

TOWN OF NEEDHAM

CHARTER

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PART 1.

INCORPORATION, SHORT TITLE, DEFINITIONS

Section 1. Incorporation Continued. All the inhabitants dwelling within the territorial limits of the town of Needham, as presently and hereafter constituted, shall continue to be a body politic and corporate known as the town of Needham, hereinafter referred to as "the town" which shall be a political subdivision of the commonwealth and as such shall have perpetual succession and shall hold and exercise all powers and privileges heretofore exercised by said town, and any additional powers and privileges herein conferred and all powers and privileges conferred upon towns under the constitution and laws of the commonwealth of Massachusetts.

Section 2. Short Title. This act may be cited and shall be known as the Needham Special Home Rule Charter Act.

Section 3. Definitions. As used in this act, the following words and phrases shall have the following meanings unless a different construction is clearly required by the context or by the constitution of the commonwealth.

"Charter act", this act and all acts in amendment thereof and such amendments as may be adopted pursuant to the procedures set forth in chapter forty-three B of the General Laws.

"Civil defense laws", all general laws and temporary laws of the commonwealth and provisions of this charter, relative to: (a) the defense of the commonwealth in anticipation of, during, and following enemy attacks; (b) the suppression of domestic disorders; (c) the protection of order, life and property during and immediately following natural or man-made disasters of great magnitude; and (d) the continuity of government in the commonwealth and in the town during and immediately following such attacks, disorders and disasters.

"Town meeting", a regular or special meeting of the elected representative town meeting members not including, unless the context clearly requires it, a meeting of all registered voters.

"Vote of the town", a town by-law or a vote adopted by the town meeting, including where appropriate to the context the results of referenda.

PART 2.

REPRESENTATIVE TOWN MEETING

Section 4. Representative Town Meeting Continued. There shall continue to be in the town the form of representative town government by limited town meetings, all as more fully hereinafter set forth.

Section 5. Establishment of Town Meeting Precincts. After the acceptance of this charter act by the town, as hereinafter provided, the division of the town into ten voting precincts shall continue until redivided pursuant to this section. The selectmen, in exercising their authority to divide the territory of the town into voting precincts, shall make such division as will provide not more than ten precincts each of which contains approximately the same number of inhabitants. (*Amended Art. 19, Nov. 13, 2000 S.T.M.*)

The precincts shall be established so as to consist of compact and contiguous territory and bounded, so far as possible, by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed and, if need be, revised by the Board of Selectmen, based on the most recent federal census, in the second January following the taking of said census, conformable to the requirements of sections one through ten of chapter fifty-four of the general laws. In any year when so directed by a vote of a town meeting, their boundaries shall be reviewed and if need be, revised by the Board of Selectmen in conformity to said sections one through ten of chapter fifty-four. (*Amended Art. 19, Nov. 13, 2000 S.T.M.*)

The selectmen shall, within twenty days after any establishment or revision of the precincts, but not later than January thirty-first of that year, file a report of their doings with the town clerk, the registrars of voters and the assessors with a map or maps or description of the precincts and the names and residences of the registered voters therein. The selectmen shall also cause to be posted at the town hall a map or maps or description of the precincts as established or revised from time to time, with the names and residences of the registered voters therein. They shall also cause to be posted

in at least one public place in each precinct a map or description of that precinct with the names and residences of the registered voters therein. *(Amended Art. 19, Nov. 13, 2000 S.T.M.)*

The division of the town into precincts and any revision of such precincts shall take effect upon the date of the filing of the report thereof by the selectmen with the town clerk. Whenever the precincts are established or revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts.

Meetings of the registered voters of the several precincts for elections, for primaries and for voting upon any question to be submitted to all the registered voters of the town shall be held on the same day and at the same hour and at such place or places within the town as the selectmen shall in the warrant for such meeting direct.

Section 6. Representative Town Meeting Membership. Other than the officers designated in section seven as town meeting members at large, the representative town meeting membership shall in each precinct consist of the largest number divisible by three which will admit of a representation thereof in the approximate proportion which the number of inhabitants therein bears to the total number of inhabitants in the town, and which will cause the total elected membership to be as nearly but not more than two hundred and forty as may be. *(Amended Art. 19, Nov. 13, 2000 S.T.M.)*

In any year in which a revision of the precincts in the town may not be done because of the restrictions imposed by chapter fifty-four of the general laws, the Board of Selectmen may reapportion the seats of the town meeting members elected from precincts in proportion to the number of inhabitants residing therein in order to reflect significant population changes as estimated by the town clerk using the annual street listings and the annual school census. *(Amended Art. 19, Nov. 13, 2000 S.T.M.)*

The registered voters in every precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section seven as town meeting members at large, provided for in the first paragraph of this section to be town meeting members of the town.

The incumbent town meeting members serving at the time this charter becomes effective shall continue to serve the balance of the terms for which they were elected. Their successors shall be elected in the same manner for three year terms as are necessary to provide for each precinct the total number to which it is then entitled. Upon the redivision of the town into a greater or lesser number of precincts in accordance with the procedures set forth in this charter act and in the General Laws, the terms of all incumbent town meeting members shall terminate upon the election and qualification of their successors as provided in the following paragraph.

After any redivision of the town into precincts as provided in this act, the registered voters in every precinct shall elect by ballot the number of registered voters in the precinct, other than the officers designated in section seven as town meeting members at large, provided for in the first paragraph of this section to be town meeting members of the town, as follows: --

The first third in order of votes received of members so elected shall serve three years, the second third in such order shall serve two years, and the remaining third in such order shall serve one year, from the day of such election. In case of a tie vote affecting the division into thirds as aforesaid the members elected from the precinct shall by ballot determine the same. Thereafter, except as is otherwise provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect as town meeting members for the term of three years such number of elected town meeting members as are necessary to provide for such precinct the total number of elected town meeting members to which it is then entitled, and shall at such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of town meeting members in such precinct. The terms of office of all elected town meeting members from every precinct shall cease upon the election, as herein provided, of their successors. Town meeting members as such shall receive no compensation. The town clerk, shall, after every election of town meeting members, forthwith notify each member by mail of his election.

Section 7. Town Meeting Members at Large. Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the voters elected under section six, together with the following elected officers designated as town meeting members at large, each of whom shall have the right to vote in said meeting: (a) any resident member of the general court from the town, whose state legislative district is wholly within the town; (b) the moderator; (c) the town clerk; (d) the members of the board of selectmen; (e) the chairmen of each other elected board of the town, except the housing authority and the commissioners of trust funds.

If any voter elected to be a town meeting member under section six shall become by election one of the officers designated as a town meeting member at large in clauses (a), (b), (c), or (d) of the first paragraph of this section, he shall, upon such election, cease to be a town meeting member elected under section six, and the resulting vacancy in the representation of his precinct shall be filled as provided in section nine. A voter may serve at the same time both as a town meeting member upon election as such under section six and as an officer designated as a town meeting member at large under clause (e) of the first paragraph of this section, but he shall be entitled to vote in proceedings of the town meeting as a single member and shall not be entitled to vote twice by reason of his dual tenure of offices.

