

HOUSE No. 3706

The Commonwealth of Massachusetts

PRESENTED BY:

William L. Crocker, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act proposing for certain charter amendments for the town of Barnstable.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>

HOUSE No. 3706

By Mr. Crocker of Barnstable, a petition (accompanied by bill, House, No. 3706) of William L. Crocker, Jr., Timothy R. Whelan and Randy Hunt (by vote of the town) that the town of Barnstable be authorized to amend the charter of said town. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act proposing for certain charter amendments for the town of Barnstable.

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

1 Section 1. Part II of the Charter of the city known as the Town of Barnstable adopted by
2 the voters on April 11, 1989 and which is on file in the office of the archivist, as is provided in
3 Section 12 of Chapter 43B of the General Laws, is hereby amended by inserting a new
4 subsection Section 2-1 (d) as follows:

5 (d) Term Limits

6 No person elected to serve as a Town Councilor may serve more than three consecutive
7 terms of office or twelve consecutive years, whichever is greater. When the term of office for
8 which said person is elected would extend membership on the Town Council beyond twelve
9 consecutive years if the member served the full term, the seat shall be deemed vacant at the time
10 of the next scheduled biennial town election and the vacancy shall be filled at that regular

11 election for the balance of the unexpired term; provided, however, the retiring Councilor shall
12 continue to serve until a successor is qualified.

13 Section 2. Part II of said Charter is hereby further amended by striking out section 2-5
14 and inserting in place thereof the following section:

15 Section 2-5 Filling of Vacancies

16 If a vacancy occurs in the office of Councilor during the first forty-four months of a term,
17 it shall be filled by a precinct election. If a regular town election is scheduled to be held within
18 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled at the regular
19 election; otherwise, the Council shall schedule a special election to be held as soon as is practical
20 to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing
21 regular elections shall, so far as they are apt, apply to said special election.

22 Section 3. Part II of said charter is hereby further amended by striking out subsection 2-
23 8(c) and inserting in place thereof the following section (c):

24 Section 2-8 (c) Charter Objection

25 (c) Charter Objection. Except for an emergency measure as defined in section 2-8(b), on
26 the first occasion that the question on adoption of a measure is put to the town council, if a single
27 member objects to the taking of the vote, the vote shall be postponed until the next meeting of
28 the town council whether regular or special. A charter objection shall have privilege over all
29 motions but must be made at the call for a vote on the measure by the presiding officer and all
30 debate shall cease. This procedure shall not be used more than once for any matter bearing a
31 single docket number notwithstanding any amendment to the original matter.

32 Section 4. Part II of said charter is hereby further amended by striking out the following
33 last sentence contained in Section 2-11: “No person elected to serve as a town councilor may
34 serve more than three consecutive terms of office.”

35 Section 5. Part III of said charter is hereby amended by striking out sections 3-1 to 3-7
36 inclusive and inserting in place thereof the following six sections:

37 Section 3-1. Elective Offices in General

38 In addition to the town council, the offices to be filled by the voters shall be a school
39 committee, a town clerk and a housing authority and such other regional authorities, districts, or
40 committees as may be established by law or interlocal agreement.

41 Section 3-2. Eligibility

42 Any voter shall be eligible to hold any elective town office provided that, no person shall
43 simultaneously hold more than one elective town office.

44 Section 3-3. School Committee

45 (a) Composition, Terms of Office. There shall be a school committee composed of five
46 members elected by and from the voters at large.

47 (b) Term of Office. The terms of school committee members shall be four years
48 beginning on the second Monday following election and continuing until a successor is qualified.
49 Terms of office shall be so arranged that the terms of as nearly an equal number of members as is
50 possible shall expire at each regular election.

51 [Amended by Town Council vote December 1993; approved by Act of Legislature May
52 31, 1994]

53 (c) Powers and Duties. The school committee shall have general charge and
54 superintendence of the public schools of the town. The powers of the school committee shall
55 include, but need not be limited to: appoint a superintendent of schools, and all other officers and
56 employees associated with the school, fix their compensation, define their duties and discharge
57 them; make all reasonable rules and regulations, consistent with the law, for the administration
58 and management of the public schools of the town. The school committee shall have all the
59 powers and duties given to school committees by the laws of the Commonwealth, the charter,
60 ordinance or other council vote.

61 Section 3-4. Town Clerk

62 (a) Election. A town clerk shall be elected by and from the voters at large.

63 (b) Terms of Office. The town clerk shall serve for a term of four years beginning on the
64 second Monday following election and continuing until a successor is qualified.

65 [Amended by Town Council vote December 1993; approved by Act of Legislature May
66 31, 1994]

67 (c) Powers and Duties. The town clerk shall by the keeper of vital statistics of the town,
68 the custodian of the town seal and of all records of the town, shall administer the oath of office to
69 all town officers, shall issue licenses and permits as may be provided by law and shall be
70 responsible for the conduct of elections and all matters relating thereto. The town clerk shall

71 have the powers and duties provided that office by the laws of the Commonwealth, the charter,
72 ordinance or other council vote.

