

CHAPTER 686

Rev. 05/2011

THE COMMONWEALTH OF MASSACHUSETTS

IN THE YEAR ONE THOUSAND NINE HUNDRED AND SEVENTY

AN ACT ESTABLISHING A REPRESENTATIVE TOWN MEETING FORM OF GOVERNMENT IN THE TOWN OF BURLINGTON.

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

**SECTION 1.** There is hereby established in the Town of Burlington a representative town meeting form of government, whereby one hundred twenty-six (126) members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.

**SECTION 2.**(a) Any registered voter of the town shall be eligible for election to the town meeting.

(b) Nomination of candidates for town meeting members to be elected shall be made by nomination papers, which shall show clearly whether he has been a former town meeting member, and, if an elected incumbent of such office, that he is a candidate for re-election and shall bear no other political designation. Such papers shall be signed by not less than ten voters of the precinct in which the candidate resides, shall be filed with the town clerk at least twenty-eight days preceding the date of the election. Said nomination papers shall first have been submitted to the registrars of voters at least seven days prior to the date on which they are to be filed with the town clerk who shall check each name on the nomination papers and shall forthwith certify thereon the number of signatures so checked which are the names of registered voters in the town and in the precinct for which the nomination is made.

The placement of the names of all candidates for town meeting members on the ballot for the initial election shall be established by a public drawing of lots by the town clerk.

Any incumbent town meeting member may become a candidate for reelection by giving written notice thereof to the town clerk not later than twenty-one days prior to the last day and hour for filing nomination papers.

If a town meeting member is a candidate for re-election, the words, "Candidate for Re-election" shall be printed against his name as it appears on the ballot for the election of town officers; provided, however, that a town meeting member elected by the remaining members of a precinct to fill a vacancy shall not be considered a candidate for re-election. No nomination paper shall be valid in respect to any candidate if it fails to have his written acceptance attached to or written thereon.

A town meeting member who removes from the precinct from which he was elected to another precinct within the town may continue to serve as a member of the town meeting from the precinct from which he was elected until the next regular election at which time the remainder of his term, if any, shall be terminated and a vacancy from that precinct shall exist. Such person may, however, be elected as a town meeting member from the new precinct in which he then resides at the same election.

**SECTION 3.** The Board of Selectmen pursuant to the provisions of Chapter 54 of the Massachusetts General Laws shall divide the town into the minimum number of precincts.

**SECTION 4.** At the annual town election of 2012 there shall be a total of 18 town meeting members elected from the newly created 7<sup>th</sup> precinct. The six candidates in the precinct who receive the highest number of votes shall be declared elected to a three-year term. The six candidates in the precinct who receive the next highest number of votes shall be declared elected to a two-year term. The remaining six candidates elected in the precinct shall be declared elected to a one-year term. The remainder of the unexpired term of any vacancy created by the removal of a town meeting member due to a revision of precincts shall appear on the same ballot as the election of the 18 town meeting members in said new 7<sup>th</sup> precinct. Thereafter, in all precincts, candidates shall be elected for three years to fill expiring terms and to fill the unexpired term of any vacancy. In the event of a tie vote for the office of town meeting member, the clerk shall, within seven days of the election, call all of the representative town meeting

members from the precinct in which the tie vote occurs and of the candidates for that office who are affected by such tie together at a convenient place and under the supervision of the town clerk. Any such ties shall then and there be determined by ballots cast by the elected members present.

A town meeting member who is removed by a revision of precincts from the precinct from which the member was elected shall not retain membership after the next annual election as an elected member from the precinct from which the member has been removed. The term of a town meeting member who is not removed by a revision of precincts from the precinct from which the member was elected shall not be affected by the revision.

**SECTION 5.** The representative town meeting members shall serve without compensation of any kind.

**SECTION 6.** The town moderator shall preside at all sessions of the representative town meeting, but he shall have no vote unless the numbers present and voting are equally divided. He may appoint, subject to town meeting approval, from among the elected town meeting members a deputy moderator to serve in the event of his absence or disability. In case of the absence or disability of the moderator and the deputy moderator, the town meeting shall elect from among its own membership a temporary moderator to act during said absence or disability.

The moderator shall appoint the members of a committee on ways and means, and such other committees, special or standing, as may from time to time be established. He shall perform such other duties as may from time to time be assigned to the office of the moderator by bylaw, rule or other vote of the town meeting.

**SECTION 7.** All powers of the town shall be vested in the town meeting, except as otherwise provided by law. The town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town by law.

**SECTION 8.** (a) No town meeting member shall hold any other town office, elective or appointive, except the following: membership on advisory committees appointed for a special temporary purpose by the selectmen, school committee or any other town board; members of town committees of political parties; officers of elections; or town employees. For the purposes of this paragraph only "town office" shall not be construed to include police officers, special police officers or the animal control officer.

(b) Neither the town meeting nor any of its members shall in any way dictate the appointment or the renewal of any town administrative employee or officer whom any appointing authority is empowered to appoint. The town meeting may, however, by resolution or other vote, express its views pertaining to such matters.

