

Town of Middleton

Massachusetts



Special Town Meeting

November 5, 2019, 7:00 P.M.

Howe Manning School Gymnasium
26 Central Street, Middleton, MA

**TOWN OF MIDDLETON
SPECIAL TOWN MEETING
THE COMMONWEALTH OF MASSACHUSETTS
NOVEMBER 5, 2019**

ESSEX s.s.

To the Constable of the Town of Middleton in the County of Essex:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town Affairs, to meet at the Howe Manning School Gymnasium, 26 Central Street in said Middleton on Tuesday, November 5, 2019 next, at 7:00 p.m., then and there to act on the following articles:

To transact any other business that may lawfully come before this meeting.

CURRENT AND PRIOR YEAR FINANCIAL ARTICLES

ARTICLE 1. To hear Committee Reports:

Master Development Planning Committee
Masconomet Regional School Committee
Other Committees

ARTICLE 2. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to fund the collective bargaining agreement with the Middleton Police Benevolent Association; or take any other action relative thereto.

Purpose: This article will appropriate funds to fund the contract with the police union running from July 1, 2017 through June 30, 2020.

ARTICLE 3. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to fund the collective bargaining agreement with the Middleton Call Firefighter Association; or take any other action relative thereto.

Purpose: This article will appropriate funds to fund the contract with the call firefighters union running from July 1, 2017 through June 30, 2020.

ARTICLE 4. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to supplement regional education; or take any other action relative thereto.

Purpose: This article will fund out of district tuition.

ARTICLE 5. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to supplement the Fiscal Year 2020 Information Technology budget; or take any other action relative thereto.

Purpose: This article will appropriate funds to supplement the Information Technology budget in the current fiscal year.

ARTICLE 6. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to supplement the Fiscal Year 2020 Unemployment Insurance budget; or take any other action relative thereto.

Purpose: This article will appropriate funds to supplement the Unemployment Budget in the current fiscal year.

ARTICLE 7. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to supplement the Fiscal Year 2020 Medicare budget; or take any other action relative thereto.

Purpose: This article will appropriate funds to supplement the Medicare Budget in the current fiscal year.

ARTICLE 8. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to supplement the Fiscal Year 2020 property, casualty, and liability insurance budget; or take any other action relative thereto.

Purpose: This article will appropriate funds to supplement the Insurance Budget in the current fiscal year.

ARTICLE 9. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used

for environmental studies, testing, and remediation of a property at 40 School Street; or take any other action relative thereto.

Purpose: This article will appropriate funds to conduct environmental studies, testing, and remediation of the former American Glue factory at 40 School Street.

ARTICLE 10. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to acquire radios for the Fire Department; or take any other action relative thereto.

Purpose: This article will appropriate funds to provide the local match for a regional Fire Assistance Grant that will fund radios for the Fire Department.

ARTICLE 11. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used for incidental costs associated with 105 South Main Street; or take any other action relative thereto.

Purpose: This article will appropriate funds to cover incidental costs associated with 105 South Main Street, such as utilities, security, and maintenance.

ARTICLE 12. On petition of the Board of Selectmen and Finance Committee, to see if the Town will vote to raise and appropriate, borrow or transfer from available funds certain sums of money to the following reserve accounts:

- Stabilization Fund
- Capital Stabilization Fund
- Special Education Stabilization Fund
- Pension Stabilization Fund
- Other Post-Employment Benefits Liability Irrevocable Trust Fund

Or take any other action relative thereto.

Purpose: This article will transfer funds to various reserve accounts.

CITIZEN PETITIONS, BYLAW ADOPTIONS, AND REAL PROPERTY

ARTICLE 13. On petition of the Board of Selectmen, to see if the Town will vote to amend the Middleton General Bylaws, Chapter 107: Animals, by adding the words shown in **bold underline** and deleting the words in **bold strikethrough** below.

Chapter 107. Animals

Article I. Dogs

[Adopted 5-12-1987 ATM by Art. 38]

§ 107-1. Licensing and control.