73 Section 3-5 Housing Authority

74 (a) Composition, Election. There shall be a housing authority composed of five members.
75 Four members shall be elected by and from the voters at large and the fifth member shall be
76 appointed by the Secretary of Communities and Development of the Commonwealth.

77 (b) Term of Office. The terms of the housing authority members shall be four years
78 beginning on the second Monday following election and continuing until their successors are
79 qualified. Terms of office shall be so arranged that the terms of two members shall expire at each
80 regular town election.

81 (c) Powers and Duties. The housing authority shall make studies of the housing needs of
82 the town and shall provide programs for housing. The authority shall have all the powers and
83 duties given to housing authorities under the laws of the Commonwealth.

84 Section 3-6. Filling Vacancies

85 If any vacancy occurs in the membership of the office of town clerk whether by failure to
86 elect or otherwise, the town council shall, within thirty days following the date of such vacancy
87 is declared to exist, act to fill the said vacancy. The town council shall choose from among the
88 voters, a person to serve for the balance of the unexpired terms. Any person so chosen shall be
89 sworn and commence to serve forthwith.

90 If a vacancy occurs in the membership of the school committee or housing authority
91 whether by failure to elect or otherwise, the president of the town council shall, within thirty

92 days following the date such vacancy is declared to exist, call a joint meeting of the town council
93 and the remaining membership of whichever agency in which a vacancy is declared to exist, to
94 act to fill the said vacancy. At any such joint meeting a majority of those present and voting
95 shall choose from among the voters, a person to serve for the balance of the unexpired term. Any
96 person so chosen shall be sworn and commence to serve forthwith. Participants in such joint
97 meeting to fill a vacancy in the school committee or housing authority shall give consideration to
98 whichever of the defeated candidates for the seat in which the vacancy is declared to exist who
99 received the highest number of votes at the last regular town election immediately preceding the
100 date the vacancy is declared to exist.

101 Section 6. Part VI of said charter is hereby amended by striking out the word “ten” in
102 Section 6-6 and inserting in place thereof the word “five”.

103 Section 7. Part VII of said charter is hereby amended by striking out sections 7-1 to 7-5
104 inclusive and inserting in place thereof the following four sections:

105 Section 7-1 Town Elections

106 The regular town election shall be held on the first Tuesday following the first Monday in
107 November of each odd-numbered year.

108 Section 7-2 Regular Election

109 (a) Signature Requirements

110 The number of signatures of voters required to place the name of a candidate on the
111 official ballot to be used at an election shall be as follows: For an office which is to be filled by

112 vote of the whole town, not less than one hundred and fifty. For an office which is elected by the
113 voters in a precinct, not less than fifty signatures from said precinct.

114 (b) Information to Voters

115 If the candidate in a regular town election is an incumbent of the office to which he seeks
116 election, against his name shall appear the phrase “candidate for re-election.”

117 (c) Ballot Position

118 The order in which names of candidates appear on the ballot for each office in a regular
119 town election shall be determined by a drawing by lot conducted by the town clerk in the
120 presence of such candidates or their representatives as may choose to attend.

121 Section 7-3 Precincts

122 The territory of the town shall be divided into precincts so established as to consist of as
123 nearly equal a number of inhabitants as it is possible in compact and contiguous territory;
124 bounded insofar as possible by the center line of known streets or ways or by other well defined
125 limits.

126 Section 7-4 Application of State Laws

127 Except as expressly provided in the charter and authorized by statute, all town elections
128 shall be governed by the laws of the commonwealth relating to the right to vote, the registration
129 of voters, the nomination of candidates, the conduct of preliminary and regular elections, the
130 submission of charter amendments and other propositions, the counting of votes and the
131 declaration of results.

132 Section 8. Part IX of said charter is hereby amended by inserting under Section 9-4 the
133 following definition:

134 MEASURE:- The word “measure” shall mean matters to come before the town council
135 which are inherently legislative in nature, including, without limitation, ordinances, charter
136 amendments, appropriations, loan orders, lease approvals, contract approvals and eminent
137 domain authorizations. “Measure” shall not encompass any matter which is executive,
138 administrative or ministerial, or quasi-judicial in nature, including, without limitation,
139 appointments, resolutions, proclamations, tax classification votes and petitions to the General
140 Court.

141 Section 9. Part X of the Charter is hereby amended by striking out Section 10-7(b) and
142 inserting in place thereof the following:

143 The incumbent in the office of Tax Collector shall continue to serve in said office until
144 the completion of the current elected term.

145 Section 10. Part X of said Charter is hereby further amended by inserting under Section
146 10-7(k)(1) the words “a Town Collector.”

147 Section 11. The Town Clerk for the Town of Barnstable shall cause the following
148 question to be placed on the official ballot to be used in the Town of Barnstable at the biennial
149 town election to be held on November 7, 2017: Shall an act entitled “An Act amending the
150 charter of the Town of Barnstable” be accepted.

151 The Town Attorney shall prepare a summary of the proposed special act to amend the
152 Charter which shall appear on the ballot along with the question provided in this section.

153 If a majority of votes cast to the question is in the affirmative, the Town of Barnstable
154 shall be taken to have accepted the amendments to the Charter of the Town of Barnstable, but not
155 otherwise.

156 Section 12. This act shall take effect upon its passage.