

# TOWN OF WELLFLEET CHARTER



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# **TOWN OF WELLFLEET**

## **CHARTER**

### **PREAMBLE**

We, the people of the Town of Wellfleet, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of local government and to take the fullest advantages inherent in the home rule amendments to the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this Town.

### **CHAPTER 1 TOWN INCORPORATION, FORM OF GOVERNMENT, AND POWERS**

#### **Section 1-1 Incorporation**

**1-1-1** The present Town of Wellfleet, within its territorial limits as now or as may hereafter be established by law, is hereby reincorporated and continued as a body corporate and politic with perpetual succession under the name: Town of Wellfleet.

#### **Section 1-2 Form of Government**

**1-2-1** This document provides for an open Town Meeting-Board of Selectmen-Town Administrator form of town government, and it shall be known by the title: Wellfleet Home Rule Charter.

#### **Section 1-3 Scope and Construction of Town Powers**

**1-3-1** The Town shall possess, exercise, and enjoy all powers possible under the Constitution and Statutes of the Commonwealth as completely and fully as though they were expressly enumerated herein.

**1-3-2** The powers of the Town under this Charter shall be construed liberally in its favor, and no specific Charter grant of particular powers shall limit in any measure the general grant of power under Section 1-3-1.

## **Section 1-4 Intergovernmental Relations**

**1-4-1** Consistent with any applicable Constitutional or statutory provisions, the Town may exercise any of its powers, or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more other towns, civil divisions, subdivisions, or agencies of any state or the United States government.

## **Section 1-5 Continuation of Existing Laws**

**1-5-1** All General Laws (MGL), town Bylaws, votes, rules, and regulations of or pertaining to the Town which are in force when this Charter takes effect and which are not inconsistent with the provision of this Charter shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

## **Section 1-6 Amendment**

**1-6-1** This Charter may be replaced, revised or amended in accordance with the procedures set forth in M.G.L. Chapter 43B Home Rules Procedures

## **Section 1-7 Definitions**

**1-7-1** Unless another meaning is clearly apparent from the manner in which the word is used, the following words in the Charter shall have the following meanings:

- (a) Charter. The word “Charter” shall mean this Charter and any amendments to it made through any of the methods set forth in Massachusetts General Laws.
- (b) Day. In computing time under this Charter, every calendar day shall be counted.
- (c) Majority Vote. The words “majority vote” shall mean a majority of those present and voting provided that a quorum of the body is present.
- (d) Multiple-Member Body. The words “multiple-member body” shall mean any board, commission or committee of the Town consisting of two or more persons, whether appointed or elected.
- (e) Town. The words “Town” shall mean the Town of Wellfleet.
- (f) Town Agency. The words “Town agency” shall mean any board, commission, committee, department or office of the Town government.
- (g) Voters. The word “voters” shall mean registered voters in the Town of Wellfleet.

## **CHAPTER 2        TOWN MEETING**

### **Section 2-1    Composition, Quorum and Adjournment**

**2-1-1**    The legislative powers of the Town shall be exercised by a Town Meeting open to all registered voters of the Town.

**2-1-2**    Inhabitants of the Town and other persons who are not registered voters shall be admitted to a specially designated section of the auditorium. The Moderator may grant such persons the power to speak on any article.

**2-1-3**    The quorum necessary for the conduct of Town Meeting business shall be six percent of the currently registered voters of the Town for all sessions of the Town Meeting.

**2-1-4**    At the beginning of each session of each Town Meeting, the Moderator shall announce the minimum number of voters needed to constitute a quorum.

**2-1-5**    When the number of voters in attendance at a Town Meeting is determined by the Moderator to be less than the established quorum, the Moderator shall adjourn the meeting to a stated date, time, and place.

### **Section 2-2    Presiding Officer**

**2-2-1**    A Moderator, elected in accordance with Chapter 4, shall preside at all sessions of the Town Meeting.

**2-2-2**    The Moderator shall enforce procedural rules in accordance with General Law, this Charter, Bylaw, and Town Meeting Time.

**2-2-3**    The Moderator shall appoint (a) the members of the Finance Committee; (b) two members of the Cape Cod Regional Technical High School Committee; and (c) members of committees as voted by the Town Meeting.

**2-2-4**    When the Moderator is absent from the chair at a legally called Town Meeting, the Town Clerk or a member of the Board of Selectmen shall preside for the election of an acting Moderator to serve with all the powers of the Moderator until the Moderator resumes the duties of the office.

### **Section 2-3 Special Town Meetings**

**2-3-1** The Board of Selectmen may call a Special Town Meeting at any time and shall call a Special Town Meeting upon request in writing of two hundred registered voters of the Town.

**2-3-2** A Special Town Meeting shall not be held earlier than fourteen calendar days after the date on which the Constable(s) certify that they posted copies of the Warrant in two (2) or more public places in the Town including the Wellfleet post office and the South Wellfleet post office, and have deposited with the Town Administrator, for distribution, printed copies of the Warrant of a number not less than the number of registered voters in the Town.

### **Section 2-4 Initiative**

**2-4-1** Any ten registered voters of the Town may secure by written petition to the Board of Selectmen, the inclusion of an article for the Warrant of the Annual Town Meeting, and at least one hundred registered voters may secure the same for any Special Town Meeting.

