

SENATE No. 1792

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Therese Murray

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 passage of the accompanying:

An Act providing for a charter for the town of Sandwich.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Therese Murray

Plymouth and Barnstable

Randy Hunt

5th Barnstable

SENATE No. 1792

By Ms. Murray, a petition (accompanied by bill, Senate, No. 1792) of Therese Murray and Randy Hunt (by vote of the town) for legislation to provide for a charter for the town of Sandwich. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act providing for a charter for the town of Sandwich.

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

1 I, Taylor D. White, Town Clerk of the Town of Sandwich, hereby certify that the below
2 stated Article 14 and vote taken thereon is a true record from the Annual Town Meeting held in
3 Sandwich on May 6, 2013.

4 ARTICLE 14

5 To see if the Town will vote to amend the Sandwich Town Charter, as printed below, by
6 deleting those portions of the Town Charter highlighted with strikethrough formatting and
7 inserting those portions of the Town Charter with underline formatting; and further, to authorize
8 the Board of Selectmen to petition the General Court to the end that legislation be adopted
9 precisely as follows in accordance with the special act charter process; provided, however, that
10 the General Court may make clerical or editorial changes of form only to the bill, unless the
11 Board of Selectmen approves amendments to the bill before enactment by the General Court, and
12 provided further that the Board of Selectmen is hereby authorized to approve amendments which
13 shall be within the scope of the general public objectives of this petition; or take any action
14 relative thereto:

15 THE COMMONWEALTH OF MASSACHUSETTS

16 In the Year Two Thousand and Nine Thirteen

17 AN ACT PROVIDING FOR A CHARTER FOR THE TOWN OF SANDWICH

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

20 Section 1. Chapter 137 of the Acts of 2002 is hereby repealed. S782, Chapter 106 of the
21 Acts of 2009 is hereby repealed.

22 Section 2. The following shall be the Charter of the Town of Sandwich:-

23 Section 3. Any reference to gender in the wording of this Charter shall be construed as
24 meaning any individual regardless of sex and is contained herein only in the interest of brevity.

25 CHARTER

26 TOWN OF SANDWICH

27 PREAMBLE

28 Good government can only be defined as that which is wholly and justly participated in
29 by the people who are under its jurisdiction. For that purpose the citizens of Sandwich, in
30 exercising their rights of self-government, do ordain the provisions set forth in the ensuing
31 Charter of this town.

32 ARTICLE I

33 INCORPORATION, FORM OF GOVERNMENT

34 Section 1.1 INCORPORATION

35 The inhabitants of the Town of Sandwich, residing within its corporate boundaries as
36 heretofore established, are hereby constituted and shall continue to be a body politic and
37 corporate in perpetuity under the name of "The Town of Sandwich."

38 Section 1.2 FORM OF GOVERNMENT

39 a) The municipal form of government provided by this Charter shall consist of a Town
40 Meeting open to all voters; a Board of Selectmen, elected by the people and accountable to the
41 people; and a Town Manager, appointed by and accountable to the Board of Selectmen for
42 proper administration of the affairs of the town.

43 b) The schools of the town shall be operated by a School Department and supervised by
44 a Superintendent of Schools under the direction of a School Committee, elected by the people
45 and accountable to the people for proper administration of the affairs of the schools.

46 ARTICLE II

47 POWERS OF THE TOWN

48 Section 2.1 POWERS

49 a) The Town shall have all the powers granted to towns by the Constitution and General
50 Laws together with all of the implied powers necessary to execute such granted powers.

51 b) The powers of the Town under the Charter shall be construed and interpreted liberally
52 in favor of the Town, and the specific mention of any particular power is not intended to limit in
53 any way the general powers.

54 c) The Town may enter into agreements with any other agency of municipal government,
55 agency of the Commonwealth, other states, or the United States government to perform jointly,
56 by contract, or otherwise, any of its powers or functions and may participate in the financing
57 thereof.

58 ARTICLE III

59 LEGISLATIVE BRANCH

60 Section 3.1 OPEN TOWN MEETING

61 The legislative powers of the Town shall be exercised by a Town Meeting open to all
62 voters of the Town of Sandwich.

63 Section 3.2 PRESIDING OFFICER

64 All sessions of the Town Meeting shall be presided over by a Moderator, elected as
65 provided in Section 4.4 of the Charter. The Moderator shall regulate the proceedings, decide
66 questions of order, and make public declarations of all votes. The Moderator shall have all of the
67 powers and duties given to Moderators under the Constitution and the General Laws, and such
68 additional powers and duties as may be authorized by the Charter, by By-law or by other Town
69 Meeting vote.

70 Section 3.3 ANNUAL TOWN MEEETING

71 The Annual Town Meeting shall be held on such date or dates as may be fixed by the
72 Board of Selectmen as provided in paragraph (e) of Section 4.2.5 of the Town Charter.

73 Section 3.4 SPECIAL TOWN MEETINGS

74 Special Town Meetings shall be held at the call of the Board of Selectmen at such times
75 as it may deem appropriate and whenever a special meeting is requested by the voters in
76 accordance with procedures made available by the General Laws.

77 Section 3.5 QUORUM

78 The quorum for both the Annual Town Meeting and any Special Town Meeting shall be
79 set by By-law.

80 Section 3.6 CLERK OF THE MEETING

81 The Town Clerk shall serve as the clerk to the Town Meeting. In the event that the Town
82 Clerk is absent, the Assistant Town Clerk shall serve.

