board of Selectmen. Electors may cast votes for a maximum of two (2) candidates (the following shall become effective for the November 7, 2023, municipal election).

A. (2) Board of Selectmen:

Two (2) members of the Board of Selectmen shall be elected at the Town election in the manner provided in Section 9-188 of the Connecticut General Statutes, as the same may be amended from time to time, for a term of four (4) years to perform the duties in Chapters III and IV of this Charter and Chapter 91 of the Connecticut General Statutes, as the same may be amended from time to time, except as modified by this Charter.

The offices of First Selectman and Board of Selectmen shall constitute a three-member (3) Board for the purposes of the provisions of minority representation as set forth in Sections 209 and 503 of this Charter. No political party shall nominate more than one (1) candidate for the office of Board of Selectmen. Electors may cast votes for a maximum of two (2) candidates.

B. Town Clerk

The Town Clerk, who shall also be the Registrar of Vital Statistics, shall be elected at the Town election for a term of four (4) years to perform the duties

prescribed in Chapter 92, Chapter 93 and Title IX of the General Statutes.

C. Tax Collector

The Tax Collector shall be elected at the Town election for a period of four (4) years to perform the duties prescribed in Chapter 204 of the General Statutes. In issuing local property tax bills in pursuance to his or her duties, the Tax Collector shall ensure that those bills indicate the percentage of the total bill attributable to the budget of the Town of Middlebury and the percentage attributable to the budget of Regional School District No. 15.

D. Treasurer

The Treasurer shall be elected at each Town election for a term of two (2) years.

E. Board of Finance

There shall be a Board of Finance having six (6) members and a panel of three (3) alternates to perform the duties prescribed in Chapter VII of this Charter and, to the extent not modified herein, the duties prescribed in Chapters 106 and 108 of the General Statutes. At each biennial election, two (2) members shall be elected for terms of six (6) years on a rotating basis as terms expire. Alternates shall be appointed as set forth in Section 506.

F. Board of Police Commissioners

There shall be a Board of Police Commissioners consisting of five (5) members, elected for terms of four (4) years. Three (3) Commissioners are to be elected at the Town election next held after the effective date of this Charter and two (2) Commissioners at the Town election held next thereafter. Alternately thereafter, newly elected Commissioners will succeed those whose terms expire. In addition to performing such duties and functions as are provided in the General Statutes, the Commissioners shall be responsible for recommending a person to the Board of Selectmen for appointment as Chief of Police. Such person shall have training and experience as specified in the position description on file with the Town Clerk.

G. Water Pollution Control Authority

There shall be a Water Pollution Control Authority consisting of five (5) members. At each biennial election, two (2) members or three (3) members shall be elected for terms of four (4) years on a rotating basis as terms expire.

H. Library Trustees

There shall be six (6) Library Trustees. At each biennial election, two (2) Trustees shall be elected for terms of six (6) years on a rotating basis as terms expire. In addition to performing such duties and functions as are provided in the General Statutes, the Trustees shall be responsible for recommending a person to the Board of Selectmen for appointment as Library Director. Such person shall have such training and experience as specified in the position description on file with the Town Clerk.

I. Board of Assessment Appeals

There shall be a Board of Assessment Appeals having three (3) members to perform the duties prescribed in Sections 12-110 through 12-117 of the General Statutes. At each biennial election, one (1) member or two (2) members shall be elected for terms of four (4) years on a rotating basis as terms expire. When the number of members of the Board of Assessment Appeals to be elected is even, no person shall vote for more than one-half the number, and when the number to be elected is odd, no person shall vote for more than a bare majority.

J. Pomperaug Valley Water Authority

Three (3) members shall be elected to the Pomperaug Valley Water Authority in the manner provided in 1969 Special Act No. 174 (Connecticut Special Acts Volume XXXIV, Page 194) and 1971 Special Act No. 72 to perform the duties prescribed in said Special Acts (i.e., one (1) member shall be elected at each biennial Town election for a term of six (6) years on a rotating basis).

SECTION 203 REGISTRARS OF VOTERS

Two Registrars of Voters shall be elected at the State Election preceding the expiration of the term of office of the incumbents, each for a term of four (4) years commencing the Wednesday after the first Monday of January succeeding their

election to perform the duties prescribed in Title IX of the General Statutes. In accordance with the prescribed duties of the Registrars of Voters, the appointment of election moderators shall be made in accordance with the provisions of Section 9-229 of the Connecticut General Statutes, as the same may be amended from time to time.

SECTION 204 JUSTICES OF THE PEACE

No more than eighty-one (81) Justices of the Peace shall be chosen in the manner provided in Section 9-184 of the General Statutes with fifty-four (54) selected by the major political parties as defined in Section 9-372 of the General Statutes, and twenty-seven (27) to be selected from electors who shall make application for such position and who are not members of major political parties as set forth in Public Act 94-230 and by the means set forth therein. Each Justice of the Peace shall have a term of four (4) years commencing on the first Monday of January succeeding their nomination in accordance with Section 9-183b of the General Statutes.

SECTION 205 REGIONAL BOARD OF EDUCATION

The Town shall elect as many members of the Board of Education of Regional School District No. 15 for such terms and on such system of rotation as prescribed by the General Statutes and the plan or plans governing such matters as are adopted pursuant to the General Statutes.

***SECTION 206 TRANSITIONS OF ELECTED OFFICERS, BOARDS,
COMMISSIONS AND AUTHORITIES***

All incumbent elected officers, board members, commission members

and authority members shall continue to hold the office to which they were elected until their successors elected hereunder are qualified to succeed them.

SECTION 207 *NOMINATION OF CANDIDATES*

Nomination of candidates for election to any Town office shall be made pursuant to the provisions of Part III of Chapter 153 of the General Statutes.

SECTION 208 *COMPENSATION*

Members of the Board of Selectmen, the Town Clerk, the Tax Collector, the Treasurer and the Registrars of Voters shall receive such compensation as shall be provided in the budget. All other elected Town officers, board members and commissioners shall serve without compensation.

SECTION 209 *MINORITY REPRESENTATION*

Minority representation on any appointive or elective commission, committee, board, agency or similar body of the Town shall be determined in accordance with the provisions of Section 9-167a of the General Statutes:

<u>Total Membership of Board, Commission or Committee</u>	<u>Maximum from One Party</u>
3	2
4	3
5	4
6	4
7	5
8	5
9	6
More Than 9 Members	Two-Thirds of Total

For the purposes of this section, a panel of alternates shall be considered as a separate body.

The procedure set forth in Section 9-167a of the Connecticut General Statutes shall be followed to determine:

1. The maximum numbers of any political party who may be elected at any given time;
2. The winners of any election in which more candidates from the same political party have run than were eligible for election thereunder;
3. The party membership of candidates; and
4. Any other questions arising from the application of this section.

SECTION 210 ELIGIBILITY

No person shall be eligible for election to any Town office, board or commission who is not at the time of election an elector of the Town. Any such person ceasing to be an elector of the Town shall thereupon cease to hold the elected office.