Section 8. Nomination of Candidates for Town Meeting Members. Nomination of candidates for town meeting members to be elected under this charter act shall be made by nomination papers, which shall bear no political designation, but to the name of an incumbent candidate elected by the people may be added the words "Candidate for reelection." Nomination papers shall be signed by not less than ten voters of the precinct in which the candidate resides, and filed with the town clerk on or before the date fixed by law as the last day for filing nomination papers by candidates for town office; provided, that any town meeting member may become a candidate for reelection by giving written notice thereof to the town clerk on or before the last date fixed by law for the giving of such notice. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

Section 9. Resignations and Vacancies in Elected Town Meeting Membership. A town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect upon the date of such filing. A town meeting member who removes from the town shall cease to be a town meeting member and an elected town meeting member who removes from one precinct to another or is so removed by a revision of precincts shall not retain membership after the next annual election as an elected member from the precinct from which he has or is removed.

In the event that a vacancy occurs in the full number of town meeting members from any precinct, whether arising from a failure of the registered voters thereof to elect, or from any other cause, the town clerk shall at once choose the person who received the highest number of votes as a defeated candidate for the office of town meeting member in the preceding election in the precinct where the vacancy occurs, and shall notify him of his appointment as a town meeting member. If for any reason this candidate cannot accept such appointment, the second highest in recorded vote of the defeated candidates in that precinct shall be appointed. In the event neither of those receiving the highest or the second highest number of votes as defeated candidates is available, then the town clerk shall call together the town meeting members of the precinct where the vacancy occurs, and they shall by majority vote of those present, elect any registered voter of that precinct to fill such vacancy. The town clerk shall count the ballots, make a certificate of the choice and notify the person so chosen; and, upon receipt by the town clerk of a written acceptance by the person so chosen, the person shall be deemed elected and qualified as a town meeting member, subject to the right of all town meeting members to judge the election and qualification of members, as provided in section ten.

A town meeting member appointed or chosen to fill a vacancy as herein provided shall serve only until the next annual town election.

A tie vote between two or more persons for the last place to be filled by elected candidates, or between two or more persons with the highest number of votes as defeated candidates, or between two or more persons with the second highest number of votes as defeated candidates, shall in each instance be resolved by a majority vote of the town meeting members from that precinct attending a meeting called by the town clerk for that purpose. Upon the resolution of such tie vote by the town meeting members, the person or persons not so chosen for the last place to be filled by elected candidates shall be deemed for the purposes of this section to be the person or persons receiving the highest vote as defeated candidates, and the person or persons so tied at the election with the highest number of votes as defeated candidates who are not so chosen by the town meeting members of the precinct shall be deemed for the purposes of this section to be the person or persons receiving the second highest vote as defeated candidates.

Section 10. Town Meeting to be Judge of Own Members. The representative town meeting shall be the judge of the election and qualifications of its elected members.

Section 11. Time, Notice, Conduct and Adjournment of Town Meeting. The annual town meeting for the election of town officers and such other matters as may be voted on the official ballot thereof, and the annual town meeting for the transaction of business by the representative town meeting, shall be held in February, March, April or May of each year, as shall be determined by vote of the town.

The town clerk shall notify town meeting members of the time and place at which representative town meetings are to be held, such notices to be sent by mail at least seven days before the meeting.

A majority of the town meeting members shall constitute a quorum for transacting business, but a lesser number may organize temporarily and may adjourn from time to time. Notice of every adjourned representative town meeting shall be posted by the town clerk in five or more public places in the town, and the town clerk shall also notify the members by mail of the adjournment at least twenty-four hours before the time of the adjourned representative town meeting, if the period of adjournment will permit. The notices shall state briefly the business to be acted upon at any meeting and shall include notice of any proposed reconsideration. All town meetings shall be open to the public and press; and, subject to such conditions as may be determined from time to time by the representative town meeting, any voter of the town who is not a town meeting member may speak at any representative town meeting, but he shall not vote.

Section 12. Warrant Articles and Voting Thereon by Town Meeting. The articles in the warrant for every town meeting, as far as they relate to the election of the moderator, town offices, town meeting members, and, as herein provided, to referenda and all other matters to be acted upon and determined by ballot, shall be acted upon and determined by the registered voters of the town in their respective precincts.

All other articles in the warrant for any town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the selectmen in the warrant for the meeting, subject to the referendum provided for by section thirteen.

Section 12A. Right of Initiative; Initiative Procedures. Registered voters of the town may, by initiative petition prepared and filed in accordance with the provisions of this section, propose to any annual town meeting the passage of a measure and, if such measure be not so passed by said annual town meeting, may cause such measure to be submitted to the voters of the town for their approval or disapproval thereof as hereinafter provided. However, no measure shall be proposed by initiative petition hereunder which: (1) makes a specific appropriation of money from the treasury of the town other than an appropriation to pay for the costs of a study or to pay for a capital acquisition or improvement, (2) amends the zoning map or zoning by-laws of the town, or (3) proposes the submission to the voters of the town of an amendment to the charter.

An initiative petition shall set forth the full text of the measure proposed by the petitioners, and shall first be signed by not less than one hundred and no more than two hundred and fifty registered voters of the town, each of whom shall sign his name and record his address on said petition as his name and address appear on the list of registered voters. Said initiative petition shall be submitted to the town counsel not later than the fifteenth day of January prior to the annual town meeting into which that petition is to be introduced. If said town counsel shall certify that the measure proposed by said initiative petition does not conflict with the constitution or laws of the Commonwealth, and that it includes only subjects not excluded from the initiative by this section, said initiative petition shall then be filed by him with board of selectmen, who shall cause the measure proposed therein to be included in the warrant for the annual town meeting aforesaid as an initiative article, so designated; provided, however, that if the town counsel shall fail, within ten days following his receipt of an initiative petition, to notify the board of selectmen in writing of his reasons for not certifying said petition, that petition shall be deemed to have been certified by him, and, upon the request of any registered voter who had previously signed such petition, the board of selectmen shall cause the measure therein proposed to be included in the aforesaid warrant as an initiative article, so designated.

Whenever an initiative article is included in the warrant for an annual town meeting, the moderator shall give to any registered voter of the town who signed the initiative petition the privilege of making the first substantive motion under the initiative article, which shall be in the words of the proposal in said article. The moderator shall allow opportunity for debate on such initiative article and motions thereunder, and shall not accept a motion to put the previous questions as to the first substantive motion or as to any motion in substitution therefor until the petitioners and their opponents have been afforded a reasonable time within which to present their arguments nonrepetitously. The town meeting shall act on the first substantive motion in the form in which it is presented, and, if such motion is not passed, the town meeting may take such other action under the initiative article which is within the scope thereof, including the adoption of any alternative measure. Action under an initiative article shall be taken by majority, two-thirds or such other vote as may be required by the nature of such action under applicable state laws.

If such annual town meeting shall dissolve without having adopted, enacted or voted passage of the first substantive motion presented as aforesaid under an initiative article, but if at least one-fourth of the total number of town meeting members voting upon said first substantive motion shall have voted in the affirmative, the original petitioners of

said initiative article may complete their petition by filing with the board of selectmen an additional number of signatures of registered voters of the town which, when combined with the signatures of the original petitioners, will equal in number not less than fifteen percent of the total number of persons registered to vote in the town. Each additional signatory voter shall sign his name, and record his address upon the petition as the same appear on the list of registered voters, and all such additional signatures shall be gathered not earlier than the day following the day on which the aforesaid town meeting dissolved, and shall be filed with the board of selectmen as set forth above not later than twenty days, exclusive of Sundays and legal holidays, following said dissolution.

