

Town of Westborough Town Charter



As Amended 2022

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WESTBOROUGH TOWN CHARTER

AS AMENDED 2022

ARTICLE 1

INCORPORATION; SHORT TITLE; POWERS; DEFINITIONS

SECTION 1-1 INCORPORATION

The inhabitants of the Town of Westborough, within the corporate limits as established by law, shall continue to be a body corporate and politic with perpetual succession under the name “Town of Westborough”.

SECTION 1-2 SHORT TITLE

This instrument shall be known and may be cited as the Westborough Home Rule Charter.

SECTION 1-3 POWERS

Subject only to an express limitation on the exercise of any power or function by a municipality in the constitution or law, it is the intent and the purpose of the voters of the Town of Westborough to secure through the adoption of this Charter all of the powers it is possible to secure for a municipal government under the constitution and law.

SECTION 1-4 CONSTRUCTION

The powers of the Town under this Charter are to be construed liberally in its favor and the specific mention of a particular power is not intended to limit in any way the general powers of the Town as stated in Section 1-3.

SECTION 1-5 INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirements of the constitution or law, the Town may exercise its powers or perform its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with a state, a civil division or an agency of a state, the United States government or an agency of the United States government.

SECTION 1-6 DEFINITIONS

As used in this Charter, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Charter”, this Charter and any amendments to it under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

“Town”, the Town of Westborough.

“Town agency”, a board, commission, committee, department or office of the Town.

“Voters”, the registered voters of the Town.

“Multiple-member body”, every board, commission, committee and subcommittee of the Town government, whether elected, appointed or otherwise constituted.

ARTICLE 2

LEGISLATIVE BRANCH

SECTION 2-1 TOWN MEETING

The legislative powers of the Town shall continue to be exercised by a Town Meeting open to all registered voters of the Town.

SECTION 2-2 PRESIDING OFFICER

The Moderator, as provided for in Section 3-3, shall preside at all sessions of the Town Meeting. The Moderator shall, at the first session of each Annual and Special Town Meeting, nominate a Deputy Moderator to serve in the event of the Moderator’s absence or disability; provided, however, that the Town Meeting shall ratify the nomination.

The Moderator shall perform such other duties as may from time to time be assigned to the office of Moderator by Bylaw or other vote of the Town Meeting.

SECTION 2-3 TIME OF MEETING

The Annual and Fall Town Meetings of the Town shall be held on the dates that may from time to time be set forth in the Bylaws of the Town for the transaction of business relating to the prudential affairs of the Town.

SECTION 2-4 AVAILABILITY OF TOWN OFFICIALS AT TOWN MEETING

Every Town officer and head of each department shall attend all sessions of the Town Meeting to provide the Town Meeting with information pertinent to matters appearing in the warrant.

If a town officer or department head is to be absent due to illness or other reasonable cause, the town officer or department head shall designate a deputy to attend the Town Meeting.

SECTION 2-5 CLERK OF THE MEETING

The Town Clerk or a designee shall serve as Clerk of the Town Meeting. The Clerk shall give notice of all Town Meeting sessions to the public, keep the journal of its proceedings and perform other duties that may be assigned by the Charter, by Bylaw or by other vote of the Town Meeting.

SECTION 2-6 QUORUM

The quorum necessary to conduct business shall be established by Bylaw.

SECTION 2-7 GENERAL POWERS AND DUTIES

All powers of the Town shall be vested in the Town Meeting except as otherwise provided by law or by this Charter. The Town Meeting shall provide for the exercise of all of the powers of the Town and for the performance of the duties and obligations imposed upon the Town for which no other provision is made by Bylaw or by the Charter.

SECTION 2-8 WARRANTS

The Articles that are to be acted upon by the Annual Town Meeting shall be presented in writing to the Select Board not less than 30 days before the Annual Town Meeting. These Articles shall then be filed with the Town Clerk 3 days after the expiration of the 30 days. The Select Board shall issue warrants calling into session the Town Meeting at regular intervals as may be established by Bylaw. The Select Board shall place on the warrants the subjects in accordance with the law that are requested of them, in writing, by the boards and individuals. A copy of each warrant shall forthwith be posted on the Town Clerk's web site and the Town web site and any other location chosen by the Town Clerk. The Select Board shall have a copy mailed to the place of residence of the Town Moderator. Additional copies of all warrants shall be available for distribution in the office of the Town Clerk before the date on which the Town Meeting is to convene and that complies with the General Laws. Articles for a special Town Meeting shall follow the procedures under the General Laws.

ARTICLE 3

ELECTED OFFICIALS

SECTION 3-1 GENERAL PROVISIONS

(a) ELECTED OFFICES - The offices to be filled by ballot of the whole Town shall be a Select Board, a Moderator, a School Committee, a Housing Authority, a Planning Board, the Town Clerk, the Trustees of the Public Library and the members of regional authorities or districts that may be established by statute, inter-local agreement or otherwise.

(b) ELIGIBILITY - A voter shall be eligible to hold an elective Town office; provided, however, that a person shall not at the same time serve in more than 1 elected office, as defined in Sub-Section (a).

(c) ELECTION - The regular elections for Town offices shall be held annually on the date that may from time to time be fixed in the Bylaws of the Town.

SECTION 3-2 SELECT BOARD: COMPOSITION, TERM OF OFFICE, COMPENSATION, POWERS AND DUTIES, ETC.

(a) COMPOSITION, TERM OF OFFICE - There shall be a Select Board consisting of 5 members to be elected by the voters for terms of 3 years so arranged that the terms of office of as nearly an equal number of members as is possible shall expire each year.

(b) COMPENSATION – Select Board Members shall receive for their services the compensation that may annually be provided for by appropriation.

(c) POWERS AND DUTIES IN GENERAL - The executive powers of the Town shall be vested in the Select Board and may be exercised by the Select Board jointly or through the Town agencies and offices under the Board's general supervision and control. As chief executive officers of the Town, the Select Board shall be responsible for the aspects of the Town's government that is not otherwise granted to another elected officer, board, commission or committee. The Select Board shall cause the laws and orders for the government of the Town to be enforced and shall cause a record of all its official acts to be kept and, for that purpose and to aid it in its official duties, there shall be a Town Manager.