SECTION 211 BREAKING A TIE

When any regular or special municipal election, primary election or referendum conducted pursuant to the provisions of this Charter results in a tie, an adjourned election shall be conducted in accordance with the provisions of Section 9-332 of the General Statutes to determine who shall be elected, or in the case of a question at referendum, whether it shall be accepted or rejected.

SECTION 212 VACANCIES

Except as otherwise provided by the law of the State of Connecticut and with the exception of the provisions set forth in Section 302 B., any vacancy in any elective Town office, from whatever cause arising, shall be filled within ninety (90) days of such vacancy by appointment by the Board of Selectmen for the unexpired portion of the term of the person vacating office or until said office is assumed by a person elected at the next

biennial election, whichever shall be sooner. When filling a vacancy of any officer, board or commission member who was elected as a nominee of a political party, the Board of Selectmen shall fill the vacancy with a person of the same political party as the vacating officer, commission or board member from a list provided by the Town Committee of the Political Party of the vacating officer, commission or board member. The provisions of this Section shall not apply to vacancies on the Regional Board of Education.

SECTION 213 BOARD FOR ADMISSION OF ELECTORS

The Town Clerk and the Registrars of Voters shall constitute the Board of Admission of Electors to perform the duties prescribed in Chapter 143 of the General Statutes subject to change of membership in accordance with the provisions of Section 9-15a of the General Statutes.

CHAPTER III

THE BOARD OF SELECTMEN

SECTION 301 COMPOSITION

The Board of Selectmen shall consist of the First Selectman and two (2) other members who shall be elected at the Town election for the term(s) as hereinbefore provided.

SECTION 302 ORGANIZATION

The newly elected Board of Selectmen shall meet in the Town Hall on the first Monday of December following its election or as soon thereafter as may conveniently be. The meeting shall be called to order by the Town Clerk, who shall administer the oath of office to all members. In the absence of the Town Clerk, the meeting may be called to order and the oath administered by any elector of Middlebury authorized by law to administer oaths. The newly elected First Selectman shall then assume the chair as permanent presiding officer of the Board. The Board shall adopt its own rules of procedure except as specifically provided in this Charter.

A. Acting First Selectman

At the first meeting of the Board of Selectmen after they assume office, the Board shall select an Acting First Selectman from the members of the Board of Selectmen. The Acting First Selectman shall fulfill the duties and responsibilities of the First Selectman in the First Selectman's absence or disability.

B. Disability of First Selectman

1. Notwithstanding the provisions of Section 212, whenever it is determined by the remaining members of the Board of Selectmen that the First Selectman has been unable to discharge the powers and duties of this office for a period of forty-five (45) successive days immediately preceding, the Acting First Selectman shall assume the duties and responsibilities of

the office of the First Selectman.

2. In the event the remaining members of the Board of Selectmen determine within sixty (60) days thereafter that the elected First Selectman no longer is disabled, said First Selectman shall immediately resume the powers and duties of his or her office.

3. If the Board of Selectmen does not make such a determination within said sixty (60) days, they shall at the end of said sixty-day (60) period declare the office vacant and proceed to fill said vacancy in accordance with Section 9-222 of the General Statutes.

C. Vacancies on the Board of Selectmen

1. Notwithstanding the provisions of Section 212 and 302 B., a vacancy shall be deemed to exist in the office of the First Selectman or in the office of either of the other Selectmen if:
 - a. The First Selectman or other Selectman has died;
 - b. The First Selectman or other Selectman has resigned his or her office; or
 - c. The First Selectman or other Selectman has become ineligible to serve under any law of the State of Connecticut or of the United States.
2. At the first Board of Selectmen meeting after the date that any of the situations described in Subsection C.1. of this section becomes applicable, the remaining members of the Board of Selectmen shall declare a vacancy exists in the office of the member at issue. The remaining members shall then take steps to fill the vacancy according to the terms of Connecticut General Statutes Section 9-222, as the same shall be amended from time to time.

SECTION 303 MEETINGS

The Board of Selectmen shall fix the time and place of its regular meetings and provide a method for calling special meetings. Emergency special meetings shall be held only as provided in Section 1-21 of the General Statutes. At any regular meeting, upon the affirmative vote of two-thirds of

the members of the Board of Selectmen present and voting, any subsequent business not included in the agenda of such regular meeting may be considered and acted upon. Only business, notice of which has been included in the call for a special meeting, shall be acted upon at any special meeting. Two (2) members of the Board of Selectmen shall constitute a quorum for the transaction of business. The Board of Selectmen shall act by a majority vote of those present and voting except as otherwise provided in this Charter. The Board of Selectmen may hold an executive session as defined in Section 1-18a of the General Statutes upon an affirmative vote of two-thirds of the members of the Board present and voting taken at a public meeting and stating the reasons for such executive session. The Board shall keep for public inspection an official record of the meetings. The official record shall contain the rules of procedure of the Board.

SECTION 304 GENERAL POWERS AND DUTIES

A. The Board of Selectmen shall have all the powers and duties hereinafter conferred upon the Selectmen and all those powers and duties conferred upon Boards of Selectmen by the Connecticut General Statutes, except as otherwise specifically provided in this Charter.

B. Except as otherwise provided in the Connecticut General Statutes or in this Charter, the Board of Selectmen shall oversee the administration of the Town and of the internal operation of boards, commissions, committees and offices that it fills by appointment.

C. The Board of Selectmen shall generally be responsible for coordinating the activities of all the agencies of the Town and for keeping under review the present and future needs of the Town. The Board of Selectmen, may by resolution or regulation, require such reports from and joint meetings with boards, commissions, committees, authorities and officers as may be useful to the Board of Selectmen in the performance of its duties.

D. The Board of Selectmen shall have the power to recommend to the Town Meeting the enactment, amendment or repeal of an ordinance that is not inconsistent with the provisions of this Charter or the law of the State of Connecticut, and the creation, consolidation or abolition of boards,

commissions, committees, authorities and offices that are not specifically authorized in this Charter.

E. The Board of Selectmen may, by resolutions, appoint special or temporary boards, commissions or committees as it may from time to time deem necessary or advisable to the operation of Town government. In such an event, such special or temporary boards, commissions or committees shall be deemed to terminate one (1) year after their creation unless otherwise provided in the resolution creating such board, commission or committee.

F. Except as otherwise provided in this Charter or the law of the State of Connecticut, the Board of Selectmen shall have the sole power as follows:

(1) To incur indebtedness in the name of the Town and to provide for the due execution of contracts and evidences of indebtedness issued by the Town;

(2) To sell or convey personal property of or for the Town having a value not in excess of five thousand dollars (\$5,000.00) per item, with an aggregate for any fiscal year of five thousand dollars (\$5,000.00).;

(3) To institute, prosecute, defend or negotiate any legal action or proceeding by or against the Town;

(4) To enter into contracts for any services and to purchase or contract to purchase any supplies, materials, equipment and other commodities required by any Town agency; and

(5) To join with any political subdivisions to provide services and facilities in accordance with the applicable provisions of the Connecticut General Statutes.

G. The Board of Selectmen shall make rules and regulations relating to purchasing and bidding procedures for all town boards, agencies, authorities, committees, commissions and offices in consultation with the same.