If such annual town meeting shall have adopted, enacted or voted passage of any motion as an alternative to or substitute for the first substantive motion above referred to, the original petitioners of the initiative article may in like manner complete their initiative petition by filing with the board of selectmen an additional number of signatures, all as provided in the next preceding paragraph.

Within ten days after the filing of the completed initiative petition as aforesaid, the Selectmen shall issue a call for a special meeting of the voters, which shall be held within fourteen days after the issuing of that call, for the purpose of presenting to the voters at large the measure proposed in said petition which has been acted upon unfavorably by the town meeting, and any alternative measure which may have been adopted by the town meeting, provided, however, that the fourteen days aforesaid shall not include any Sunday or legal holiday, or any day between the first Wednesday in July and the first Wednesday in September immediately following during which latter interval no such special meeting shall be held. Both of said measures shall appear upon the ballot to be voted upon by the voters at large, and shall be stated in the same language and form used in the motions acted upon by the town meeting, as appearing in the records of said meeting. The check list shall be used in the same manner as in the election of town officers.

If a majority of the registered voters of the town voting, thereon, and at least twenty percent of all the registered voters, shall vote in the affirmative on either such first substantive motion or upon such alternative motion, the measure voted upon in the affirmative by the number of voters thus required and the measure receiving the larger number of votes if conflicting measures are approved shall take effect immediately or at such later time as may be specified in such measure, or if it be a by-law subject to the approval of the Attorney General it shall take effect subject to section thirty-two of chapter forty of the General Laws; provided, however, that any measure the passage of which shall by law require a two-thirds affirmative vote of the town meeting members voting thereon in a town meeting shall, if proposed by an initiative petition hereunder, or if it be an alternate measure adopted by the town meeting shall require the affirmative vote of two-thirds of the registered voters voting thereon at a special meeting called by the Board of Selectmen under this section. Any measure proposed by initiative petition, or adopted by affirmative vote of the town meeting, and approved by the registered voters of the town under this section shall thereafter be subject to amendment, revision or repeal by the town meeting, subject to the right of referendum by petition as provided in Section thirteen.

No provision in this section shall negate or in any way limit the right of ten or more registered voters to have an article inserted in the annual town meeting warrant at their written request, or the right of one hundred registered voters, or ten percent of the total number of registered voters of the town, whichever number is the lesser, to have an article inserted in a special town meeting warrant at their written request, or the right of two hundred registered voters or of twenty percent of the total number of registered voters of the town, whichever number is lesser, to request in writing the calling of a special town meeting, all as provided for in Chapter 39, Section 10, of the General Laws.

Section 13. Referenda on Representative Town Meeting Action. No final vote of a town meeting passing a measure under any article in the warrant, except a vote to adjourn or dissolve, or a vote appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the current fiscal year, or a vote for the temporary borrowing of money in anticipation of revenue, or a vote declared by preamble by a two-thirds vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety, or convenience of the town, shall be operative until after the expiration of twenty days, exclusive of Sundays and legal holidays, from the dissolution of the town meeting.

If within said twenty days a referendum petition, signed by not less than fifteen percent of the registered voters of the town, containing their names and addresses as the same appear on the list of registered voters, is filed with the Board of Selectmen requesting that the measure passed by any such vote which has not become operative as aforesaid be submitted to the voters of the town at large, then the operation of such vote shall be further suspended pending its determination as hereinafter provided, and the Board of Selectmen, within ten days after the filing of the referendum petition, shall call a special meeting which shall be held within fourteen days after the issuing of the call for the purpose of presenting to the voters at large the measure so involved; provided, however, that the fourteen days aforesaid shall not include any Sunday or

legal holiday, or any day between the first Wednesday in July and the first Wednesday of September immediately following, during which latter interval no such special meeting shall be held.

All votes upon any measure so submitted shall be taken by ballot; and the measure so submitted shall be stated upon the ballot in the same language and form in which the motion was adopted by the Town Meeting, as appears from the records of said town meeting. The check list shall be used in the same manner as in the election of town officers. If a majority of the registered voters of the town voting thereon, and at least twenty percent of all the registered voters, shall vote in the negative, the action of the town meeting in passing the measure which is the subject of the referendum petition shall be null and void; otherwise, such measure, as voted by the town meeting, shall take effect immediately upon the declaration by the selectmen of the vote upon the referendum, or at such later date as may be specified by said vote of the town meeting.

If such referendum petition is not filed within said period of twenty days, the vote of the town meeting passing the measure which is the subject of the said petition shall become operative upon the expiration of said period, or at such later date as the vote passing said measure may specify.

Section 14. Powers of Town and Town Meeting. The town shall continue to have the capacity to act through and be bound by its said town meeting members who shall, when convened from time to time as provided by law, constitute representative town meeting; and the representative town meeting shall exercise exclusively, so far as will conform to the provisions of this charter act, all powers vested in the municipal corporation. Action in conformity with all provisions of law, now or hereafter applicable to the transaction of town affairs in town meetings, shall, when taken by any town meeting in accordance with the provisions of this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as heretofore organized and conducted.

Section 15. Certain Rights of the People not Abridged. This charter act shall not abridge the right of the inhabitants of the town to hold general meetings as that right is secured to them by the constitution of this commonwealth; nor shall this charter act confer upon any representative town meeting of the town the power finally to commit the town to any measure affecting its municipal existence or changing its government, without action taken thereon by the voters of the town at large, using the official ballot and check list therefor.

PART 3.

TOWN OFFICERS

Section 16. Selectmen. There shall continue to be a board of selectmen for the town consisting of three or five members elected at each annual town election for terms of one or three years as determined by vote of the town. The selectmen shall continue to have and exercise all the powers and duties vested in boards of selectmen by the laws of the commonwealth or by vote of the town, except as otherwise provided herein.

The selectmen shall have general authority to execute the civil defense laws within the town and to make any declaration of emergency required by law.

Section 17. School Committee. There shall continue to be a school committee for the town consisting of three, five, six, seven or nine members elected at each annual town election for terms of three years as the town may vote. The school committee shall have the powers, duties, responsibilities and functions vested in school committees by the laws of the Commonwealth, and as delegated to it by the town which are not inconsistent with the laws of the Commonwealth. They shall execute the laws of the commonwealth pertaining to all educational responsibilities assigned to the town and such further responsibilities as may be delegated to them by vote of the town. (*Revised Article 9, November 20, 1995 S.T.M.*)

Section 18. Moderator. A moderator shall be elected by ballot at the annual town election for a term of 3 years and shall serve as moderator of all town meetings, except as otherwise provided by law, and until a successor is elected and qualified. Nominations for and election of a moderator shall be as in the case of other elective town officers, and any vacancy in the office may be filled by the town meeting members at a meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members.

Section 19. Other Elected Officers. The town at its annual town meeting shall in every year when the term of office of any incumbent expires, and except when other provision is made by law, choose by ballot from its registered voters the following town officers for the following terms of office:

A town clerk for a term of one or more years.

Three or five park and recreation commissioners for a term of three years as established by vote of the town.

One or more constables for a term of three years unless the town by vote provides that they shall be appointed.