83 Section 3.7 WARRANT ARTICLES

84 a) Except for procedural matters, all subjects to be acted on by Town Meeting shall be
85 placed on warrants issued by the Board of Selectmen.

86 b) The Board of Selectmen shall receive all petitions addressed to it which require the
87 submission of particular subject matter to the Town Meeting in accordance with the General
88 Laws. Ten (10) signatures shall be required on a petition to have an article inserted in the warrant
89 for an Annual Town Meeting, and one hundred (100) signatures shall be required on a petition to
90 have an article inserted in a warrant for a Special Town Meeting.

91 c) Any warrant article that seeks to raise, transfer, appropriate or expend any funds shall
92 show comparative figures including actual figures for the preceding year, appropriations for the
93 current year, requests for the next fiscal year and amounts recommended by the Finance
94 Committee.

95 d) Copies of main motions to be considered on articles in the warrant that were not
96 originally included in the printed warrant, and/or on the script to be read by Selectmen at Town
97 Meeting, shall be made available as draft versions in writing to all voters prior to Town Meeting
98 and distributed at Town Meeting. Final adjustments, if necessary will be shown on the viewing
99 screen. The Moderator may require other motions to be submitted in writing. Failure to comply
100 with this provision shall not invalidate any vote taken by Town Meeting.

101 Section 3.8 PUBLICATION AND DISTRIBUTION OF THE WARRANT

102 In addition to any notice required by the General Laws, the Board of Selectmen shall
103 cause the Annual Town Meeting warrant to be posted on the Town bulletin board and otherwise
104 distributed as provided by paragraph (e) of Section 4.2.5 of the Charter. Additional copies shall
105 be kept available for distribution by the Town Clerk. In addition, the Board of Selectmen shall
106 cause the Town Meeting warrant to be posted on the Town's website for the convenience of the
107 residents of the Town; provided, however, that failure to post the warrant on the website or to
108 post it one or more weeks prior to the date of the Town Meeting shall not invalidate or otherwise
109 affect the legality or validity of the actions taken at the Town Meeting.

110 ARTICLE IV

111 ELECTED TOWN OFFICES

112 Section 4.1 ELECTED TOWN OFFICES, IN GENERAL

113 The offices to be filled by the voters shall be: a Board of Selectmen, consisting of five (5)
114 members; a School Committee, consisting of seven (7) members; a Moderator; a Town Clerk; a
115 Board of Assessors, consisting of three (3) members; a Board of Health, consisting of three (3)
116 members; a Planning Board, consisting of seven (7) members; Constables, Trustees of the
117 Sandwich Library, consisting of nine (9) members; Trustees of the Weston Memorial Fund,
118 consisting of three (3) members; Sandwich Historic District, consisting of five (5) members;
119 Housing Authority, consisting of (5) members, (4) of whom shall be elected, and (1) of whom
120 shall be appointed by the Governor; and such other regional authorities, districts, or committees
121 as may be required by the General Laws or inter-local agreement. All elected or appointed
122 multiple member boards shall be arranged so that as nearly an equal number of terms as possible
123 shall expire each year. Notwithstanding any other provision of the Charter, all elected officials
124 and officers shall have the powers and duties as prescribed by the General Laws.

125 Section 4.2 BOARD OF SELECTMEN

126 The Board of Selectmen shall be composed of five (5) members. Each member shall be
127 elected from the town at-large to a three (3) year term.

128 Section 4.2.1 QUALIFICATIONS

129 In addition to any other qualifications prescribed by law, each Selectman shall be a
130 qualified voter of the town, and shall reside within the town while in office.

131 Section 4.2.2 COMPENSATION

132 Selectmen shall receive such compensation as may be specified in the annual budget,
133 provided, however, that they shall be entitled to all necessary expenses incurred in the
134 performance of their official duties upon approval by the Board of Selectmen.

135 Section 4.2.3 CHAIRMAN AND VICE CHAIRMAN

136 a) A chairman shall be elected by the Board of Selectmen at the first meeting following
137 each regular Town Election. The chairman shall preside at all meetings of the Board. The
138 chairman shall perform such other duties consistent with Massachusetts General Laws and this
139 Charter, or as may be imposed on him by the Board.

140 b) A vice chairman shall be elected by the Board of Selectmen at the first meeting
141 following each regular Town Election. The vice chairman shall act as chairman during the
142 disability or absence of the chairman and in this capacity shall have the rights and duties
143 conferred upon the chairman.

144 Section 4.2.4 VACANCIES

145 Vacancies in the office of Selectman shall be filled by special election if the vacancy
146 occurs eight (8) months or more prior to the next annual election. If a vacancy occurs, the Board

147 of Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election
148 that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing
149 the call. A vacancy which occurs less than eight (8) months prior to the next annual election shall
150 be filled at the next annual election.

151 Section 4.2.5 GENERAL POWERS AND DUTIES

152 a) Except as otherwise provided by the General Laws or this Charter, all executive
153 powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall
154 provide for the exercise thereof and for the performance of all duties and obligations imposed on
155 the Town by law.

156 b) At least a majority of the Board of Selectmen shall sign all official documents, and
157 approve the financial warrants.

