

## AN ACT ESTABLISHING A CHARTER FOR THE TOWN OF MEDWAY

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

**SECTION 1.** The following shall be the charter for the town of Medway:-

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

#### Section 1. Incorporation

1-1-1 The inhabitants of the town of Medway, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name “town of Medway”.

#### Section 2. Short Title

1-2-1 This instrument shall be known and may be cited as the “Medway town charter”.

#### Section 3. Powers of the Town

1-3-1 Subject only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the commonwealth, it is the intent and purpose of the voters of Medway to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under Article LXXXIX of the Amendments to the Constitution and the laws of the commonwealth.

#### Section 4. Division of Powers

1-4-1 All legislative powers of the town shall be exercised by a town meeting open to all voters. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the executive board unless otherwise specified in this charter.

#### Section 5. Construction

1-5-1 The powers of the town of Medway under this charter shall be construed liberally in favor of the town and the specific mention of any particular power shall not limit the general powers of the town of Medway as stated in section 1-3-1. To the extent that the provisions of this charter conflict with existing by-laws of the town of Medway, this charter shall govern.

#### Section 6. Intergovernmental Relations

1-6-1 Subject to the applicable requirements of the constitution or laws of the commonwealth, the town of Medway 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

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otherwise with 1 or more civil divisions, subdivisions or agencies of any state or the United States government.

### Section 7. Definitions

1-7-1 As used in this charter the following words shall have the following meanings unless the context clearly requires otherwise:

- (a) “Charter”, this charter and any amendments to it which may hereafter be adopted,
- (b) “Days”, business days, which shall not include Saturdays, Sundays and legal holidays; provided, however, that when the time set is 7 days or more, every day shall be counted unless the term “business days” is clearly noted in the charter.
- (c) “Emergency”, a sudden, unexpected, unforeseen happening, occurrence, event or condition which necessitates immediate action and does not refer to financial events which could be or should have been anticipated and planned for in the fiscal budgeting process.
- (d) “Majority vote”, a majority of those present and voting, provided that a quorum of the body is present when the vote is taken.
- (e) “Multiple member body”, any board, commission, committee, subcommittee or other body consisting of 2 or more persons however constituted.
- (f) “Quorum”, a majority of those members of a multiple member body then in office, not including any vacancies which might then exist.
- (g) “Town”, the town of Medway.
- (h) “Town agency”, any board, commission, committee, department, division or office of the town government.
- (i) “Town bulletin board”, shall mean the bulletin board in the town hall on which official town notices are posted and the bulletin boards in other locations within the town which may be designated as town bulletin boards by by-law.
- (j) “Town officer”, a person having charge of an office or department of the town who, in the exercise of the powers or duties of that position, exercises a sovereign power of the town.
- (k) “Voters”, the registered voters of the town of Medway.
- (l) “Website”, the town of Medway’s official worldwide internet address.

## CHAPTER 2. LEGISLATIVE BRANCH

### Section 1. Town Meeting

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 The town meeting shall meet in regular session at least twice in each calendar year. The first meeting shall be the annual town meeting, and shall be held on the second Monday in May, at such time and in such manner as fixed by by-law, and shall be primarily concerned with the determination of matters involving the expenditure of town funds including, but not limited to, the adoption of an annual operating budget for all town agencies and the determination of other matters to be decided by vote of the town meeting.

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- 2-1-3 The second town meeting shall be the fall town meeting and shall be held on a date fixed by by-law, but not later than the third Monday in November. The fall town meeting shall be primarily concerned with, but not limited to, the financial condition of the town and actions required to keep the town's revenue and expense budget balanced for the remainder of the current fiscal year.
- 2-1-4 Special town meetings shall be held at the call of the executive board at such times it deems necessary or when petitioned by the voters in accordance with the General Laws.

### Section 2. Warrants

- 2-2-1 Every town meeting shall be called by a warrant issued by the executive board which shall state the date, time and place at which the meeting is to be convened and, by separate articles, the subject matter to be acted upon.
- 2-2-2 The publication of the warrant for every town meeting shall be in accordance with procedures outlined in this charter and town by-laws governing such matters.

### Section 3. Initiation of Warrant Articles

- 2-3-1 Initiation – The executive board shall accept articles for inclusion in the warrant for the annual town meeting and all special town meetings under section 10 of chapter 39 of the General Laws.
- 2-3-2 Referral – The executive board, following receipt of a petition containing a proposed warrant article filed with the executive board in accordance with section 2-3-1, shall cause an accepted and signed copy of the proposed warrant article to be delivered to the chairperson or designee of the finance committee, and a copy thereof shall be posted on the town bulletin board and the town's website. The executive board shall cause other distributions to be made of each proposed warrant as may be required by law or by-law.

### Section 4. Availability of Town Officials at Town Meetings

- 2-4-1 Every town officer, elected official, member of a multiple member body, head of a department and head of each division within a department shall attend all sessions of the town meeting for the purpose of providing the town meeting with information and answering questions concerning matters appearing in the warrant.
- 2-4-2 In the event a town officer or the head of a department or division is to be absent due to illness or other reasonable cause, such officer or individual shall designate a deputy to attend in their place.
- 2-4-3 If a person designated to attend the town meeting under this section is not a voter, such person may address the town meeting in order to comply with this section.

