

Recall of Elected Officials

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

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

SECTION 3. If the petition is certified by the town clerk to be sufficient, the town clerk shall submit the petition with the town clerk's certification to the board of Selectboard without delay. The board of Selectboard shall forthwith give written notice of the receipt of the certificate, either by hand or by certified mail, return receipt requested, to the person holding an elected office sought to be recalled. If the person holding an elected office does not resign within 5 days after receipt of the notice, the board of Selectboard shall forthwith order an election to be held on a date fixed by them not less than 64 days and not more than 70 days after the date of the town clerk's certificate; provided, however, that if a town election is scheduled to occur within 100 days after the date of certificate, the board shall postpone the holding of the recall election to the date of the other election and the question of recall shall appear on the ballot at the other election. The person holding an elected office may file with the town clerk, within 14 days of the receipt of the notice, an argument that shall contain no more than 500 words explaining the elected officer's reasons for wanting to retain the position. If such argument is received, the town clerk shall make the argument, including related affidavits or petitions, open for public inspection at of the town clerk's office within 10 days of receipt and not less than 10 days

before the date of the recall election. The board of Selectboard shall post the full text of any argument received, including related affidavits or petitions, in at least 1 location in the town and shall make the same available to the public upon a written request to the town clerk. If a vacancy occurs in the elected office after the recall election has been ordered, the election shall nevertheless proceed as provided in this section.

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

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

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

"For the recall" of (name of officer)

"Against the recall" of (name of officer)

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

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

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

[Approved by the Governor on October 8, 2013]