158 c) The Board of Selectmen shall serve as the Board of Directors and policy-making body
159 of the Town. They shall appoint a Town Manager to carry out the day-to-day operations of the
160 Town within the policies set by the Board of Selectmen. The Board of Selectmen shall appoint
161 members of committees.

162 d) No member of the Board of Selectmen may serve in any other elected and/or
163 appointed Town office or committee during his or her term as Selectman, excluding ex-officio
164 positions, except that Selectmen may serve on committees when authorized by State law or
165 Town By-Law. Service as a representative from the Town to another body other than
166 the Town shall not be prohibited by this provision.

167 e) The Board of Selectmen shall set guidelines for the preparation of the annual budget
168 and present the budget to the Town Meeting. The Board of Selectmen shall set the date and
169 warrant articles for the Town Meeting and any Special Town Meeting. The Board of Selectmen
170 shall make available sufficient copies of the warrant for the Town Meeting for

171 all registered voters. The Board of Selectmen shall either provide direct mailings to
172 households, or publish notice of the availability of and make available said warrants at town
173 facilities and other common locations throughout the town at least two (2) weeks prior to the
174 Town Meeting; provided, however, that failure to post the warrant on the website or to post it
175 one or more weeks prior to the date of the Town Meeting shall not invalidate or otherwise affect
176 the legality or validity of the actions taken at the Town Meeting.

177 f) The Board of Selectmen shall be a licensing board for the Town and shall have the
178 power to issue licenses as authorized by law, to make all necessary rules and regulations
179 regarding the issuance of such licenses, and to impose restrictions on any such license as it
180 deems to be in the public interest, and to enforce all laws, rules, regulations, and

181 restrictions relating to all such businesses for which it issues licenses.

182 g) The Board shall require bonds for all municipal officers and employees who receive
183 or pay out any moneys of the town. The amount of such bonds shall be determined by the Board
184 and the cost thereof shall be borne by the Town.

185 h) The Board of Selectmen shall be authorized to institute, prosecute, compromise or
186 defend any claim, action, suit or other proceeding in the name of the Town and to settle any
187 claim, action, suit or other proceeding brought by or on behalf or against the Town. In the event
188 that a settlement requires the issuance of a permit or license or the transfer of property, and such
189 matter is not within the Board of Selectmen's jurisdiction, the Town board or officer with legal
190 jurisdiction over the matter shall retain sole authority to act on behalf of the Town.

191 i) The Board of Selectmen shall annually review a Long Range Plan, including capital
192 planning, to project the future needs of the Town and report on this at Town Meeting.

193 j) The Board of Selectmen shall serve as custodians of all Town property except as
194 otherwise provided by the General Laws or by vote of the Town.

195 k) The Board of Selectmen shall be authorized to formally investigate cases of any
196 suspected serious misconduct or criminal wrongdoing by the Town Manager, or other officers or
197 employees of the Town, provided that such investigation is approved by a vote of four out of five
198 Selectmen.

199 l) The Board of Selectmen shall exercise any other responsibilities as set forth in the
200 General Laws.

201 Section 4.2.6 MEETINGS OF THE BOARD

202 a) The Board of Selectmen shall hold at least two regular meetings each month. The
203 Board shall fix, by resolution, the days, times and location of its regular meetings.

204 c) The Board of Selectmen may hold such special meetings as it deems necessary and
205 appropriate, which may be called for by three members of the Board. In no event shall a regular
206 or special meeting be held in any facility or at any locations which are not readily accessible to
207 the public or handicap accessible.

208 Section 4.2.7 RULES OF PROCEDURE

209 a) The Board of Selectmen shall by resolution, determine its own rules and order of
210 business; provided however, the rules shall provide that citizens of the town shall have a
211 reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

212 b) Voting except on procedural motions, shall be by roll call if requested by a Selectman,
213 and the ayes and nays shall be recorded in the minutes.

214 c) Three Selectmen shall constitute a quorum for the purposes of transaction of business.

215 d) No action of the Board of Selectmen shall be valid or binding unless adopted by the
216 affirmative vote of three or more members of the Board.

217 Section 4.2.8 PROHIBITIONS

218 a) Except where authorized by law, no Selectman shall hold any other town office or
219 town employment during his term as Selectman, nor any former Selectman shall hold any
220 compensated appointed town office or town employment until one year after the expiration of his
221 term as Selectman.

222 b) The Selectmen shall not in any manner dictate the appointment or removal of any
223 town administrative officers or employees whom the Town Manager or any of his subordinates
224 are empowered to appoint. The Board of Selectmen may express its views and fully and freely
225 discuss with the Town Manager anything pertaining to appointments and removal

226 of such officers and employees.

227 c) Except for the purpose of inquiries and investigations, The Board of Selectmen and its
228 members shall deal with town officers and employees who are subject to the direction and
229 supervision of the Town Manager, solely through the Town Manager, and neither the Board of
230 Selectmen nor any of its members shall give orders to any such officer or

231 employee, either publicly or privately.

232 Section 4.3 SCHOOL COMMITTEE

233 The School Committee shall be composed of seven (7) members. Each member shall be
234 elected from the town at-large to a three (3) year term. The three (3) year terms of office for
235 school committee shall be staggered.

236 4.3.1 QUALIFICATIONS

237 In addition to any other qualifications prescribed by law, each member of the School
238 Committee shall be a qualified voter of the town, and shall reside within the town while in office.