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### Section 5. Committees

- 2-5-1 Subject to this charter and to by-laws or other town meeting votes regarding committees, the moderator shall appoint for fixed terms the members of the committees of the town meeting, special or standing, as may be established, other than those established by vote of the town meeting. In addition to such specific powers, duties and responsibilities as may be provided to a town meeting committee by by-law or vote, each committee, when acting within the scope of its authority, may examine the pertinent records of any town agency or department and to consult with any town officer.
- 2-5-2 Finance committee. There shall be a finance committee, consisting of 9 registered voters of the town, who shall be sworn to the faithful performance of their duties. No elected or appointed town official or employee shall be eligible to serve as a member of the finance committee.

Annually, not later than July 1, an appointment committee consisting of the town moderator, the chair of the finance committee and the chair of the executive board, shall appoint 3 members of the finance committee for a term of 3 years in place of those whose terms expire in that year. The appointment committee shall commence its appointment process by posting a notice of annual vacancies on the town bulletin board, the town's website and in at least 1 local newspaper of daily circulation not later than 7 days following that year's date of annual town meeting. The appointment committee shall formally interview all applicants and shall appear before the executive board to notify it and the public of its appointments in person at a regularly scheduled public meeting of the board.

Annually, the finance committee shall hold at least 1 public hearing to discuss the subject matter of all articles contained in the warrant for each regular and special town meeting, except those articles subject to public hearings by other multiple member bodies not containing appropriations. The finance committee shall report its recommendations, in writing, on the articles for which it held public hearings in accordance with the executive board's budgeting calendar for the annual town meeting, and at least 10 days before any other town meeting.

No financial article shall be presented to any annual or special town meeting that has not previously been submitted to the finance committee for its review. The finance committee shall have such additional powers and duties as may be provided by the General Laws, by this charter or by by-law.

### Section 6. Clerk of the Town Meeting

- 2-6-1 The town clerk shall serve as the clerk of the town meeting.
- 2-6-2 In the event the town clerk is unable to attend a town meeting, the town clerk shall designate a person to attend for the town clerk. If that person then fails to attend, the town moderator shall appoint a clerk pro tempore.

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2-6-3 The town clerk shall give notice of all meetings to the public, keep a journal of its proceedings and perform such other functions as may be required by the General Laws, by charter, by by-law or by other town meeting vote. Notice of all meetings shall also be posted and on the town's website.

### Section 7. Rules of Procedure

2-7-1 The town meeting may, by by-law, establish, amend, revise or repeal rules to govern the conduct of town meeting.

### Section 8. General Powers and Duties

2-8-1 All legislative powers of the town, except as otherwise provided by law or this charter, shall be vested in the town meeting. The town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town for which no other provision is made in this charter or by-law.

## **CHAPTER 3. ELECTIONS AND ELECTED OFFICERS**

### Section 1. General Provisions

3-1-1 The offices to be filled by ballot of the voters of the town shall be the executive board, school committee and town moderator. The election of town officers shall be held annually on the third Tuesday in May each year.

3-1-2 In addition to the town offices in section 3-1-1, members of the board of library trustees, Medway housing authority, parks and recreation commission, planning and economic development board, three members of the board of health, three members of the water and sewer advisory board, town clerk and such other officers or representatives to regional authorities or districts as may be established by law or by inter-local agreement, shall also be filled by ballot at town elections.

3-1-3 Any registered voter of the town shall be eligible to hold an elective town office.

3-1-4 Elected town office holders shall receive such compensation for their services as may be appropriated annually for such purpose. All full-time, paid office holders shall comply fully with all town personnel policies and directives.

3-1-5 Notwithstanding their election by the voters, the town officials named in this section shall be subject to the call of the executive board or the town manager, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices. All appointed and elected officials shall work with each other in a cooperative manner and in the best interests of the town.

3-1-6 Elected multiple member body vacancies. If there is a vacancy in a multiple member board, other than the executive board, the remaining members shall give written notice of the existence of the vacancy to the executive board. The executive board, with the

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remaining members of the multiple member board, shall fill such vacancy by a joint roll call vote. The executive board shall set a date for the joint vote and give at least 1 week's notice. If the notice is not given within 30 days following the date on which the vacancy occurs, the executive board shall, after 1 week's notice, fill the vacancy without participation by the remaining members of the multiple member body.