One, three, or five assessors, but as nearly one-third of their number as may be shall be elected or appointed annually, each to hold office for three years as provided by vote of the town.

Three members of the board of health for a term of three years.

Not less than five or more than nine planning board members elected pursuant to section eighty-one A of chapter forty-one of the General Laws as established by vote of the town.

Seven trustees of the Needham Public Library, but as nearly one-third of their number as may be shall be elected annually, each to hold office for three years as provided by vote of the town.

Four members of the Needham Housing Authority for five-year terms.

Three or five trustees of Memorial Park for three-year terms, as determined by vote of the town; and

Such other officers as may be provided for by the General Laws or by vote of the town.

Section 20. Appointed Officials.

(a) The board of selectmen shall appoint and may remove a town manger or acting town manager in accordance with section 20A.

(b) The selectmen shall appoint town counsel, members of the board of appeals, election officers, registrars of voters except the town clerk, members of the historic commission, conservation commission, commission on disabilities, and, except as provided in section 19, all other boards, committees, and commissions of the town for whom no other method of selection is provided in this charter or by-law.

(c) The town manager shall appoint, subject to the approval of the board of selectmen: a chief of the police department; a chief of the fire department; a director of public works; an assistant town manager/director of finance or person performing said function regardless of title; and an assistant town manager/personnel director, or person performing said function regardless of title. Appointments made by the town manager shall become effective upon the approval of the board of selectmen. If the board of selectmen shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with the board of selectmen. For the purposes of this section, notice of appointment shall be considered filed with the board of selectmen when the notice is filed at an open meeting of the board of selectmen.

(d) The town manager shall be the appointing authority for the following officials and employees of the town:

(1) A town accountant, a town treasurer/tax collector, a planning director, an administrative assessor, an inspector of buildings, a director of public health, a director of veterans' services, a director of park and recreation, a director of youth services, a director of management information systems, an executive director of the council on aging, a library director, a town engineer, a director of municipal building maintenance, and a building construction and renovation manager; or persons performing said functions regardless of title.

(2) All other employees and officials of the town for whom no other method of selection is provided in this charter, with the exception of the executive secretary of the finance committee, who shall be appointed by that committee, and employees of the school department.

(e) Any appointment by the town manager in accordance with subsection (d) 1 shall be subject to the approval of the elected or appointed board or committee having jurisdiction over a department, if any. Appointments made by the town manager shall become effective upon the approval of said board or committee. If said board or committee shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with said board or committee. For the purposes of this section, notice of appointment shall be considered filed with said board of committee when such notice is filed at an open meeting of the board or committee.

(f) Any person so appointed by the town manager under subsections (c) and (d), who is not subject to chapter 31 of the General Laws, may be removed by the town manager; provided, however, that no removal shall be made of officers listed in subsection (c), except with the approval of the selectmen, and that no removal shall be made of other employees or officers until the town manager consults with the elected or appointed boards or committees having jurisdiction over that employee's department, if any. Removal of officers listed in subsection (c) shall become effective upon the approval of the board of selectmen. If the board of selectmen shall fail to act, removals made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed removal is filed with the board of selectmen. For the purposes of this section, notice of removal shall be considered filed with the board of selectmen when such notice is filed at a meeting of the board of selectmen.

Section 20A. Appointment and Removal of Town Manager.

(a) Appointment of Town Manager.

(1) The selectmen shall appoint, for a term not to exceed 3 years, a town manager, who shall be a professionally qualified person of proven ability who has had substantial involvement with municipal government and is appropriately fitted by education, training, and by previous full-time paid experience in a responsible administrative position to perform the duties of the office.

(2) Upon expiration of the term, or upon the resignation or removal of the town manager, or in the event of any vacancy in the office of town manager, the selectmen shall, within 7 days, appoint an acting manager to perform the duties, and shall appoint a successor with the above specified qualifications forthwith.

(3) The town manager shall be appointed without regard to party or political designation. He shall be a citizen of the United States of America. No person holding elective public office in the town with the exception of town meeting member shall, within 3 years of holding the office, be eligible for appointment as town manager.

(4) The town manager shall not hold any elective public office nor engage in any other business or occupation during his tenure except for part-time consultative or teaching duties, directly related to the profession of municipal management and with the specific consent of the selectmen. The town manager may be appointed for successive terms of office.

(5) Before entering upon the duties of his office, the town manager shall be sworn, in the presence of a majority of the selectmen, to the faithful and impartial performance thereof by the town clerk or a justice of the peace.

(b) Acting Town Manager. The town manager may designate, subject to the approval of the selectmen, by means of a letter filed with the town clerk, a suitable person to perform his duties during his temporary absence or disability. If the town manager fails to make the appointment, or the person so appointed fails to serve, the selectmen may appoint a suitable person to perform the duties. In the event of any vacancy in the office of town manager or the suspension of the town manager, the selectmen shall, within 7 days, appoint an acting manager to perform the duties.

(c) Removal of the Manager. The selectmen may suspend or remove the town manager by the affirmative vote of a majority of the full membership of the board.

Section 20B. Powers and Duties of the Manager. The town manager shall be the chief executive officer of the town. In addition to other powers and duties provided for in this charter, the town manager shall have the following powers and duties:

(1) The town manager shall supervise, either directly or through a person or persons appointed by him in accordance with this charter, all department managers, except the school department managers. The town manager shall be responsible for the efficient administration of all departments except the school department. The town manager shall not, however, exercise any control over the discretionary power vested by statute in any board, committee, commission or officer.

(2) The town manager, consistent with this charter, the General Laws, and town by-law, may, with the approval of elected boards having jurisdiction over affected departments, where applicable, and with the approval of the selectmen after a public hearing held by the selectmen for that purpose, reorganize, consolidate or abolish departments under his supervision, and establish such new departments as he considers necessary. With the approval, the town manager may transfer the duties and powers, and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one department to another.

(3) The town manager shall have jurisdiction over the rental and use of all town property, except school property, and shall be responsible for the maintenance and repair of all town buildings, including school buildings and grounds. The town manager shall be responsible for the preparation of plans and supervision of all work on existing and new buildings, including work on school buildings, unless otherwise assigned by the town meeting to a permanent building committee. Plans for the construction or improvement of school buildings or property shall be subject to the approval of the school committee.

(4) The town manager shall be the purchasing agent for the town and shall award all contracts for all departments and activities of the town with the exception of the school department.

(5) Subject to the approval of the board of selectmen, and with the oversight of the personnel board, as outlined below, the town manager shall adopt rules and regulations establishing a personnel system. The personnel system shall make use of modern concepts of personnel management and shall include, but not be limited to, the following elements: (i) a method of administration; (ii) personnel policies indicating the rights, obligations and benefits of employees; (iii) a classification plan; (iv) a compensation plan; (v) a method of recruiting and selecting employees based on merit principles; (vi) a centralized record keeping system; (vii) disciplinary and grievance procedures; (viii) a professional development and training program; and (ix) other elements that are deemed necessary. All town agencies and positions shall be subject to the rules and regulations adopted under this section, excluding employees of the school department, and as otherwise provided under chapter 150E of the General Laws.