SECTION 305 EMERGENCY ORDINANCES

If a majority of the Board of Selectmen shall find an emergency exists in the Town affecting the public peace, health and safety, it shall be empowered to adopt rules, regulations, resolutions and ordinances setting forth the facts constituting the emergency, which shall become effective immediately upon the affirmative vote of not less than two (2) members of the Board, without public hearing or notice thereof. Every such emergency measure shall be repealed immediately upon the termination of the emergency and shall in any event automatically stand repealed at the termination of the sixty-first (61st) day following adoption thereof.

In addition, the Board of Selectmen shall within forty-five (45) days of the effective date of this Charter adopt an ordinance covering the subjects of emergency operations, preparedness and the like. In language, said ordinance shall be identical in legal operation to the model ordinance provided to the Town of Middlebury by either the government of the State of Connecticut or the United States.

SECTION 306 VARIATIONS IN SELECTMEN'S COMPENSATION

The monetary compensation of the Selectmen, including the First Selectman, whether by salary or stipend or per diem, shall not be varied but by the operation of the budget process. Such compensation shall be indicated by separate line item(s) for each Selectman specifically setting forth the amount of the budgeted monetary compensation in order to ensure the amounts are known to the members of the Legislative Body during their consideration of the budget, whether at a Town Meeting or Town Budget Referendum. No variation in such compensation may take place but through the budget process.

This section shall not apply to nonmonetary compensation, including any and all fringe benefits, however delivered.

CHAPTER IV

THE FIRST SELECTMAN

SECTION 401 GENERAL

The First Selectman shall be the full-time Chief Executive Officer and Chief Administrative Officer of the Town. The First Selectman shall be a voting and participating member of the Board of Selectmen and shall preside at all meetings of the Board.

The First Selectman shall be an ex officio member of all boards, commissions, authorities and committees of the Town, without vote but with all other privileges of membership, and receive all notices, agendas and minutes.

The First Selectman may assign and delegate duties to Selectmen and to officers responsible to him or her.

SECTION 402 DUTIES

A. General

The First Selectman shall have all the powers, duties and responsibilities conferred upon that office by the General Statutes, any Special Act, Ordinance and this Charter, and all the powers necessary or incidental to the discharge of duties and responsibilities as set forth in this Charter.

B. Specific

Under the general policy direction of the Board of Selectmen, the First Selectman shall be responsible for:

1. Coordinating and supervising the administration of all boards, commissions, authorities, committees, departments and offices of the Town, except those functions expressly reserved or delegated to them by law;

2. The execution and carrying out of all laws governing the Town, including ordinances, resolutions, policies and other actions voted by the Board of Selectmen or the Town Meeting;

3. A continuous review of the current and future needs of the Town, including financial needs and budget requirements, and in connection therewith can require reports and information to be submitted by any agency;

4. Entering into contracts or agreements with government agencies, corporations or others, subject to the approval of the Board of Selectmen and other limitations in this Charter and the law of the State of Connecticut; and

5. Making recommendations to the Board of Selectmen, and coordination and guidance of the Board in the discharge of all its duties and responsibilities.

C. First Selectman not succeeding to subsequent term in Office, Powers, Duties and Restrictions

This section is to define the interim period when an incumbent Board of Selectmen has not been reelected but continues to serve in the office of Selectman until his or her successor is sworn in and has assumed the office of First Selectman. This interim period shall commence at midnight on the day of the Municipal election (first Tuesday after the first Monday in November) and conclude with swearing in of the new First Selectperson shall be restricted from carrying out or authorizing any of the following:

- (a) Increase the pay, allowances and/or benefits of any person employed or under contract by the Town;
- (b) Exercise the power of appointment or promotion of any Town employee;
- (c) Initiate and/or conclude any contract with any person or other entity on behalf of the Town; and
- (d) Renegotiate and/or conclude any alteration of terms, conditions or consideration paid or subsequently due for payment in the matter of any contract previously in effect.
- (e) Except that any of the actions set forth in (a) through (d) above

may be transacted if such is certified as necessary to avoid stoppage of the orderly conduct of the business of the Town, or to avoid an unforeseen emergency and therefore prevent serious impairment of the Town.

In any instance in which it is proposed to renegotiate and/or conclude any alteration of term, conditions or consideration due in a contract, as set forth in subparagraph (d) above, and such contract or agreement has been previously approved/negotiated, in that event, such actions of renegotiation and alteration may be pursued in accordance with all other applicable provisions of this Charter.

SECTION 403 APPOINTIVE OFFICES

The First Selectman shall review and recommend to the Board of Selectmen the names of candidates for appointment to offices, boards, commissions, authorities, agencies and committees required by this Charter.

CHAPTER V

APPOINTED BOARDS, COMMISSIONS AND COMMITTEES

SECTION 501 GENERAL

In order to provide for the proper administration of the business of the Town, the boards, commissions and committees specified in this Chapter shall, except as otherwise provided herein, be appointed by the Board of Selectmen by a majority vote of the entire Board to perform the duties and functions herein provided or provided in the General Statutes, including but not limited to the provisions of the General Statutes referred to specifically herein.

SECTION 502 ELIGIBILITY

Except as otherwise provided herein, all members of boards, commissions and committees shall be electors of the Town and shall have such qualifications as may be prescribed by the Board of Selectmen or by the General Statutes. Except as otherwise provided herein, if any such member shall cease to be an elector of the Town, such person shall thereupon cease to hold such membership.

SECTION 503 MINORITY REPRESENTATION

Minority representation on any appointed board, commission or other similar body of the Town shall be determined in accordance with the provisions of Section 9-167a of the General Statutes, as set forth in Section 209 above.

SECTION 504 REMOVALS

Except as otherwise provided by law, the Board of Selectmen shall have the power to suspend by an affirmative vote of two (2) members and to remove for cause by an affirmative vote of three (3) members any

person appointed to a position by the Board under this Chapter.

In addition to the above provision, any person appointed to a position by the Board of Selectmen under this Chapter who shall have six (6) consecutive unexcused absences from the meetings of the board, commission or committee to which they have been appointed shall be deemed to have resigned from such position. The vacancy created by such resignation shall be filled in accordance with Section 505 of this Chapter.

SECTION 505 VACANCIES

Any vacancy on any appointive board, committee or commission from whatever cause shall be filled by the authority that had the power to make the original appointments to such board, committee or commission. If the vacancy shall be on a board, committee or commission having fixed terms, such vacancy shall be filled for the unexpired portion of such term. All such appointments shall be made in accordance with the provisions of Section 212 above.

SECTION 506 APPOINTED BOARDS, COMMISSIONS AND COMMITTEES

There shall be the following:

- A. Planning and Zoning Commission and Alternates consisting of five (5) members and a panel of three (3) alternates appointed to perform the duties prescribed in Chapters 124 and 126 of the General Statutes. Members shall be appointed for terms of five (5) years on a rotating basis as terms expire. Alternates shall be appointed for terms of three (3) years on a rotating basis as terms expire.
- B. Zoning Board of Appeals and Alternates consisting of five (5) members and a panel of three (3) alternates appointed to perform the duties prescribed in Section 8-6 through 8-7d of the General Statutes. Members and alternates shall be appointed for terms of five (5) years on a rotating basis as terms expire.
- C. Conservation Commission consisting of seven (7) members. Members shall be appointed by the First Selectman for terms of four

(4) years on a rotating basis as terms expire to perform the duties prescribed in Section 7-131a of the General Statutes.