(d) APPOINTMENTS - As chief executive officers of the Town, the Select Board shall be the appointing authority for and shall appoint for fixed overlapping terms members of the following boards, commissions and committees and any other Town board, commission or committee, special or standing, permanent or ad hoc, that may from time to time be established by the Board or Town Meeting, unless another appointing authority is designated in the Town Meeting or this Charter:

- (i) Zoning Board of Appeals;
- (ii) Conservation Commission;
- (iii) Recreation Commission;
- (iv) Country Club Operating Committee;
- (v) Capital Expenditure Planning Committee;
- (vi) Council on Aging;
- (vii) Local Emergency Planning Committee;
- (viii) Historical Commission;
- (ix) Housing Partnership Committee;
- (x) Open Space Preservation Committee;
- (xi) Water Resources Management Committee;
- (xii) Trustees of Soldiers' Memorials;
- (xiii) Veterans' Advisory Board;
- (xiv) Youth Commission, known as Westborough Youth and Family Service; and
- (xv) Westborough Cultural Council.

The Select Board shall also appoint the Wardens for Sandra Pond and the representatives of the Town to: Westborough TV, Inc.; the Wastewater Treatment Plant Board; the Central Massachusetts Regional Planning Commission; the Massachusetts Bay Transportation Authority Advisory Board; and the Walkup-Robinson Fund Committee. Such members and other appointees shall be appointed for fixed, overlapping terms.

The Select Board shall appoint the Town appointed members of the Insurance Advisory Committee, in accordance with Section 3 of Chapter 32B of the General Laws.

The Select Board shall appoint the Town Manager, as defined in Section 4-1, the Town Counsel, the Chief of Police, the Fire Chief and the Director of the Department of Public Works. The Town Manager, Town Counsel, Chief of Police and Director of the Department of Public Works shall be appointed for terms not to exceed 3 years. The Fire Chief shall be appointed for an indefinite term.

As used in this Charter, the term "key personnel" shall refer to the Town Manager, the Town Counsel, the Chief of Police, the Fire Chief and the Director of the Department of Public Works and for the purposes of this Section, the term "key personnel" shall be used to determine the appointing authority and the appointment process and shall not affect compensation, benefits, privileges, terms, renewals of terms, job descriptions, responsibilities, authority, duties or performance.

The Select Board shall also appoint, upon nomination by the Town Clerk: (i) Election Officials, for fixed terms; and (ii) Registrars of Voters, for fixed overlapping terms.

(e) INVESTIGATIONS - The Select Board may investigate or may authorize the Town Manager to investigate the affairs of the Town and the conduct of a Town department, office or agency, including a doubtful claim against the Town.

(f) ELIGIBILITY - Notwithstanding any general or special law to the contrary, a person employed by the Town shall not be eligible to hold the office of a member of the Select Board in the Town while so employed.

SECTION 3-3 MODERATOR: TERM OF OFFICE, COMPENSATION
POWERS AND DUTIES

(a) TERM OF OFFICE - At each Town election at which the term of office expires, a Moderator shall be chosen by the voters for a term of 3 years.

(b) COMPENSATION - The Moderator shall receive for the Moderator's services the compensation that may annually be provided for by appropriation.

(c) POWERS AND DUTIES - The Moderator shall have the powers and duties provided for that office by law, Charter, Bylaw and vote of Town Meeting.

(d) APPOINTMENTS - The Moderator shall appoint for fixed, overlapping terms: the members of the Advisory Finance Committee, 2 members of the Capital Expenditures Planning Committee and members of other committees, special or standing, that may from time to time be established by Town Meeting that designate the Moderator as the appointing authority. These appointments shall be made so that the terms of office of as nearly an equal number of members as is possible shall expire each year.

SECTION 3-4 SCHOOL COMMITTEE: COMPOSITION, TERM OF
OFFICE, POWERS AND DUTIES

(a) COMPOSITION, TERM OF OFFICE - There shall be a School Committee consisting of 5 members elected by the voters for 3-year terms so arranged that the terms of office of as nearly an equal number of members as is possible shall expire each year.

(b) COMPENSATION - School Committee members shall serve without salary.

(c) POWERS AND DUTIES - The School Committee shall have all of the powers and duties a School Committee has under the law and it shall have additional powers and duties that may be authorized by the Charter or Bylaws.

SECTION 3-5 PLANNING BOARD: COMPOSITION, TERM OF OFFICE,
POWERS AND DUTIES

(a) COMPOSITION, TERM OF OFFICE - There shall be a Planning Board consisting of 5 members elected by the voters for 5-year terms so arranged that the terms of office of as nearly an equal number of members as is possible shall expire each year.

(b) POWERS AND DUTIES - The Planning Board shall have all of the powers and duties a Planning Board has under the law. The board may also exercise additional powers and duties that may from time to time be assigned to the board by the Charter, Bylaw or vote of the Town Meeting.

(c) APPOINTMENTS - In accordance with its planning function, the Planning Board shall be the appointing authority for the Design Review Board. The Planning Board shall appoint its department head who shall be the Town Planner. The Planning Board may, in writing, appoint other employees of the Planning Department or, with express written consent, delegate such an appointment to the Town Planner.

SECTION 3-6 TOWN CLERK: TERM OF OFFICE, POWERS AND DUTIES

(a) TERM OF OFFICE - There shall be a Town Clerk elected by the voters for a term of 3 years.

(b) POWERS AND DUTIES - The Town Clerk shall have all of the powers and duties a Town Clerk has under the law. The Clerk may also exercise additional powers and duties that may from time to time be assigned to the Clerk by the Charter, Bylaw or vote of the Town Meeting.

(c) TOWN CLERK – The Town Clerk shall act as a department head and shall appoint the employees in the Town Clerk’s department. The Town Clerk shall nominate candidates for Election Officials and Registrars of Voters to the Select Board.