(c) Except for the purpose of inquiries and investigations as provided in section eleven, the members of the town meeting shall deal with town officers and employees solely through the appointing authority and neither the town meeting nor any of its members shall give orders to such employees or officers either publicly or privately.

**SECTION 9.** (a) The office of a town meeting member shall become vacant upon his death, resignation or removal from office in any manner authorized by law.

(b) A vacancy in the town meeting membership shall be filled for the remainder of the unexpired term, if any, at the next regular town election of such occurs within sixty days of the vacancy. If no such election is to be held within sixty days, the town meeting shall, by a majority vote of the remaining members from the same precinct, appoint a qualified person to fill the vacancy, to serve until the next regular election at which time the remainder of the term shall be filled by official ballot.

**SECTION 10.** The town clerk or his designee shall serve as clerk of the representative town meeting. The clerk shall give notice of all town meetings to its members and to the public, keep the journal of its proceedings, and perform such other duties as may be assigned by this act, by bylaw or by vote of the meeting. The clerk shall receive such additional compensation for performing these duties as the meeting may authorize.

**SECTION 11.** The town meeting may direct a duly organized committee to make investigations into the operations of the town and into the conduct of any town department, office or agency, and for this purpose such committees may subpoena witnesses, administer oaths, take testimony and require the production of books and papers. Any person who fails or refuses to appear and testify when legally ordered to do so shall be punished by a fine of not more than five hundred dollars.

**SECTION 12.** (a) The town meeting shall be a continuous body, but it may adjourn for periods not exceeding 150 days. It shall meet at such times and places as the meeting may determine by rule. Special meetings may be held on any day other than a legal holiday on the call of the board of selectmen, moderator, or ten or more members. Notwithstanding any provision of section 10 of chapter 39 of the general laws to the contrary, the notice for the said special meetings shall be posted on the town bulletin board and delivered to the place of residence of each member and that of the moderator no less than seven days prior to the date of such special meeting. (b) The town meeting shall determine its own rules and order of business unless otherwise provided by law and shall provide for keeping a journal of its proceedings. The journal shall be a public record kept available in a place readily accessible to the public, and a certified copy thereof shall be kept available in the Burlington Public Library.

(c) Except on procedural matters voting shall be by standing vote, but if seven or more members shall doubt the vote by raising their hands to so indicate after the vote is announced, then a call of the roll shall be taken and the votes recorded in the journal. The moderator may, in his discretion, direct that any vote be taken by a call of the roll. A majority of all of the members shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the town meeting. The town meeting shall not for any reason declare itself in executive session or attempt to prohibit the public from attendance at any of its proceedings.

(d) The town meeting shall by bylaw provide for the establishment of standing committees, a majority of the members of which shall be composed of persons elected to the town meeting. The finance committee in existence when this act takes effect shall continue as a standing committee on ways and means and all articles which would require the expenditure of town funds shall, before enactment, be referred to that committee for its recommendation. Such other committees as the meeting deems expedient shall also be created and said committees shall be assigned all articles the subject matter of which comes under their jurisdiction before final action is taken, for a recommendation. All committees shall conduct open public hearings on matters assigned to them to provide the public with the opportunity to discuss their views concerning such matters. Committees established under these provisions shall consist of an odd number of persons appointed for fixed terms.

(e) Any registered voter or taxpayer of the town shall, subject to such rules as may from time to time be established, have a right to speak, but not to vote at town meeting sessions.

(f) Warrant for town meeting sessions shall be issued by the board of selectmen to the town meeting members, moderator and town clerk, and a copy shall be posted on the town bulletin board at least 14 days before the meeting is to convene. The selectmen shall include in the warrant all subjects which are requested of them in writing by any elected town meeting member, the moderator, the school committee, or any other person authorized by state statute or town bylaw.

(g) No final vote of any representative town meeting session passing or rejecting a measure under any article in the warrant, except a vote to adjourn, or an authorization to borrow money in anticipation of taxes, an authorization to pay debts and obligations of the town, an appropriation of funds necessary to implement a written agreement executed under section 7 of chapter 150E of the General Laws, or the budget of the town as a whole, or a vote declared by preamble to be an emergency measure necessary for the immediate preservation of peace, health, safety or convenience of the town, and which is passed by a two-thirds vote of the membership, shall be operative until 14 days after the adoption of such vote.

If, within said 14 days after the vote, a petition signed by not less than 5 per cent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters at the most recent election, is filed in the office of the selectmen requesting that the question or questions involved in any such vote be submitted to the registered voters of the town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided. The board of registrars shall certify the signatures within 7 days of the filing date. The selectmen shall

forthwith after the board of registrars certifies that the petition has the requisite number of signatures, call a special election which shall be held within 100 days but no sooner than the earliest date on which the question may appear on the ballot pursuant to section 42C of chapter 54 of the General Laws; provided, however, that if a regular or special town election is to be held within the 100 day period, the selectmen may provide that the question or questions involved be presented to the voters at the same election.