- 3-1-7 If there is a failure to elect or if a vacancy occurs in the office of the executive board, it shall be filled in accordance with the General Laws.
- 3-1-8 If there exists a vacancy in an elected office that is not a multiple member body, the executive board shall provide for notice of such vacancy by posting the vacancy on the town bulletin board and the town's website. Any person who desires to be considered to fill such vacancy shall, within 10 days following the date the notice is posted, file with the executive board a statement which sets forth in clear and specific terms the qualifications which they hold for the position. The executive board shall fill such vacancy no earlier than 14 days and no later than 30 days after the notice was posted. The person who receives a majority of the votes cast at the executive board's meeting shall be the person appointed to fill the vacancy. The person appointed to fill the vacancy shall hold office until the next regularly scheduled annual town election at which time the vacant position shall be included on the ballot.
- 3-1-9 The town of Medway may, by vote of the town meeting at least 90 days prior to the annual town meeting, determine whether an elected office, board, committee or commission shall be abolished, divided or appointed by the town manager or executive board, provided, however, that no such vote shall take effect and no action shall be taken thereunder until the matter is submitted to the voters of the town of Medway at the next annual town election in the form of a ballot questions and a majority of votes cast is in the affirmative.

## Section 2. Executive Board

- 3-2-1 There shall be an executive board consisting of 5 members elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.
- 3-2-2 The executive powers of the town shall be vested in the executive board which shall be deemed to be the chief executive office of the town. The executive board shall have all of the executive powers available to a board of selectmen under the Constitution and the General Laws, and such additional powers and duties as may be authorized by by-law, town meeting vote or this charter. The executive board shall serve as the chief policy making agency of the town. The executive board shall be responsible for formulating and promulgating police directives and guidelines to be followed by all town agencies serving under it and, in consultation with other elected town officers and multiple member bodies, to develop and promulgate policy guidelines designed to bring all town agencies into harmony; provided, however, nothing in this section shall authorize a member of the executive board, nor a majority of such members, to become involved in the day-to-day administration of a town agency. As chief policymaking agency of the

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town, the executive board shall seek to secure the cooperation of the town's elected boards, committees and officials in the implementation of such policies. The executive board shall be responsible for the efficient and effective coordination of the activities of all elected and appointed boards and committees and, for such purpose, may, consistent with law, call together for consultation, conference and discussion at reasonable times all elected and appointed boards and committees. This provision shall not apply to the school committee.

- 3-2-3 The executive board shall be the licensing board for the town, or a designee appointed by such board, and shall have the power to grant licenses as authorized under the General Laws, to make all necessary rules and regulations regarding the granting of such licenses, to attach conditions and impose restrictions on any such licenses as it deems to be in the public interest and to enforce all laws, rules, regulations and restrictions relating to all such business for which it grants licenses.
- 3-2-4 The executive board shall enforce the charter, by-laws and rules and regulations for the government of the town and shall keep an up-to-date record of all its official acts, to be posted and made available on the town's website.
- 3-2-5 The executive board shall appoint a town manager for a term not to exceed 3 years. The appointment of town manager shall be by the affirmative vote of at least 3 members of the executive board, with reappointment by a least 3 affirmative votes of the executive board. Removal of the town manager shall require the affirmative vote of 4 members of the executive board and in accordance with procedures outlined in section 5-4-1 of this charter.
- 3-2-6 The executive board shall, in addition, appoint those officers and representatives as set forth in Section 4-1 and such other appointments as it deems necessary, as provided by the General Laws, by this charter, by by-law or by other town meeting vote.
- 3-2-7 Notwithstanding any provision of this charter to the contrary, the terms of office of all appointments made by the executive board shall be as currently specified in the General Laws, this charter or by by-law or town meeting vote.
- 3-2-8 The executive board may investigate or may authorize the town manager to investigate the affairs of the town and the conduct of any agency of the town, including any doubtful claims against the town. The report of the results of such investigation shall be placed on file in the office of the executive board.

### Section 3. Town Moderator

- 3-3-1 There shall be a town moderator elected for a term of 3 years.
- 3-3-2 The town moderator shall be the presiding officer of the town meeting, shall regulate its proceedings, decide all questions of order, ensure that accurate and complete records and minutes of the town meeting are being maintained by the town clerk, and shall have such

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other powers and duties as may be provided by the General Laws, by this charter, by by-law or by other town meeting vote.

### Section 4. School Committee

- 3-4-1 There shall be a school committee consisting of 5 members elected for terms of 3 years each so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.
- 3-4-2 The school committee shall have all the powers and duties which are given to school committees by the General Laws and it shall have such additional powers and duties which are given by by-law or other town meeting vote. The powers of the school committee shall include, but not be limited to, the following
- (1) to appoint and terminate the superintendent of schools and other officers as authorized by the General Laws, to fix their compensation and to define their duties, make rules concerning their tenure and to discharge them.
  - (2) to make all reasonable policies consistent with the General Laws or Massachusetts department elementary and secondary education regulations for administration and management of the public school system and for conduct of its own business and affairs, and to review and approve budgets for public education in the district.
  - (3) To establish educational goals and policies for the schools in the district with the requirements of law and in accordance with statewide goals and standards established by the state board of education.

### Section 5. Board of Library Trustees

- 3-5-1 There shall be a board of library trustees consisting of 5 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.
- 3-5-2 The board of library trustees shall have the custody and management of the public library and of all property of the town related to the library. All money and property that the town may receive by gift or bequest for the purpose of library support or maintenance shall be administered by the board of library trustees in accordance with the terms of such gift or bequest. The board shall have all of the other powers and duties provided to boards of library trustees by the General Laws, by this charter, by by-law or by vote of the town meeting.