- D. Water Commission consisting of five (5) members appointed for terms of five (5) years. Each year, one member shall be appointed for a five-year (5) term on a rotating basis to perform their duties in accordance with Act No. 261 of the 1965 General Assembly and the Middlebury Ordinance.
- E. Parks and Recreation Commission consisting of five (5) members. Members shall be appointed for terms of five (5) years on a rotating basis as terms expire to perform the duties prescribed in Section 7-129a of the General Statutes and such other duties as the Board of Selectmen may prescribe.
- F. Board of Finance Alternates consisting of three (3) electors shall be appointed to serve terms of two (2) years on a rotating basis.
- G. Economic and Industrial Development Commission consisting of seven (7) members. Members shall be appointed for a term of five (5) years on a rotating basis as terms expire. The Economic and Industrial Development Commission shall perform the duties prescribed in Section 7-136 of the General Statutes.
- H. Beautification Committee consisting of twelve members (12) for terms of four (4) years on a rotating basis. The committee may conduct studies and implement plantings and improvements to beautify Middlebury, subject to approval by the Board of Selectmen.
- I. Retirement Plan Committee consisting of three (3) members: a member of the Board of Finance, a Town Employee and an Elector of the Town shall be appointed to serve the Board of Selectmen in accordance with and subject to the provisions of the Town Ordinances and the General Statutes. These three (3) members shall be appointed for terms of three (3) years, one each year on a rotating basis as terms of incumbents expire.
- J. Commission on Aging/Social Services consisting of the Municipal Agent for the Elderly and eight (8) members to study the needs of and coordinate programs for the aging, and coordinate social

services for all Town Residents. The Municipal Agent shall be appointed as required by Section 7-127b of the General Statutes. The remaining eight (8) members shall be appointed by the Board of Selectmen for two-year (2) terms on a rotating basis as terms expire.

- K. Constables consisting of two (2) Constables appointed for a two-year (2) term by the Board of Selectmen.
- L. Greater Waterbury Cable Advisory consisting of three (3) local members appointed for a term of two (2) years to perform the duties as prescribed in Section 16-333 of the General Statutes. Two (2) of the members shall be appointed by the First Selectman and the third (3rd) appointed by the Regional Board of Education.
- M. Greenway Committee consisting of seven (7) members shall be appointed for a term of four (4) years on a rotating basis as terms expire to serve as an advisory body to the Parks and Recreation Commission on matters pertaining to the Greenway. The Director of Parks and Recreation shall be an ex officio member.
- N. Public Works Commission consisting of seven (7) members appointed for terms of four (4) years on a rotating basis to perform their duties as required in Section 7-148 of the General Statutes.
- O. Ethics Commission consisting of five (5) members shall be appointed for a term of five (5) years on a rotating basis as terms expire. The initial members shall be appointed to staggered terms: one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. The Commission shall promulgate and update as necessary a Code of Ethics for the Government of the Town of Middlebury to include, but not be limited to, provisions dealing with Conflicts of Interest and legal improprieties. Said Code shall be delivered to the Board of Selectmen and, after an appropriate period for public comment, shall be enacted by the Board of Selectmen as an ordinance of the Town. The Commission shall also serve as the enforcement body for said Code. Until such time as such Code is promulgated and adopted, Section 801 of the A.D. 2000 Charter shall remain in force and effect. Section 801 of the A.D. 2000 Charter shall be null and void as of the effective date of the adoption of the Code described in this section.

- P. Land Preservation and Open Space Acquisition Commission consisting of a minimum of seven (7) members appointed by the Board of Selectmen to whom it is responsible. For the purposes of (1) the ongoing management of Town-owned Fenn's Farm and other properties as acquired; (2) the encouragement of Middlebury residents to preserve existing open space;(3) the acquisition, acceptance and inventorying of select parcels of open space; (4) the obtaining of public, private and/or corporate funds to assist in the acquisition/preservation of managed properties; and (5) developing and implementing programs to educate the public as to the importance of open space acquisition. Minority representation shall be in accordance with the provisions of Section 209 as hereinbefore provided

CHAPTER VI

ADMINISTRATIVE DEPARTMENTS AND EMPLOYEES

SECTION 601 GENERAL

The Board of Selectmen shall have the power to hire, establish the working conditions of, promote, discipline, suspend and dismiss all persons employed by the Town, either full- or part-time, except as otherwise specified in this Charter. Where policies and rules are adopted in accordance with Sections 603 and 604 hereof, said policies and rules shall be followed by the Board in the exercise of this power. The Board may delegate this power wholly or in part to the First Selectman or to the heads of departments.

SECTION 602 ADMINISTRATIVE EMPLOYEES

There shall be the following Administrative Employees:

A. Assessor

An Assessor who shall be certified by the State of Connecticut and who need not be an elector of the Town shall be appointed to perform such duties and functions as are provided by the General Statutes for Assessors and as may be required from time to time by the Board of Selectmen.

B. Assistant Town Clerks

The Town Clerk may, with the approval of the Board of Selectmen, appoint no more than three (3) Assistant Town Clerks and Registrars of Vital Statistics to perform such duties and functions as may be directed by the Town Clerk. Such Assistants shall have the powers and perform the duties of the Town Clerk in the absence or disability of the Town Clerk.

C. Building Official and Land Use Coordinator

A Building Official and Land Use Coordinator having the qualifications required by Sections 29-261 and 29-262 of the General Statutes shall be appointed for a term of four (4) years to perform such duties and functions as are provided in Part I of Chapter 541 of the General Statutes and the State Building Code. The Building Official and Land Use Coordinator need not be an elector of the Town.

D. Sanitarian

Unless the Town shall determine to participate as a member of a regional Health District that provides a Sanitarian as part of its services, a Sanitarian having the qualifications set forth in Chapter 395 of the General Statutes shall be appointed to perform such duties and functions as are prescribed in that chapter. The Sanitarian need not be an elector of the Town.

E. Health Director

Unless the Town is a member of a Health District formed under Chapter 368f of the General Statutes, the Board of Selectmen shall appoint a Health Director having the qualifications prescribed in the General Statutes to perform such duties and functions as are provided by the General Statutes and Town Ordinance. Vacancies in the office of the Health Director shall be filled within thirty (30) days in the same manner as the original appointment. The Health Director may be removed by the Board of Selectmen subject to approval by the Commissioner of Health if required by the General Statutes. The Health Director need not be an elector of the Town.

F. Chief Financial Officer

A Chief Financial Officer shall be appointed. Responsibilities include directing and supervising employees relating to the fiscal activities of the Town and establishing proper accounting, reporting and control systems for revenues and expenditures of the Town. In addition, the Chief Financial

Officer will develop and administer financial control programs. The Chief Financial Officer need not be an elector of the Town. Such person shall have such training and experience as specified in the position description on file with the Town Clerk.