- A. All dogs six months old or older must be licensed and tagged. Licensing will be done in the office of the Town Clerk. The owner or keeper of an unlicensed dog after June 1 will be fined \$10 per dog in addition to the license fee. After July 1 the fine will be \$15 per dog, and after August 1 \$25 per dog. [Amended 11-29-2005 STM by Art. 19]
- B. All monies collected for licenses and fines will be retained by the Town.
- C. License fees shall be \$10 for all neutered or spayed dogs and \$15 for all unneutered or unspayed dogs. Kennel license fees: four dogs, \$15; 10 dogs, \$35; more than 10 dogs, \$75. [Amended 5-12-1998 ATM by Art. 15]

§ 107-2. Complaints and orders.

- A. The Animal Control Officer shall attend to all complaints and other matters pertaining to dogs and shall take whatever legal action is authorized by law.
- B. If the Animal Control Officer determines that a female animal in heat, even when confined, is attracting other animals, thus causing a disturbance or damage to neighboring property or public areas, the Animal Control Officer may require the owner or keeper to keep said animal, while in heat, in a kennel or to remove it from the area so that the nuisance is abated.
- C. The Animal Control Officer is authorized to require owners or keepers of dogs to restrain their dogs from running at large in schools, school playgrounds, parks or public recreation areas. The Animal Control Officer may also require owners or keepers of dogs to restrain their dogs from running at large when he determines that any such dog is an annoyance, is dangerous, or is known to cause damage in a neighborhood.
- D. The owner or keeper of a dog, about which the Animal Control Officer has issued an order under the above sections of this bylaw, who wishes to appeal said order, may make such appeal in writing to the Chief of Police within 10 days of the issuance of the order. The Police Chief may settle the case after holding a public hearing overruling the Animal Control Officer by agreement with the appellant, or by instructing the Animal Control Officer to proceed with enforcement procedures as set forth in MGL c. 140, § 173A.
- E. If the owner or keeper fails to comply with the order of the Animal Control Officer and does not appeal to the Police Chief, the Animal Control Officer shall proceed to enforce the order as provided by law.

[Amended 11-29-2005 STM by Art. 19]

§ 107-3. Other charges and fees.

[Amended 11-29-2005 STM by Art. 19]

Boarding charges, pickup fees for stray and nuisance dogs and other fees shall be established by the Board of Selectmen and filed with the Town Clerk.

§ 107-4. Certain statutes still in effect.

Notwithstanding the provisions of this bylaw, all other provisions of MGL c. 140, §§ 136A through 175 shall still be in effect.

Article II: Nuisance and Dangerous Dogs

§ 107-5. Definitions

As used in this article, the following terms shall have the meanings indicated:

DANGEROUS DOG: A dog that either:

- a. without justification, attacks a person or domestic animal causing physical injury or death; or**
- b. behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.**

KEEPER: A person, business, corporation, entity, or society, other than the owner, having possession of a dog.

NUISANCE DOG: A dog that:

- a. by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or**
- b. by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or**
- c. has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.**

§ 107-6. Nuisance Dogs

A. Complaint. Any person may file a written complaint with the Board of Selectmen that a dog kept in the Town is a nuisance dog.

B. Disposition. The Board of Selectmen shall investigate or cause to be investigated the complaint, including an examination under oath of the complainant at a public hearing. Based on credible evidence and testimony presented at the public hearing, the Board of Selectmen shall take the following action:

If the dog is complained of as a nuisance dog, the Board of Selectmen shall either

- i. deem the dog a nuisance dog; or**
- ii. dismiss the complaint.**

If the Board of Selectmen declares that a dog is a nuisance dog, it may order the owner or keeper of the dog to take remedial action to ameliorate the cause of the nuisance behavior.

§ 107-7: Dangerous Dogs

A. No dog shall be deemed dangerous:

- i. solely based upon growling, barking, or both;
- ii. based upon the breed of the dog; or
- iii. if, at the time of the incident in question, the dog was reacting to another animal or person in a manner not grossly disproportionate to any of the following circumstances:
 - a. the dog was protecting or defending itself, its offspring, another domestic animal, or a person from attack or assault;
 - b. the person attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;
 - c. the person attacked or threatened was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog; or
 - d. at the time of the attack or threat, the person or animal attacked or threatened had breached an enclosure or structure, including but not limited to a gated and fenced-in area, in which the dog was kept apart from the public, without being authorized to do so by the owner of the premises.