### Section 6. Planning and Economic Development Board

- 3-6-1 There shall be a planning and economic development board consisting of 5 members to be elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.
- 3-6-2 The planning and economic development board shall have all the powers and duties provided to planning boards and economic development boards under the General laws, and shall have such additional powers and duties as may be authorized by the charter or

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by-laws. The planning and economic development board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The planning and economic development board shall provide for the review and updating of the comprehensive master plan at least once every 10 years, setting forth policies governing the future growth and development of the town's economic, developmental and human service needs.

The planning and economic development board shall regulate the subdivision of land within the town by adopting rules and regulations governing such development and the administration of its powers. The planning and economic development board shall make recommendations to the town meeting on all matters affecting land use and development, including zoning by-laws of the town.

The planning and economic development board shall make an annual report regarding the condition of the town and any plans or proposals for its development and estimates of their costs.

- 3-6-3 The planning and economic development board shall direct the efforts of the town's economic development committee and shall appoint the members of the economic development committee and any other committees as provided by the General Laws and by-law.

### Section 7. Board of Health

- 3-7-1 There shall be a board of health consisting of 3 members to be elected and 2 members to be appointed by the executive board, each for terms of 3 years, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year. The executive board shall seek to appoint persons with personal expertise or experience in health-related fields including but not limited to nurses, doctors, public health specialists, veterinarians, or infectious disease specialists.
- 3-7-2 The board of health shall adopt rules and regulations relative to the environment and the public health, and shall have all the powers and duties provided to boards of health under the General Laws, and such additional powers and duties as may be authorized by by-law, by vote of the Town Meeting or by this charter

### Section 8. Water and Sewer Advisory Board

- 3-8-1 There shall be a water and sewer advisory board consisting of 3 members to be elected and 2 members to be appointed by the executive board, each for terms of 3 years, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.
- 3-8-2 The water and sewer advisory board shall advise the director of public works on policy and fiscal matters, including the annual budget and water rates, relative to the provision of municipal water system and sewer system services, and on such other matters involving the water system and sewer system as may be requested by the director of

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public works; provided, however, that no less than twice annually the director of public works shall meet with the advisory board at a properly posted meeting held in accordance with the open meeting law to review departmental priorities with respect to water and sewer systems.

### Section 9. Housing Authority

3-9-1 There shall be a housing authority consisting of 5 members serving for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year. Four members shall be elected and the fifth member shall be appointed as provided by General Laws.

3-9-2 The housing authority shall conduct studies of housing needs of the town and shall provide programs to make available housing for families of low income and for elderly persons of low income. The housing authority shall have all of the powers and duties provided to housing boards and authorities under General Laws.

### Section 10. Parks and Recreation Commission

3-10-1 There shall be a parks and recreation commission consisting of 3 members to be elected and 2 members to be appointed by the executive board, each for terms of 3 years, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year. The executive board shall seek to appoint persons with broad experience and perspective with respect to parks and recreation in the town, so that the composition of the board includes persons representative of various potential interests, including but not limited to, active recreation, including organized sports, preservation of green and other open space, and opportunities for passive recreation, all for the purpose of facilitating a holistic approach to managing the town's parks and recreation spaces for all residents.

3-10-2 The parks and recreation commission shall conduct and promote recreation, play, sport, physical education and other programs to meet the leisure time needs of the town. The parks and recreation commission shall have all the powers and duties provide to park and recreation commissions under the General Laws and such additional powers and duties as may be authorized by the charter, by by-law or by vote of the town meeting.

### Section 11. Recall Provisions

3-11-1 Any holder of an elected office in town may be recalled and removed therefrom by the voters of the town as herein provided.

3-11-2 Two per cent of the qualified voters of the town as of the date of the last regular town election may make and file with the town clerk an affidavit signed under the penalty of perjury containing the name of the officer sought to be recalled and removed and a statement of the grounds of removal. One such voter shall be identified on the recall affidavit as the "lead petitioner" for purposes of this section. The town clerk shall thereupon prepare and notify the lead petitioner that a sufficient number of copies of

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petition blanks for such recall and removal are available at the office of the town clerk. The blanks shall be issued by the town clerk with the clerk's signature and official seal attached thereto, and shall be dated and addressed to the executive board. The blanks shall list the names of the lead petitioner and the next nine signers of the affidavit, and contain the number of blanks so issued, the name of the person sought to be removed, the office from which removal is sought, the grounds for removal as stated in the affidavit and shall demand the election of a success to such office. A copy of the petition, before being returned and filed, shall be signed by 10 per cent of the qualified voters of the town as of the date of the last regular town election, and shall contain the place or residence of the signer, giving the street and number. The recall petition shall be submitted not later than 14 days following notification to the lead petitioner of the availability of the recall petitions. Upon filing, the petition shall be forwarded to the registrars of voters in the town, who shall have 5 business days to certify thereon the number of signatures which are names of voters of the town.

