

HOUSE No. 3794

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake and Julian Cyr

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 relative to the charter of the town of Eastham.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>2/10/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/18/2021</i>

HOUSE No. 3794

By Representative Peake of Provincetown and Senator Cyr, a joint petition (accompanied by bill, House, No. 3794) of Sarah K. Peake and Julian Cyr (by vote of the town) relative to the charter of the town of Eastham. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the charter of the town of Eastham.

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. Chapter 415 of the acts of 1998 is hereby repealed.

2 SECTION 2. Chapter 17 of the acts of 2006 is hereby repealed.

3 SECTION 3. Chapter 19 of the acts of 2011 is hereby repealed.

4 SECTION 4. Chapter 20 of the acts of 2011 is hereby repealed.

5 SECTION 5. Chapter 143 of the acts of 2018 is hereby repealed.

6 SECTION 6. The following shall be the charter of the town of Eastham:-

7 Charter

8 Article I

9 Definitions

10 Section 1-1. Definitions.

11 As used in this charter the following terms shall, unless the context clearly requires
12 otherwise, have the following meanings:

13 “Appoint”, to select a person to fill an office or to employ in the service of the town.

14 “Charter,” this charter and any amendments to it made through any of the methods
15 provided under articles 89 and 113 of the amendments to the constitution.

16 “General Laws”, the Official Edition of the General Laws.

17 “Local newspaper”, a newspaper of general circulation in the town.

18 “Majority vote”, a majority of those present and voting; provided, that a quorum of the
19 body is present.

20 “Multimember body”, any board, commission, committee, task force or other such body
21 of the town consisting of 2 or more persons, whether appointed or elected.

22 “Town”, the town of Eastham.

23 “Town agency”, any office, department, board, committee or commission of the town
24 government.

25 “Voters”, registered voters of the town of Eastham.

26 Article II

27 Incorporation and Powers

28 Section 2-1. Incorporation.

29 The inhabitants of the town of Eastham, within the territorial limits established by law,
30 shall continue to be a body corporate and politic under the name "town of Eastham."

31 Section 2-2. Short Title.

32 This instrument shall be known and may be cited as the Eastham home rule charter.

33 Section 2-3. Division of Powers.

34 The legislative powers of the town shall be vested in a town meeting open to all voters.
35 Responsibility for the fiscal, prudential and municipal affairs of the town shall be vested in a
36 nonpartisan executive branch headed by a select board.

37 Section 2-4. Powers of the Town: Intent of the Voters.

38 It is the intent of the voters of the town of Eastham, through the adoption of the charter,
39 to secure for the town of Eastham all of the powers possible under the constitution and General
40 Laws as fully and as completely as though each such power were specifically and individually
41 enumerated herein.

42 Section 2-5. Interpretation of Powers.

43 The powers of the town under the charter shall be construed liberally in favor of the town
44 and the specific mention of any particular power is not intended to limit the general powers of
45 the town as stated in section 2-4.

46 Section 2-6. Intergovernmental Regulations.

47 The town may enter into agreements with any other agency of municipal government,
48 agency of the commonwealth, other states or the United States government to perform jointly, by
49 contract or otherwise, any of its powers or functions and may participate in the financing thereof.

50 Article III

51 Legislative Branch

52 Section 3-1. Open Town Meeting.

53 The legislative powers of the town shall be vested in a town meeting open to all voters. A
54 quorum for conducting town business shall be set by by-law.

55 Section 3-2. Presiding Officers.

56 A moderator, elected as provided in article IV, shall preside and regulate the proceedings
57 of each session of the town meeting.

58 Section 3-3. Annual Town Meeting.

59 The annual town meeting shall be held on a date fixed by by-law and at such time and
60 place as the select board shall designate.

61 Section 3-4. Special Town Meetings.

62 Special town meetings may be held at the call of the select board at such times as it may
63 deem appropriate and whenever a special town meeting is requested by voters in accordance with
64 procedures established by General Laws, town by-law or this charter.

65 Section 3-5. Warrants.

66 Every town meeting shall be called by a warrant issued by the select board that shall state
67 the time and place at which the town meeting is to convene and, by separate articles, the subjects
68 that are to be acted upon.

69 The select board shall prepare the warrant for all town meetings and, by public notice
70 published in a local newspaper, shall advertise the date of the opening and closing of the warrant
71 for all town meetings.

72 The warrant shall include rules and procedures as provided for in subsection (b) of
73 section 3-8.

74 The opening of the warrant shall be no less than 90 days prior to the date of the annual
75 town meeting. The opening of the warrant for any special town meeting shall be no less than 20
76 days prior to the date of the special town meeting.

77 The warrant for the annual town meeting shall remain open no less than 30 days.

78 A notice of the availability of the warrant shall be published on the town website and in a
79 local newspaper at least 14 days prior to any such town meeting.

80 All said warrants shall also be posted in every post office in the town at least 14 days
81 prior to any such town meeting and shall remain so posted until the date of the meeting.

82 The order of consideration of the articles as printed in the warrant may be changed only
83 by a 2/3 vote of the town meeting.

84 Section 3-6. Certain Articles Having Fiscal Implications.

85 (a) All proposed operating expenses shall be included in a single article in the annual
86 town meeting warrant. In addition, all proposed capital acquisitions expenditures shall be
87 included in another, single article in the annual town meeting warrant.

88 (b) The select board and the finance committee shall review and comment on all articles
89 calling for the appropriation of funds that are to be considered at all town meetings.