G. Parks and Recreation Director

A Parks and Recreation Director shall be appointed to plan and implement programs for Town recreational activities and to manage the recreational facilities of the Town. The Parks and Recreation Commission shall be responsible for recommending a person to the Board of Selectmen for appointment as Parks and Recreation Director. Such person shall have such training and experience as specified in the position description on file with the Town Clerk.

H. Fire Marshal

A local Fire Marshal shall be appointed by the Board of Selectmen. The local Fire Marshal shall perform such duties and functions and have such powers as are provided by the General Statutes and such other duties and functions as may be required by the Board of Selectmen. Said Board may appoint such Deputy Fire Marshals as it shall deem necessary. No person shall be appointed local Fire Marshal or Deputy Fire Marshal unless he or she is certified as being qualified and eligible for such appointment by the State Fire Marshal. The Fire Marshal may be removed for cause pursuant to Sections 29-297, 29-299 and 29-300 of the General Statutes for the causes specified therein. The local Fire Marshal need not be an elector of the Town.

I. Animal Control Officer

An Animal Control Officer shall be appointed to perform such duties and functions as are provided in the General Statutes. The Animal Control Officer need not be an elector of the Town.

J. Zoning Enforcement Officer

The Planning and Zoning Commission shall appoint a qualified Zoning Enforcement Officer to serve at the will of the Planning and Zoning Commission to exercise the powers and perform the duties and functions provided in the General Statutes and the regulations of the Planning and Zoning Commission.

K. Planning and Zoning Hearing Officer

A Planning and Zoning Hearing Officer shall be appointed by the Board of Selectmen to hear and pass judgment on contested citations issued by the Zoning Enforcement Officer in accordance with the ordinance establishing citations and fines for zoning violations.

L. Conservation Enforcement Officer

The Conservation Commission shall appoint a Conservation Enforcement Officer to serve at the will of the Conservation Commission and to act for it in the enforcement of the Inland Wetlands regulations. The Conservation Enforcement Officer shall exercise the powers and perform the duties and functions delegated by the Conservation Commission.

M. Town Counsel

Town Counsel, who shall be an attorney admitted to practice in the State of Connecticut, shall be appointed by the Board of Selectmen, and the term shall be determined by the Board of Selectmen. Town Counsel need not be an elector of the Town. Town Counsel shall direct and be responsible for appearing and protecting the rights of the Town in all actions, suits or proceedings brought by or against it or any of its departments, officers, boards, commissions, authorities or committees. Town Counsel shall be the legal advisor to the Town Meeting, Board of Selectmen, the First Selectman and all other Town officers, boards, commissions, authorities or committees in all matters affecting the Town, and shall upon written request furnish them with written opinion on any questions of law involving their respective powers and duties and cooperate with them in the preparation of ordinances, resolutions or regulations as the case may be. Upon request, Town Counsel

shall prepare or approve forms of contracts or other instruments to which the Town is a party or in which it has an interest. Any officer, board, commission, authority or committee, before requesting an opinion, ruling or other service from Town Counsel, including without limitation the services specifically described herein, shall secure the approval of the First Selectman or the Board of Selectmen to do so. Town Counsel shall have power, with the approval of the Board of Selectmen (unless with respect to an appeal there shall not be time for such approval), to appeal from orders, decisions and judgments and to compromise or settle any claims by or against the

Town. If in special circumstances or for any investigation Town Counsel deems it advisable, Town Counsel may request the Board of Selectmen to engage other attorneys in temporary employment. In lieu of a single attorney, the Board of Selectmen may appoint a firm of attorneys admitted to practice in Connecticut to be Town Counsel. Notwithstanding the above, any board, commission, authority or committee of the Town of Middlebury may apply to, and the Board of Selectmen may appoint, special counsel to represent such board, commission, authority or committee.

N. Department of Aging/Social Services

The Department of Aging/Social Services may provide programs and services for the elderly and social services for the Town, as the same may be determined by the Board of Selectmen.

O. Other

There shall be such other administrative employees as the Board of Selectmen shall determine from time to time by resolution or ordinance.

SECTION 603 POSITION DESCRIPTIONS AND RULES

A. The First Selectman shall cause to have prepared:

1. A description of the duties and responsibilities of each position in the Town's service and of the minimum qualifications for appointment to

such position. The description may include offices and positions established by this Charter except elected offices.

2. A set of Personnel Rules, which shall provide, among other things, for a probationary period of employment, hours of work, vacations, sick leaves and other leaves of absence, removals and such other rules as may be necessary to provide an adequate and systematic procedure for the administration of the personnel affairs of the Town. The Personnel Rules shall not apply to elected officers.

- B. Such position descriptions and Personnel Rules, and any amendments thereto that may from time to time be made by the First Selectman, shall become effective upon being approved by resolution of the Board of Selectmen and filed by the First Selectman with the Town Clerk.
- C. Copies of the Personnel Rules and any amendments thereto shall be distributed to all Town employees.

SECTION 604 PAY PLAN

The First Selectman shall prepare a Pay Plan for all compensated offices and positions in the Town, whether elected or appointed, full-time or part-time, salaried or hourly, and may prepare amendments thereto from time to time. The Board of Selectmen shall adopt or modify and adopt the Pay Plan and any amendments thereto. A copy of the Pay Plan and all amendments shall be furnished to the Board of Finance and filed with the Town Clerk after adoption. The salaries, wages or other compensation of all Town employees not set in accordance with Section 208 hereof shall be set by the Board of Selectmen in conformity with the Pay Plan for the positions involved within the limits of the appropriations made therefor.

SECTION 605 BONDS

All officers and employees, as may be required to do so by the Board of Selectmen or the General Statutes, shall, before entering on their respective official duties, execute to the Town, in the form prescribed by the Board of Selectmen and approved by Town Counsel and filed with the Town Clerk, a surety company bond in a penal sum to be fixed by the

Board of Selectmen, but not less than the amount required by the General Statutes for such officers or employees, conditioned upon the honest and/or faithful performance of such official duties. Nothing herein shall be construed to prevent the Board of Selectmen, if it deems it to be in the best interests of the Town, from prescribing a name schedule bond, a schedule position bond or blanket bond, or from prescribing which departments, officers, boards, commissions, authorities or committees shall be covered by a specific type of the aforementioned bonds. Premium for such bonds shall be paid by the Town.

SECTION 606 RETIREMENT

The provisions of the pension plan for the Town employees in force on the effective date of this Charter shall remain in full force and effect until such time as said plan is amended.

CHAPTER VII

FINANCE

SECTION 701 FISCAL YEAR

The fiscal year of the Town shall begin on the first (1st) day of July and end on the thirtieth (30th) day of June.

SECTION 702 BUDGET PROCEDURE

A. Department Heads

On or before December 1 in each year, each officer and the head of each office, board, commission, authority or committee of the Town supported wholly or in part from Town funds, except the Regional Board of Education, shall file with the Board of Selectmen a detailed estimate of the expenditures to be made by that office, board, commission, authority or committee during the ensuing fiscal year, which estimate shall be deemed to be the budget request of such office, board, commission, authority or committee. An estimate of the expenditures to be made for the current fiscal year and the revenues, if any, other than property tax revenues, to be collected in the ensuing fiscal year by each such office, board, commission, authority or committee shall also be included.