**2-4-2** The written petitions submitted under Section 2-4-1 shall be submitted prior to March 1 in the case of the Annual Town Meeting, and at least Thirty-five days prior to the announced date of any Special Town Meeting.

### **Section 2-5 Powers and Responsibilities**

**2-5-1** The Town Meeting shall consider and act upon, with or without amendments, all proposed Bylaws.

**2-5-2** The Town Meeting shall consider and act upon, with or without amendments, all proposed operating and capital budgets, bond issues, and other financial proposals of the Town.

**2-5-3** The Town Meeting may, through the Board of Selectmen or a duly constituted special committee, investigate the affairs of any Town department, board, commission, committee, officer, or function.

**2-5-4** The Town Meeting shall consider all articles on the Warrant.

## **Section 2-6 Annual Town Meeting**

**2-6-1** The Town Meeting shall convene annually on the fourth Monday in April in each year, unless otherwise provided by Bylaw, to act upon an annual operating and capital budget, other financial matters, and to consider and act upon such other business as may properly come before the meeting.

**2-6-2** All proposed operating expenditures shall be included in a single, omnibus-type article and shall be placed first in the annual Town Meeting Warrant. An omnibus-type article shall also be used to present all proposed capital expenditures.

**2-6-3** The Warrant for each Town Meeting incorporating therein the appropriate recommendations, shall be prepared by the Board of Selectmen and made available to residents of the Town at least fourteen days prior to the scheduled date of said Town Meeting.

**2-6-4** The Annual Town Meeting shall not be held earlier than fourteen calendar days after the date on which the Constable(s) certify that they have posted copies of the Warrant in two (2) or more public places in the Town including the Wellfleet post office and the South Wellfleet post office and have deposited, with the Town Administrator, for distribution, printed copies of the Warrant and budget of a number not less than the number of registered voters in the Town.

## **Section 2-7 Procedures**

**2-7-1** Articles involving an expenditure of Town funds shall not be acted upon by the Town Meeting unless they previously have been considered, and a positive or negative recommendation issued thereon, by the Finance Committee.

**2-7-2** All articles of a non-financial character shall be considered, and a positive or negative recommendation issued thereon by the appropriate board or committee, as determined by the Board of Selectmen.

**2-7-3** Any article not receiving the appropriate recommendation required by clauses 2-7-1 and 2-7-2 may, by a two-thirds vote of the Town Meeting, be considered and acted upon, unless otherwise provided by General Law.

**2-7-4** The order of consideration of the articles as printed in the Warrant may be changed only by a two-thirds vote of the Town Meeting.

**2-7-5** Town officers, members of boards and commissions, and division and department heads, or their duly designated representatives, shall attend any Town Meeting for the purpose of furnishing information when proposals affecting their particular office, board, division, or department are included in the Warrant.

**2-7-6** In all procedural matters, the Town Meeting shall follow and the Moderator shall enforce rules or order as provided by General Law, this Charter, Bylaw, and Town Meeting Time.

**2-7-7** Rules of parliamentary procedure in simplified form shall be prepared by the Town Clerk, in consultation with the Moderator, and shall be made available for distribution to all those requesting them, to new voters at the time of registration, and to those in attendance at all Town Meetings.

**2-7-8** No person shall speak more than twice on the same question unless authorized to do so by the Moderator. The provisions of this clause shall not apply to (a) the person making the motion under an article, and (b) those persons required to be in attendance under the provisions of 2-7-5.

**2-7-9** A motion to reconsider shall only be in order if made within an hour following the vote and at the same session. Such a motion may be made by any voter.

## **Section 2-8 Town Meeting Committees**

**2-8-1** All ad hoc committees created by the Town Meeting shall be appointed by the Moderator, unless the motion establishing any such committee shall name the members, provide for their election, or provide for a different appointive authority.

**2-8-2** All ad hoc committees created by any Annual Town Meeting shall make a verbal report at the next Annual Town Meeting that occurs at least six months after a quorum of the committee is appointed. Such a report shall serve to discharge any such committee, unless the Town Meeting shall vote to prolong its existence for a period not exceeding one year.

**2-8-3** All such committees created by a Special Town Meeting shall also so report unless established during the four calendar months preceding the date of the Annual Town Meeting.

**2-8-4** Written copies of such reports shall be submitted to the Town Clerk and to the Town Administrator, and shall be published in the next Annual Town Report.

## **CHAPTER 3      BOARD OF SELECTMEN**

### **Section 3-1    The Board of Selectmen**

**3-1-1** A Board of Selectmen of five members shall be elected for three-year overlapping terms.

**3-1-2** Members of the Board of Selectmen shall receive such compensation as may be authorized and appropriated by the Town Meeting.

**3-1-3** Vacancies in the Office of Selectmen shall be filled by special election in accordance with the provisions of General Law.

**3-1-4** The term “Selectmen” shall refer to duly elected members of the Board of Selectmen of any gender.

### **Section 3-2    Policy Leadership Responsibilities**

**3-2-1** Except as otherwise provided by this Charter, all executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall have all of the powers and duties given to Boards of Selectmen under the Constitution and General Laws of the Commonwealth, and such additional powers and duties as may be authorized by the Charter, by Bylaw, or by other Town Meeting vote.

**3-2-2** The Board of Selectmen shall cause the laws and orders for the government of the Town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

**3-2-3** The Board of Selectmen shall serve as the goal-setting and policy-making agency of the Town. As such, the Board shall regularly direct the Town Administrator in carrying out its goals and policies.