SECTION 3-7 BOARD OF LIBRARY TRUSTEES: COMPOSITION, TERM
OF OFFICE, POWERS AND DUTIES

(a) COMPOSITION, TERM OF OFFICE - There shall be a Board of Library Trustees to consist of 9 members elected by the voters for 3-year terms so arranged that the terms of 3 members shall expire each year.

(b) POWERS AND DUTIES - The Board of Library Trustees shall have custody and management of the public library and the property of the Town relating to the public library.

(c) APPOINTMENTS - The Board of Library Trustees shall appoint its department head who shall be the Library Director. The Board of Library Trustees may appoint other employees of the Town's library department or may, in writing, delegate such an appointment to the Library Director.

ARTICLE 4

TOWN MANAGER

SECTION 4-1 APPOINTMENT, QUALIFICATIONS, TERM

The Select Board shall appoint a Town Manager for a term of not more than 3 years and shall fix the Town Manager's compensation within the amount appropriated by the Town. The Town Manager shall be appointed solely on the basis of executive and administrative qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.

The Town Manager need not be a resident of the Town or the Commonwealth at the time of appointment but shall establish residence in the Town or in a town contiguous to the Town within 1 year following the date of appointment. Failure to establish such residence shall be deemed to be a resignation from the office of the Town Manager.

The Town Manager shall not have served as a member of the Select Board for the 18 months before being appointed to the position of Town Manager. The Town Manager shall be bonded by a surety company and the cost of the bond shall be borne by the Town. The Town Manager shall devote full-time to the office and shall not hold another public office, elective or appointive, or engage in any other business or occupation during the Town Manager's term, unless the action is approved, in advance and in writing, by the Select Board. The Town may from time to time establish additional qualifications that it deems necessary and appropriate by Bylaw.

SECTION 4-2 POWERS AND DUTIES

(a) The Town Manager shall be the chief administrative officer of the Town and shall be responsible to the Select Board for the administration of the Town affairs placed in the Town Manager's charge pursuant to the Charter.

(b) The Town Manager shall appoint the following positions with the concurrence of the Select Board for fixed terms:

- (i) Assistant Town Managers;
- (ii) Chief Assessor;
- (iii) Town Accountant;
- (iv) Treasurer/Collector;

- (v) Commissioners of Trust Funds;
- (vi) Veterans' Agent, Director of Veterans' Services, Burial Agent and Graves Officer; and
- (vii) Animal Control Officer.

The Town Manager shall appoint the following positions for fixed terms:

- (i) Building Commissioner;
- (ii) Zoning Enforcement Officer;
- (iii) Building Inspectors;
- (iv) Information Technology Director;
- (v) Wiring Inspectors;
- (vi) Plumbing and Gas inspectors;
- (vii) Affirmative Action Officer;
- (viii) Sexual Harassment Officer;
- (ix) Constables;
- (x) Fence Viewer;
- (xi) Insect and Pest Control Officer;
- (xii) Measurer of Wood;
- (xiii) Municipal Hearings Officer;
- (xiv) Sealer of Weights and Measures; and
- (xv) Weight Masters at Tate & Lyle.

As the chief administrative officer of the Town, the Town Manager shall appoint, for fixed overlapping terms, the members of the Board of Assessors, the Board of Health and the Municipal Building Committee.

The Select Board shall determine whether a board, commission or committee not specifically listed in this Sub-Section is primarily related to the administration of the Town.

The Town Manager shall appoint the members of other Town boards, commissions or committees and other personnel for which the Select Board, Town Bylaw or Town Meeting action has directed the Town Manager to act as appointing authority; provided, however, that the appointing authority shall not contradict an appointing authority designated in this Charter.

The Town Manager shall appoint the members of an advisory committee formed by the Town Manager as allowed in the Town's organization plan under Section 5-3(e).

Appointments under this Sub-Section shall take effect 15 days after the day that notice of the appointment was filed with the Select Board unless the Select Board shall, within that period and by a majority of all of its members, vote to reject the appointment.

(c) The Town Manager shall:

- (i) Participate fully in the duties and obligations of the Town Manager described in the Town's organization plan under Section 5-1(b);
- (ii) Direct and supervise the administration of all functions under the Town Manager's control;
- (iii) Administer the compensation and benefits of Town officers and employees appointed by the Town Manager within the limits established by appropriation and Bylaw and as set by the salary administration plan;
- (iv) Attend all regular and special meetings of the Select Board, unless excused at the Town Manager's own request, and shall have a voice, but not a vote, in its discussions;
- (v) Attend all sessions of the open Town Meeting and answer the questions that are directed to the Town Manager and relate to the office of Town Manager by the voters of the Town;
- (vi) Ensure that the laws, the Charter, vote of the Town Meeting and vote of the Select Board that require enforcement by the Town Manager or officers subject to the Town Manager's direction and supervision are faithfully carried out;
- (vii) Prepare and submit the annual budget and the capital improvement program under Article 6;
- (viii) Be responsible for keeping complete records of the finances and administrative activities of the Town and shall render a full report to the Select Board at the end of each fiscal year and otherwise as the board may require;
- (ix) Keep the Select Board informed as to the financial condition and needs of the Town and make recommendations to the Select Board as the Town Manager deems necessary or expedient;
- (x) Have full jurisdiction over the rental and use of Town facilities except for schools, libraries and lands held for conservation purposes and shall be responsible for the maintenance and repair of Town property, excluding school and library buildings, placed under the Town Manager's control by the Charter, Bylaw or law;
- (xi) Be responsible for the appointment, subject to the approval of the Select Board, of necessary building and facilities committees relative to the preparation of plans and supervision of work on construction, reconstruction, alterations, improvements and other undertakings authorized by the Town, except for schools and libraries;
- (xii) Keep a complete inventory of the property of the Town, both real and personal, within the Town Manager's jurisdiction;
- (xiii) Negotiate contracts involving a subject within the Town Manager's jurisdiction; provided, however, that the proposed contracts shall be subject to final approval and execution by the Select Board;
- (xiv) Purchase or acquire the equipment, supplies and services required by Town agencies under the Town Manager's control and may make such a purchase for an agency not under the Town Manager's control upon receipt of a proper requisition;

- (xv) Perform any other duty required by Bylaw, vote of the Town Meeting or vote of the Select Board; and
- (xvi) Have the authority to sign payroll and accounts payable warrants concerning the everyday operation of the Town in accordance with Section 56 of Chapter 41 of the General Laws.