- 3-11-3 If the petition shall be found and certified by the town clerk to be sufficient, the clerk shall submit the same with this certificate to the executive board without delay, and the executive board shall forthwith give written notice to the officer sought to be recalled of the receipt of the certificate and shall, if the officer does not resign within 5 days thereafter, order a recall election to be held on a day fixed by it not less than 64 days from the date the executive board calls for the election nor more than 90 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 100 days after the date of said certificate, the executive board may, in its discretion, postpone the date of the recall election to the date of such other election, with the recall election to be held as a separate special election. If a vacancy occurs in the office after a recall election has been ordered, the election shall proceed as provided in this section.
- 3-11-4 Any officer sought to be recalled may be a candidate to succeed themselves and, unless the officer requests otherwise in writing, the town clerk shall place the officer's name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the same, shall all be in accordance with the laws relating to elections, unless otherwise provided in this charter. A majority of those voting at the recall election shall be sufficient to recall such elected officer.
- 3-11-5 The incumbent shall continue to perform the duties of the office until the recall election. If then re-elected, the incumbent shall continue in office for the remainder of unexpired term, subject to recall, except as provided in section 3-12-7. If not re-elected in the recall election, the incumbent shall be deemed removed immediately. If the successor to the office fails to qualify within 10 business days after receiving notification of their election, the office shall be deemed vacant.
- 3-11-6 Ballots used in a removal election shall submit the following propositions in the order indicated:  
 For the removal of (name and office of officer)  
 Against the removal of (name and office of officer)

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Under this recall question shall appear the word “candidates” and the direction “Vote for one” and beneath this shall be listed the names of the candidates nominated as hereinbefore provided.

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

3-11-7 No recall petition shall be filed against an officer within 3 months after the officer takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least 3 months after such election.

3-11-8 No person who has been removed from an office by a recall election, or who has resigned from office following the filing of a recall petition, shall be appointed to any town office within 2 years after such recall or resignation.

### CHAPTER 4. APPOINTED OFFICERS

#### Section 1. General Provisions

- 4-1-1 The executive board shall appoint the town manager, town counsel, board of assessors, zoning board of appeals, affordable housing committee, capital improvements committee, conservation commission, disability commission, Charles River Pollution Control District representative, Southwest Advisory Planning Committee representative, those members of the community preservation committee as provided by town by-law, and other committee or commission representatives as required by the General Laws, charter or by-law.
- 4-1-2 The executive board shall appoint the board of assessors, comprised of 3 members, each appointed to serve staggered terms of 3 years each. The town manager shall appoint the administrative assessor, in accordance with section 6-4-5.
- 4-1-3 The executive board shall appoint an independent external auditor, who shall report to the executive board and ensure compliance with the finance and fiscal procedures provided in this charter.
- 4-1-4 Consistent with the Tri-County regional vocational technical high school charter, a committee of 3, made up of the chair of the executive board, chair of the Medway school committee, and town moderator, shall appoint a resident of Medway for a 3 year term, to represent the town of Medway on the Tri-county regional vocational technical high school committee, or as may otherwise be provided from time to time.
- 4-1-5 All town agency appointments by the executive board and the town manager shall be for terms not to exceed 3 years, unless otherwise stated in this charter or required by town by-law or the General Laws.

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## Section 1. Appointment; Qualifications; Term of Office

- 5-1-1 The town manager appointed by the executive board for a 3 year term, shall be the chief administrative officer of the town and be responsible for the administration of all town affairs placed in the town manager's charge by or under the charter. The town manager shall be a person especially fitted by education which shall consist of at least a bachelor's degree from an accredited degree-granting college or university and a minimum of 7 years of professional experience which shall include previous, full-time, compensated service in a managerial capacity in public or business administration.
- 5-1-2 The town manager need not be a resident of the town or the commonwealth at the time of appointment. The town manager must establish residence within the commonwealth and within reasonable proximity of the town, as determined by the executive board, within 12 months following their appointment.
- 5-1-3 The town manager shall hold no elected office or other appointed town office, shall devote full time to the duties of the office and shall engage in no other business or occupation without written authorization of the executive board.
- 5-1-4 The town manager shall not have served in an elected office in the town government for at least 12 months prior to their appointment.
- 5-1-5 The executive board shall evaluate annually the performance of the town manager, based on mutually established pre-determined goals, standards and criteria for performance.
- 5-1-6 The executive board may establish additional duties or qualifications for the office of town manager. The town manager shall perform such other duties consistent with the office as may be required by by-law, or by vote of the executive board or town meeting.

## Section 2. Powers and Duties

- 5-2-1 The town manager shall be the administrative officer for the town and shall be responsible to the executive board for the proper operation of town affairs for which the town manager has been given responsibility under this charter, by vote of the town meeting or by vote of the executive board.
- 5-2-2 The town manager shall have all the powers, duties and responsibilities of appointing and removing all technical and operational positions of the town, including all department heads, officers, subordinates and employees of the town, and other committees and commissions of the town defined by the General Laws, the charter or by-law, except for employees of the school committee and library trustees, appointments made by the commonwealth and those appointments for which another method of appointment is provided for in this charter. The town manager shall consider the recommendations of department heads, committees and commissions when making any appointment within

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their respective areas. Department heads, committees and commissions shall be notified in writing, prior to the town manager making any appointment within their respective areas, if the appointment is other than the recommendation of said department heads, committees and commissions. A list of positions appointed by the town manager shall be kept on file in the office of the executive board and town clerk and shall be updated from time to time as positions are added or eliminated.