239 4.3.2 COMPENSATION

240 School Committee members shall receive no compensation, provided, however, that they
241 shall be entitled to all necessary expenses incurred in the performance of their official duties
242 upon approval by the School Committee.

243 4.3.3 CHAIRMAN AND VICE CHAIRMAN

244 A chairman shall be elected by the School Committee at the first meeting following each
245 regular Town Election. The chairman shall preside at all meetings of the Committee. The
246 chairman shall perform such other duties consistent with Massachusetts General Laws and this
247 Charter, or as may be imposed by the Committee.

248 A vice chairman shall be elected by the School Committee at the first meeting following
249 each regular Town Election. The vice chairman shall act as chairman during the disability or
250 absence of the chairman and in this capacity shall have the rights and duties conferred upon the
251 chairman.

252 Section 4.3.4 VACANCIES

253 Vacancies in the School Committee shall be filled by special election if the vacancy
254 occurs eight (8) months or more prior to the next annual election. In this case, the Board of
255 Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election
256 that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing
257 the call. Any vacancy which occurs less than eight (8) months prior to the next annual election
258 shall be filled at the next annual election.

259 Section 4.3.5 GENERAL POWERS AND DUTIES

260 a) The School Committee shall have all the powers and duties given to school
261 committees by the General Laws. The School Committee shall have the power to select, oversee,
262 and to terminate the Superintendent of Schools, establish educational goals and policies for the
263 schools consistent with requirements of the General Laws and standards established by the
264 Commonwealth.

265 b) The Superintendent of Schools shall be chosen upon the basis of the individual's
266 executive and administrative training, education, experience and ability, and any other factors the
267 School Committee deems appropriate. The Superintendent of Schools shall be bonded at town
268 expense.

269 c) The Superintendent of Schools shall have the duties and responsibilities provided by
270 the General Laws, this Charter, and vote of the School Committee.

271 Section 4.3.6 MEETINGS OF THE BOARD

272 The School Committee shall hold at least one regular meeting each month while school is
273 in session. The Committee shall fix the days, times and location of its regular meetings.

274 The School Committee may hold such special meetings as it deems necessary and
275 appropriate, which may be called by the Chair or four members of the Committee. In no event
276 shall a regular or special meeting be held in any facility or at any locations which are not readily
277 accessible to the public or handicap accessible.

278 Section 4.3.7 RULES OF PROCEDURE

279 The School Committee shall determine its own rules and order of business; provided
280 however, the rules shall provide that citizens of the town shall have a reasonable opportunity to
281 be heard at any meeting in regard to any matter under consideration.

282 Voting except on procedural motions, shall be by roll call if requested by a School
283 Committee member and the ayes and nays shall be recorded in the minutes.

284 Section 4.3.8 BUDGET HEARING

285 The School Committee shall prepare an annual line-item operating budget and hold a
286 public hearing on its proposed annual budget pursuant to, Section 38N of Chapter 71 of General
287 Laws by March 1.

288 Section 4.4 MODERATOR

289 A Moderator shall be elected by the voters for a term of three years. In the event of
290 absence of the Moderator, the Town Meeting may elect a temporary Moderator, for the purpose
291 of presiding over the Town Meeting.

292 Section 4.4.1 POWERS AND DUTIES

293 a) The Moderator shall have the powers and duties provided by the General Laws, by
294 this Charter, by By-law or by any other Town Meeting vote.

295 b) The Moderator shall appoint members of the Finance Committee which shall consist
296 of nine (9) members. If the Moderator fails to fill a vacancy on the Finance Committee within
297 forty-five (45) days of having been notified in writing by the Town Clerk of said vacancy, a
298 majority of the remaining members of the Finance Committee may nominate a person for each
299 such vacancy. Should the Moderator fail to take action on said nomination within 21 days, the
300 nominee shall become a member of the Finance Committee.

301 c) To assist in the application and appointment process and/or to better prepare potential
302 committee members, the Moderator may at his discretion include participation by the Chairman
303 of the Board of Selectmen, Chairman of the Finance Committee, or the Chairman of the School
304 Committee or their designated representatives.

305 d) The Moderator shall appoint members to other committees as directed by Town
306 Meeting.

307 Section 4.5 TOWN CLERK

308 A Town Clerk shall be elected by the voters at the annual town election, for a term of
309 three years.

310 Section 4.6 BOARD OF LIBRARY TRUSTEES

311 The Board of Library Trustees shall be composed of nine (9) members. Each member
312 shall be elected from the town at-large to a three (3) year term.

313 Section 4.6.1 QUALIFICATIONS

314 a) Each member of the Board of Library Trustees shall be a qualified registered voter of
315 the town and shall reside within the Town while in office.

316 Section 4.6.2 GENERAL POWERS AND DUTIES

317 a) Notwithstanding any other provision of this Charter to the contrary, the Board of
318 Library Trustees shall have all the powers and duties given to boards of library trustees by G.L.
319 c.78 and any other applicable law, except as otherwise provided herein. The Board of Library
320 Trustees shall, except in case of those employees subject to the provisions of G.L. c.150E,
321 appoint the director of the library and all employees thereof, and may enter into a contract with
322 said director, provided, however, that such contract shall meet minimum legal standards
323 established by the Board of Selectmen and Town Manager. The Board of Library Trustees shall
324 implement such human resources practices and standards as established by the Town Manager
325 for all other Town employees, and employees of the library shall be subject to the personnel
326 policies and procedures adopted by the Town and such other personnel policies and procedures
327 agreed upon in writing by the Board of Library Trustees and Town Manager. The Town
328 Manager shall be responsible for the procurement of all contracts on behalf of the library.