The Town Manager may inquire at any time into the conduct of an officer, employee, department, board or commission under the Town Manager's control.

SECTION 4-3 TEMPORARY ABSENCE OF THE TOWN MANAGER, ACTING TOWN MANAGER

By letter filed with the Town Clerk, the Town Manager shall designate a qualified Town administrative officer or employee to perform the Town Manager's routine duties during the Town Manager's temporary absence. The designated officer or employee shall not have appointive powers. During the Town Manager's absence, the Select Board shall not revoke the designation until not less than 15 days have elapsed, whereupon the Board may appoint another qualified Town administrative officer or employee to serve until the Town Manager's return. If a letter has not been filed with the Town Clerk, the Select Board may, by a majority vote, appoint an Acting Town Manager to serve in the absence of the Town Manager for a period of 60 days and shall not grant more than 1 extension.

SECTION 4-4 REMOVAL

The Select Board may remove the Town Manager from office in accordance with this Section.

The Select Board shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all of its members that shall state the reason for removal. This preliminary resolution may suspend the Town Manager for a period of not more than 45 days. A copy of the resolution shall be delivered to the Town Manager immediately.

Within 5 days following delivery of the preliminary resolution, the Town Manager may request a public hearing by filing a written request for it with the Select Board. The hearing shall be held at a meeting of the Select Board not more than 30 days after the request is filed and not less than 20 days after the request is filed. The Town Manager may file a written statement in justification of the Town Manager's time in office with the Select Board; provided, however, that the statement shall be received in the Select Board's office not less than 48 hours in advance of the public hearing.

The Select Board may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members at any time after 10 days following the date of delivery of a copy of the preliminary resolution to the Town Manager if the Town Manager has not requested a public hearing or any time after the public hearing if the Town Manager has requested such a hearing. Within 10 days following the Board's vote to make its resolution final, but not more than 45 days after the date of adoption of the first resolution, the

Board shall, by vote of a majority of all of its members, affirm or dismiss the final resolution of removal. Failure to affirm a final resolution of removal shall nullify the vote to dismiss the Town Manager. The Town Manager shall continue to receive the Town Manager's salary until the effective date of a final resolution of removal. The action of the Select Board in suspending or removing the Town Manager shall be final.

ARTICLE 5

ADMINISTRATION ORGANIZATION

SECTION 5-1 CREATION OF DEPARTMENTS, DIVISIONS, AGENCIES AND OFFICES

(a) The organization or reorganization of the Town into operating departments, divisions, offices and agencies shall be accomplished in accordance with this Article, subject to the express prohibitions of the law and this Charter.

(b) BYLAWS - The Town Meeting may, by Bylaw, reorganize, consolidate or abolish a Town agency, in whole or in part, establish a new Town agency as it deems necessary or advisable and prescribe the functions of all such agencies.

(c) ORGANIZATION PLAN - The Select Board, after consultation with the Town Manager, may from time to time prepare and submit to the Town Meeting a plan of organization that establishes operating divisions for the orderly, efficient or convenient conduct of the business of the Town.

Whenever the Select Board prepares an organization plan, it shall hold 1 or more public hearing on the proposal, giving notice by publication in a newspaper of general circulation in the Town not less than 7 days before the hearing. The notice shall describe the scope of the proposal and the time and place at which the hearing will be held. Following such a public hearing, the Select Board shall submit the proposal to the Town Meeting by a warrant Article; provided, however, that the proposal may have been amended subsequent to the public hearing. To the extent that such a plan conflicts with this Charter, the warrant Article shall include proposed Charter amendments to accurately reflect and allow the proposed change.

An organization or reorganization plan shall take effect 30 days after the action of the Town Meeting.

SECTION 5-2 ELECTED OFFICIALS' POLICY SETTING AUTHORITY

Elected officials shall be responsible for determining and evaluating the policies, priorities and programs of their respective departments and for the effective administration, management and operation of their respective departments; provided, however, that such elected officials may rely

on the work of another commission, committee, group or employee to carry out the officials' responsibilities.

SECTION 5-2(A) ELECTED OFFICIALS: APPOINTING BOARDS,
COMMISSIONS AND COMMITTEES

An elected official or board, as designated in Article 3, may appoint a committee to gather, provide or otherwise report on information of interest to the official or board unless a different appointing authority is specified in this Charter or in the Town Bylaws.

SECTION 5-2(B) BOARDS, COMMISSIONS OR COMMITTEES APPOINTED
BY THE SELECT BOARD: APPOINTING TOWN
EMPLOYEES

If a board, commission or committee appointed by the Select Board or Town Manager has a department head, the department head shall be appointed by the Town Manager; provided, however, that the department head of the Recreation Commission shall be appointed by the Town Manager with the concurrence of the Commission, the department head of the Council on Aging shall be appointed by the Town Manager with the concurrence of the Council and the department head of the Youth Commission shall be appointed by the Town Manager with the concurrence of the Commission; and provided further, that the Board of Health shall appoint the Health Director.

Other employees of such departments shall be appointed by the department head of the respective department.

SECTION 5-2(C) APPOINTED KEY PERSONNEL: APPOINTING TOWN
EMPLOYEES

The Town's key personnel shall be responsible for the management and operation of their respective departments and shall appoint the employees in their respective departments in a manner consistent with this Section.

The Chief of Police shall appoint all employees of the Police Department.

The Fire Chief shall appoint all employees of the Fire Department.

The Director of the Department of Public Works shall appoint all employees of the Department of Public Works.

The Town Counsel shall appoint the employees of the Town's Legal Department.

SECTION 5-3(A) DETERMINATION OF KEY PERSONNEL

The addition or deletion of a position from the list of key personnel under Sub-Section (d) of Section 3-2 may be enacted by the adoption of a warrant Article that modifies said Sub-Section (d) of said Section 3-2 by the Town Meeting.