A child under age 7 shall be rebuttably presumed not to have been committing a crime, provoking the dog, or trespassing at the time of the attack or threat.

B. Complaint. Any person may file a written complaint with the Board of Selectmen that a dog kept in the Town is a dangerous dog.

C. Disposition. The Board of Selectmen shall investigate or cause to be investigated the complaint, including an examination under oath of the complainant at a public hearing. Based on credible evidence and testimony presented at the public hearing, the Board of Selectmen shall take the following action:

If the dog is complained of as a dangerous dog, the Board of Selectmen shall either

- i. deem the dog a dangerous dog;
- ii. deem the dog a nuisance dog; or
- iii. dismiss the complaint.

D. Remedies. If the Board of Selectmen declares that a dog is a dangerous dog, it may order one or more of the following remedies:

- i. that the dog be humanely restrained; but no order shall require that a dog be chained, tethered, or otherwise tied to an inanimate object including, but not limited to, a tree, post, or building;
- ii. that the dog be confined to the premises of the owner or keeper, meaning securely confined indoors or confined outdoors in a securely enclosed pen or dog run area that has a secure roof, has either a floor secured to all sides or is embedded into the ground for at least two feet, and provides the dog with proper shelter from the elements;
- iii. that when the dog is removed from the premises of the owner or keeper, the dog be securely and humanely muzzled and restrained with a chain or other tethering device with a maximum length of three (3) feet and a minimum tensile strength of three hundred (300) pounds;
- iv. that the owner or keeper of the dog provide to the Board of Selectmen either:
 - a. proof of insurance of at least \$100,000 insuring the owner or keeper against any claim, loss, damage, or injury to persons, domestic animals, or property resulting from the intentional or unintentional acts of the dog; or
 - b. proof that reasonable efforts were made to obtain such insurance;
- v. that the owner or keeper of the dog provide to the Board of Selectmen or Animal Control Officer or other entity as directed identifying information for the dog including, but not limited to, photographs, videos, veterinary records, tattooing, implantations, or a combination of these;
- vi. that the dog be altered so as not to be reproductively intact, unless the owner or keeper provides evidence of a veterinary opinion that the dog is medically unfit for such alteration; or
- vii. that the dog be humanely euthanized.

E. Restrictions After Declaration of Dangerousness.

- a. No dog that has been deemed dangerous shall be ordered removed from the Town.
- b. No person over the age of 17 who has actual knowledge that a dog has been deemed dangerous under this Bylaw shall permit a child under the age of 17 to own, possess, or have care or custody of that dog.
- c. No person shall transfer ownership or possession of a dog which such person knows, reasonably should have known, has been deemed dangerous under this Bylaw or offer such dangerous dog for sale or breeding without informing the recipient of the dog of the finding of dangerousness.

F. Signs.

- a. Any owner or keeper of a dog that has been deemed dangerous must conspicuously display a sign approved by the Animal Control Officer with a warning symbol that informs children of the presence of such dog and a sign easily readable by the public using the words "dangerous dog."

b. Signs are to be posted at each entrance to the house and on gates that are part of a fence enclosing the premises as well as on any pen.

§ 107-8: Appeals.

Within ten (10) days of the issuance of any order under this article, the owner or keeper of the dog declared a nuisance dog or a dangerous dog may bring a petition for judicial review in the district court for the judicial district in which the order was issued or where the dog is owned or kept.

§ 107-9: Violations and Penalties.

A. Seizure/Impoundment. If an owner or a keeper of a dog is found in violation of an order issued under this Bylaw, the dog may be subject to seizure and impoundment by the Animal Control Officer or a law enforcement officer as allowed by law. If it is the keeper who is in violation, all reasonable efforts shall be made to notify the owner of such seizure and impoundment and the owner may, within 7 days, petition the Board of Selectmen for return of the dog.

B. Capture/euthanasia. A dog found to be in violation of a Board of Selectmen order or district court order issued under this Bylaw or in accordance with Section 157 of Chapter 140 of the General Laws may be captured or detained by a police officer, the Animal Control Officer, or a constable. In the case of a threat to public safety or if the dog is living in a wild state, the police officer, Animal Control Officer, or constable may euthanize it humanely.