All votes shall be taken by official ballots, and the check list shall be used in the same manner as in the election of town officers. The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereof, but an action of the representative town meeting shall not be reversed unless 20 per cent of the registered voters of the town shall vote to reverse the vote of the representative town meeting.

The questions so submitted shall be stated on the ballot in substantially the same language and form in which they were stated when presented by the moderator to the representative town meeting as appears from the records of said meeting; provided, however, that if the question as stated by the moderator was lengthy as determined by the board of selectmen in its sole discretion the question may instead be stated in summary form by referring to the action taken by the representative town meeting.

This election shall be held on a Saturday, unless it is to be held in conjunction with another election and the polls shall open not later than 2:00 p.m. and shall be closed not earlier than 8:00 p.m.

If a petition is not filed within 14 days of a final vote of the representative town meeting, it shall then become effective.

**SECTION 13.** Subject to constitutional and statutory requirements, these acts of the town meeting shall be by bylaw which:

1. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
2. Establish rules governing the granting, renewing or extension of a franchise or license;
3. Amend or repeal any bylaw previously adopted;
4. Establish standing committees of the town meeting, but not temporary or "ad hoc" committees; and

5. Establish all rules, regulations, orders and other votes of the town meeting which are intended to be permanent and which when adopted regard or affect the community as a whole.

The moderator shall have the authority to direct that a proposed action to be taken shall be done in the nature of a bylaw rather than in some other form when in his discretion it seems advisable so to do.

**SECTION 14.** (a) Every proposed bylaw shall be introduced in writing and in the form required for final adoption. No proposed bylaw shall contain more than one subject which shall be clearly expressed in its title.

(b) The town meeting may adopt any standard code of technical regulations in whole or in part by reference thereto in an adopting bylaw provided, however, that one or more copies of the proposed code shall be available in the office of the town clerk and the adopting bylaw shall not be construed as to include changes or revisions made by the drafters of said code subsequent to the town meeting vote to adopt the code.

**SECTION 15.** The town meeting or a duly authorized subcommittee of the town meeting, by order or resolution, may require the attendance of a town meeting of any elected or appointed officer, board, commission, committee or agency or employee for the purpose of providing the town meeting with information and materials pertinent to matters appearing in the warrant for that town meeting. The head of each department shall hold himself available for attendance at town meetings or shall designate a deputy to respond for him in the event that such department head is absent due to illness or other reasonable causes.

No less than seven days notice to appear shall be given to any person under authority of this section.

**SECTION 16.** This act shall be submitted for acceptance to the registered voters of the town of Burlington at the annual town meeting to be held in the year nineteen hundred and seventy-one in the form of the following question which shall be placed upon the official ballot to be used for the election of town officers at said meeting: -"Shall an act passed by the General Court in the year nineteen hundred and seventy, entitled 'An Act establishing a representative town meeting form of government in the Town of

Burlington', be accepted?" If a majority of the voters voting on this question vote in the affirmative, this act shall take effect immediately for the purpose of the next annual town election, and for all things relating thereto, and shall take full effect beginning with said election. It shall be the duty of all town officials having to do with elections and holding office at the time of such acceptance to do, in compliance with law, all things necessary for the nomination and election of officers first to be elected under this act.

**Editorial Notes:**

Chapter 231 of the Acts of 1975 revised Section 12(a) first sentence from three months to 120 days.

Chapter 469 of the Acts of 1986 rewrote the third paragraph of Section 4 to allow the district lines to be changed whenever the state mandated precinct lines to be redrawn. Section 12g, the second paragraph was rewritten to extend the time to call a special election.

Chapter 160 of the Acts of 1993 revised Chapter 686 to provide for the election of T.M.M.'s by precinct and eliminating districts. Section 2(a) was amended to increase to 21 the number of days required to give written notice to run as a candidate for re-election.

Chapter 70 of the Acts of 1999 revised Chapter 686 to increase to 150 the number of days that the meeting may be adjourned.

Chapter 92 of the Acts of 2001 revised Section 8, Paragraph (a), regarding the definition of "town office" and membership, and Section 12 (f) regarding the time required for issuing warrants for a regularly scheduled meeting.

Chapter 8 of the Acts of 2002 revised Section 4, third paragraph, regarding terms of office after a revision of precincts.

Chapter 509 of the Acts of 2002 revised Section 4 (housekeeping)

Chapter 103 of the Acts of 2007 revised Section 12(g) specifying the voting list to be used, time for certification of petitions by Registrars, time for calling elections, and the format of questions presented.

Chapter 133 of the Acts of 2011 revised Section 1 to increase the number of members to 126; Section 4, first paragraph to set the structure for the election in 2012 for the 7<sup>th</sup> precinct, striking the second and fourth paragraphs (of the original version, second and third in the 2007 version); Section 12, striking the third and fourth paragraphs and inserting in who and when Special Meetings can be set.