Personnel policies referenced in clause (ii) or changes to such policies, shall not be submitted to the board of selectmen without the prior review and approval of the personnel board. Classification plans or compensation plan referenced in clauses (iii) or (iv), or changes to such plans, shall not be submitted to the board of selectmen for approval until as the town manager has submitted the plan or plan revision to the personnel board for review and comment and, provided the comments are made within 15 days of submission, has provided written response to any comment made by the personnel board. In all other aspects of the personnel system, the town manager shall confer with the personnel board.

(6) The town manager shall fix the compensation of all town employees except those under the jurisdiction of the school committee within the limits established by appropriation and subject to chapter 150E of the General Laws.

(7) The town manager shall negotiate and administer all collective bargaining agreements with employee organizations representing town employees other than employees of the school department, pertaining to wages and other terms and conditions of employment, in accordance with chapter 150E of the General Laws; and such agreements, other than agreements with employee organizations representing school department employees, shall be subject to the approval of the board of selectmen. The town manager may, with the approval of the board of selectmen, employ special counsel to assist in the performance of the foregoing duties. The town manager or his designee shall participate in the deliberations of the school committee in collective bargaining with employee organizations representing school department employees, as provided in chapter 150E of the General Laws.

(8) The town manager shall keep records of the office of town manager and shall render as often as may be required by the board of selectmen a report of all operations during the period reported on.

(9) The town manager shall keep the board of selectmen advised as to the needs of the town and shall recommend to the board of selectmen for adoption measures requiring action by them or by the town as considered necessary or expedient by the town manager.

(10) The town manager shall be responsible for the implementation of town meeting votes and shall report annually in writing to the town meeting on the status of prior town meeting votes on which implementation is not complete except matters as relate to the schools.

(11) The town manager shall administer, either directly or through a person or persons appointed by him in accordance with this charter, all provisions of general and special laws applicable to said town, and by-laws and votes of the town, and all rules and regulations made by the selectmen except matters as relate to the schools.

(12) The town manager shall report to the selectmen and the finance committee as to the financial condition of the town.

(13) The town manager shall have access to all town books and papers for information necessary for the proper performance of his duties, and may, without notice, cause the affairs of any department or activity under his control, or the conduct of any officer or employee thereof, to be examined.

(14) The town manager shall be accessible and available for consultation to chairs of boards, committees and commissions of the town, whether appointed or elected, and shall make accessible and available to them such data and records of his office as may be requested in connection with their official duties.

(15) The town manager shall perform such other duties consistent with his office as may be required of him by the by-laws or vote of the town or by the vote of the selectmen.

(16) The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant, in accordance with section 56 of chapter 41 of the General Laws, shall be submitted to the town manager. The approval of the warrant by the town manager, or in his absence the acting town manager, shall be sufficient authority to authorize payment by the town treasurer, but the selectmen shall approve all warrants in the event of the absence of the town manager or acting town manager, or a vacancy in the office of town manager.

(17) Whenever any payroll, bill or other claim against the town is presented to the town manager, he shall, if the same seems to him to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the town, immediately investigate the facts and determine what, if any, payment should be made. Pending the investigation and determination by the town manager, payment shall be withheld.

Section 20C. Estimate of Capital Expenditures. All boards, departments, committees, commissions and officers of the town shall annually, at the request of the town manager, submit to him in writing a detailed estimate of the capital expenditures, as defined by by-law, required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the ensuing 4 year period. The town manager, after consultation with the board of selectmen, shall submit in writing to the board of selectmen a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the town. The selectmen shall transmit a copy of the capital budget to the finance committee along with the board of selectmen's recommendations relative thereto. The calendar dates on or before which the capital budget is to be submitted and transmitted shall be specified by by-law.

Section 21. Other Boards, Committees and Commissions. The following boards and committee shall continue to perform the duties and responsibilities assigned to them by the General Laws or by vote of the town, as follows:--

A finance committee consisting of such number as established by vote of the town.

A personnel board.

Commissioners of trust funds; and,

Such other boards, committees and commissions as may be provided for by the General Laws or by vote of the town.

PART 4.

PUBLIC WORKS

Section 22. Selectmen to be Board of Public Works. The board of selectmen of the town, as constituted from time to time, shall continue to be and shall exercise the functions of a board of public works and in said capacity shall exercise under the designation of selectmen all the powers and duties vested by law in the following boards and offices, to wit: highway surveyors, water commissioners, sewer commissioners and tree wardens and such boards and offices shall remain abolished during such time that the provisions of this section are operative. The selectmen, acting as said board of public works, shall in all respects continue to be the lawful successor of the boards and offices so abolished.

Section 23. Director of Public Works. The town manager shall appoint a director of public works, who shall administer, under the supervision of the town manager, the departments of the town under the control of the selectmen as they may designate. He shall be responsible for the efficient administration of all departments within the scope of his duty, and shall hold office subject to the will of the town manager, consistent with subsection (c) of section 20. He shall be specially fitted by education, training and experience to perform the duties of the office, and may or may not be a resident of the town. During his tenure, he shall hold no elective public office or other public appointive office, nor shall he be engaged in any other business or occupation. He shall, subject to the approval of the town manager, appoint assistants, agents and employees as the performance of the duties of the various departments under his supervision may require, and may with like approval remove them. He shall keep records of the doings of his office and shall have charge of and shall preserve, arrange and index so as to be readily accessible to the public all plans, surveys, field notes, records, documents and inventories connected with engineering operations of the town, and render to the town manager, as often as he may require, a report of all operations under his control during the period reported upon; and annually, or from time to time as required by the town manager, he shall make a synopsis of all the reports for publication. He shall keep the town manager fully advised as to the needs of the town within the scope of his duties, and shall furnish to the town manager a carefully prepared and detailed estimate in writing of the appropriations required during the ensuing fiscal year for the proper conduct of all departments of the town under his supervision.

Section 24. Laying Out, and Maintenance of Drains, etc. The town may lay out, construct, maintain and operate a system or systems of main drains and common sewers for a part or the whole of its territory, with such connections and other works as may be required for a system of sewage disposal, and may construct such sewer or drains over and under land in the town as may be necessary to conduct the sewage to the south metropolitan sewerage system, and, for the purpose of providing better surface or other drainage, may make, lay and maintain such drains as it seems best. The town may, within its limits, make and maintain subdrains and, with the approval of the state department of public health, discharge the water into any brook, stream or watercourse within the town. The town may make and maintain within its limits in any way where main drains or common sewers are constructed such connecting drains, underdrains and sewers within the limits of such way as may be necessary to connect any estate which abuts upon such way.

Section 25. Particular Sewers. The town, through its board of selectmen, acting as the board of public works, may upon the application of the owner of any estate abutting on any way where a main drain or common sewer is constructed, lay in such sewered way and in the private land of such owner such particular sewer or connecting drain as may be necessary to connect any building on such estate with such main drain or sewer, and the town manager may make all necessary contracts in the name and behalf of the town for such purpose. The expenses thereof shall be paid out of any appropriation that may be made by the town therefor.

Section 26. Exercise of Eminent Domain, etc., for Sewer and Drain Purposes. The selectmen, as the board of public works, acting for and on behalf of the town, may take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any lands, water rights, rights-of-way or easements, public or private, in the town, necessary for accomplishing any purpose mentioned in sections twenty-four to thirty-one, inclusive, of this charter act, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public way, or within the location of any railroad, and may enter upon and dig up any private land, public way, for the purpose of laying such drains and sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of sections twenty-four to thirty-one, inclusive, of this charter act; provided, that they shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with such corporation, or, in case of failure to agree, as may be approved by the state department of public utilities. Any person injured in his property by any action of the selectmen under this section may recover damages from the town under said chapter seventy-nine.