- 5-2-3 The town manager shall direct and supervise the administration of all functions under the manager's control and shall be responsible for the efficient and proper operation of all town agencies and departments, with the exception of the school department and public library.
- 5-2-4 The town manager shall coordinate the activities of the town with the school department, library and other departments, which may not be under the direct control of the town manager.
- 5-2-5 The town manager shall be the chair of the town financial review team, and shall establish monthly meetings of the financial review team to ensure timely review of all financial matters affecting the town, including a review of all major variances to the budget. Reports of variances and matters of importance shall be timely provided to the executive board, finance committee and school committee.
- 5-2-6 The town manager shall prepare and submit to the executive board, finance committee and capital improvement planning committee, the annual capital outlay program. The library and school department shall provide the town manager with their capital outlay programs.
- 5-2-7 The town manager shall attend and may participate in all meetings of the executive board, unless excused at the manager's request, but shall have no vote.
- 5-2-8 The town manager shall attend all sessions of the town meetings and answer all questions directed to the town manager by the voters.
- 5-2-9 The town manager, may attend all meetings of the school committee and shall have a voice in all discussions. The town manager shall have no vote at school committee meetings, except as authorized under chapter 150E of the General Laws for the purpose of negotiating union contracts.
- 5-2-10 The town manager shall see that all provisions of the General Laws, of the charter, of by-laws and of votes of the town meeting and executive board which require enforcement by the town manager or officers subject to the manager's direction and supervision are faithfully carried out.
- 5-2-11 The town manager shall administer all provisions of general and special laws applicable to the town, to the charter, to the by-laws and votes of the town, and all rules and regulations made by the executive board.

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- 5-2-12 The town manager shall negotiate all contracts involving any subject within the jurisdiction of the office of town manager, including contracts with all town employees, as provided in the General Laws, excluding contracts with the director of the public library and other professional librarians, who shall be the responsibility of the library trustees.
- 5-2-13 The town manager shall have full jurisdiction over the leasing, rental and use of all town facilities, including land and buildings, except land and buildings under the control of the school committee, library trustees, park and recreation commission and conservation commission. The town manager shall be responsible for the maintenance and repair of all town property, excluding school buildings and the library.
- 5-2-14 The town manager, pursuant to chapter 30B of the General Laws shall be the certified chief procurement officer responsible for the purchase of all supplies, materials and equipment, except books and other educational materials for schools, and books, supplies, materials, equipment and other media materials for the library. The town manager shall approve the award of all contracts for all town departments, except the school department and public library, subject to the approval of the executive board.
- 5-2-15 The town manager shall keep full and complete records of the financial and administrative activities of the town and shall render a full report to the executive board at the end of each fiscal year and otherwise as the board may require.
- 5-2-16 The town manager shall keep a full and complete inventory of all real and personal property of the town.
- 5-2-17 The town manager may at any time inquire into the conduct of any officer or employee of any department under the town manager's jurisdiction.

**Section 3. Acting Town Manager**

- 5-3-1 The town manager, by letter filed with the executive board and town clerk, shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of the town manager during a temporary absence of the administrator. During a temporary absence, the executive board shall not revoke the designation until at least 10 business days have elapsed, whereupon it may appoint another qualified town administrative officer or other qualified individual until the town manager returns.
- 5-3-2 Any vacancy in the office of the town manager shall be filled as soon as possible by the executive board. Pending such regular appointment, the executive board shall appoint a qualified administrative officer or other qualified individual to perform the duties of the office on an acting basis. Such temporary appointment shall not exceed 3 months, but in no event shall successive temporary appointments exceed one year. Compensation for such person shall be set by the executive board.
- 5-3-3 The powers of temporary or acting town manager under sections 5-3-1 and 5-3-2 shall be limited to matters which should not be delayed and shall include authority to make

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temporary emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