90 Section 3-7. Initiative.

91 (a) By written petition to the select board, 10 voters may secure the inclusion of an article
92 in the warrant for the annual town meeting; provided, that such petition shall be submitted in
93 accordance with by-laws governing town meeting warrants.

94 (b) By written petition to the select board, any 100 voters may secure the inclusion of an
95 article for the warrant of any special town meeting; provided, that such petition shall be
96 submitted in accordance with by-laws governing town meeting warrants.

97 Section 3-8. Town Meeting.

98 (a) Members of boards and commissions, town officers and department heads, or their
99 duly designated representatives, shall attend town meeting for the purpose of furnishing
100 information when proposals affecting their particular office, board or department are included in
101 the warrant.

102 (b) The moderator shall prepare, in consultation with the town clerk, rules of
103 parliamentary procedure in simplified form.

104 (c) No person shall speak twice on the same question until all those wishing to speak
105 thereon have done so, nor shall any person speak for more than 5 minutes at a time, except by

106 permission of the town meeting; provided, however, that the restrictions shall apply neither to
107 those persons required to be in attendance under provision of subsection (a) nor to those persons
108 making the original motion under any article.

109 (d) The select board shall, by recorded vote in the warrant, indicate its recommendations
110 on all articles.

111 (e) No motion, the effect of which would be to dissolve the town meeting, shall be in
112 order until every article in the warrant has been duly considered and acted upon. This
113 requirement shall not preclude the postponement or consideration of any motion to adjourn the
114 meeting to a stated time and place.

115 (f) All special committees created by any town meeting shall make a report in accordance
116 with the schedule set by the town meeting action that created the committee. Such report shall
117 serve to discharge any such committee unless the town meeting shall vote to prolong its
118 existence for a period not exceeding 1 year. Written copies of such reports shall be submitted to
119 the town clerk, town manager and the select board and shall be published in full or in summary
120 form in the next annual town report.

121 Section 3-9. Amending the Charter.

122 (a) At least once every 10 years, a special committee shall be appointed by the town
123 moderator, with notification to the select board, for the purpose of reviewing the provisions of
124 the charter and to make a report, with recommendations to the town meeting, concerning any
125 proposed amendments or revision which said committee may deem to be necessary or desirable.
126 This charter may be revised, amended or replaced in accordance with the procedures made

127 available by articles 89 and 113 of the amendments to the constitution and any legislation
128 enacted to implement said amendments.

129 (b) Any future amendments to this charter shall minimize the use of pronouns by using
130 the title of the office wherever possible and, where not possible, by using gender neutral
131 pronouns such as they, them or their.

132 Article IV

133 Select Board and Other Elected Officers

134 Section 4-1. Select Board.

135 (a) A board of 5 members shall be elected at-large for 3-year overlapping terms.

136 (b) No select board member may hold any other elective town office.

137 (c) Vacancies on the select board shall be filled by special election in accordance with the
138 General Laws if the vacancy occurs 8 months or more before the next scheduled regular election.
139 If the vacancy occurs less than 8 months before the next scheduled regular election, the vacancy
140 similarly may be filled by special election at the discretion of the board.

141 (d) The select board shall hold meetings no less than 2 times per month, in the evening
142 or, if on a Saturday, during the day.

143 (e) Each member of the select board shall receive annual compensation and
144 reimbursement for actual and necessary expenses incurred in the performance of their duties of
145 office as provided by General Laws and vote of the town.

146 Section 4-2. Policy Leadership.

147 The select board shall serve as the chief executive goal-setting and policy-making agency
148 of the town and as such shall not administer the day-to-day affairs of the town.

149 Section 4-3. Executive Powers.

150 (a) Except as otherwise provided by this charter, all executive powers of the town shall be
151 vested in the select board, and it shall have all the powers and duties given to boards of
152 selectmen under the constitution and General Laws and such additional powers and duties as
153 may be authorized by this charter, by-law or town meeting vote.

154 (b) The select board shall have the power: (i) to issue licenses as authorized by law; (ii) to
155 make all necessary rules and regulations regarding the issuance of such licenses; (iii) to attach
156 conditions and to impose restrictions on any such licenses as it deems to be in the public interest;
157 and (iv) to enforce all laws, rules, regulations and restrictions relating to all such businesses for
158 which it issues licenses.

159 (c) Members of the select board shall possess no individual authority unless such
160 authority shall have previously been granted by vote of the select board.

161 (d) The select board shall cause the charter, by-laws, rules and regulations and policies
162 for the government of the town to be enforced and published and shall cause an up-to-date record
163 of all its official acts to be kept.

164 Section 4-4. Appointment.

165 (a) The select board shall appoint a town manager. The appointment of the manager shall
166 be at the affirmative vote of at least 4 members of the select board.

167 (b) The select board shall appoint a town counsel.

168 (c) The select board shall appoint the board of registrars of voters and election officials.

169 Section 4-5. Administration.

170 The responsibility for the administration of the town's business shall be vested in the
171 town manager.

172 Section 4-6. Prohibitions.

173 No member of the select board shall serve on any appointed town board established by
174 this charter or by by-law for which the select board is the appointing authority, except when
175 acting in an ex-officio capacity.

176 Section 4-7. Powers in Intergovernmental Relations.

177 Members of the select board shall represent the town on regional or intermunicipal
178 committees or may designate a town employee or other person to represent the town.

179 Section 4-8. Elected Officers and Town Boards.

180 (a) (1) There shall be a town moderator elected for a term of 3 years at an annual town
181 election.