329 Section 4.6.3 VACANCIES

330 Vacancies shall be filled by election in accordance with the provisions of G.L. c41, §10,
331 or by the Board of Selectmen and the remaining members of the Board of Library Trustees in
332 accordance with the provisions of G.L. c41, §11.

333 Section 4.7 BOARDS, COMMITTEES AND OFFICERS

334 a) Each board or committee will be organized and charged with the powers and duties
335 specified in the General Laws and Special Acts of the Commonwealth, Town By-law or
336 elsewhere in this Charter. The Board of Selectmen may also, from time to time, establish boards
337 or committees to address specific needs or issues. Each board or committee shall, at its annual
338 organization meeting, elect a presiding officer and shall cause the Board of Selectmen and the
339 Town Clerk to be notified of its selection. Such boards and committees shall make a written
340 annual report of its activities to the Board of Selectmen.

341 b) Members of permanent committees shall be elected for a staggered term of three years
342 unless otherwise provided for by the General Laws or this Charter. Appointees to temporary and
343 special committees shall be appointed by the Board of Selectmen for the duration of the charge

344 of the board or committee. Boards, committees or officers specifically provided for by the
345 General Laws or this Charter may be continued or terminated only by the Board of Selectmen.

346 c) No resignation of any town officer, including members of a board or committee, shall
347 be deemed effective unless and until such resignation is filed with the Town Clerk or such later
348 time certain as may be specified in such resignation. In the event an appointed board or
349 committee member misses three (3) consecutive meetings without the permission of the chair,
350 the chair shall notify the Board of Selectmen, which board may, after opportunity for a hearing,
351 deem such position to be vacant.

352 ARTICLE V

353 ADMINISTRATIVE SERVICES

354 Section 5.1 TOWN MANAGER

355 Section 5.1.1 APPOINTMENT AND QUALIFICATIONS

356 The Board of Selectmen shall by majority vote of the entire Board appoint a Town
357 Manager. The method of selection shall be left to the discretion of the Board of Selectmen so
358 long as the method of selection insures orderly, nonpartisan action toward securing a competent
359 and qualified person to fill the position. The Town Manager shall be chosen solely upon the basis
360 of the individual's executive and administrative training, education, experience and ability and
361 need not, when appointed, be a resident of the Town of Sandwich; provided however, that the
362 Town Manager shall establish such residence within six (6) months following the effective date
363 of appointment, and provided further that the Board of Selectmen may, by a unanimous vote of
364 all members of the Board of Selectmen then in office, extend to a time certain the time for
365 establishing residence or waive this requirement in its entirety. The Town Manager shall be
366 bonded at town expense.

367 Section 5.1.2 COMPENSATION

368 The Town Manager shall receive compensation as may be fixed by the Board of
369 Selectmen according to his expertise, education and training. Any contract between the Board of
370 Selectmen and the Town Manager shall be made pursuant to Section 108N of Chapter 41 of the
371 General Laws.

372 Section 5.1.3 TERM AND REMOVAL

373 The Town Manager may be appointed for a definite term but may be removed at the
374 discretion of the Board of Selectmen, by vote of the majority of the entire Board. The action of
375 the Board of Selectmen in suspending or removing the Town Manager shall be final. It is the
376 intention of this Charter to invest all authority and fix all responsibilities of such suspension or
377 removal in the Board of Selectmen.

378 Section 5.1.4 POWERS AND DUTIES

379 The Town Manager shall be responsible to the Board of Selectmen for the proper
380 administration of all the affairs of the Town consistent with the General Laws and this Charter,
381 and shall:

382 a) appoint, discipline, suspend, or remove Town employees, including Civil Service
383 positions, except that the approval of the Board of Selectmen shall be required for appointment
384 of Department Heads and the Assistant Town Manager;

385 b) supervise and direct all appointed Department Heads and organize and structure all
386 town departments accordingly;

387 c) administer and enforce all provisions of General Laws or Special Acts of the
388 Commonwealth, or Town By-laws, and all regulations established by the Board of Selectmen;

389 d) coordinate activities of all town departments;

390 e) attend all sessions of the Town Meeting and answer all questions addressed to the
391 Town Manager which are related to the warrant articles and to matters under the general
392 supervision of the Town Manager;

393 f) keep the Board of Selectmen fully informed as to the needs of the town, and
394 recommend to the Selectmen for adoption such measures requiring action by them or by the
395 Town as the Town Manager deems necessary or expedient;

396 g) ensure that complete and full records of the financial and administrative activity of the
397 Town are maintained and render reports to the Board Selectmen as may be required;

398 h) be responsible for the rental, use, maintenance, repair and the development of a
399 comprehensive maintenance program for all Town facilities;

400 i) serve as the chief procurement officer and be responsible for the purchase of all
401 supplies, materials, and equipment, and approve the award of all contracts. Any contract over
402 \$500,000 \$1,000,000 will require approval by the Board of Selectmen;