Section 27. Apportionment of Costs of Sewage Disposal. The town shall by vote of its town meeting determine what proportion of the cost of said system or systems of sewerage and sewage disposal the town shall pay; provided, that it shall pay not less than one-fourth nor more than two-thirds of the whole cost. In providing for the payment of the remaining portion of the cost of said system or systems or for the use of said system or systems, the town may avail itself of any or all of the methods permitted by general law, and the provisions of general law relative to the assessment, apportionment, division, reassessment, abatement, and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made hereunder. At the same meeting at which it determines the proportion of the cost which is to be borne by the town, it may by vote determine by which of such methods the remaining portion of said cost shall be provided for. The collector of taxes of the town shall certify the payment or payments of such assessments or apportionments thereof to the board of selectmen, who shall preserve a record thereof.

Section 28. Assessment of Sewer Betterment. The cost of constructing each particular sewer or connecting drain described in section twenty-five shall be assessed by the board upon the estate benefited thereby. Such assessments shall be made by filing with the collector of taxes of the town a certificate, designating the way and the private land in which such particular sewer or connecting drain has been constructed, and giving the name or names of the owners of the estate for which such connection has been made and the amount of the assessment to be paid by such owner or owners. A copy or duplicate of this certificate shall, within ten days after the filing of the same with said collector of taxes, be recorded in the registry of deeds for the county of Norfolk, or, in the case of registered land, filed in the office of the assistant recorder for the Norfolk County Registry District. The collector of taxes shall, upon receipt of such certificate, make a written demand for the payment of such assessment or charge, and every owner shall, within three months after such demand is served upon him or on the occupancy of such estate, or sent by mail to the last address of the owner known to the collector of taxes, pay to said collector of taxes the sum so assessed or charged. Except as provided in this paragraph, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon shall apply to assessments made under this paragraph. In applying said provisions to such assessments, the notice referred to in this paragraph shall be deemed to be the demand of the tax collector required thereunder. The lien for any assessment made under this paragraph shall attach upon the recording or filing for registration of the copy of duplicate of the certificate of assessment. In the apportionment of such assessments thereunder, no installment shall be less than ten dollars.

Section 29. Application of Sewer Receipts. The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of said system of sewerage, or to the extension thereof, to the payment of interest upon bonds and notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

Section 30. Sewer Contracts. All contracts made for the purposes of sections 24 to 31, inclusive, shall be made in the name of the town and shall be signed by the town manager. No contract shall be made, or obligation incurred, hereunder for said purposes in excess of the amount of money appropriated by the town therefore.

Section 31. Sewer Regulations. The board of selectmen, as the board of public works, may from time to time prescribe rules and regulations for the connection of estates and building with main drains and sewers, and for inspection of the materials, the construction, alteration and use of all connections and drains entering into such main drains or sewers, and may prescribe penalties, not exceeding fifty dollars, for each violation of any such rule or regulation. Such rules and regulations shall be published at least once a week for three successive weeks in some newspaper published in the town, if there be any, and if not then in some newspaper published in the county of Norfolk, and shall not take effect until such publications have been made.

PART 5. PARK, RECREATION AND CONSERVATION

Section 32. Park and Recreation Commission. There shall continue to be in the town a park and recreation commission consisting of such number of commissioners, elected for such terms as authorized by vote of the town pursuant to section nineteen of this act. The park and recreation commission shall have the powers, duties and functions: (a) vested by general law in boards of park commissioners, playground or recreation commissions and town forest committees; and (b) vested in said commission by this charter or by vote of the town. Said commission shall continue to have the management and care of the town forest, formerly managed by the special town forest committee.

Section 33. Memorial Park. The land known as the Memorial Park in the town of Needham shall continue to be under the jurisdiction of the board of trustees of the Memorial Park. Said board of trustees shall continue to have the power and duty: (1) to receive, hold and manage, with the approval of the town meeting, any devise, bequest or gift for the establishment or equipment of memorials for properly commemorating the services of members of the armed forces of the commonwealth and of the United States; and (2) to maintain and operate, upon such portion of said Memorial Park as they determine, an athletic field, with suitable equipment, and in their discretion to regulate its use for athletic games and other entertainments of a public nature, to which an admission fee may be charged, upon such terms and conditions as said trustees may impose.

Section 34. Conservation Commission. There shall continue to be in the town a conservation commission of not less than three nor more than seven members, as determined by vote of the town and appointed by the board of selectmen. The term of office of approximately one-third of the members will expire each year and their successors shall be appointed for terms of three years each. The commission shall have the powers, duties and functions specified by section eight C of chapter forty of the General Laws and such additional duties as may be assigned to it by vote of the town.

Said commission may receive gifts of property, both real and personal, in the name of the town subject to the approval of the selectmen. Said commission may acquire by gift, purchase, grant, bequest, devise, lease or otherwise the fee in such land or water rights or any lesser interest, development right, easement, covenant, or other contractual right including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within the town, and shall manage and control the same. The commission may adopt rules and regulations governing the use of land and waters under its control, and prescribe penalties not exceeding a fine of one hundred dollars, for any violation thereof.

PART 6. MUNICIPAL PLANNING

Section 35. Planning Board. There shall continue to be in the town a planning board which shall consist of not less than five nor more than nine members, who shall be elected or appointed, as determined by vote of the town. The planning board members shall be elected or appointed for terms of such length and so arranged that the term of at least one member will expire each year and their successors shall be elected or appointed for terms of five years each.

Section 36. Board of Appeals. There shall continue to be a board of appeals established under the provisions of section fourteen of chapter forty A of the General Laws, which shall be the existing board of appeals under the town building by-law and shall perform the duties of the board of appeals under section eighty-one AA of chapter forty-one of the General Laws. The board of appeals shall consist of three members, who shall be appointed by the selectmen for three-year terms so arranged that the term of one appointee will expire each year. The selectmen in a like manner shall appoint two associate members.

The board of appeals shall have and shall exercise all the powers and duties of boards of appeal under the zoning enabling act, the subdivision control law and the building by-laws and such further powers and duties as may be granted to said board by vote of the town.

PART 7. GENERAL PROVISIONS

Section 37. Construction. The provisions of this charter act shall be construed as if said act had been adopted by the procedure set forth in sections three and four of Article LXXXIX of the Amendments to the Constitution of the Commonwealth. The powers granted to the town of this charter act shall be liberally construed in order to give full effect to the powers specifically granted herein. The provisions of this charter act as originally adopted shall be construed as a continuation of the provisions of the existing law in effect at the time of its adoption unless the contrary is clearly required by the context thereof.

Section 38. Severability. The provisions of this charter act are severable. If any of the provisions of this charter act are held to be unconstitutional, or invalid, the remaining provisions of said act shall not be affected thereby. If the application of this charter act or any of its provisions to any person or circumstances is held to be invalid, the application of said act and its provisions to other persons or circumstances shall not be affected thereby.