### **Section 3-3    General Powers, Duties, and Responsibilities**

**3-3-1** The Board of Selectmen shall have the power to enact rules and regulations establishing Town Policies not otherwise governed by Statute, this Charter, or Bylaw, provided, however, that whenever an appropriation shall be necessary to implement such action, the vote of the Board shall be effective only if such appropriation has been authorized by the Town Meeting.

### **Section 3-4 Powers of Investigation**

**3-4-1** The Board of Selectmen may conduct investigations and may authorized the Town Administrator or other agent to investigate the affairs of the Town and the conduct of any Town Department, Office, or Agency, including any doubtful claims against the Town, and for this purpose the Board may subpoena witnesses, administer oaths, take testimony and require the production of evidence. The report of such investigation shall be placed on file in the Office of the Town Clerk, and a report summarizing such investigation shall be printed in the next Town Report.

### **Section 3-5 Specific Powers, Duties, and Responsibilities**

**3-5-1** The Board of Selectmen shall act as the licensing authority of the Town and shall have the power and responsibility required to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach conditions and impose such restrictions as it considers to be in the public interest, and further to enforce, or cause to be enforced the laws, rules, and regulations relating to all business for which it issues licenses.

**3-5-2** The Board of Selectmen shall establish a police department and shall appoint a Chief of Police in accordance with Section 97A of MGL Chapter 41.

**3-5-3** The Board of Selectmen shall establish a Fire Department and shall appoint a Chief of the department. The Chief may be removed for cause by the Board of Selectmen after a hearing. The Chief shall, subject to the approval of the Selectmen, appoint a Deputy Chief and such officers and other personnel as may be necessary, and may remove the same for cause after a hearing. The Chief shall have full authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the Selectmen from time to time as they may require, and shall annually report to the Town the condition of the department with recommendations thereon. The Chief's appointment shall be for such term as the Board of Selectmen may determine.

**3-5-4** The Board of Selectmen shall be recognized as head of the Town government for all ceremonial purposes.

**Section 3-6 Powers of Appointment**

**3-6-1** The Board of Selectmen shall have the power to appoint:

- (a) a Town Administrator as provided in Chapter five;
- (b) a Town Counsel;
- (c) a Police Chief;
- (d) a Shellfish Constable;
- (e) a Fire Chief;
- (f) a Herring Warden;
- (g) an Assistant Town Administrator who shall be one of the candidates recommended by the Town Administrator and shall be under the supervision of the Town Administrator;
- (h) Town Clerk
- (i) Town Treasurer
- (j) Town Collector

**3-6-2** The Board of Selectmen shall also have the power to appoint:

- (a) three members of a Board of Registrars of Voters for three-year overlapping terms;
- (b) Election Officers in accordance with General Law.

**3-6-3** The Board of Selectmen shall also have the power to appoint:

- (a) five members and four alternate members of a Zoning Board of Appeals;
- (b) five members of a Board of Health, one of whom shall be professionally qualified for the duties of the office;
- (c) seven members of a Planning Board;
- (d) two part-time members and one professionally qualified member of a Board of Assessors;
- (e) seven members of a Conservation Commission;

(f) four members of a five-member Personnel Board;

g) five members of a Recreation Committee; all for three-year overlapping terms.

h) five members of a Board of Water Commissioners

**3-6-4** The boards enumerated in Section 3-6-3 shall be responsible to the Board of Selectmen.

**Section 3-7 Prohibitions**

**3-7-1** Except for the purpose of investigation authorized by this Charter, the Board of Selectmen or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Administrator solely through the Town Administrator, and neither the Board nor its members shall give orders to any such officer or employee, either publicly or privately.

**3-7-2** Members of the Board of Selectmen shall be ineligible to serve on appointive Town boards established by this Charter or Bylaw to which the Board of Selectmen is the appointive authority.

## **CHAPTER 4 OTHER ELECTED TOWN BOARDS AND OFFICERS**

### **Section 4-1 Elected Town Boards**

**4-1-1** Beginning with the first annual election held after the adoption of this Charter, Town boards to be elected by vote of the Town shall be:

- (a) a Board of Selectmen;
- (b) a School Committee of five members;
- (c) a Board of Library Trustees of six members;
- (d) a Cemetery Commission of three members, all of whom shall be elected for three-year overlapping terms.

**4-1-2** During the term for which a member is elected, and for one year following expiration of such term, no member of any elected board under this Charter shall be eligible to accept any paid position under such board or in the same department.

**4-1-3** Vacancies in boards established under this Chapter, except the Board of Selectmen, shall be filled by the Board of Selectmen together with the remaining members of the appropriate board, in accordance with the provisions of General Law.

### **Section 4-2 Elected Officers**

**4-2-1** The following Town officers shall be elected by vote of the Town :

- (a) a Moderator, for a one-year term;
- (b) two Constables;
- (c) a representative to the Nauset Regional School Committee, for a three-year terms.