B. Board of Selectmen's Duties

The Board of Selectmen and the Chief Financial Officer shall review the budget requests. During or upon completion of the review, but no later than the February meeting of the Board of Finance, the Board of Selectmen shall meet with the Board of Finance to discuss recommended alterations or changes in said budget requests.

C. Board of Finance's Duties

1. Beginning with the first regular meeting of the Board of Finance in

January of each year, the Board of Finance shall review with the head of each Town-supported office, board, commission, authority or committee the budget request made and shall review any changes the Board of Selectmen has recommended.

2. By March 15, the Board of Finance shall prepare a proposed budget, which shall include the following:

a. An itemized statement of all expenditures for the preceding completed fiscal year;

b. An itemized statement of all appropriations for the current fiscal year and all estimated expenditures for the current fiscal year;

c. An itemized statement of proposed budget expenditures for the next fiscal year, which may include a Contingency Fund not exceeding two percent (2%) of the total estimated expenditures for the current fiscal year, including Middlebury's share of the Regional School District No. 15 budget;

d. Estimates of revenue presenting an itemized statement of the receipts collected from all sources in the last completed fiscal year, the receipts collected during the current fiscal year prior to the time of preparing the estimates, the receipts estimated to be collected during the current fiscal year, itemized estimates of the receipts other than the property tax to be collected in the ensuing year, an estimate of the amount that should be raised by local property taxation for such ensuing fiscal year and an estimate of the available surplus at the end of the fiscal year; and

e. To maintain the Town of Middlebury's long-term financial safety and soundness, to mitigate current and future risks and to ensure stable tax rates and service levels, not less than eight percent (8%) of the total annual Town budgeted expenditures shall be appropriated and maintained as an unreserved fund balance. In the event it is necessary to appropriate and transfer from said fund balance, the expenditure so required shall be provided for in the subsequent fiscal year's budget in order to return the unreserved fund balance to the required level.

3. At least five (5) weeks prior to the Annual Budget Referendum as set forth below, the Board of Finance shall hold a joint meeting with the

Board of Selectmen to discuss and vote on the proposed budget to be presented at the annual public hearing on said budget plan. Said proposed budget shall require an affirmative vote of both boards to be presented at the subsequent public hearing as set forth hereafter. Subsequent to said joint board meeting and at least (4) weeks prior to the Annual Budget Referendum as set forth below, the Board of Finance shall hold a public hearing on the duly proposed budget at which all persons shall have the opportunity to be heard regarding the appropriations proposed for the ensuing year. A legal notice shall be prepared for publication in a newspaper having a substantial circulation in the Town at least five (5) days prior to said public hearing.

4. Immediately after such public hearing, the Board of Finance shall hold a meeting at which it shall consider the estimates presented and any other matters brought to its attention.

5. Copies of the budget to be presented to the Annual Budget Referendum shall be available in the Town Clerk's Office not later than one (1) week prior to said Referendum.

6. Following approval of the annual budget at the Town Budget Referendum, the Board of Finance shall meet immediately and establish the tax rate on the taxable property of the Town for the next fiscal year.

D. Annual Budget Referendum

The Budget shall be presented by the Board of Finance for approval by Town Referendum on the first Wednesday after the first Monday in May and shall be adopted by majority vote of those present and voting at said Referendum. Ten (10) days prior to the Budget Referendum, a report on the proposed budget, containing substantially the information required by Section 702 C.2. of this Charter, shall be posted on the Town Website and shall, otherwise, be made available at the Town Clerk's Office, for email to, and pickup by, eligible voters. A notice of the Budget Referendum date, and of the availability (on the Town's Website and at the Town Clerk's Office) of said report, shall be published, on the same date as the Website Posting, in a newspaper having substantial circulation in the Town.

Following approval of the annual budget at the Annual Budget Referendum, the Board of Finance shall meet immediately and establish the mil rate on the taxable property of the Town for the next fiscal year.

Said Meeting shall have the power to decrease or delete any appropriation or item in any appropriation for the same purpose recommended by the Board of Finance. No appropriation shall be made exceeding in amount that for the same purpose recommended by the Board of Finance, and no appropriation shall be made for any purpose not recommended by the Board of Finance.

In the event that the Annual Budget Referendum shall fail to adopt the budget, the Board of Finance and the Board of Selectmen, in accordance with Section 702 C.3., above, shall revise the rejected budget and submit the newly proposed budget to Referendum within two (2) weeks of the vote to reject. In the event of a subsequent rejection(s) at Referenda on the proposed budget, the Board of Finance and the Board of Selectmen shall follow the above scheduled process until such time as the proposed budget is approved by Budget Referendum.

SECTION 703 TRANSFERS AND ADDITIONAL APPROPRIATIONS

A. Transfers without Town Meeting Action

1. Transfers within Appropriation for a Department

In the event that money is needed for any particular purpose in excess of the amount budgeted for such purpose, and funds are available within the appropriations for such office, board, commission, authority or committee, it may, with the approval of the Board of Finance, transfer funds within the appropriation for such office, board, commission, authority or committee.

2. Transfers by the Board of Finance

In the event money is needed by any office, board, commission, authority or committee in excess of the amount appropriated in the annual budget for such office, board, commission, authority or committee, or for a purpose for which there is no appropriation in the annual budget, such office, board, commission, authority or committee shall notify the First

Selectman and shall apply to the Board of Finance for such additional funds as such office, board, commission, authority or committee shall deem are needed. If the Board of Finance shall approve of such request, the Board of Finance may transfer funds from any unexpended appropriation or from the Contingency Fund to the appropriation for such office, board, commission, authority or committee, provided that no such transfers to any such office, board, commission, authority or committee shall in the aggregate during the fiscal year exceed three-tenths of one percent (.003) of the total annual budget for the current fiscal year and provided further that before funds are transferred from the appropriation for an office, board, commission, authority or committee, said office, board, commission, authority or committee shall have been notified and not have objected to said transfer within fifteen (15) days after such notice.

B. Transfers and Appropriations Requiring Town Meeting Action

In the event money is needed by any office, board, commission, authority or committee in excess of the amount appropriated in the budget or for a purpose for which there is no appropriation in the annual budget and such need cannot be met by transfers under Subsection A of this Section, or the Board of Finance has voted to recommend an additional appropriation rather than a transfer, the Town Meeting may vote to approve a transfer in an amount in excess of the amount authorized by Subsection A or, over the objection of the office, board, commission, authority or committee from whose appropriation the funds are to be transferred, may vote to make an appropriation as an addition to the annual budget. The Town Meeting shall have the power to decrease or refuse to make any transfer or additional appropriation recommended by the Board of Finance, but may not approve a transfer or additional appropriation not recommended by the Board of Finance.

C. Emergency Appropriations

In the event of any emergency threatening the lives, health or property of citizens or public property requiring an appropriation of such size as to require action by a Town Meeting under Subsection B of this Section, and the circumstances are such that the delay in convening such a Town Meeting would further imperil the public interest, the Board of Finance may, at the request of the First Selectman, make such appropriation as it may deem necessary. Such appropriation must be

approved at a Town Meeting within three (3) weeks of the end of the emergency.