SECTION 5-3(B) USE OF SEARCH COMMITTEES

The appointment process for key personnel shall incorporate the use of a search committee, except in the case of a reappointment.

The Town Manager shall be a member of a search committee established to fill the position of Town Counsel, Chief of Police, Fire Chief or Director of the Department of Public Works.

An appointing authority may specify the use of a search committee for another Town employee in the appointing authority's department. Where a specific search committee process is not prescribed by the law, this Charter, the Town's Bylaws or action of the Town Meeting, the search committee process shall be determined by the appointing authority.

SECTION 5-3(C) TOWN-WIDE MANAGEMENT TEAM

The Town Manager shall be responsible for leading and directing the Town-Wide Management Team. The Team shall consist of the Town's key personnel and the heads of town departments. The Team shall specifically consist of the Chief of Police, the Fire Chief, the Director of the Department of Public Works the Town Counsel, and other department heads or officials that may be designated by the Town Manager from time to time.

Notwithstanding the manner of their appointment or who their respective appointing authority may be, the Chief of Police, the Fire Chief, the Director of the Department of Public Works, the Town Counsel and the other department heads, except for the Library Director and the Town Planner, shall report directly to the Town Manager, who shall be responsible for the day-to-day oversight, coordination and supervision of the administration and operation of each Town department other than the public library or the Planning Board.

Each department head shall be responsible for the delivery of service and the manner and method of delivery within the department head's respective department to the residents of the Town.

The Town Manager shall conduct the performance reviews of the Town's key personnel and of each department head; provided, however, that the Town Manager shall provide evaluative reports to the chair of the Select Board for those department heads appointed by the Select Board and to the appointing authority of a department head not appointed by the Select Board for use in the performance review process.

SECTION 5-3(D) FILLING KEY PERSONNEL AND DEPARTMENT HEAD VACANCIES

A vacancy in a key personnel or department head position shall be filled in the manner prescribed for initial appointment of the position, but the appointing authority may appoint acting key personnel and department heads for not more than 4 3-month periods for not more than 1 year. If the appointment of the permanent position requires the concurrence of another body or officer, that body or officer shall concur with the appointment of acting key personnel or department heads. Such a temporary appointment by the appointing authority shall cease upon the filling of the vacancy by the prescribed method.

SECTION 5-3(E) APPOINTING AUTHORITY FOR NEW BOARDS, COMMISSIONS AND COMMITTEES AND ADMINISTRATIVE ADVISORY BOARDS

If a board, commission or committee created by the Select Board is primarily of a policymaking nature, the members of the board, commission or committee shall be appointed by the Select Board. If such a board, commission or committee created by the Select Board is primarily of an administrative nature, the members of the board, commission or committee shall be appointed by the Town Manager.

Unless Town Meeting action indicates a specific appointing authority, the Select Board shall determine the appointing authority of a board, commission or committee newly created by the Select Board.

The Town Manager may create and appoint ad hoc committees that are solely advisory to the Town Manager.

A vacancy on a board, commission or committee shall be filled in the same manner as the initial appointment.

SECTION 5-4 STAFFING PLAN

The Town Manager shall cause to be prepared a plan establishing staffing requirements within the Town agencies created by administrative reorganization or by Bylaw and the plan shall become effective within 30 days after the date of Town Meeting action. If such a plan conflicts with the Charter, the warrant Article shall include a proposed Charter amendment so that plan will conform to the Charter as so amended.

SECTION 5-5 PUBLICATION OF ADMINISTRATIVE ORGANIZATION AND STAFFING PLAN

For the convenience of the public, the administrative organization and any amendment to it shall be printed as an appendix to, but not an integral part of, the salary administration plan of the Town.

SECTION 5-6 MERIT PRINCIPLE

The appointments and promotions of Town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability including, but not limited to, past performance or seniority.

ARTICLE 6

FINANCE AND FISCAL PROCEDURES

SECTION 6-1 FISCAL YEAR

The fiscal year of the Town shall be as required by the General Laws.

SECTION 6-2 SUBMISSION OF BUDGET AND BUDGET MESSAGE

Not less than 10 days before the end of the calendar year or not less than 90 days before the date of the start of the Annual Town Meeting, whichever is later, the Town Manager shall submit to the Select Board and file with the Advisory Finance Committee and Capital Expenditures Planning Committee a proposed budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. The proposed budget shall be available on the Town Clerk's web site, the Town web site and any other location chosen by the Town Clerk within 7 days of submission. Additional copies of the proposed budget shall be available in the Office of the Town Clerk.

SECTION 6-3 BUDGET MESSAGE

The budget message of the Town Manager shall explain the budget for the Town agencies in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the Town for the ensuing fiscal year, describe important features of the budget, indicate major variations from the current year in financial policies, expenditures and revenues together with the reason for such changes, summarize the Town's debt position and include other material that the Town Manager deems desirable or the Select Board may require.

SECTION 6-4 THE BUDGET

The budget shall provide a complete financial plan of Town funds and activities, including the budget adopted by the School Committee for the ensuing year. Except for the school budget or as may be required by statute or by the Charter, the budget shall be in the form that the Town Manager deems desirable or the Select Board may require.

In the Town Manager's budget presentation, the Town Manager shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The budget shall show in detail the estimated revenues from the proposed property tax levy and other sources and the proposed expenditures, including debt service for the following year. The budget shall be arranged to show the actual and estimated revenues and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (i) Proposed expenditures for current operations during the ensuing fiscal year, detailed by agency and position in terms of work programs, and the method of financing such expenditures;
- (ii) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital expenditure; and
- (iii) Estimated surplus revenues and free cash at the end of the current fiscal year, including estimated balances in any special account established for a specific purpose.

SECTION 6-5 ACTION ON THE BUDGET

The Select Board, the Advisory Finance Committee and the Capital Expenditures Planning Committee shall hold a joint meeting to include a public hearing on the proposed budget not later than the first scheduled Select Board's meeting in February of the year that the budget is to be considered at Town Meeting. Copies of the proposed budget, the current capital improvement program under Section 6-6 and the recommendations of the Advisory Finance Committee, if any, shall be made available for distribution to the public at or prior to the public hearing.