403 j) develop and maintain a formal and complete inventory of all Town-owned real and
404 personal property and equipment;

405 k) administer personnel policies, practices, rules and regulations, any compensation plan
406 and any related matters for all municipal employees and to administer all collective bargaining
407 agreements entered into by the Town;

408 l) fix the compensation of all Town employees and officers appointed by the Town
409 Manager; within the limits established by appropriation and any applicable compensation plan
410 and collective bargaining agreements;

411 m) be responsible for the negotiation of all contracts with Town employees regarding
412 wages, and other terms and conditions of employment, except employees of the School
413 Department. The Town Manager may, subject to the approval of the Board of Selectmen, employ
414 special counsel to assist in the performance of these duties. Collective bargaining agreements
415 shall be subject to the approval of the Board of Selectmen, and to Chapter 150E of the General
416 Laws;

417 n) prepare and submit an annual operating budget and capital improvement program as
418 provided in paragraph (b) of Section 7.1 of this Charter and be responsible for its administration
419 after its adoption. The Town Manager may transfer funds between individual line items within a
420 department account at any time during the fiscal year, and further, may transfer during the last
421 two (2) months of any fiscal year or during the fifteen (15) days of the new fiscal year to apply to
422 the previous fiscal year, any amount appropriated for the use of any department other than a
423 municipal light department or the school department to the appropriation for any other
424 department, but the amount transferred from one department to another may not exceed three per
425 cent (3%) of the annual budget of the department from which the transfer is made, with the
426 approval of the Selectmen and Finance Committee;

427 o) keep the Board of Selectmen and the Finance Committee fully informed as to the
428 financial condition of the town and make recommendations to the Board of Selectmen;

429 p) prepare and submit to the Board of Selectmen at the end of the fiscal year a
430 comprehensive report on the finances and the activities and operations of all departments, boards
431 and committees of the town;

432 q) investigate or inquire into the affairs of any Town department or office;

433 r) have full authority to act on behalf of the town during emergencies, including
434 direction of Town personnel, declaring states of emergency, opening the emergency operations
435 center and shelters, and the emergency expenditure of funds;

436 s) delegate, authorize or direct any subordinate or employee in the town to exercise any
437 power, duty, or responsibility which the office of Town Manager is authorized to exercise,
438 provided, that all acts performed under such delegation shall be deemed the acts of the Town
439 Manager; and

440 t) perform such other duties as necessary or as may be assigned by this Charter, Town
441 Bylaw, Town Meeting vote, or vote of the Board of Selectmen.

442 Section 5.1.5 ACTING TOWN MANAGER

443 The Assistant Town Manager shall perform the duties of the Town Manager in the Town
444 Manager's absence. In the event of long-term disability, resignation, termination, or vacancy of
445 both the Town Manager and the Assistant Town Manager at the same time, the Board of
446 Selectmen shall appoint an Acting Town Manager for the duration of any such disability, or until
447 appointment of a permanent Town Manager or Assistant Town Manager. No member of the
448 Board of Selectmen shall serve as Acting Town Manager.

449 Section 5.2 TOWN COUNSEL

450 The Board of Selectmen shall appoint a competent and duly qualified and licensed
451 attorney practicing in the Commonwealth to be the counsel for the town. Town counsel shall
452 receive such compensation for his services as may be fixed by the Board of Selectmen and shall
453 hold office at the pleasure of the Board. The Town Counsel shall be the legal adviser of all of the
454 offices and departments of the Town, and shall represent the Town in all litigation and legal
455 proceedings; provided however, that the Board of Selectmen may retain special counsel at any
456 time they deem appropriate and necessary. The Town Counsel shall review and concur or dissent
457 upon all documents, contracts, and legal instruments in which the Town may have an interest.
458 The Town Counsel shall perform other duties prescribed by this Charter, Town By-law, or as
459 directed by the Board of Selectmen. No employee, committee or board, elected or appointed,
460 other than the Board of Selectmen, shall contact or otherwise interact with the Town or Labor
461 Counsel in a manner inconsistent with the policy relative to access to counsel established by the
462 Town Manager. This provision shall not limit the School Committee from retaining its own
463 legal counsel.

464 ARTICLE VI

465 COMPLIANCE WITH LAW - PUBLIC RECORDS, OPEN MEETINGS, AND
466 CONFLICT OF INTEREST

467 All boards, committees, and commissions shall comply with Sections 23A to 23C
468 inclusive of Chapter 39 of the General Laws in the conduct of any town business.

469 All officers or employees of any agency, office, department, board, commission, bureau,
470 division or authority of the Town shall comply with the provisions of clause twenty six (26) of
471 Section 7 of Chapter 4 and Section 10 of Chapter 66, of the General Laws.

472 All employees of the Town, as that term is defined in Section 1 of Chapter 269A, shall
473 comply with the requirements of Chapter 268A of the General Laws.

474 All boards, committees, and commissions shall comply with the requirements of Chapter
475 30A, Sections 18 through 25 of the General Laws, the so-called Open Meeting Law.

476 All board members, committee members and employees shall comply with the
477 requirements of Chapter 268, Sections 1 through 29, the so-called Ethics Law.