182 (2) The town moderator shall be the presiding officer of town meetings as provided in
183 Article III of this charter, shall regulate its proceedings and shall perform such other duties as
184 may be provided by General Laws, this charter, by-laws or vote of town meeting. The moderator
185 shall appoint 2 members to the Cape Cod regional technical high school district committee, 3
186 members of the finance committee, 2 members of the search committee, all members of the

187 charter review committee and such members to permanent and temporary committees as the
188 town meeting may vote.

189 (b)(1) A town clerk shall be elected for a term of 3 years at an annual town election.

190 (2) The town clerk shall be the keeper of vital statistics for the town, be the custodian of
191 the town seal and all records of the town, shall administer the oath of office to all town officers,
192 elected and appointed, shall make recommendations to the select board for the appointment of
193 members of the board of registrars and other election officials, shall issue permits and licenses
194 required by law, shall supervise and manage the conduct of elections, shall serve as clerk of town
195 meeting, and shall have all other powers and duties which are given to town clerks by General
196 Laws, this charter, by-law or town meeting vote.

197 (c) There shall be an Eastham elementary school committee consisting of 5 members
198 elected for terms of 3 years each, so arranged that the terms of as nearly an equal number of
199 members as is possible shall expire each year. The Eastham elementary school committee shall
200 have all the powers and duties which are given to school committees by General Laws and it
201 shall have such additional powers and duties as may be authorized by this charter, by by-law or
202 by town meeting vote. The powers of the Eastham elementary school committee shall include,
203 but not be limited to the following:

204 (i) To make all reasonable rules and regulations consistent with law for the
205 administration and management of the public school system and for the conduct of its business
206 and affairs; and

207 (ii) To vote on matters associated with the appointment and removal of officers and
208 employees of the school system, including fixing their compensation, defining their duties,
209 making rules regarding their tenure in office and discharging them as may be necessary.

210 (d) At least 1 representative shall be elected to the Nauset Regional School District
211 committee for a term of 3 years. Any terms shall be arranged so that they will expire in different
212 years.

213 (e) There shall be a board of library trustees consisting of 5 members, elected for 3-year
214 overlapping terms at an annual election, that shall be responsible for the administration and
215 operation of the public library. The town manager shall appoint the library director upon the
216 recommendation of the board of library trustees.

217 (f) There shall be a housing authority consisting of 5 members, appointed and elected in
218 accordance with sections 5 and 5A of chapter 121B of the General Laws, 1 of whom shall be
219 appointed under the authority of the commonwealth and 4 of whom shall be elected. All
220 members shall serve 5-year overlapping terms.

221 Section 4-9. Vacancies in Certain Elected Offices.

222 (a) If a vacancy occurs in a position on the Eastham elementary school committee, board
223 of library trustees or housing authority, other than the position appointed by the state, the
224 vacancy shall be filled by the select board and the remaining members of the respective body,
225 jointly, from amongst the registered voters of the town following the procedures set forth in
226 section 11 of chapter 41 of the General Laws. The person so appointed shall serve until the next
227 regular election.

228 (b) If a vacancy occurs in the position of representative to the Nauset Regional School
229 District Committee, the vacancy shall be filled by the select board from amongst the registered
230 voters of the town. The person so appointed shall serve until the next regular election or sooner
231 special election.

232 (c) In advance of a known temporary absence of the town moderator, the moderator may
233 appoint a person to serve as acting town moderator who shall have and exercise all the powers
234 given to the moderator for that meeting only. If there is a vacancy in the office of town
235 moderator, the vacancy shall be filled at the next regular election. If a town meeting shall be held
236 prior thereto, the select board and the finance committee acting jointly may appoint an acting
237 town moderator who shall exercise all the powers given to the moderator for that meeting only.

238 Article V

239 Town Manager

240 Section 5-1. Appointment and Term of Office.

241 The select board, by an affirmative vote of at least 4 members, shall appoint a town
242 manager to serve an indefinite term and shall fix the compensation for such person within the
243 amount appropriated by the town. The town manager shall not have served in an elective office
244 in the town government for at least 12 months prior to the appointment.

245 Section 5-2. Qualifications.

246 The town manager shall be appointed on the basis of education and executive and
247 administrative qualifications. The educational qualifications shall consist of at least a bachelor's
248 degree, granted by an accredited degree-granting college or university. Professional experience

249 shall include at least 5 years of prior full-time compensated executive or administrative service in
250 public or private business administration. Alternatively, at least 2 years of prior full-time
251 compensated executive service in public or business administration and a master's degree in an
252 appropriate discipline shall qualify an applicant.

253 Section 5-3. Powers and Duties.

254 (a) The town manager shall be the chief administrative officer of the town and shall be
255 responsible for administering and coordinating all employees, activities and departments placed
256 by General Laws, this charter or by-law under the control of the select board and the town
257 manager. The manager shall implement the goals and carry out the policies of the select board.

258 (b) The town manager shall devote full time to the duties of the office and shall not hold
259 any other public office, elective or appointive, nor be engaged in any other business, occupation
260 or profession while serving in such office unless such action is approved, in advance and in
261 writing, by the select board.