**4-2-2** Vacancies shall be filled in accordance with the provisions of General Law.

**Section 4-3 Duties of Elected Boards and Officers**

**4-3-1** In addition to the powers and duties prescribed by General Law, this Charter and Bylaw, elected Town officers designated in 4-2-1 and boards designated in 4-1-1, other than the Selectmen, having independent authority to make appointments to paid positions shall:

- (a) Cause to be written, approve, sign, and file with the Town Administrator job descriptions of all paid positions under their direction;
- (b) Provide all information requested by the Town Administrator and Finance Committee relating to the preparation of the annual operating budget, capital budget and the Capital Improvement Plan;
- (c) The Cemetery Commission, Moderator and Constables shall be exempt from the requirements of 4-3-1 (b).

## CHAPTER 5 THE TOWN ADMINISTRATOR

### Section 5-1 Appointment

**5-1-1** The Board of Selectmen, by an affirmative vote of at least four members, shall appoint a Town Administrator for an indefinite term to serve at its pleasure. The Selectmen shall, by majority vote, set contract terms and a compensation package for the Town Administrator.

**5-1-2** In the event of a vacancy on the Board, or the absence of not more than two members thereof, there are fewer than four members voting, the remaining three members shall, by majority vote, make an interim appointment for a period not to exceed ninety days. Any person so appointed shall be eligible for appointment as Town Administrator.

**5-1-3** In selecting a Town Administrator, the Board of Selectmen shall search for candidates by placing an advertisement in the International City Management Association Newsletter or similar professional publication and in at least two newspapers having statewide or regional circulation.

### Section 5-2 Qualifications

**5-2-1** The Town Administrator and interim Town Administrator shall be appointed on the basis of educational, executive and administrative qualifications and experience. The educational qualifications shall consist of at least a Bachelor's Degree, preferably in Public Administration, granted by an accredited degree-granting college or university.

The professional experience shall include at least five years of prior full time, compensated executive service in public or business administration. Alternatively, two years or more of professional experience and a Master's Degree in an appropriate discipline shall qualify any applicant.

### **Section 5-3 Duties**

**5-3-1** The Town Administrator shall be the Chief Administrative Officer of the Town and shall be responsible for the direction and supervision of all employees, activities and departments placed by General Law, this Charter or Bylaw under the control of the Board of Selectmen.

**5-3-2** The Town Administrator shall devote full working time to the duties of the office; shall not become a candidate for, or hold, any elective office while employed by the Town; and shall not engage in any business activity, except with the written consent of the Board of Selectmen. The Town Administrator shall:

- (a) attend all meetings of the Board of Selectmen, except when excused, and shall have the right to speak but not to vote;
- (b) assemble, prepare and present to the Board of Selectmen and the Finance Committee all annual operating and capital budgets of the Town and be responsible for the development and annual revision of the Capital Improvement Plan;
- (c) be responsible for seeing that the budget is administered as adopted by the Town Meeting and in accordance with General Law, this Charter, and Bylaw;
- (d) keep the Board of Selectmen fully informed regarding all departmental operations, fiscal affairs, general problems, and administrative actions, and to this end shall submit periodic reports to the Board;
- (e) keep the Board informed regarding the availability of Federal, state and county funds and how such funds might relate to unmet long-range needs;
- (f) prepare applications for grants;
- (g) be responsible for the day-to-day administration of the Town's personnel system, in accordance with the Personnel Bylaws;
- (h) be responsible for the purchasing for all Town functions and departments, excepting those of the School Department;
- (i) inform the Board of Selectmen regarding vacancies in Town offices and boards to be filled by the Board of Selectmen and inform the Board of Selectmen when there are vacancies in departments under the supervision and control of the Town Administrator;

(j) coordinate the activities of the Planning Board, Conservation Commission, and other boards, commissions, and committees, concerned with long range municipal planning, including the physical, economic, and environmental development of the Town;

(k) develop, keep and annually update a full and complete inventory of all property of the Town, both real and personal;

(l) cause copies of the Warrant incorporating the recommendations thereto for all Town Meetings to be mailed to each voter's postal address or delivered to each voter's residence in Wellfleet at least fourteen (14) days prior to each Town Meeting and to cause copies of the Warrant incorporating the recommendations thereto to be made available in at least two public places in the Town of Wellfleet, including the Wellfleet post office and the South Wellfleet post office at least ten (10) days prior to Town Meeting;

(m) supervise and direct the Director of Public Works;

(n) perform such other duties as may be required by this Charter, Bylaw, or vote of the Board of Selectmen.

(o) consult with the Board of Water Commissioners and implement when necessary any of their decisions concerning the Department of Public Works' function in relation to the Town's Municipal Water Systems.

#### **Section 5-4 Responsibilities for Appointments**

**5-4-1** The Town Administrator shall appoint and, except as may otherwise be provided by General Law, this Charter, Personnel Bylaw, or Collective Bargaining Agreements, may suspend or remove:

(a) all secretarial and clerical personnel in the Selectmen's office;

(b) other part-time secretarial and clerical employees, in consultation with the elected Town officials to whom said employees are assigned;

(c) all employees of the Department of Public Works;

(d) all employees of appointed Town multi-member bodies;

(e) all inspectors;

(f) all other full-time, part-time or seasonal employees, except those of the Library Trustees, Police Department, Fire Department and the School Committee.

All such appointments shall be subject to disapproval by majority vote of the Board of Selectmen taken within fourteen (14) days.

**5-4-2** Subject to the approval of the Board of Selectmen, the Town Administrator shall also have the power to appoint and, except as may otherwise be provided by General Law, this Charter, Personnel Bylaws, or Collective Bargaining Agreements, may suspend or remove:

- (a) a Director of Public Works;
- (b) a Town Accountant;
- (c) the Harbormaster.