### Section 4. Removal and Suspension

- 5-4-1 The executive board may for just cause, by the affirmative vote of 4 of its members, terminate and remove, or suspend, the town manager from office in accordance with the following procedure:
- (a) The executive board shall adopt a preliminary resolution of removal or suspension by affirmative vote of 4 members which shall state the reason or reasons for removal or suspension. This preliminary resolution may suspend the town manager for a period not to exceed 45 days. A copy of the resolution shall be delivered to the town manager forthwith.
  - (b) Within 5 days after receipt of the preliminary resolution the town manager may request a public hearing by filing a written request for such hearing with the executive board. This hearing shall be held at a meeting of the executive board not later than 30 days after the request is filed nor earlier than 20 days. The town manager may file a written statement responding to the reasons stated in the resolution of removal or suspension with the executive board provided the same is received at its office more than 48 hours in advance of the public hearing.
  - (c) The executive board may adopt a final resolution of removal or suspension, which may be made effective immediately, by the affirmative vote of 4 of its members not less than 10 nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the town manager, if the town manager has not requested a public hearing; or within 10 days following the close of the public hearing if the town manager has requested one. Failure to adopt a final resolution of removal or suspension within the time periods as provided in this section shall nullify the preliminary resolution of removal or suspension and the town manager shall at the expiration of said time resume the duties of the office.
  - (d) Faced with action by the executive board to terminate, remove or suspend, the town manager shall be afforded all of the provisions provided municipal employees under section 23B of chapter 39 of the General Laws.
- 5-4-2 The action of the executive board in suspending or removing the town manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension and removal solely in the executive board.
- 5-4-3 Any appointed officer, member of a multiple member body or employee of the town, whether appointed for a fixed or an indefinite term and not subject to the General Laws, or covered by the terms of a collective bargaining agreement which provides a different method, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term “good cause” shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming to the office.
- 5-4-4 Any appointed officer, member of a multiple member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by the

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authority to be necessary to protect the interests of the town. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure stated in section 5-4-5.

- 5-4-5 The appointing authority, when removing any officer, member of a multiple member body or employee of the town, shall act in accordance with the following procedure:
- (a) A written notice of the intent to remove and a statement of the cause therefore shall be delivered in hand, or by registered or certified mail, return receipt requested, to the last known address of the person sought to be removed.
  - (b) Within 5 days following delivery of such notice, the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, and shall be entitled to present evidence, call witnesses and question any witness appearing at the hearing.
  - (c) Between 1 and 10 days after the public hearing is adjourned or, if the officer, member of a multiple member body or employee of the town fails to request a public hearing between 6 and 15 days after delivery of the noticed of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the town or notifying such that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the officer, member of multiple member body or employee shall forthwith be reinstated.
  - (d) Nothing in this section shall be construed as granting a right to such a hearing when a person has been appointed for a fixed term is not reappointed when the original term expires.

### Section 5. Loss of Office, Excessive Absence

- 5-5-1 If any person appointed as a member of a multiple member body fails to attend 4 consecutive meetings, or one half of all of the meeting of such body held in a calendar year, the remaining members of the multiple member body may, by a majority vote of the remaining members of such body, may request that the appointing authority declare the office vacant; provided, however, that not less than 10 days prior to declaring such office vacant, the appointing authority has given in hand, or mailed by registered or certified mail, return receipt requested, notice of such pending declaration to the last known address of such person.

### Section 6. Resolution of Policy Conflicts

- 5-6-1 The executive board shall maintain an “open door” policy, and shall establish procedures for addressing policy conflicts, should they arise between or amount either appointed or elected town officials, which could impact the health, safety or welfare of the town.

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### CHAPTER 6. ADMINISTRATIVE ORGANIZATION

#### Section 1. Organization of Town Agencies

- 6-1-1 The organization of the town into operating agencies and departments for the provision of services and the administration of the government may be accomplished through either of the methods provided in this chapter.
- 6-1-2 The town manager, after consultation with the executive board, may prepare and submit to the town meeting plans for organization or reorganization which establish operating agencies and departments for the orderly, efficient or convenient conduct of the business of the town.  
Whenever the town manager prepares such a plan, the executive board shall hold at least 1 public hearing on the proposal giving notice by publication in the local newspaper, posting on the town bulletin board and posting on the town's website. The notice shall describe the scope of the proposal and the date, time and place at which the hearing will be held, not less than 7 nor more than 14 days after the publication. Following such public hearing, the proposal, which may be amended subsequent to the public hearing, shall be submitted to the town meeting by an appropriate warrant article.
- 6-1-3 An organization or reorganization submitted in compliance with section 6-1-2 shall become effective 60 days after the date of adjournment of the town meeting at which the required quorum was present and the proposal was submitted, unless the town meeting shall, by a majority vote, vote to disapprove the plan. The town meeting shall vote only to approve or disapprove the plan, not to amend or alter it.
- 6-1-4 The town manager, for the purpose of implementing changes approved under section 6-1-2 and section 6-1-3, may transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriations of 1 town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or unless this charter so specifically provides, be assigned to any other.

#### Section 2. Department of Public Works

- 6-2-1 There shall be a department of public works, under the direction of a director of public services, who shall be either the town manager or a director of public works appointed by the town manager. The director of public works shall be a person especially fitted by education, training, or previous experience to perform the duties of the office.
- 6-2-2 The director of public works shall be responsible for the supervision and coordination of all public services operations of the town which are placed under the director of public works control by this charter, by by-law, by vote of the town or otherwise. Public services operations may include, but need not be limited to, the following operations: refuse collection and disposal, sewer, water supply and distribution, forestry services and

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maintenance of town infrastructure, including town buildings, roads, parks and cemeteries.