262 (c) The powers and duties of the town manager shall include but are not limited to the
263 following:

264 (1) To attend all meetings of the select board, unless excused at the town manager's
265 request, and to speak but not to vote at all such meetings;

266 (2) To keep the select board fully informed as to the needs of the town and to recommend
267 to the board for adoption by it such measures requiring action by it or by the town as the town
268 manager deems necessary or expedient;

269 (3) To inform the select board of departmental operations, fiscal affairs, general problems
270 and administrative actions, and to this end submit periodic reports;

271 (4) To keep the select board fully informed of the availability of all sources of outside
272 funding, both public and private, including intergovernmental grants, so-called "in-lieu-of"
273 payments, gifts, grants, contributions and otherwise, giving special consideration as to how any
274 such funding source might relate to the short- and long-range needs and goals of the town;

275 (5) To fulfill all responsibilities and duties assigned to the town manager under Article
276 VII of this charter;

277 (6) To manage during the fiscal year the annual operating budget and the capital
278 acquisitions budget as voted by the town, so as to assure all such funds are expended or
279 committed in accordance with General Laws, this charter, by-laws and the town meeting votes
280 relating thereto;

281 (7) To act as the chief procurement officer for the town;

282 (8) To develop, keep and update annually a full and complete inventory of all real and
283 personal property of the town;

284 (9) To attend and speak at any regular meeting of any town multimember body as the
285 town manager chooses;

286 (10) To negotiate collective bargaining contracts on behalf of the select board, unless the
287 town manager, with the approval of the select board, shall have designated another negotiator or
288 negotiating team; provided, that all such contracts shall be subject to the approval of the select
289 board;

290 (11) To authorize the assistant town manager, if any, to exercise the powers or perform
291 the functions or duties assigned to the office of town manager in that manager's absence for a
292 period of no more than 2 weeks; provided, however, that all acts performed by the assistant town
293 manager in such circumstance shall be deemed to be the acts of the town manager;

294 (12) To coordinate the activities of all town agencies serving under the office of town
295 manager and the office of the select board with those under the control of other officers and
296 multimember bodies elected directly by the voters. For this purpose, the town manager shall have
297 authority to require the persons so elected or their representatives to meet with the town manager
298 at reasonable times for the purpose of effecting coordination and cooperation among all agencies
299 of the town;

300 (13) To attend all sessions of all town meetings and answer all questions directed to the
301 town manager which relate to the office; and

302 (14) To perform such other duties as assigned by this charter, by-law, vote of the town
303 meeting or vote of the select board.

304 Section 5-4. Powers of Appointment.

305 The town manager shall appoint, on the basis of merit and fitness alone, and may remove,
306 except as otherwise provided by the General Laws, this charter, personnel by-laws or collective
307 bargaining agreements that may be applicable, a town treasurer/collector, a police chief, a fire
308 chief, a town accountant and all other department heads, officers, subordinates and employees,
309 full- and part-time, excepting that:

310 (a) Employees of the school department and the library shall be appointed by their
311 respective department heads;

312 (b) The police chief and fire chief shall appoint employees of their respective
313 departments subject to the approval of the town manager;

314 (c) The town manager shall appoint personnel in all other departments after consultation
315 with supervisors and department heads to whom such personnel report or are assigned; and

316 (d) All appointments made or approved by the town manager shall become effective no
317 later than the fifteenth day following the day on which notice of the proposed appointment is
318 filed with the select board, unless 3 members of the select board shall vote to reject such an
319 appointment within such period or shall sooner approve it.

320 Section 5-5. Personnel Administration.

321 (a) The town manager shall administer and enforce collective bargaining agreements,
322 personnel policies and practices, rules and regulations and personnel by-laws adopted by the
323 town.

324 (b) The town manager shall, in consultation with the select board, prepare, maintain and
325 keep current a plan establishing the personnel staffing requirements for each town agency, except
326 those under the jurisdiction of the school committee.

327 (c) The creation of any new full-time compensated position shall require approval by the
328 select board and such action shall not be effective until the position has been funded by town
329 meeting vote.

330 Section 5-6. Administrative Reorganization.

331 The town manager may recommend to the select board and implement, with the select
332 board's approval, reorganization of any department or position placed by this charter under the
333 town manager's direction or supervision, except as otherwise provided by General Laws or this
334 charter.

335 Section 5-7. Disbursements.

336 Warrants or vouchers for payment of town funds prepared and signed by the town
337 accountant in accordance with General Laws shall be submitted to the town manager after review
338 and approval by the director of municipal finance, if any, and approval of the town manager shall
339 be sufficient authorization for payment by the town treasurer/collector. At least 3 members of the
340 select board shall approve all warrants or vouchers in the town manager's absence or in the event
341 that office is vacant.

342 Section 5-8. Evaluation.

343 (a) The select board shall annually evaluate the performance of the town manager. The
344 select board shall adopt a written set of procedures and criteria that shall form the basis for the
345 evaluation.

346 (b) The select board shall provide a copy of the evaluation to the town manager and a
347 copy shall be kept on file in the office of the select board for examination by the public.

348 Section 5-9. Removal.

349 (a) The select board, by the affirmative vote of at least 4 members, may initiate the
350 removal of the town manager by adopting a resolution to that effect. Said resolution shall state
351 the reason therefor; provided, that no such resolution shall be adopted within 60 days following

352 any town election. Any such resolution shall be adopted only at a regularly scheduled public
353 meeting and in open session.

354 (b) The adoption of said resolution shall serve to suspend the town manager for not more
355 than 45 days, during which the salary shall continue to be paid. A copy of such resolution shall
356 be delivered in hand forthwith to the town manager or sent by registered mail, return receipt
357 requested, to the manager's last known address.

358 (c) Within 5 days following receipt of such resolution, the town manager may file a
359 written request for a public hearing with the select board. Upon receipt of such request, the select
360 board shall schedule a public hearing within 2 weeks. At least 7 days prior to the public hearing,
361 the board shall advertise the hearing in a local newspaper and shall cause identical notices stating
362 the purpose, location, time and date to be posted in the town hall and in every post office in
363 town.