**Section 5-5    Responsibilities in Personnel Administration**

**5-5-1** The Town Administrator shall administer and enforce Personnel Rules and Regulations, and Bylaws adopted by the Town.

**5-5-2** The Town Administrator shall cause to be written, approve, sign, and maintain in an up-to-date file the job description of all appointive positions under the direction of the Board of Selectmen; and maintain in said file an up-to-date listing of approved job descriptions of all appointive positions under the direction of other elected officers and boards.

**Section 5-6    Responsibilities for Administrative Reorganization**

**5-6-1** The Town Administrator may, with the approval of the Board of Selectmen, establish, reorganize, consolidate, or abolish any positions under his direction and supervision, except as otherwise provided by General Law and this Charter. The creation of any new position shall require the approval of the Personnel Board.

**Section 5-7    Department of Public Works**

**5-7-1** A Department of Public Works shall be established under a Director. Said Director shall be appointed by the Town Administrator with the approval of the Board of Selectmen, and shall be qualified by education and experience for the duties of the office.

**5-7-2** The Department of Public Works shall be responsible for:

(a) the design, construction, maintenance, repair, and cleaning of Town-owned roads, sidewalks, street lights, storm drains, bridges, dikes, and other public way related structures;

(b) the maintenance, repair, and cleaning of the Wharf, Marina and of all buildings owned or leased by the Town except those of the School Department;

(c) the development and maintenance of all cemeteries, parks, parking areas, recreational and beach facilities, except those of the School Department;

(d) snow removal, including the salting and sanding of roads;

(e) supervising the collection and disposal of garbage and other refuse and the maintenance and operation of all facilities for the disposal of same;

(f) the supervision, care and replacement of trees, including those functions previously undertaken by the Tree Warden and the Pesticide Officer;

(g) providing for, or causing to be provided, the maintenance and repair of all Town owned vehicles, except those of the Police Department;

(h) implementing decisions made by the Board of Water Commissioners, when they are assigned by the Town Administrator;

(i) such other functions as may be added by vote of the Board of Selectmen or the Town Meeting.

**5-7-3** In carrying out its functions relating to Cemeteries, the Department of Public Works shall implement the policies developed by the Cemetery Commission.

## **Section 5-8 Removal**

**5-8-1** The Board of Selectmen may initiate the removal of the Town Administrator by adopting a resolution to that effect, stating the reasons therefor, provided that no such resolution shall be adopted within sixty days following any Town election that has resulted in a change in the incumbents on the Board.

**5-8-2** The adoption of said resolution shall serve to suspend the Town Administrator for a period of no more than forty-five days, during which the salary shall continue to be paid. A copy of such resolution shall be delivered forthwith to the Town Administrator in person, or sent by registered mail to the Town Administrator's place of residence.

**5-8-3** Within five days following the adoption of such resolution, the Town Administrator may file a written request for a public hearing. If such a hearing is requested, the Board shall schedule it within two weeks, and it shall be held in a public place. The Board shall advertise the hearing in a newspaper of local circulation and shall cause identical notices citing the purpose, location, time, and date to be posted in the Town Hall and in three other places of public access within the Town.

**5-8-4** The Moderator, or a person designated by the Moderator, shall preside at any such meeting.

**5-8-5** At any such hearing, the reasons for the removal shall first be read aloud. The Town Administrator shall then have the right to respond, either personally or through counsel. The Board of Selectmen and the Town Administrator shall have the right to call witnesses and to subpoena any and all Town records.

**5-8-6** Final removal of any Town Administrator shall be effected by the affirmative vote of at least three members of the Board of Selectmen at a Public Meeting of the Board held within seven days of such public hearing, if requested. If no hearing has been requested, final removal may be effected by an affirmative vote of at least three members of the Board held not earlier than fourteen days after the vote initiating the removal. The salary of the Town Administrator shall continue to be paid for a period of thirty days after the vote effecting removal from office.

**5-8-7** The Town Administrator shall provide the Board of Selectmen with at least ninety days notice of an intended resignation, provided, however, that the Board may, at its discretion, shorten or waive such requirement.

**Section 5-9 Filling Vacancy**

**5-9-1** When a vacancy arises in the office of the Town Administrator, the Board of Selectmen shall begin the search process for a replacement within 14 days, and fill the vacancy as soon as possible, but in any case, within six months.

**Section 5-10 Acting Town Administrator**

**5-10-1** The Board of Selectmen may designate a Town employee or other person to exercise the rights and perform the duties of the Town Administrator during any vacancy caused by temporary absence, suspension, removal, resignation or death. The appointment shall be for a period not to exceed ninety days, and it may be renewed, in the case of suspension, removal, or resignation, only once for an additional period not to exceed ninety days.

## **CHAPTER 6 ELECTION AND RECALL**

### **Section 6-1 Town Elections**

**6-1-1** The regular election for all Town Offices shall be by official ballot held on the first Monday after the fourth Monday in April each year.

**6-1-2** All General Law provisions with regard to Town elections shall apply, except as may herein be provided by this Charter.

### **Section 6-2 Town Elections to be Nonpartisan**

**6-2-1** All Town elections shall be nonpartisan, and election ballots shall be printed without any party mark, emblem, vignette, or designation whatsoever.