478 ARTICLE VII

479 FINANCIAL PROVISIONS AND ADMINISTRATION

480 Section 7.1 SUBMISSION OF BUDGET AND BUDGET MESSAGE

481 a) After the Massachusetts Department of Revenue certifies surplus revenue (a.k.a. free
482 cash), but before October 1, the Town Manager shall meet with the School Superintendent to
483 prepare a Projected Revenue and Expenses Report for the next fiscal year and submit it to the
484 Board of Selectmen, School Committee, and Finance Committee.

485 a) The Town Manager and School Superintendent shall meet within ten (10) business
486 days of state certification of surplus revenue or finalization of October 1st enrollment whichever
487 comes last occurs later. Within ten (10) business days of that meeting, the Town Manager and
488 School Superintendent shall submit a draft budget in a mutually agreed format to the Board of
489 Selectmen, School Committee and Finance Committee.

490 b) Annually, before November 1, the Town Manager shall establish and issue a budget
491 schedule which shall set forth the calendar dates for developing the annual budget for the next
492 fiscal year.

493 c) On or before December 15, the Board of Selectmen shall meet in joint session with the
494 School Committee. At this meeting the Board of Selectmen shall set guidelines for the
495 preparation of the annual budget.

496 d) On or before February 1, the Town Manager and School Committee shall each submit
497 to the Board of Selectmen and Finance Committee a proposed line item budget and
498 accompanying message.

499 e) The Budget shall provide a complete financial plan of all Town funds and activities,
500 including details on debt and debt service, anticipated income, and proposed expenditures. The
501 Budget shall include proposals for capital improvements for the next five (5) years. The budget
502 message shall begin with a clear general summary of its content, and explain in both fiscal terms
503 and program objectives, proposed expenditures for each department, capital expenditures, and
504 the projected tax rate.

505 f) The Board of Selectmen shall review the proposed Town Budget and refer it,
506 including the School Department Budget and recommendations, to the Finance Committee, on or
507 before March 1.

508 g) After the annual Town Meeting but before June 15, the Board of Selectmen shall meet
509 in joint session with the Finance Committee to review the assumptions used to project budgets

510 for the next two (2) fiscal years. If necessary, the Board of Selectmen shall vote to reset any of
511 those assumptions.

512 Section 7.2 FINANCE COMMITTEE

513 a) There shall be a permanent committee known as the Finance Committee, composed of
514 nine (9) registered voters of the town appointed by the Moderator. They shall serve for three (3)
515 year terms which shall be staggered. Members shall serve without compensation and no member
516 shall be an employee of the Town nor hold an elected or appointed town position during their
517 term of office, excluding ex-officio positions.

518 b) The Finance Committee shall conduct a detailed line item review of the Town and
519 School budgets and submit a written budget report to the Annual Town Meeting and a written
520 report to the Annual Town Meeting and any Special Town Meeting with its advisory
521 recommendations on all financial warrant articles, and the projected tax impact consistent with
522 its recommendations.

523 c) The Finance Committee can require that the Town Manager, School Committee, any
524 Town department, office, board, commission or committee furnish appropriate additional
525 financial information, as needed. This request shall be made in writing and include a reasonable
526 deadline for submission of the additional information.

527 d) The Finance Committee shall elect a Chairman and such other officers from among its
528 members and form subcommittees as it deems necessary to accomplish its duties.

529 Section 7.3 PUBLIC NOTICE AND PUBLIC HEARING

530 a) The Finance Committee shall within sixty (60) days following the submission of the
531 draft budget by the Town Manager, review the proposed budget, and return it to the Board of
532 Selectmen with its recommendations.

533 b) The Board of Selectmen shall conduct at least one two public hearings. The first shall
534 be held in February to consider budget matters generally and notice of the time, date and place
535 therefor shall be posted in Town Hall and on the Town website and published in a daily
536 newspaper of general circulation in the Town.

537 An additional public hearing shall be held prior to Town Meeting on the proposed
538 budget, including the school budget, and Finance Committee recommendations, which hearing
539 shall be posted and published as described above, with the following additional information
540 included: the times and places where copies of the message and budget are available for
541 inspection by the public.

542 c) Two public hearings shall be held, one at the beginning of the draft budget discussions
543 and one for the final proposed budget, both publicized as follows in d(1) and d(2).

544 d) The Board of Selectmen shall post in the Town Hall and publish in a daily newspaper
545 of general circulation and on the Town website, a summary of the proposed budget and notice
546 stating:

547 1) the times and places where copies of the message and budget are available for
548 inspection by the public, and

549 2) the date, time and place where the Board of Selectmen shall conduct the public
550 hearing on the budget.

551 Section 7.4 BUDGET ADOPTION

552 Town Meeting shall adopt the annual operating budget, with or without amendments
553 before the beginning of the fiscal year.

554 Section 7.5 ANNUAL AUDIT

555 At the close of each fiscal year, and at such times as it may be deemed necessary, the
556 Board of Selectmen shall cause an independent audit to be made of all accounts of the Town by a
557 certified public accountant. The certified public accountant so selected shall have no personal
558 interest, directly or indirectly in the financial affairs of the Town or any of its offices. Upon
559 completion of the audit, the results in a summary form shall be placed on file in the Town Clerk's
560 office and on

561 the Town website as a public record and in the Sandwich Public Library for public
562 information.

563 Section 7.6 EMERGENCY APPROPRIATIONS, REDUCTIONS, and TRANSFERS

564 Any and all emergency appropriations, reductions, and transfers shall be made in
565 accordance with the General Laws and the Town By-laws.