364 (d) The town moderator shall preside at any such hearing.

365 (e) At any such hearing, the reasons for the removal shall first be read aloud. The town
366 manager shall then have the right to respond, personally or through counsel. The select board and
367 the town manager shall have the power to compel testimony and to subpoena any town records.

368 (f) Final removal of any town manager shall be effected by the affirmative vote of at least
369 4 members of the select board at a public meeting, the time and place of which are announced,
370 held within 7 days of such hearing, if any. If no hearing has been requested, final removal may
371 be effected by an affirmative vote of at least 4 members at a meeting of the select board held not
372 earlier than 14 days after the resolution initiating removal is adopted. The salary of the town

373 manager shall be paid for a period of 60 days after the vote effecting removal from office or
374 otherwise in accordance with the termination clause in the town manager's contract.

375 (g) The town manager shall provide the select board with at least 90 days' notice of the
376 town manager's intent to resign. The select board may shorten or waive this requirement.

377 Section 5-10. Filling Vacancy.

378 When a vacancy arises in the office of the town manager, the select board shall advertise
379 the vacancy at once. The board shall fill the vacancy as quickly as possible, but in any case,
380 within 6 months. The select board in its search for a town manager shall advertise in the
381 International City/County Management Association newsletter or similar professional
382 publication and in at least 2 newspapers having state-wide or multistate regional circulation.

383 Section 5-11. Acting Town Manager.

384 (a) In the event of the temporary absence or disability of the town manager that is
385 expected to last longer than 2 weeks, the town manager may appoint, subject to the approval of
386 the select board, a suitable person to serve as acting town manager and perform the duties of the
387 town manager during such absence or disability. If the town manager fails to make such
388 appointment or the person so appointed fails to serve, the select board may appoint a suitable
389 person to perform such duties.

390 (b) An acting town manager serving because of the temporary absence or disability of the
391 town manager pursuant to subsection (a) shall:

392 (1) Exercise only those powers of the town manager as are essential to conduct the
393 business of the town in an orderly and efficient manner and to take action on matters that cannot
394 be delayed until the expected date of return of the town manager; and

395 (2) Have no authority to make any permanent appointment to or removal from town
396 service unless the absence or disability of the town manager has extended beyond 60 days.

397 Section 5-12. Temporary Town Manager.

398 During a vacancy caused by suspension, removal, resignation or death of the town
399 manager, the select board shall designate, within 10 days of the vacancy, a town employee or
400 other person to exercise the powers and perform the duties of the town manager. This
401 designation shall be for a period not to exceed 90 days, and it may be renewed as necessary, not
402 more than twice for additional periods not to exceed 90 days each.

403 Section 5-13. Department of Municipal Finance.

404 (a) There shall be a department of municipal finance under the direct control and
405 supervision of a director of municipal finance, who shall be appointed by and responsible to the
406 town manager. The director of municipal finance shall be a person especially suited by
407 education, training and previous experience to perform the duties of the office. The director of
408 municipal finance shall be required to be a certified public accountant or hold a degree in public
409 finance or a related field. The director shall be responsible for the supervision and coordination
410 of all municipal finance operations of the town that are placed within the department of
411 municipal finance by this charter.

412 (b) The department of municipal finance shall include accounting, treasury/collection and
413 property assessing. The responsibilities of the director of municipal finance shall include, but not
414 be limited to:

415 (1) Preparation of rules, regulations and instructions relating to financial activities
416 that, when approved by the town manager and the select board, shall be binding upon all town
417 agencies and employees;

418 (2) Examination and approval of all warrants for payment as not fraudulent, unlawful
419 or excessive prior to submission to the town manager, or in the event of a vacancy in that office,
420 or the absence or disability of the town manager to act, to the select board;

421 (3) Carrying out a continuous audit to assure that the town accountant, town treasurer
422 and assessor are following town financial policies, state law and best practices and that their
423 records match; and

424 (4) Making an annual report, to be included in the town's annual report, giving a
425 statement of all receipts and expenditures of the town for the past fiscal year.

426 Article VI

427 Appointed Multimember Bodies

428 Section 6-1. Powers and Duties.

429 Multimember bodies shall possess and exercise all powers given to them under the
430 constitution and General Laws and shall have and exercise such additional powers and duties as
431 may be granted and delegated by this charter, by-law, vote of the town meeting or the charge
432 adopted for the body by the select board consistent therewith.

433 Section 6-2. Organizations and Procedures.

434 (a) All multimember bodies shall:

435 (1) Organize annually at the first meeting of the fiscal year;

436 (2) Elect a chairperson, clerk and any other necessary officers;

437 (3) Adopt rules of procedure and voting;

438 (4) Establish that a quorum, a simple majority of the membership of a multimember
439 body as constituted unless otherwise provided in a general or special law or applicable state
440 regulation, must be present at all meetings;

441 (5) Create accurate minutes that fulfill all the requirements set out in the attorney
442 general's guide to the open meeting law, which shall be subject to mandatory disclosure as
443 provided by chapter 66 of the General Laws. Approved minutes of open session meetings, and
444 of executive session meetings where the multimember body has voted to release the same, shall
445 be filed with the town clerk within 5 days of such action;

446 (6) Submit a report for inclusion in the annual report; and

447 (7) Conduct all meetings in accordance with sections 18 to 25, inclusive, of chapter
448 30A of the General Laws;

449 (b) Each appointed body shall consist of an odd number of members, who shall be
450 appointed for 3-year overlapping terms unless otherwise specified in the charge to that body;

451 (c) No member shall be appointed to the same multimember body for more than 3
452 consecutive full terms, except as provided below. After reaching the maximum term of service,
453 an individual may be reappointed after 1 year elapses.