### **Section 6-3 Eligibility of Town Voters**

**6-3-1** Any registered voter of the Town shall be eligible for election to any elective office or board of the Town, provided however that no person shall be a candidate for or hold, concurrently, more than one paid elective office of the Town.

### **Section 6-4 Time of Taking Office**

**6-4-1** Any person duly elected to any office or board shall take up the duties of office immediately following his certification, after have been sworn to the faithful performance of the duties of the office by the Town Clerk.

### **Section 6-5 Recall of Elective Officers**

**6-5-1** Any holder of an elective office may be recalled by the voters as herein provided.

**6-5-2** Any twenty-five voters may file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The Town Clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, printed forms of which shall be kept available. The blanks shall be issued by the Town Clerk with signature and official seal attached thereto. They shall be dated, and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor to the said office.

**6-5-3** A copy of the petition shall be entered in the Town Meeting records. The recall petition shall be returned to the Town Clerk within twenty days after the filing of the affidavit, signed by at least twenty percent of the voters, who shall add to their signatures the addresses of their residences.

**6-5-4** The Town Clerk shall within twenty-four hours of receipt submit the petition to the Registrars of Voters in the Town, and the Registrars shall forthwith certify thereon the number of signatures which are names of registered voters.

**6-5-5** If the petition shall be found and certified by the Town Clerk to be sufficient the Town Clerk shall submit the same to the Board of Selectmen. The Board of Selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than forty-five nor more than sixty days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided, however, that if any other Town election is to occur within ninety days after the date of the certificate, the Board of Selectmen shall postpone the holding of the recall election to the date of such other election.

**6-5-6** Any removed officer(s) removed may not be a candidate to succeed to the same office. The nomination of candidates, the publication of the Warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of General Law relating to elections, and the election to replace the officer sought to be removed shall be held on the same day as the recall election.

**6-5-7** The incumbent shall continue to perform the duties of office until the recall election. If not recalled, the incumbent shall continue in office for the remainder of the unexpired term, but shall not again be subject to recall during that term of office. If recalled, the incumbent shall be deemed removed upon the qualification of a successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

**6-5-8** The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?" The action of the voters to recall shall require a majority vote, but shall not be effective unless the total of those voting for and against recall shall exceed thirty percent of the registered voters of the Town.

**6-5-9** No person, having been recalled or having resigned from office while recall proceedings were pending, shall be appointed to any Town office within two years following said recall or resignation.

## **CHAPTER 7 FINANCIAL PROVISIONS AND PROCEDURES**

### **Section 7-1 Finance Committee**

**7-1-1** A Finance Committee of nine members and two alternates shall be appointed by the moderator for three-year overlapping terms with the approval by vote of the Town Meeting. The chair of the Committee may designate any alternate member to sit on the Committee in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the Committee until said vacancy is filled. Alternates may serve on working groups established by the Finance Committee for any legal purpose.

**7-1-2** Any person duly appointed to the Finance Committee shall take up the duties of the office upon the adjournment sine die of the Annual Town Meeting, after having been sworn to the faithful performance of the duties of the office by the Town Clerk.

**7-1-3** Vacancies in the Finance Committee shall be filled by the Moderator within thirty days on an interim basis. Such appointments shall be approved by vote of the next Special or Annual Town Meeting. Any person appointed to fill out an unexpired term shall take up the duties immediately after being sworn to the faithful performance of the duties of the office by the Town Clerk.

**7-1-4** No member of the Finance Committee shall hold any other Town Office, except that of member of the Personnel Board, unless appointment to another Town office is specifically authorized by the Moderator..

### **Section 7-2 Submission of Budget and Budget Message**

**7-2-1** On or before the thirty-first of October of each year, the Board of Selectmen shall prepare and issue a policy statement relating to the budget for the ensuing Fiscal Year. The statement shall establish the outer limits of possible budget growth for all municipal departments. The policy statement shall be sent to all other officials responsible for preparing budget requests. A copy of the statement shall be filed with the Town Clerk.

**7-2-2** Not later than the 31st of October the Board of Selectmen and the Finance Committee shall set a date for the Town Administrator to submit to the above bodies a comprehensive budget for all Town functions for the ensuing Fiscal Year and an accompanying budget message, unless otherwise provided by General Law or Bylaw.

**7-2-3** The message shall explain the budget both in fiscal terms and in terms of work programs and shall be filed with the Town Clerk when issued. It shall:

- (a) outline the proposed financial policies of the Town for the ensuing Fiscal Year;
- (b) describe the important features of the budget;
- (c) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes;
- (d) summarize the Town's debt position;
- (e) include such other material as may be deemed appropriate.

**7-2-4** The budget shall provide a complete financial plan for all Town funds and activities and shall be in such form as the Finance Committee may require, but it shall indicate proposed expenditures for both current operations and capital projects during the ensuing year, detailed by departments, offices, board, commissions, committee, and purposes.

**Section 7-3    Action on Proposed Budget – Repealed 4/30/13**

**Section 7-4    Budget Adoption**

**7-4-1** The Town Meeting shall adopt the budget, with or without amendments, prior to the beginning of the Fiscal Year.