Section 39. Repeal of Certain Acts. Chapter seventy-three of the acts of nineteen hundred and twenty-three, chapter four hundred and fifty-four of the acts of nineteen hundred and twenty-four, chapter one hundred and eighty-nine of the acts of nineteen hundred and thirty-two, chapter twenty-nine of the acts of nineteen hundred and thirty-four, chapter sixty-eight of the acts of nineteen hundred and thirty-seven, chapter thirty of the acts of nineteen hundred and fifty, chapter twenty-one of the acts of nineteen hundred and fifty-five, chapter seventy-four of the acts of nineteen hundred and fifty-five, chapter three hundred and fifty-nine of the acts of nineteen hundred and fifty-six, chapter three hundred and sixty-eight of the acts of nineteen hundred and fifty-six, chapter eighty-four of the acts of nineteen hundred and fifty-nine and chapter one hundred and forty of the acts of nineteen hundred and sixty-five are hereby repealed.

Section 40. Existing Law. All general laws, and all special laws, town by-laws, rules and regulations of or pertaining to the town which are in force when this charter act takes full effect, and which are not specifically repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation. Nothing in this charter act shall affect or impair the rights or privileges of persons who are town officials or employees at the time it takes effect or derogate from the protection afforded to them by the civil service law, laws relating to veterans' tenure, or chapter thirty-two of the General Laws. Nothing contained herein shall impair any existing contractual rights established prior to the adoption of this charter act or any amendment thereto.

Section 41. Effective Date. Sections forty-one and forty-two of this act shall take effect upon the passage of this act. Section one to forty, inclusive, of this act shall become effective on the first day of April immediately following the next town election specified in section forty-two if a majority of the voters of the town voting thereon at such election have voted in favor of its adoption. Any amendment or revision adopted subsequent to said date shall become effective upon the date specified in such amendment or revision.

Section 42. Submission of Act to Voters. This charter act shall be submitted for acceptance to the registered voters of the town of Needham at the town election next held following the passage of this charter act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the following question which shall be placed upon the official ballot to be used in said town at said election: -- "Shall an act passed by the General Court in the year nineteen hundred and seventy-one, entitled 'An Act recodifying the existing laws establishing the frame of government of the town of Needham into a special home rule charter act', be accepted?".

Upon its acceptance by a majority of the registered voters of said town voting thereon at said town election, as aforesaid, this charter act shall take effect in the town of Needham on the first day of April immediately following said election, as herein provided, but not otherwise.

Approved June 14, 1971.

Amended 1973, 1974, 1975, 1976, 2000.

And further amended by Chapter 176 of the Acts of 2004

(Section 6 and 7 of Chapter 176 of the Acts of 2004 shall take effect upon its passage.
Section 1 to 5, inclusive, shall take effect 185 days following acceptance by a majority
of the registered voters of the town which was so passed on November 2, 2004)

NOT INCLUDED IN THE 1998 PRINTING OF THE GENERAL BY-LAWS/CHARTER

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THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-eight.

AN ACT ESTABLISHING A SPECIAL ACCOUNT FOR THE GLOVER MEMORIAL HOSPITAL OF THE TOWN OF NEEDHAM.

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. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other provision of law to the contrary, the town of Needham hereinafter referred to as the town may establish a separate account classified as the Glover Memorial Hospital Special Account. Said hospital is hereinafter referred to as the hospital, said special account is hereinafter referred to as the special account. All funds now held by the town and received from or on account of the hospital, other than funds under the jurisdiction of the commissioners of trust funds of the town, shall be transferred to the special account and all receipts, revenues and funds from any source derived from or on account of any activity or activities of the hospital shall be deposited in the special account. Grants from the federal government or any agency thereof or the commonwealth or any agency thereof for the use, benefit or support of the hospital shall also be deposited in the special account. The town may from time to time appropriate funds for specific purposes relating to the provisions of health care for the citizens of the town and such appropriations shall be deposited in the special account. The special account shall be maintained by the treasurer of the town who may invest the funds in the special account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four of the General Laws. Interest earned on or income or proceeds received from any investment of funds of the special account shall be credited to and become part of the special account. The acceptance of grants to be deposited in the special account shall be made on behalf of the town by the trustees of the hospital hereinafter referred to as the trustees.

SECTION 2. The books and records of the special account and of the hospital shall be maintained in accordance with generally accepted accounting principles pertaining to not-for-profit charitable institution and in accordance with the requirements of section thirty-eight of chapter forty-four of the General Laws provided that they shall be kept so as to provide at all times for the segregation of funds derived from appropriations made pursuant to section one or advances made pursuant to section five from all other funds held in the special account. Such books and records shall be audited annually by a certified public accountant appointed by the board of selectmen hereinafter referred to as the board who shall file copies of each report of audit with the trustees and with the board, the finance committee and the director of finance of the town and with the bureau of accounts hereinafter referred to as the bureau of the department of revenue.

SECTION 3. Not less than sixty days prior to the beginning of each fiscal year, the trustees shall submit to the board and the finance committee of the town a budget, in such form and detail as the trustees may determine and the board, may approve of anticipated revenues from operations and proposed expenditures by the hospital during such fiscal year. Said budget shall also include estimates of revenue from investment of funds in the special account. Upon consideration of any recommendation of the finance committee, the board may approve or reduce the proposed expenditures included in the budget, and the budget so approved shall constitute the budget of the hospital for such fiscal year. Said budget shall be reported to the commissioner of revenue in conjunction with the submission by the assessors of the town pursuant to section twenty-three of chapter fifty-nine of the General Laws. If, however, the budget as submitted to the board shall propose expenditures in excess of the sum of anticipated revenues from operations of the hospital and from investment of funds plus any balance of monies estimated to be on deposit in the special account, other than monies received from town appropriations made pursuant to section one for specific purposes or from grants for any purpose other than general operations of the hospital, at the close of business on the last day of the fiscal year next preceding the fiscal year respecting which the budget is submitted, after deducting from such balance all bills estimated to remain unpaid at the end of such fiscal year, the budget may not be approved by the board but shall be submitted to the town meeting for adoption as in the case of an appropriation. The term "approved budget" shall include a budget so adopted. If during a fiscal year the trustees shall determine that a revision of the approved budget is required, the trustees shall submit such revised budget to the finance committee and the board of the town. Such revised budget shall not take effect except to the extent approved by the board and shall not take effect in any event unless the expenditures proposed therein shall be no greater than the sum of revenues received and anticipated to be received through the end of the fiscal year from operations of the hospital and from investment of funds plus the then balance of monies on deposit in the special account, other than monies received from town appropriations made pursuant to section one for specific purposes or from grants for any purpose other than general operations of the hospital, in excess of bills or accruals then remaining unpaid. Approval by the board of a budget, whether

initial or revised, shall not be deemed to constitute an appropriation of funds on deposit or thereafter deposited in the special account. The provisions of section sixteen of chapter thirty-nine, sections fifty-eight and fifty-nine of chapter forty-one or sections thirty-one and thirty-three B of chapter forty-four of the General Laws shall not apply to any such approved budget or to liabilities incurred or expenditures made within the amounts proposed in any such approved budget to be expended. The trustees may not, however, incur any liability for a payment which shall be due on or before the end of the fiscal year in excess of the amount available for such payment pursuant to the approved budget.