454 Notwithstanding any other provision of this section, however, the appointing authority
455 may reappoint an individual for more than 3 consecutive terms when no other individual is
456 available or when membership on an appointed committee, board or commission requires by
457 statute special training, certification or technical skills. An individual shall be considered
458 available for purposes of this section when they have applied for membership on the committee
459 and, after being interviewed, are considered to be qualified.

460 (d) No person may be appointed to more than 3 permanent multimember bodies;
461 provided, however, that this section shall not prohibit the appointment of a person to any number
462 of ad-hoc or otherwise temporary multimember bodies.

463 (e) Any person duly appointed or elected to any office or multimember body shall take up
464 the duties thereof immediately upon the date specified by statute and as soon as such person shall
465 have been sworn to the faithful performance of those duties by the town clerk.

466 (f) The absence of any member of an appointed multimember body from 3 consecutive
467 meetings without advance notice to the chair with an appropriate explanation may serve as cause
468 to deem that the office has been vacated by such person. The decision to recommend that the
469 office be deemed to have been vacated shall be made by majority vote of the multimember body.
470 After such a majority vote, the chairperson of the body shall advise the appointing authority
471 forthwith. Upon receipt of such a recommendation, the appointing authority shall vote on

472 whether to declare a vacancy. For any vacancy created in this manner, the appointing authority
473 shall fill the vacancy in accordance with the General Laws and this charter.

474 (g) While a compensated town employee may be appointed to serve on a multimember
475 body other than the finance committee, no compensated town employee may be appointed to a
476 multimember body with administrative authority over such employee.

477 (h) When any new multimember body is established by town meeting, by by-law or vote
478 of the select board, notice thereof and of the opportunity for interested persons to apply to
479 become members of such body shall be posted on the town website and in a local newspaper for
480 no less than 14 days prior to appointments being made.

481 Section 6-3. Compensation.

482 Members of appointed multimember boards may receive such compensation as may be
483 authorized by the town meeting. During the term for which a member is appointed and for 1 year
484 following expiration of such term, no member of any appointed board shall be eligible to accept
485 any additional paid position under any other multimember board.

486 Section 6-4. Certain Appointed Multimember Bodies.

487 (a) A search committee consisting of 7 members shall be appointed for 3-year
488 overlapping terms. 3 members shall be appointed by the select board; 2 members shall be
489 appointed by the moderator; and 2 members shall be appointed by the finance committee. The
490 committee shall advise the select board and the moderator concerning the names and
491 qualifications of residents of the town available to serve on multimember bodies. The search
492 committee may establish procedures for soliciting candidates for consideration and may consult

493 with town committee members or chairs to assist in determining preferred skills for the
494 individuals to be considered. The search committee shall periodically review all town committee
495 charges. If any appointed member resigns or otherwise is no longer able to serve, the body that
496 appointed that member shall appoint a replacement.

497 (b) A board of assessors consisting of 3 members shall be appointed by the select board
498 for 3-year overlapping terms. The select board may also appoint 1 alternate member for a 3-year
499 term. The role of the alternate will be to exercise the duties and responsibilities of a regular board
500 of assessors member, in the absence of 1 or more regular members or in the event of a conflict of
501 interest of 1 or more members such that a quorum is not present. The alternate and regular
502 members shall possess appropriate qualifications or obtain the necessary training, at town
503 expense, after appointment. If any appointed member resigns or otherwise is no longer able to
504 serve, the select board shall appoint a replacement.

505 (c) A finance committee consisting of 9 members shall be appointed for 3-year
506 overlapping terms, of whom 3 members shall be appointed by the select board, 3 members shall
507 be appointed by the moderator and 3 members shall be appointed by the finance committee. No
508 compensated town employee shall be a member of the finance committee. If any appointed
509 member resigns or otherwise is no longer able to serve, the body that appointed that member
510 shall appoint a replacement.

511 (d) A board of health consisting of 5 members shall be appointed by the select board for
512 3-year overlapping terms. The board of health shall cooperate with the conservation commission
513 and the planning board and shall participate in joint meetings with them at least once annually. If

514 any appointed member resigns or otherwise is no longer able to serve, the select board shall
515 appoint a replacement.

516 (e) A board of highway surveyors and public works consisting of 3 members shall be
517 appointed by the select board for 3-year overlapping terms. If any appointed member resigns or
518 otherwise is no longer able to serve, the select board shall appoint a replacement.

519 (f) The capital projects committee shall oversee the management of any municipal project
520 of \$1,000,000 or more financed through the issuance of bonds, including the expenditure of
521 funds. The capital projects committee shall consist of 5 voting members, who shall be permanent
522 committee members, and the committee may be supplemented as described below for specific
523 projects:

524 (1) The 5 permanent committee members shall be:

525 (i) The town manager or, at the town manager's discretion, the director of municipal
526 finance, serving ex officio;

527 (ii) 2 members appointed by the select board for 3-year overlapping terms; and

528 (iii) 2 members appointed by the finance committee for 3-year overlapping terms.

529 (2) Up to 2 additional voting members may be appointed for each specific project by
530 the committee to serve for as long as the committee is overseeing that project and who may only
531 participate as committee members with regard to the project for which they are appointed;
532 provided, however, that where the project was sponsored or requested by a multimember body or
533 the project would impact on the facility of a multimember body, there shall be at least 1
534 appointee who is a member of the multimember body.