**Section 7-5    Capital Improvement Plan**

**7-5-1** In the month following the Annual Town Meeting, the Town Administrator shall , after consultation with members or alternates of the Finance Committee, prepare a five-year Capital Improvement Plan in a form approved by the Finance Committee, consistent with standards established by the Finance Committee and shall include information requested by the Finance Committee. The Plan shall include:

- (a) a clear summary of its contents;
- (b) a list of all Capital Improvements proposed to be undertaken during the next five fiscal years, together with supporting data;

(c) cost estimates, methods of financing, and recommended time schedules;

(d) the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. The information may be revised and shall be extended each year with regard to Capital Improvement pending or in the process of construction or acquisition.

**7-5-2** The Capital Improvement Plan shall be submitted to the Finance Committee and the Board of Selectmen not later than the 1st of June. Within thirty days the Finance Committee shall prepare and submit a report and its recommendations on the Capital Improvement Plan to the Town Administrator and the Board of Selectmen. A copy of the report shall be filed with the Town Clerk.

### **Section 7-6 Notice of Public Hearing on Capital Plan**

**7-6-1** The Finance Committee shall publish, in one or more newspapers of general circulation in the Town, the general summary of the Capital Improvement Plan and a notice stating:

(a) the times and places where copies of the Capital Improvement Plan are available for inspection;

(b) the date, time, and place, not less than seven days following such publication, when the Committee shall conduct a public hearing on said Plan.

### **Section 7-7 Annual Audit**

**7-7-1** At least thirty days before the end of each fiscal year, the Board of Selectmen shall retain a Certified Public Accountant or an accounting firm to make an audit of all accounts, books, records, and financial transactions of every department, board, and commission of the Town Government, including the School Department.

**7-7-2** A copy of every auditor's report shall be filed with the Town Clerk, shall be a public record, and a summary thereof shall be published in the next Annual Town Report.

### **Section 7-8 Limit on Spending (subsection 7-8-1 deleted as of 4/29/96)**

## **CHAPTER 8 APPOINTED TOWN BOARDS**

### **Section 8-1 Board of Health**

**8-1-1** A Board of Health of five members shall be appointed by the Board of Selectmen for three-year overlapping terms. One member of the Board, who shall not necessarily be the Chairman, shall be professionally qualified for the duties of the office.

**8-1-2** The Board shall exercise such Public Health functions as may be prescribed by General Law, this Charter, and Bylaw.

### **Section 8-2 Personnel Board**

**8-2-1** A Personnel Board of six members shall be appointed for three-year overlapping terms. Four members shall be appointed by the Board of Selectmen and one member shall be appointed by the Finance Committee from its own membership. The Town Administrator shall be a member ex-officio without a vote. It shall consult from time to time with the Town Administrator on matters of personnel policy, practices and Bylaws, and make needed changes in the personnel administrative rules and regulations. It shall annually review the existing Personnel Bylaws and recommend to the Town Meeting such changes as it deems advisable in accordance with General Law, this Charter and Bylaw.

### **Section 8-3 Board of Assessors**

**8-3-1** A Board of Assessors of three members and one alternate shall be appointed by the Board of Selectmen for three-year overlapping terms. Two members and one alternate shall serve part-time; the third shall devote full working time to the duties of the office, and shall be professionally qualified for the duties of the office, as required by General Law.

**8-3-2** The Board shall exercise such powers and duties as are prescribed by General Law, this Charter, and Bylaw.

### **Section 8-4 Zoning Board of Appeals**

**8-4-1** A Zoning Board of Appeals of five members and four alternate members shall be appointed for three-year overlapping terms.

**8-4-2** The Board shall exercise such powers and duties as are prescribed by General Law, this Charter, and Bylaw.

### **Section 8-5 Recreation Committee**

**8-5-1** A Recreation Committee of five members shall be appointed by the Board of Selectmen for three-year overlapping terms.

**8-5-2** The Committee shall be responsible for advising the Recreation Director in the planning and managing of recreational programs and the physical facilities involved

therein.

### **Section 8-6 Planning Board**

**8-6-1** A Planning Board of eight members shall be established. Seven members shall be appointed by the Board of Selectmen for five-year overlapping terms. The Town Administrator shall serve as a member ex-officio without a vote.

**8-6-2** The Board shall make recommendations to the Town Meeting and to the Town Administrator on all matters concerning the physical, economic, and environmental development of the Town as prescribed by General Law, this Charter, and Bylaw.

**8-6-3** The Board shall be responsible for the development and periodic updating of a master or comprehensive plan. A summary of said plan shall be submitted to the Town Meeting, which shall adopt the summary, with or without amendments. After the summary has been acted on by the Town, the Planning Board shall utilize the plan in making recommendations to the Town. The Board shall report annually to the Town on the status of the master plan.

**8-6-4** The Town Administrator may appoint one or more members of a planning staff provided that funds have been appropriated for that purpose. Any staff so appointed shall be professionally qualified by reason of education, training, and experience.

**8-6-5** The staff, if appointed, shall provide services to the Planning Board but shall be under the day-to-day supervision of the Town Administrator.

### **Section 8-7 Conservation Commission**

**8-7-1** A Conservation Commission of seven members shall be appointed by the Board of Selectmen for three-year overlapping terms.

**8-7-2** The Commission shall exercise such powers and duties as prescribed by General Law, this Charter, and Bylaw.

### **Section 8-8 Water Commissioners**

**8-8-1** A Board of Water Commissioners consisting of five members shall be appointed by the Board of Selectmen for three-year overlapping terms.