SECTION 6-6 CAPITAL IMPROVEMENT PROGRAM

The Town Manager shall submit a capital improvement program to the Select Board, the Advisory Finance Committee and the Capital Expenditures Planning Committee not less than 60 days before the Annual Town Meeting. The program shall be based on material prepared by the Capital Expenditures Planning Committee, including:

- (i) A clear, concise general summary of its contents;
- (ii) A list of the capital improvements proposed to be undertaken during the next ensuing 5 years with supporting information as to the need for each such capital improvement; and
- (iii) The cost estimates, methods of financing and recommended time schedules for each improvement.

The Capital Expenditures Planning Committee shall be composed of the Treasurer/Collector; 1 member of the Advisory Finance Committee appointed by the Advisory Finance Committee; 1 member of the Planning Board appointed by the Planning Board; 1 member of the Select Board appointed by the Select Board; 1 member of the School Committee appointed by the School Committee; and 2 additional members appointed by the Town Moderator for staggered 3-year terms. A vacancy shall be filled for the remainder of the unexpired term in the manner of the original appointment.

SECTION 6-7 FINANCIAL PUBLIC RECORDS

Statements summarizing the budget and the capital improvements program and related warrant Articles as adopted by Town Meeting shall be made available at the Office of the Town Manager for examination by the public not more than 10 days following their adoption.

ARTICLE 7

GENERAL PROVISION

SECTION 7-1 ELECTIONS

The Articles in the warrant for every Town Meeting, as far as such Articles relate to the election of the Select Board, School Committee, Moderator or other Town officers, referenda and other matters to be acted upon and determined by ballot, shall be acted upon and determined by the voters in their respective precincts.

The regular Town elections shall be taken on official ballots without party or political designation on the date fixed in the Bylaws of the Town.

SECTION 7-2 CHARTER CHANGES

The Charter may be replaced, revised or amended in accordance with the procedures in Article LXXXIX of the amendments to the Constitution of the Commonwealth and any legislation enacted to implement said Article LXXXIX.

SECTION 7-3 SEVERABILITY

The provisions of the Charter are severable. If a provision of the Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its

provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons and circumstances shall not be affected.

SECTION 7-4 SPECIFIC PROVISIONS SHALL PREVAIL

To the extent that a specific provision of the Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

SECTION 7-5 RULES AND REGULATIONS

Rules and regulations shall become effective upon adoption by a Town agency, board or committee having jurisdiction, shall be filed within 5 days in the Office of the Town Clerk and shall be made available for review by any person who requests such information.

SECTION 7-6 PUBLICATION OF BYLAWS

Copies of the Bylaws shall be made available for distribution; provided, however, that a charge not exceeding the actual cost per copy of reproduction may be charged.

SECTION 7-7 PROCEDURES

(a) MEETINGS - The multiple-member bodies of the Town, whether elected, appointed or otherwise constituted, shall meet regularly at the times and places within the Town that such multiple-member bodies may prescribe. A special meeting of a multiple-member body shall be held on the call of the chair or by $\frac{1}{3}$ of the members of the body by suitable written notice delivered to the residence or place of business of each member not less than 48 hours in advance of the time set. A copy of the notice shall also be posted on the Town bulletin board. A special meeting of a multiple-member body shall also be called within 1 week after the date of the filing with the Town Clerk of a petition signed by not less than 50 voters that states the purpose for which the meeting is to be called.

The meetings of a multiple-member body shall be open and public; provided, however, that the multiple-member body may recess for the purpose of discussing, in a closed or executive session limited to its own membership and the Town Manager or the Superintendent of Schools, as appropriate, a matter that would tend to defame or prejudice the character or reputation of a person that would affect the public security or that might have direct fiscal effect on the Town; provided, however, that the general subject matter for consideration is expressed in the motion calling for such a session and that final action on the matter is not taken until the multiple-member body has come back into formal session; provided further, that if the taking of such a vote would defeat the lawful purpose of such an executive session, the vote may be taken in the executive session and may remain secret so long as the vote's publication would defeat the lawful purpose of the executive session, but not longer.

(b) AGENDA - Except in the case of a special emergency, not less than 48 hours before a meeting of a multiple-member body is to be held, a rough agenda shall be posted on the Town hall bulletin board. The multiple-member body may change the agenda at free will by majority vote.

Any person may request an audience with any board. The board is required to hold an audience with this person before adjournment.

(c) RULES AND JOURNAL - Each multiple-member body shall determine its own rules and order of business unless otherwise provided by the Charter or Bylaw and shall provide for keeping a journal of its proceedings. Those rules and journals shall be a public record kept available in a place convenient to the public at all times.

(d) VOTING - Except on procedural matters, a vote of a multiple-member body shall be taken by a call of the roll and the ayes and nays shall be recorded in the journal; provided, however, that if the vote is unanimous, only that fact need be recorded.

(e) QUORUM - A majority of the members of the multiple-member body shall constitute a quorum, but a smaller number may adjourn. No other action of the multiple-member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple-member body.

SECTION 7-8 REMOVALS AND SUSPENSIONS

A permanent Town employee, except for the Town Manager and department heads, may be suspended or removed from office by the appointing authority after the probationary period for good cause. During the probationary period, an employee may be suspended or removed for any reason or no reason, with or without good cause. The term "good cause" shall include, but not be limited to, the following: inefficiency; insubordination; and conduct unbecoming of the office.

An appointed officer or employee of the Town may be suspended from office by the appointing authority if such action is deemed by the appointing authority necessary to protect the interests of the Town.

The appointing authority, when removing such an officer or employee, shall act in accordance with policies established by the Town. The official or employee shall be provided with written notice of the intent to remove, including a statement of the reason for the removal, and may contest the removal at a public hearing. This Section shall not apply to a member of a collective bargaining unit.

Nothing in this Section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when the person's original term expires.