The Board of Finance may make additional appropriations, not exceeding four thousand dollars (\$4,000.00), for the care of the Town poor without Town Meeting approval.

The First Selectman may expend a sum not to exceed one thousand dollars (\$1,000.00) or such greater amount as may be permitted by the General Statutes for any Town agency without Board of Finance or Town Meeting approval in cases of necessity connected with the repair of highways, bridges, sidewalks, water and sewer systems and the care of the Town poor.

D. Source of Funds for Additional Appropriations

Funds for any additional appropriations made by the Town Meeting or any emergency appropriations made by the Board of Finance or the First Selectman shall be drawn as directed by the Board of Finance from any available cash surplus or the Contingency Fund. If neither of these is available, funds may be borrowed. Any additional capital appropriation in excess of one hundred thousand dollars (\$100,000.00) shall be acted upon only at a duly called Town Meeting or Town Referendum.

SECTION 704 PURCHASES, EXPENDITURES AND ACCOUNTING

A. No purchase shall be made by an office, board, commission, authority or committee except through the First Selectman or his designee.

B. No voucher, claim or charge against the Town shall be paid until the same has been audited by the Board of Selectmen and approved for correctness and validity. Checks shall be drawn for the payment of approved claims and shall be valid only when countersigned by the Treasurer and two (2) Selectmen.

C. Any portion of an annual appropriation remaining unexpended and unencumbered at the close of the budget year shall lapse.

D. Any payment made in violation of the provisions of this Charter shall be deemed illegal, and each official authorizing or making such payment or taking part therein and each person receiving such payment or any part thereof shall be jointly and severally liable to the Town for the full amount so paid or received. No officer, board, commission, authority or committee of the Town shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this Charter or take part therein. Any violation of this Subsection shall be cause for removal in accordance with the provisions of this Charter or, where applicable, the General Statutes.

SECTION 705 BORROWING

A. The Town, by action of the Town Meeting upon the recommendation of the Board of Finance, shall have the power to incur indebtedness by issuing its bonds or notes as provided by the General Statutes subject to the limitations thereof and the provisions of this Charter.

B. All notes or bonds issued by the Town shall be executed and delivered by the First Selectman and the Treasurer or such other officer as may be designated by the vote authorizing their issuance. Any vote of the Town Meeting authorizing the issuance of bonds or notes shall establish the maximum principal amount and latest date of maturity, but the establishment of the specific terms and conditions of the bonds or notes to be issued pursuant to such authorization shall be delegated by the Town Meeting to such officer or officers, board or commission as it may designate. Borrowing in amounts in excess of one hundred thousand dollars (\$100,000.00) or for a term in excess of one (1) year shall be on the basis of written bids.

SECTION 706 TOWN REPORTS

A. All officers, boards, commissions, authorities and committees, whether elected or appointed, shall file a written summary of their meetings, activities and actions for the preceding fiscal year with the Board of Finance and Board of Selectmen no later than September 15.

B. The Board of Finance shall prepare and have published an annual Town report, which shall contain such reports and information as may be required by this Charter and the General Statutes and such reports and information as may be deemed appropriate by said Board.

SECTION 707 AUDITOR

The Board of Finance, at least thirty (30) days prior to the end of each fiscal year, shall appoint an independent public accountant to audit the accounts of the Town for said fiscal year and shall file said accountant's name with the Secretary of the Office of Policy and Management. The audit shall be conducted in accordance with the General Statutes.

SECTION 708 CONNECTICUT GENERAL STATUTES

All actions of the Board of Finance and/or the Board of Selectmen shall be in full compliance with the standards and requirements as set forth in the Connecticut General Statutes Chapter 106 (Towns Board of Finance), Chapter 108 (Municipal Reserve Fund), Chapter 109 (Municipal Bond Issues), Chapter 110 (Municipal Fiscal Years), Chapter 111 (Municipal Auditing Act), Chapter 112 (Municipal Finance) and any other applicable statutes, as the same may be amended from time to time.

CHAPTER VIII

THE TOWN MEETING

SECTION 801 GENERAL

The Town of Middlebury has a combined Legislative Body consisting of the Town Meeting and the Board of Selectmen. The Town Meeting shall be the Legislative Body for matters set forth in Section 7-193a1 of the General Statutes and as further provided by this Charter. Eligibility to vote in Town Meetings and at any referendum held pursuant to the provisions of this Chapter shall be governed by Section 7-6 of the General Statutes. The term "voter" as used in this Charter means persons eligible to vote as set forth in said Section 7-6. All Regular and Special Town Meetings shall be called by the Board of Selectmen by a warning as provided by this Charter.

SECTION 802 MEETINGS

A. Special Meetings

Special Town Meetings may be called by the Board of Selectmen at any time for any proper purpose.

B. Petition for Special Meetings

The Board of Selectmen shall call a Special Town Meeting for any proper purpose upon the filing of a petition for such a meeting, provided:

- a. All requirements of Sections 7-9 and 7-9a of the General Statutes shall be met;
- b. Each page of said petition shall contain or have annexed the full text of the resolution to be acted upon; and
- c. Said petition shall be signed by not less than twenty (20) (or fifty (50) if an ordinance so provides) of the voters of the Town.

Upon receipt of such a petition, the Town Clerk shall determine

whether the petition meets the requirements of this Subsection and, if so, shall so certify to the Board of Selectmen within five (5) days of receipt. Upon the receipt of such certification, the Board of Selectmen may, with the advice of Town Counsel, make minor revisions that clarify the text of the resolution and that are not inconsistent with its intent and do not affect the substance thereof, and the Board shall call a Special Town Meeting for the consideration of the proposal to be held within twenty-one (21) days after the receipt of said petition by the Town Clerk.

SECTION 803 PROCEDURE

A. Notice

The warning of each Town Meeting shall specify the objects for which such Meeting is to be held and shall be signed by the Selectmen or a majority thereof. Such warning shall be posted and published in a newspaper having a substantial circulation in the Town. Such posting and publication shall be at least five (5) days previous to holding the Meeting, including the day notice is given and any Sunday and any legal holiday that may intervene between such posting and such publication and the day of holding such meeting, but not including the day of holding such meeting. All other requirements of Section 7-3 of the General Statutes must also be met.

B. Moderators

The Board of Selectmen shall maintain a list of not less than three (3) electors who are familiar with standard parliamentary procedure and who are available to serve as moderators. Moderators of Town Meetings should be selected from this list.

C. Conduct of Meeting

All Town Meetings shall be called to order by the moderator, and all business shall be conducted in the manner provided by Chapter 90 of the General Statutes, except as otherwise provided in this Charter. The Town Clerk shall serve as clerk of all Town Meetings, except an acting clerk shall be appointed by the moderator in the absence of the Town Clerk.

All actions of a Town Meeting shall be adopted by a majority vote of the qualified voters present and voting at the meeting, unless such action has been referred to a vote on the voting machine pursuant to Section 7-7 of the General Statutes. In the event a machine vote is required, the moderator shall permit only discussion of the question and a vote setting the date for the referendum.

D. Adjournments

Any Town Meeting may be adjourned one or more times to a specified date, but such adjourned meeting shall be warned in the same manner as the original meeting, except the warning need not include any item upon which action was taken at the original or an adjourned meeting.