C. Future Licensure. Any owner or keeper who fails to comply with an order of the Board of Selectmen or the district court issued under this section shall be prohibited from licensing a dog within the Commonwealth for 5 years.

D. Non-Criminal Disposition. Any enforcing person, as set forth below, taking cognizance of a violation of this Bylaw, may, as an alternative to initiating criminal proceedings, enforce this Bylaw non-criminally pursuant to M.G.L. c. 40, Section 21D and in accordance with Section 1-2 of the Middleton Bylaws. For purposes of this section, the following shall be enforcing persons: Animal Control Officer, constable, and law enforcement officer. The specific penalty for violation shall be the amount established in Section 1-2 of the Middleton Bylaws.

Or take any other action relative thereto.

Purpose: This article will amend the Animal Bylaw.

ARTICLE 14. On petition of the Board of Selectmen to see if the Town will vote to transfer care, custody and control of the following certain parcels of land to the Conservation Commission to be held for conservation purposes pursuant to Massachusetts General Law, c. 40, s. 8C.:

<u>Map/Lot</u>	<u>Acreage</u>	<u>Assessment</u>	<u>Location</u>
0008-0000-0016	28.50	\$65,000	Off Thunder Bridge Lane
0008-0000-0020	4.15	\$28,400	Off Thunder Bridge Lane
0008-0000-0020A	3.00	\$26,700	Off Thunder Bridge Lane
0015-0000-0012K	3.90	\$36,900	Donovan's Way
0017-0000-0059	1.00	\$25,600	North Main Street
0032-0000-0057	0.38	\$18,100	Richardson Road
0033-0000-0015	6.00	\$66,100	Lonergan Road

or taken any action relative thereto.

Purpose: This article will transfer the care, custody and control of certain parcels of Town-owned land to the Conservation Commission for conservation purposes.

End of Special Town Meeting Warrant

TO THE TOWN CONSTABLE:

You are hereby directed to service this Warrant by posting up attested copies thereof at:

- Memorial Hall
- Post Office
- Flint Public Library
- Store at Howe Station Market
- Ferncroft Towers, and
- Fuller Pond Village

In said Town fourteen days, at least, before the time of holding said meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereof, to the Town Clerk at time and place of meeting aforesaid.

Given under our hands this 8th day of October in the year Two Thousand Nineteen.

MIDDLETON BOARD OF SELECTMEN

s.

s.

s.

s.

A true copy Attest:

s.

Constable of the Town of Middleton

10/11/2019

Date Posted



Town of Middleton
Memorial Hall
48 South Main Street
Middleton, Massachusetts
01949-2253
978-774-3589
www.middletonma.gov

TOWN OF MIDDLETON TALENT BANK APPLICATION

The Board of Selectmen maintains a Talent Bank of names of citizens of Middleton willing to serve on boards, commissions and committees. Names in this file are available for use by all Town Departments.

Names: _____ Telephone: _____

Address: _____ Bus. Telephone: _____

Email Address: _____

Occupation: _____

Background Experience: _____

I am interested in serving on Town Boards and Committees involved in the following areas:

(Please check all that apply. The Board encourages you to attach a recent resume if available.)

<input type="checkbox"/> Board of Health	<input type="checkbox"/> Recreation Commission
<input type="checkbox"/> Council on Aging	<input type="checkbox"/> Historical Commission
<input type="checkbox"/> Finance Committee	<input type="checkbox"/> Planning Board
<input type="checkbox"/> Board of Appeals	<input type="checkbox"/> Scholarship Committee
<input type="checkbox"/> Master Plan Committee	<input type="checkbox"/> Library Services
<input type="checkbox"/> Conservation Commission	<input type="checkbox"/> Industrial Commercial Development Review Committee
<input type="checkbox"/> Cultural Council	<input type="checkbox"/> Zoning Bylaw Review Committee

Amount of Time Available: _____

Are you available year round for committee meetings? Yes _____ No _____
If not, when are you available?

_____ Winter _____ Spring _____ Summer _____ Autumn

Are there any Boards or Committees in which you are particularly interested?

Signature

Please submit all responses to the Town Administrator's Office via the mailing address above or via email at:
michelle.creasi@middletonma.gov

Date