SECTION 4. Expenditures from the special account may be made, within the items contained in the current approved budget, without appropriation, by the director or other official of the hospital authorized by the trustees. Such expenditures shall be made solely for the operation, maintenance and support of the hospital and for the provision of capital equipment and plant for the hospital, subject, however, to any limitations imposed upon the expenditure of funds appropriated by the town or received as grants. The trustees shall file monthly with the director of finance, the board and the finance committee of the town statements of expenditures made and of receipts from operations for the month and fiscal year to date for the operation, maintenance and support of the hospital and for capital expenditures. Said reports shall show budget expenditures and receipts for the month and fiscal year to date. Annually, within one hundred and twenty days after the close of the fiscal year, the trustees shall file with the director of finance, the board and the finance committee of the town and with the bureau a report showing all expenditures made during such fiscal year for the operation, maintenance and support of and capital purchases for the hospital from the special account, all receipts from operations of the hospital and all other amounts deposited in the special account.

SECTION 5. Upon written request of the trustees certifying that a cash flow deficiency is expected in the special account and approval of such request by vote of a majority of the whole number of the board, the treasurer of the town shall transfer to the special account an amount not in excess of the anticipated deficiency from any available funds in the treasury of the town in any fiscal year in anticipation of the receipt of revenues from operations of the hospital during such fiscal year. Such advances outstanding at any one time during any fiscal year shall not exceed twenty-five per cent of the current budget of the hospital for such fiscal year as approved pursuant to section three. Prior to the end of such fiscal year the hospital shall repay such advances to the treasury of the town, together with an amount equal to the interest as determined by the director of finance of the town to be allocated to such advances. Unless the town meeting shall appropriate funds for the purpose and only to the extent of such appropriation, the town shall not be liable for any liability or obligation incurred by or on behalf of the hospital which remains unpaid at the end of a fiscal year other than to the extent of deposits thereafter made in the special account. If at the end of the fiscal year any advance made by the treasurer of the town pursuant to this section or amount of allocable interest thereon shall remain unpaid to any extent, unless the town meeting shall determine otherwise, the resulting deficiency shall be repaid to the treasury of the town out of deposits, from any source other than town appropriations, thereafter made in the special account before any payment shall thereafter be made from the special account other than for compensation or benefits of employees of the hospital who were such employees at the end of such fiscal year.

SECTION 6. Upon written certification by the treasurer of the town that a cash flow deficiency is expected in the treasury of the town and a request that monies be transferred from the special account to the treasury of the town, and upon approval of such request by the trustees and the board, the treasurer of the town shall transfer to the treasury of the town an amount, not in excess of the anticipated deficiency, from any available funds in the special account in any fiscal year in anticipation of the receipt of tax or other revenues of the town during such fiscal year. Such advances outstanding at any one time during any fiscal year shall not exceed twenty-five per cent of the budget of the hospital for such fiscal year as approved pursuant to section three. The town shall, prior to the end of such fiscal year, repay such advances to the special account together with an amount equal to the interest as determined by the director of finance of the town be allocable to said advances.

SECTION 7. This act shall be subject to amendment or repeal only by laws enacted by the general court in conformity with the provisions of section eight of Article LXXXIX of Articles of Amendment to the Constitution, and shall not be subject to the provisions of chapter forty-three B of the General Laws.

SECTION 8. Sections seven and eight of this act shall take effect upon its passage. Sections one to six, inclusive, shall take effect on July first, nineteen hundred and eighty-eight.

SECTION 9. This act shall take effect upon its acceptance by the town of Needham.

Chapter 501.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine.

AN ACT AUTHORIZING THE GLOVER MEMORIAL HOSPITAL OF THE TOWN OF NEEDHAM TO ENTER INTO COOPERATIVE AGREEMENTS WITH PRIVATE ENTITIES.

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. Chapter three hundred and nineteen of the acts of nineteen and eighty-nine is hereby repealed.

SECTION 2. The board of trustees of the Glover Memorial Hospital with the approval of the board of selectmen of the town of Needham, may enter into agreements on behalf of the town and said hospital with any individual, private corporation, partnership or other entity to provide, jointly, medical services within the town or any adjacent municipality, or to engage in any activity or undertaking necessary or incidental thereto. Any such agreement may be for such period, not to exceed five years, as may be determined by the board of trustees with the approval of the board of selectmen. No such agreement shall provide for any subsidy or obligation for the payment of any money by the town thereunder to any person except for payments representing fair consideration for services rendered by, or goods received from, such person.

SECTION 3. No agreement shall be executed under the provisions of this act unless the chief executive officer or administrator of the hospital shall have issued a request for proposals in accordance with the provisions of this section. Prior to issuing such request, the hospital administrator shall undertake such studies as are necessary to determine the economic feasibility of the terms and conditions, including selection criteria, to be set forth in the request, and shall prepare a written analysis of the anticipated benefits and costs to the hospital and the town of the proposed joint provision of medical services or other such activities as compared with other alternative means of providing such medical services or other such activities. Not less than two weeks before soliciting proposals, the hospital administrator shall submit to the board of selectmen and the board of trustees the request for proposals and all studies and written analysis relating thereto.

The request for proposals shall include:

- (1) all criteria that will be utilized for the evaluation of proposals, together with a statement that such evaluation shall be based solely on said criteria;
- (2) all items or categories of information which must be included in the proposal, and a format for submitting such information;
- (3) a statement of those terms and conditions which shall not be subject to negotiation;
- (4) a statement that any agreement may incorporate by reference the proposal of the selected person;
- (5) a statement that any agreement shall include a provision for remedies on behalf of the town and the hospital in the event the selected person defaults on any of its terms.

Notice of the request for proposals shall be published at least once, not less than two weeks prior to the time specified for the receipt of proposals, in a newspaper of general circulation in the town. Such notice shall be posted for at least two weeks on the principal official bulletin board of the town and in a conspicuous place at the hospital until the time specified for receipt of proposals. Said notice shall provide a general description of the services desired and shall indicate where, when and for how long requests for proposal may be obtained.

Taking into consideration the financial terms of the proposals and the evaluations based on the criteria set forth in the request for proposals, the hospital administrator, with the approval of the board of selectmen and the board of trustees, shall determine the most advantageous proposal. He may negotiate revisions in the proposal selected. He may reject any and all proposals if he determines that rejection is in the best interests of the town and the hospital.

If the hospital administrator selects a proposal which did not offer the lowest cost to the hospital, he shall state in writing the justification for such decision. The hospital administrator shall maintain a written record of evaluations and negotiations undertaken pursuant to this act, and shall retain such record with the proposals.

SECTION 4. If the financial interest or commitment of the town and the hospital under an agreement authorized under this act is equal to or greater than that of the other parties, in the aggregate, all applicable laws and by-laws relating to procurement of supplies, services or real property, or the disposal of supplies or real property, shall apply to any such procurement or disposal. If the financial interest or commitment of the town and the hospital is less than that of the other parties, in the aggregate, such laws and by-laws shall be applicable to the extent such procurement or disposal is undertaken by or for the town or the hospital.

SECTION 5. No agreement shall be executed under the provisions of this act until a statement, signed under the penalties of perjury, has been filed with the town clerk by each other party to the agreement, giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said agreement. The provisions of this section shall not apply to any stockholder of the corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten percent of the outstanding stock entitled to vote at the annual meeting of such corporation.

SECTION 6. This act shall take effect upon its acceptance by the town of Needham.