535 (3) In addition, in its consideration of a specific project, the committee shall rely on
536 such other resources as may be desirable or include such other nonvoting members as may be
537 required for that project by statute or town meeting vote.

538 (4) If any appointed member resigns or otherwise is no longer able to serve, the body
539 that appointed that member shall appoint a replacement.

540 Section 6-5. Powers of the Select Board.

541 The select board shall have the power:

542 (i) To enlarge or decrease the number of members of any multimember bodies not
543 established under this charter or by by-law, subject to any state law requirements; provided, that
544 such bodies shall always consist of an uneven number of members and no fewer than 3 members;

545 (ii) To dissolve any appointed boards, committees or commissions not established under
546 this charter or by by-law, subject to any state law requirements; and

547 (iii) To appoint members of multimember bodies established by General Laws, by-law,
548 town meeting vote or vote of the select board and for which no other method of appointment is
549 provided in this charter.

550 Section 6-6. List of All Multimember Bodies.

551 The town clerk shall maintain a list of all existing multimember bodies that includes their
552 composition and appointing authorities

553 Article VII

554 Financial Provisions and Procedures

555 Section 7-1. Submission of Budget and Budget Message.

556 (a) Annually, prior to the first day of October, the town manager shall establish and issue
557 a budget schedule which shall set forth the calendar dates relating to the development of the
558 annual operating budget for the ensuing fiscal year.

559 (b) The schedule shall be in accordance with this charter unless deviation therefrom is
560 recommended by the town manager and approved by the select board and the finance committee.

561 (c) Annually, prior to the first day of October, the town manager shall request and receive
562 from the director of municipal finance the estimated revenues for the ensuing fiscal year. Upon
563 receipt of any additional specific fiscal data provided by the commonwealth or any other source,
564 the director of municipal finance shall revise, update and submit the data forthwith to the town
565 manager.

566 (d) Annually, prior to the first day of November, the select board, after consulting with
567 the town manager, shall issue a policy statement that shall establish the general guidelines for the
568 next town budget.

569 (e) All department heads and all multimember bodies shall submit their budget requests
570 to the town manager at least 150 days before the date of the annual town meeting.

571 (f) At least 120 days prior to the scheduled date of the annual town meeting, the town
572 manager shall submit to the select board and finance committee, simultaneously, a
573 comprehensive draft budget for all town functions for the ensuing fiscal year and an
574 accompanying draft budget message.

575 (g) The draft budget message shall explain the draft budget both in fiscal terms and in
576 terms of what specific projects are contemplated in the year ahead. The message shall:

577 (1) Outline the proposed financial policies of the town for the ensuing fiscal year;

578 (2) Describe the important features of the budget;

579 (3) Indicate any major changes from the current fiscal year in financial policies,
580 expenditures and revenues, together with the reasons for such changes;

581 (4) Summarize the town's debt position; and

582 (5) Include such other material as the town manager may deem appropriate.

583 (h) The draft budget shall provide a complete financial plan for all town funds and
584 activities and shall be in such form as the town manager may establish in consultation with the
585 finance committee. The draft budget shall state the proposed expenditures for operating expenses
586 and for capital acquisitions during the ensuing fiscal year, detailed by each town agency and by
587 specific purposes and projects.

588 Section 7-2. Action on Proposed Budget.

589 (a) Within 30 days following the submission of the draft budget to the select board and
590 the finance committee by the town manager, the select board shall adopt its proposed budget,
591 with or without amendments, and submit the same with its recommendations to the finance
592 committee.

593 (b) On receipt of the budgets for the Eastham elementary school committee, Nauset
594 Regional School District committee and Cape Cod Regional Technical High School District

595 Committee, each budget shall be submitted simultaneously to the select board and the finance
596 committee. The select board shall, within 30 days of each submission, submit its
597 recommendations of the school committee budgets to the finance committee.

598 (c) Meeting jointly, the select board and the finance committee shall conduct at least 1
599 public hearing on the proposed town budget and the school budgets. The select board or the
600 finance committee may hold additional nonjoint public hearings on the budgets, if deemed
601 necessary. The select board and the finance committee may jointly or separately require the town
602 manager, any town department, office, board, commission or committee to appear or furnish
603 appropriate financial reports and budgetary information.

604 (d) The finance committee shall vote on all articles and its recommendations shall be
605 printed in the warrant as well as its finance committee report.

606 (e) The select board shall present the proposed budget to the annual town meeting.

607 Section 7-3. Budget Adoption.

608 The town meeting shall adopt the annual operating budget with or without amendments
609 prior to the beginning of the fiscal year.

610 Section 7-4 Capital Improvements Plan.

611 (a) The town manager shall prepare a 5-year capital improvements plan that shall be
612 designed to deal with unmet long-range needs and to implement the goals and objectives of the
613 official town plan.

614 (b) The capital improvements plan shall include all town activities and departments.
615 Proposed capital expenditures for the regional school and other regional entities shall be included

616 in the plan; provided, that such inclusion shall be consistent with regional or intermunicipal
617 agreements establishing such entities.

618 (c) The capital improvements plan shall include:

619 (1) A clear summary of its contents;

620 (2) A list of all capital improvements proposed to be undertaken during the next 5
621 years, together with supporting data;

622 (3) Cost estimates, methods of financing and recommended time schedules; and

623 (4) The estimated annual cost of operating and maintaining the facilities or equipment
624 to be constructed or acquired.