SECTION 7-9 REFERENCES TO GENERAL LAWS

The references to the General Laws contained in the Charter refer to the General Laws of the Commonwealth and are intended to include amendments or revisions to such Chapters and Sections or to the corresponding Chapters and Sections of a rearrangement of the General Laws enacted subsequent to the adoption of the Charter.

SECTION 7-10 COMPUTATION OF TIME

In computing time under the Charter of not more than 7 "days" shall refer to secular days and shall not include Sunday or a state or federal legal holiday. In computing time of more than 7 days, every day shall be counted.

SECTION 7-11 INDEPENDENT AUDIT

If the Commonwealth fails in a fiscal year to provide for the independent audit of the records and accounts of the Town, the Select Board may provide for such an audit. The audit may be made by a certified public accountant or a firm of such accountants who do not have a personal interest, direct or indirect, in the fiscal affairs of the Town government or an officer of the Town.

ARTICLE 8

DEPARTMENT OF PUBLIC WORKS

There shall be a Department of Public Works that shall have all of the powers and duties now or from time to time vested by law in the following boards, departments and offices: Highway Superintendent, Water Commissioners, Sewer Commissioners and Tree Warden. The Department of Public Works shall in all respects be the lawful successor of the aforementioned boards, departments and offices.

The department shall furnish engineering services, provide for the maintenance and repair of the Town buildings and property and perform the duties of another board, department or office of the Town as may be reasonably related to the duties and responsibilities of the Department of Public Works and as the Town may from time to time under this Charter require, notwithstanding any other law to the contrary.

The Department shall be headed by a Director who shall be appointed in accordance with Sub-Section (d) of Section 3-2. The Director shall be responsible for the efficient exercise and performance of the powers, rights and duties of the department. The Director shall be especially fitted by education, training and experience to perform the duties of the office and shall not be required to be a resident of the Town at the time of appointment. During the Director's tenure, the Director shall not hold elective office or engage in any other business or occupation unless

the other business or occupation is approved in advance by the Select Board. The Director shall keep full and complete records of the Director's office, render to the Town as often as it may require a full report of the operations under the Director's control during the period reported upon and, from time to time as required by the Select Board, make a synopsis of such reports for publication. The Director shall keep the Select Board fully advised as to the needs of the Town within the scope of the Director's duties. The Director shall be bonded by a surety company and the cost of the bond shall be borne by the Town.

The Select Board shall be responsible for the overall supervision of the Department of Public Works and for the establishment of policies to guide the Director of the Department of Public Works.

ARTICLE 9

WESTBOROUGH TREATMENT PLANT BOARD

SECTION 9-1 CREATION AND RESPONSIBILITIES

The Westborough Treatment Plant Board is created by vote of the 1979 Special Town Meeting. Said Board is responsible for the construction, operation, and maintenance of the Westborough-Shrewsbury Treatment Plant as further described in the Articles of the 1979 Special Town Meeting.

These responsibilities are separate and distinct from those assigned to the Department of Public Works defined in Article 8. (Added by Acts of 1979, Chap. 412; and MGL Chap. 40, Sec. 4A enables Town to enter into an agreement for the construction and operation of the Westborough Treatment Plant.)

ARTICLE 10

RECALL OF ELECTED OFFICIALS

Section 10-1 Any holder of an elected office in the Town of Westborough may be recalled and removed from the office by the qualified voters of the Town as provided in this Article.

Section 10-2 Any 200 registered voters of the Town of Westborough, of which 25 shall be from each precinct, may initiate a recall petition by filing with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall.

Upon certification by the Town Clerk, the Town Clerk shall thereupon, within 2 business days, deliver to the voter first named on the affidavit a sufficient number of copies of petition blanks demanding the recall. The petition blanks shall be issued by the Town Clerk with the Town Clerk's signature and official seal attached to them. The petition blanks shall also be dated and addressed to the Select Board of the Town, contain the name of the person to whom the petition blanks were issued, the name of the person sought to be recalled, the office from which the recall is sought and the grounds of recall as stated in the affidavit and shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the office of the Town Clerk.

The recall petition shall be returned and filed with the Town Clerk not later than 5 o'clock p.m. on the thirtieth day after the filing of the affidavit. If the thirtieth day is a Saturday, Sunday or holiday, the petition may be filed on the next business day.

The petition, before being returned and filed, shall be signed by 20 per cent of the registered voters and that 20 per cent shall consist of not less than 10 per cent of the registered voters from each precinct. The place of residence of the signer, giving the street and number, shall be added to every signature.

The Town Clerk shall, within 1 business day following the date of the filing with the Town Clerk, submit the recall petition to the Board of Registrars of Voters in the town, which shall, within 5 business days after the day of receipt, certify in writing on the petition the number of signatures that are those of registered voters in the Town as of the date the affidavit was filed with the Town Clerk. The Board of Registrars of Voters shall, upon completion of its certification, return the petition to the Town Clerk.

Section 10-3 If the petition is found and certified by the Town Clerk to be sufficient, the Town Clerk shall submit the petition, with the Town Clerk's certificate on it, to the Select Board without delay. The Select Board shall immediately give to the elected officer whose recall is sought written notice of the receipt of the certificate. If the officer sought to be removed does not resign within 5 days after receiving the notice, the Select Board shall order a special election to be held not less than 60 nor more than 70 days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided, however, that if another Town election is to occur within 90 days after the date of the certificate, the Select Board may, in their discretion, postpone the holding of the removal election to the date of the other election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this Section.

Section 10-4 An officer sought to be recalled may be a candidate to succeed the officer. Unless the officer requests otherwise in writing, the Town Clerk shall place the officer's name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the law relating to elections, unless otherwise provided by this Article.