**8-8-2** The Board of Water Commissioners shall have charge and control of all Wellfleet Municipal Water Systems subject to the lawful bylaws and requirements approved by affirmative vote of the Town Meeting. The Board of Water Commissioners shall have all the powers, responsibilities and authority granted by M.G.L. Chapters 40 and 41 and relevant regulations contained in the Code of Massachusetts Regulations to Board of Selectmen acting as Water Commissioners or to elected Board of Water Commissioners except that the Board of Water Commissioners shall not have the powers of eminent

domain nor enter into contracts.

**8-8-3** The Board of Water Commissioners shall establish and maintain the rules, regulations and policies of the Town's Municipal Water Systems.

**8-8-4** The Board of Water Commissioners, after consultation with the Town Administrator, shall choose and direct a well-qualified, licensed agent to monitor and implement the Municipal Water Systems. Any function related to the Municipal Water Systems to be performed by the Department of Public Works shall be assigned only through the Town Administrator.

**8-8-5** Notwithstanding the provisions of paragraph 5-3-2 (h) of this Charter, except under emergency conditions, no tract relating to the Town's Municipal Water Systems shall be executed without prior approval of the Board of Water Commissioners.

**8-8-6** The Board of Water Commissioners shall:

- (a) correspond with the Federal, state or county agencies relating to the Town's Municipal Water Systems unless prohibited by contractual or statutory provisions;
- (b) review all other correspondence with Federal, state or county agencies relating to the Town's Municipal Water Systems;
- (c) receive copies of all correspondence from these agencies relating to the Town's Municipal Water Systems as soon as they are received by any Town official, board, commission or committee.

Correspondence from the Board of Health is exempt from these provisions.

**8-8-7** The Board of Water Commissioners shall be responsible for long range planning for the provision of municipal water services. The Board shall prepare any long range plans for Wellfleet Municipal Water Systems required by the Massachusetts Department of Environmental Protection. The Board of Water Commissioners shall consult with the Board of Selectmen, the Board of Health, the Conservation Commission, the Planning Board and the Town Administrator in the preparation of any long range plans.

Any such plans shall be filed with the Town Clerk. Any costs relating to the preparation of these plans may be included in the operating costs of the Wellfleet Municipal Water Systems or the Board may request a corresponding appropriation from the Town Meeting.

## **Section 8-9 Other Town Boards**

**8-9-1** The Board of Selectmen shall also appoint the Boards enumerated in Sections 3-6-2 and 3-6-3 and such other Boards as may be in existence on the effective date of this Charter and such other Boards as may be hereafter established by Charter, Bylaw or vote of the Town.

## **Section 8-10 Town Boards, Commissions, and Committees**

**8-10-1** All boards, commissions, and committees of the Town shall organize annually and elect a presiding officer and other necessary officers, establish a quorum requirement for their meetings in accordance with General Law, adopt rules of procedure and voting, and maintain a journal of proceedings, copies of which shall be a public record and filed regularly with the Town Clerk.

**8-10-2** All such boards shall conduct their meetings in accordance with the open-meeting provisions of the General Law.

**8-10-3** During the term for which a member is appointed and for one year following expiration of such term, no member of any appointed board under this Charter shall be eligible to accept any paid position under such board or in the same department.

**8-10-4** Any person duly appointed to any office or board shall take up the duties of the office immediately, after having been sworn to the faithful performance of the duties of the office by the Town Clerk.

**8-10-5** The absence of a member from four or more consecutive meetings of a committee shall serve to vacate the office, provided, however, that this provision shall not apply where said consecutive meetings occur within the same fourteen (14) day period. When such a vacancy has been created, the Chairperson shall advise the appointive authority forthwith, who shall fill the vacancy within thirty days.

**8-10-6** Appointed regulatory boards, committees, and commissions shall conduct all Public Hearings between the hours of 5 p.m. and 11 p.m.

**8-10-7** No person shall serve simultaneously as a member of more than one of the following Town Boards: Conservation Commission, Board of Health, Planning Board, Personnel Board, Zoning Board of Appeals or the Board of Water Commissioners.

## CHAPTER 9 TRANSITIONAL PROVISIONS

### Section 9-1 Appointed Town Clerk and Town Treasurer and Town Collector

**9-1-1** The vote of the 2013 Annual Town Meeting to amend the Charter to change the elected positions of Town Clerk-Town Treasurer and Town Collector to the appointed positions of Town Clerk and Town Treasurer and Town Collector, shall take effect immediately upon approval by the voters at the 2014 Annual Town Election. At that time, the elected office of Town Clerk-Town Treasurer and Town Collector shall be abolished and the term of the elected incumbents terminated; provided, however, that the elected incumbents holding office as of the effective date of said Charter amendment shall be the first appointees to the newly created appointed positions, and, notwithstanding the provisions of Section 3-6-1 of the Town Charter, shall remain in said positions for a term ending on the same date as the end date of the current term of the elected incumbent and until the Board of Selectmen appoints a fully qualified person or persons to fill any vacancy in said offices. Thereafter, appointments to the positions shall be made in accordance with Section 3-6-1, and notwithstanding any provision of this Charter, or general or special law to the contrary, one person may be appointed to serve in more than one such capacity, and, in such instances, such capacities shall be deemed a single position.