625 (d) The information required by subsection (c) may be revised and shall be extended each
626 year with regard to capital improvements pending or in the process of construction or
627 acquisition.

628 (e) After consultation with the finance committee, the town manager shall submit the 5-
629 year capital improvements plan to the select board at least 120 days prior to the date of the
630 annual town meeting. The select board shall act thereon within 30 days and shall then submit it
631 to the finance committee.

632 Section 7-5. Notice of Public Hearing on Five-Year Capital Improvements Plan.

633 The select board shall publish in 1 or more local newspapers the general summary of the
634 5-year capital improvements plan and a notice stating: (i) the times and places where copies of

635 the capital improvements plan are available for inspection; and (ii) the date, time and place when
636 the select board and the finance committee shall conduct a joint public hearing on the plan.

637 Section 7-6. Action of Town Meeting.

638 (a) The town meeting shall act on the 5-year capital improvements plan.

639 (b) No article for capital acquisition for the next fiscal year shall be inserted in the
640 warrant for any town meeting unless it is in compliance with subsection (c) of section 7-4 and
641 the capital acquisitions in said article were included in the last 5-year plan covering that fiscal
642 year.

643 (c) The requirements of this section may be waived by a 4/5 vote of the town meeting.

644 Section 6-7 Annual Audit.

645 Prior to the end of each fiscal year, the select board shall retain a certified public
646 accountant or accounting firm to conduct an audit of all accounts, books, records and financial
647 transactions of every department, office, board, commission and committee of the town
648 government, including the school department.

649 Article VIII

650 Elections and Recall

651 Section 8-1 Town Elections.

652 The regular election for all town offices shall be by official ballot held on a date
653 established by by-law.

654 Section 8-2 Town Elections to be Nonpartisan.

655 All town elections shall be nonpartisan and election ballots shall be printed without any
656 party mark or designation.

657 Section 8-3 Eligibility of Town Voters.

658 Any voter shall be eligible for election to any elective office or multimember body of the
659 town; provided, however, that no person shall hold concurrently more than 1 paid elective office
660 of the town.

661 Section 8-4 Time of Taking Office.

662 Any person duly elected to any office or multimember body shall forthwith be sworn and
663 assume the duties of the office.

664 Section 8-5. Recall of Elective Officers.

665 (a) 100 voters may file with the town clerk an affidavit containing the name of the officer
666 sought to be recalled and a statement of the grounds for recall, which shall include but not be
667 limited to neglect of duties, corruption or malfeasance. The town clerk shall thereupon make
668 available to the voter first named on such affidavit a sufficient number of copies of petition
669 forms demanding such recall. Blank forms shall be kept available. The town clerk shall issue the
670 blank forms with the town clerk's signature and official seal attached thereto. The forms shall: (i)
671 be dated and addressed to the select board; (ii) contain the name of the person to whom they are
672 issued, the number of petition forms issued, the name of the person whose recall is sought and
673 the grounds for recall as stated in the affidavit; and (iii) demand the election of a successor to the
674 office held by the officer whose recall is requested.

675 (b) A copy of the petition shall be entered in the town records. The recall petition shall
676 bear the signatures and residential addresses of voters sufficient to equal at time of filing at least
677 15 per cent of the registered voters of the town as of the date of the last election. The recall
678 petition shall be returned to the town clerk within 20 working days after notice of the availability
679 of the petitions. The petitions containing the signatures requesting a recall election need not all
680 be submitted at the same time.

681 (c) The town clerk shall, within 1 working day of receipt, submit the petition to the
682 registrar of voters who shall, within 7 working days, certify thereon the number of signatures that
683 are those of voters.

684 (d) If the petition shall be found and certified by the registrar of voters to be sufficient,
685 the same shall be submitted with the town clerk's certificate to the select board. The select board
686 shall, within 3 working days, give written notice of the receipt of the certificate by registered
687 mail to the officer sought to be recalled. If the officer does not resign within 5 days thereafter,
688 the select board shall order a recall election to be held on a date fixed by them. The date of the
689 election shall be not less than 64 days nor more than 90 days from the date the select board
690 orders the recall election. However, if any other town election is to occur within 90 days after the
691 date of the certificate, the select board shall postpone the holding of the recall election to the date
692 of such other election.

693 Any officer sought to be removed may not be a candidate to succeed to the office in the
694 recall election. The nomination of candidates, the publication of the warrant for the recall
695 election and the conduct of the same shall all be in accordance with the General Laws relating to

696 elections. The election to replace the officer sought to be removed shall be held on the same day
697 as the recall election.

698 The incumbent shall continue to perform the duties of office until the recall election. If
699 not recalled, the incumbent shall continue in office for the remainder of the unexpired term. An
700 incumbent having successfully survived a recall election shall not again be subject to recall
701 during the same term of office. If recalled, the incumbent shall be deemed removed upon the
702 qualification of the successor who shall hold office during the unexpired term. If the successor
703 fails to be qualified within 10 days after receiving notification of election, the incumbent shall
704 thereupon be deemed removed and the office vacant.

705 The form of the question to be voted upon shall be substantially as follows: "Shall [here
706 insert the name and title of the elective officer whose recall is sought] be recalled?" The action of
707 the voters to recall shall require a plurality, but shall not be effective unless the total of those
708 voting for and against recall shall exceed 30 per cent of the voters.

709 No person, having been removed from office by recall or having resigned from office
710 while proceedings were pending, shall be appointed to any town office within 2 years following
711 said removal or resignation.