Section 10-5 The incumbent shall continue to perform the duties of the incumbent's office until the recall election. If the recall fails or if the incumbent is re-elected, the incumbent shall continue in the office for the remainder of the incumbent's unexpired term, subject to recall as before, except as provided in this Article. If not re-elected in the recall election, the incumbent shall be

deemed removed upon the qualification of the incumbent's successor, who shall hold office during the unexpired term. If the successor fails to qualify within 5 days after receiving notification of the successor's election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 10-6 Ballots used in a recall election in the Town shall submit the following proposition in the order indicated:

For the recall of (name of officer) Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark, may vote for either of the propositions. Just above the squares there shall appear the direction "vote for 1". Under the proposition shall appear the word "Candidates" and the direction "vote for 1" and beneath this shall appear the names of candidates nominated as provided in this Article. In case of machine voting, punch card balloting or another form of balloting, appropriate provision shall be made to allow the same intent of the voter.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate who received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes cast on the recall question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.

Section 10-7 A recall petition shall not be filed against an officer within 6 months after the officer takes office nor, in the case of an officer subjected to a recall election and not recalled by it, until not less than 6 months after the election at which the officer's recall was submitted to the voters.

Section 10-8 A person who has been removed from an office or who has resigned from office while recall proceedings were pending against that person shall not be appointed to a Town office within 2 years after the removal or resignation.

APPENDIX

CHARTER CHANGE LOG

CHARTER

APPROVED by Legislature

2021 Annual Town Meeting (FY22)

May 23, 2022

Change Board of Selectmen to Select Board

2018 Annual Town Meeting (FY19)

October 5, 2018

Amend Article 4, Section 4-2

Second Paragraph, Line (iv)

2016 Annual Town Meeting (FY17)

ATM – 3/12/16 – 3/15/16

(As amended by H4411 & S2528)

Article 18(A)

Amend Sections 3-1(a)(b) &(c), 3-2(c)(d) &(e), 3-3(a), 3-4(a),

3-4(c), 3-6 (b) &(c), 3-7(b), 3-9(d), 4-1, 4-2 (a) &(b), 4-3,

5-1(a)(c) &(d), 5-2(a), 5-3(a), 5-3, 5-3(b) &(e), 5-4, 5-6,

6-4(b), 6-6.

Article 18(B)

Amend Sections 2-2, 3-2(a), 4, 5-6,6-2, 6-6, 6-7, 7-12, 9-1, 10

Article 18(C)

Amend Sections 3-2(d), 5-2(a) & (b)

Article 18(D)

Amend Section 3-6

Article 18(E)

Amend Section 3-7

Article 18(F)

Amend Section 3-8

Article 18(G)

Amend Section 3-9

Article 18(H)

Amend Section 4-2(a)

Article 18(I)

Amend Section 5-2

Article 19(A)

Amend Section 6-7

Article 19(B)

Amend Section 7-5
Article 19(C)
Amend Sections 7-7(a) & (b)
Article 20(A)
Amend Section 2-3
Article 20(B)

APPENDIX
Charter Change Log (con't.)

CHARTER

APPROVED by Legislature

Amend Section 2-4
Article 20(C)
Amend Section 2-8
Article 20(D)
Amend Section 3-2(d) & Article 8
Article 20(F)
Amend Section 3-2(e)
Article 20(G)
Amend Section 3-5
Article 20(H)
Amend Article 3
Article 20(I)
Amend Section 5-2(c)
Article 20(J)
Amend Sections 5-2(b) & (d)
Article 20(K)
Amend Section 5-2(d)
Article 20(L)
Amend Section 5-3
Article 20(M)
Amend Section 5-3(a)
Article 20(N)
Amend Section 5-3(c)
Article 20(O)
Amend Section 5-3(d)
Article 20(P)
Amend Section 6-2
Article 20(Q)
Amend Section 6-5

ATM 3/12/16 – 3/15/16

Article 20(R)
Amend Section 6-6(d)
Article 20(S)
Amend Section 7-8
Article 20(T)
Amend Section 5-2(d)(1)

APPENDIX
Charter Change Log (con't.)

CHARTER

APPROVED by Legislature

Article 20(U)
Amend Section 5-2(b)

2012 Fall Town Meeting (FY13)

Article 5
Amend section 5-2(a)

FTM – 10/15/12
State – 7/3/13

2012 Annual Town Meeting (FY13)

Article 18
Amend sects. 2-4, 4-2(b)(1), 4-2(b)(14), 5-2(b),5-2(e),
6-4 & 6-6

ATM – 3/17/12
State – 10/11/12

2011 Annual Town Meeting (FY12)

Article 15
Amend sections 3-2, 3-3, 4-2, 5-2 & 5-3
Article 16
Add new Article 8 – Department of Public Works

ATM – 5/14/11
State – 11/4/11
ATM – 5/14/11
State – 11/4/11

2010 Fall Town Meeting (FY11)

Article 6
Amend Article 3, sections 3-3(d) & 5-2(d)
Article 7
Add new section 4-2(17)

FTM – 10/12/10
State – 4/15/11
FTM – 10/12/10
State – 9/15/11

2008 Annual Town Meeting (FY09)

Article 2	ATM – 05/06/08
Amend section 2-2 (language to appt. Deputy Moderator)	State – 12/16/08
Articles 3, 4 & 5	ATM – 05/06/08
Re-written	State – 12/16/08
Articles 6 & 7	ATM – 05/06/08

APPENDIX

Charter Change Log (con't.)

CHARTER

APPROVED by Legislature

(Replace term “Town Coordinator” with “Town Manager”) State – 12/16/08

2005 Annual Town Meeting (FY06)

Article 8, Section 8-5 (b)	ATM – 05/09/05
(Manager DPW shall not hold elective office...)	State – 6/28/06
Amended by special Act	

2001 Annual Town Meeting (FY02)

Article 3, Section 3-2 (f)	September 21, 2001
(Employee of Town may not hold office of Selectman)	
Added by special Act	

1991 Annual Town Meeting (FY92)

Article 3, Section 3-2(a) (Change to 5 Selectmen)	Accepted by Vote of 1992
Added by Chapter 381 of the Acts of 1991	Annual Town Election

1989 Annual Town Meeting (FY90)

Article 4, Section 4-1 (Town Coordinator Residence change)	July 19, 1989
Added by Chapter 254 of the Acts of 1989	

1987 Annual Town Meeting (FY88)

Article 10 (Recall of Elected Officials)	July 23, 1987
Added by Chapter 311 of the Acts of 1987	