SECTION 804 ACTIONS REQUIRING TOWN MEETINGS

Action shall be taken at Town Meetings only when required by this Charter or by the General Statutes, including but not limited to the following actions:

A. Any resolution making an appropriation of more than the amount permitted in Section 703 A.2., any resolution to approve Emergency Appropriations made in accordance with Section 703 C, except as otherwise provided therein, or such other additional appropriations for which Town Meeting approval is required pursuant to Section 7-348 of the General Statutes;

B. The acceptance and discontinuance of Town roads;

C. Such authorizations or approvals as may be required by law for the Town's application for and/or participation in Federal or State revenue sharing or other fiscal assistance programs;

D. Redivision of the Town's voting districts;

E. Any matter deemed by the Board of Selectmen to be of sufficient importance to the Town;

F. To take, purchase, lease, sell or convey real property of or for the Town, said action having been recommended by the Board of Selectmen,

except as otherwise provided by the law of the State of Connecticut;

G. Adoption of recommendations made in accordance with Section 304 D. Ordinances enacted at a Town Meeting shall become effective fifteen (15) days after publication thereof in a newspaper having a substantial circulation in the Town. Upon a petition of not less than fifteen percent (15%) of the electors of the Town filed with the Town Clerk within thirty days (30) after the publication of such ordinance, asking that the same be submitted to the voters of the Town at its next Regular or Special Meeting, the ordinance shall be so submitted and in such event shall not become effective unless a majority of the voters voting at such meeting vote in favor thereof; and

H. Approval of borrowing as provided in Section 705 B.

CHAPTER IX

TRANSITION AND MISCELLANEOUS PROVISIONS

SECTION 901 TRANSFER OF POWERS

The functions provided for any office, board, commission, authority or committee under the General Statutes or special acts concerning the Town or any ordinance or regulation in force at the time this Revised Charter shall take effect shall be thereafter exercised by the office, board, commission, authority or committee upon which are imposed corresponding functions under the provisions of this Revised Charter. Any office, board, commission, authority or committee existing on the effective date of this Revised Charter and not provided for under this Revised Charter shall be abolished. Any office, board, commission, authority or committee abolished by this Revised Charter (where no provision has been made herein for the discontinuance of its function) shall continue in the performance of its function until provision shall be made for the performance of its functions by some other office, board, commission, authority or committee created under this Revised Charter and until the First Selectman shall have notified the members of such abolished office, board, commission, authority or committee that their successors have qualified.

SECTION 902 STATUS OF EMPLOYEES

All employees of the Town on the effective date of this Revised Charter whose positions are not abolished by the provisions of this Revised Charter shall retain such positions pending action by the Selectmen or the appropriate officer charged by this Revised Charter with powers of appointment and removal. Any provision of law in relation to personnel in force at the time this Revised Charter shall take effect, and not inconsistent with the provisions of this Revised Charter, shall continue in effect until or unless amended or repealed in accordance with the provisions of this Revised Charter.

SECTION 903 TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any office, board, commission, authority or committee, or part thereof, and all the powers and duties of which are assigned to any other office, board, commission, authority or committee by this Revised Charter shall be transferred and delivered intact to the office, board, commission, authority or committee to which such powers and duties are so assigned. If part of the powers and duties of any office, board, commission, authority or committee, or part thereof, are by this Revised Charter assigned to another office, board, commission, authority or committee, all records, property and equipment relating exclusively thereto shall be transferred and delivered intact to the office, board, commission, authority or committee to which such powers and duties are so assigned.

SECTION 904 CONTINUATION OF APPROPRIATIONS AND TOWN FUNDS

All appropriations approved and in force and all funds, including special or reserve funds in the name of the Town, at the time of the adoption of this Revised Charter shall remain in full force and effect unless and until the same are amended, transferred or abolished by the Board of Finance under the provisions of this Revised Charter.

SECTION 905 LEGAL PROCEEDINGS

No action or proceeding, civil or criminal, pending on the effective date of this Revised Charter brought by or against the Town or any office, board, commission, authority or committee thereof shall be affected or abated by the adoption of this Revised Charter or by anything herein contained; but all such actions or proceedings may be continued, notwithstanding that functions, powers and duties of any office, board, commission, authority or committee party thereto by or under this Revised Charter may be assigned or transferred to another office, board, commission, authority or committee, but in the event the same may be prosecuted or defended by the head of the office, board, commission, authority or committee having such functions, powers and duties assigned or transferred to it by or under this Revised Charter.

SECTION 906 *EXISTING LAWS AND ORDINANCES*

All general laws and special acts of the State of Connecticut applicable to the Town and all ordinances of the Town shall continue in full force and effect, except insofar as they are inconsistent with the provisions of this Revised Charter.

SECTION 907 *REVIEW AND AMENDMENT OF CHARTER*

The Board of Selectmen shall review the provisions of this Revised Charter from time to time but not less than once every five (5) years, and may appoint a Charter Revision Commission to review the Revised Charter and make recommendations for amendments, if any, if it deems such appointment to be in the best interests of the Town. This Revised Charter shall be amended in the manner prescribed by Section 7-188 of the General Statutes.

SECTION 908 *SAVING CLAUSE*

If any section or part of any section of this Revised Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Revised Charter nor the context in which said section or part thereof so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding shall directly apply.

SECTION 909 *USAGE*

Whenever reference is made in this Revised Charter to the General Statutes, it is intended to mean the 1958 Revision of the General Statutes of the State of Connecticut as amended to date and as the same may be amended hereafter. Whenever the context so requires, the singular shall include the plural, and the plural shall include the singular.

SECTION 910 NEW OFFICES OR POSITIONS

A. Whenever a new office or position is created under this Revised Charter or any amendments hereto, such office or position shall be deemed to be vacant on the effective date of this Revised Charter or amendment and shall be filled by the officer, board, commission, authority or committee having the power to fill vacancies in said office in accordance with the terms hereof.

B. Where the term for an existing office, board, commission, authority or committee is stated herein as commencing at a date subsequent to the effective date of the amendment describing said term of office, the incumbent officers, members and commissioners, whether appointed or elected, and whether the office, board, commission, authority or committee was created pursuant to the General Statutes, by previous Charter provision or ordinance, shall serve until removed hereunder or until their successors have been elected or appointed and have qualified. Vacancies in any such existing office, board, commission, authority or committee shall be filled in accordance with the provisions of this Revised Charter.

SECTION 911 RESIGNATION

Whenever any officer or member of any board, commission, authority or committee shall resign his position, he shall do so by letter filed with the Town Clerk who shall send copies thereof to the department head of such office, board, commission, authority or committee and the First Selectman. Any such resignation shall take effect on the date stated therein or, if no date is specified, upon filing.

SECTION 912 PUBLIC'S RIGHT TO KNOW

All Town boards, commissions, authorities and committees, whether established by this Revised Charter or created by ordinance or as a special and temporary committee of the Board of Selectmen, shall conduct their meetings and perform their duties in accordance with the provisions of the Connecticut Freedom of Information Act.

SECTION 913 EFFECTIVE DATE

This Revised Charter shall take effect December 1, 2020.