566 ARTICLE VIII

567 RECALL

568 Section 8.1 RECALL

569 A holder of an elected office in the Town of Sandwich may be recalled there from by the
570 qualified voters of the Town as provided in Chapter 408 of the Acts of 1987 for reasons which
571 shall include but are not limited to the following: embezzlement; influence peddling; refusal to
572 comply with clause Twenty-six of section 7 of chapter 4, section 10 of chapter 66, sections 23A
573 to 23C, inclusive, chapter 39 of chapter 268A of the General Laws or any rules and regulations
574 thereto, and the By-laws of the Town of Sandwich which pertains to same; destruction or

575 alteration of public records; nepotism; conviction for a felony; failure to perform the duties of the
576 elected office; or other willful acts of omission or commission which betray the public trust.

577 Section 8.2 RECALL PETITION

578 A recall petition shall be initiated by request of ten (10) qualified voters. The recall
579 petition shall be signed by twenty-five percent (25%) of the qualified voters and returned within
580 twenty (20) days in accordance with Chapter 408 of the Acts of 1987.

581 ARTICLE IX

582 CHARTER

583 Section 9.1 SEVERABILITY

584 If any section, or part of a section of this Charter, shall be held invalid by a court of
585 competent jurisdiction, such holding shall not affect the remainder of this Charter.

586 Section 9.2 CHARTER REVIEW COMMITTEE

587 At least every five (5) years, the Selectmen shall appoint a Charter Review Committee to
588 be composed of seven (7) members for a period not longer than six (6) months, who shall submit
589 their recommendations to the Board of Selectmen and shall file proceedings of their
590 deliberations.

591 Section 9.3 AMENDMENT TO CHARTER

592 This Charter may be amended or revised by special act of the General Court, upon the
593 recommendation of Town Meeting and/or pursuant to Chapter 43B of the General Laws.

594 Section 9.4 INTERPRETATION OF THE CHARTER

595 Any question related to the interpretation of the Charter shall be presented to the Board of
596 Selectmen for such action as it deems appropriate.

597 Section 9.5 TIME OF TAKING EFFECT AND TRANSITIONAL PROVISIONS

598 The amendments to the Town Charter as approved by the May 6, 2013 Annual Town
599 Meeting shall take effect immediately upon approval by the voters under G.L. c43B [or, if
600 submitted as special legislation, upon the effective date of the legislation], except that the
601 amendments to sections 4.1 and 4.5 of the Town Charter with respect to the manner of selection
602 of the town clerk shall be implemented as follows.

603 The individual elected as town clerk at the 2013 Annual Town Election (the
604 “incumbent”) shall hold said office and perform the duties thereof until the expiration in 2016 of
605 the elected term, or the incumbent’s sooner resignation, recall or retirement. At the expiration of

606 the incumbent's elected term in 2016, or said sooner resignation, recall or retirement, the
607 position of elected town clerk shall be abolished.

608 Should said incumbent serve out the remainder of the elected term through the 2016
609 Annual Town Election, the incumbent shall be deemed to be the first appointed town clerk, and
610 in that position shall be subject to the Town's Personnel Policies and Procedures as would any
611 other department head. In the event that the incumbent resigns, retires or is recalled prior to the
612 2016 Annual Town Election, appointment of the first appointed town clerk shall be made in
613 accordance with Section 5.1.4(a) of the Town Charter.

614 In order to implement the provisions of Section 4.6.2, the personnel policies and
615 procedures agreed upon in writing by the Board of Library Trustees and the Town Manager and
616 on file with the Town Clerk as of the effective date of this act shall be operative for all
617 employees of the library until such time as the personnel policies and procedures applicable to
618 library employees are amended in accordance with the provisions of said Section 4.6.2.

619 Carol Johansen of Oxford Road moved to amend Article 14.

620 Move that the Town amend Article 14 to keep the Town Clerk position elected by
621 retaining the position of Town Clerk in the list of elected town offices in Section 4.1, retaining
622 Section 4.5, and in Section 9.5 relating to the transitional process for an appointed Town Clerk,
623 delete all text in the first paragraph following "G.L. c43B" and the second two paragraphs.

624 Motion to amend was seconded.

625 COUNTED VOTED: That that the Town accept the amendment. This was a counted vote
626 and declared carried by the Moderator. The vote was 219 Yea and 88 Nay.

627 UNANIMOUSLY VOTED: That the Town amend the Sandwich Town Charter, as
628 printed in the Warrant under Article 14, by deleting those portions of the Town Charter
629 highlighted with strikethrough formatting and inserting those portions of the Town Charter with
630 underline formatting; and further, authorize the Board of Selectmen to petition the General Court
631 to the end that legislation be adopted precisely as set forth in the Warrant in accordance with the
632 special act charter process; provided, however, that the General Court may make clerical or
633 editorial changes of form only to the bill, unless the Board of Selectmen approves amendments
634 to the bill before enactment by the General Court, and provided further that the Board of
635 Selectmen is authorized to approve amendments which shall be within the scope of the general
636 public objectives of this petition. This was a voice vote and declared carried unanimously by the
637 Moderator.

638 A TRUE COPY ATTEST:

639

640

641

Taylor D. White, Town Clerk