6-2-3 The executive board shall be authorized to set water and sewer rates and promulgate regulations in connection with the scope of the authority of the department of public works. Prior to taking any action hereunder, however, the executive board, following consultation with the water and sewer advisory board, shall hold a public hearing for which notice is provided on the town website and in the same manner required by the Open Meeting Law, for a period of not less than fourteen days before the date of said hearing. Any regulations promulgated hereunder shall take effect upon filing with the town clerk.

6-2-4 Other offices, the functions of which are related to a department of public works, may be assigned to the department in accordance with by-laws.

### Section 3. Finance Director

6-3-1 There shall be a finance director appointed by the town manager, who may simultaneously serve as the town accountant or treasurer-collector. The finance director shall be responsible for all matters dealing with town finance. The appointed treasurer-collector, appointed town accountant and appointed administrative assessor shall report to the finance director.

6-3-2 The finance director shall provide the coordination of all financial services and activities and provide assistance to all other town departments in any matter related to finances; and other such functions related to the fiscal management and planning of the town.

6-3-3 The finance director and other officers and employees of the finance office shall operate in matters related to finance under the oversight and direction of the town manager and shall assist the town manager in providing required and interim reports and preparing materials for the budget process, as required under section 2 of chapter 7.

6-3-4 The town manager shall serve as chair of the financial review team which shall be comprised of the following town officers: town manager, town finance director, town treasurer/collector, town accountant, administrative assessor, town human resources director, school business manager and town management information systems director.

### Section 4. Treasurer-Collector, Town Accountant, and Administrative Assessor

6-4-1 The town manager shall appoint for a 3 year term a treasurer-collector who shall report to the finance director, as provided in section 6-3-1.

6-4-2 The treasurer-collector shall provide for the administrative, supervisory and technical work involving the timely receipt, disbursement and investment of town funds, the borrowing of monies and the timely collection of all taxes and fees, as determined by by-law or town meeting vote, due the town or any agency of the town.

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- 6-4-3 The town manager shall appoint for a 3 year term a town accountant, who shall report to the finance director, as provided in section 6-3-1.
- 6-4-4 The town accountant shall be responsible for the administrative, supervisory and technical work involved in keeping detailed and complete and accurate general ledger and accounting records for the town.
- 6-4-5 The town manager shall appoint for a 3-year term and administrative assessor who shall report to the finance director, as provided in section 6-3-1.
- 6-4-6 The town administrative assessor shall be responsible for the administrative, supervisory and technical work involving the valuation and assessment of real and personal property within the town.

### Section 5. Human Resource Director

- 6-5-1 There shall be a town human resource director who shall be either the town manager, assistant town manager, or a human resource director appointed by the town manager. The human resource director shall administer the town personnel system, except employees of the school department, including, but not limited to, personnel policies and practices, rules and regulations, and all collective bargaining agreements entered into by the town. The human resource director shall serve the entire town as personnel administrator, and perform the functions of contract negotiations with town employees, town agencies, union organizations, personnel associations, insurance carriers, state agencies and investment advisors, as directed by the town manager.
- 6-5-2 The town personnel system shall provide for timely background reviews and proper security authorization of all town employees, job descriptions for every employee, performance appraisals and reviews and maintenance of all personnel records, contracts and collective bargaining agreements.
- 6-5-3 All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness by examination or other evidence of competence and suitability. The human resources director shall ensure the town personnel system contains an employee classification plan, compensation plan, promotion policy and grievance procedures.

### Section 6. Director of Management Information Systems

- 6-6-1 There shall be a management information systems director for the town. This individual shall be a shared resource between town agencies, the school department and library. The management information systems director shall be jointly appointed by the town manager and the superintendent of schools, and shall report to the town manager.
- 6-6-2 The management information systems director, working in collaboration with all town departments, shall be responsible for establishing uniform standards, operating

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procedures, security policies for all hardware and software applications across the entire town, and development of a long term technology plan.

### Section 7. Inspectional Services Department

- 6-7-1 There shall be a department of inspectional services which shall report to the town manager, which shall include the building commissioner who shall serve as zoning enforcement officer, inspector of weights and measures, wiring inspector, gas and plumbing inspector and any other code enforcement inspectors required by the General Laws.
- 6-7-2 The department of inspectional services shall provide for the consolidation of inspection operations, coordination of functions, centralized planning of work assignment and distribution, timely inspection services, centralized record keeping and management of manpower resources.
- 6-7-3 The town manager shall appoint the building commissioner, the inspector of weights and measures, wiring inspector, gas and plumbing inspector, and health agent for a term of 3 years and in accordance with the General Laws. The town manager may appoint assistants to any of the referenced inspectors in this section, as provided by town by-law or town meeting vote.

### Section 8. Publication of the Charter, By-Laws, Organization Chart and Personnel Plan

- 6-8-1 For the convenience of the public, the town charter, by-laws, organization chart and staffing plan, as prepared by the town manager, shall be published and available on the town's website. The school committee and library trustees shall provide the town manager with copies of their respective staffing plans annually for publication on the town's website. The town manager shall ensure the timely publication and availability of all information cited in this section.

## CHAPTER 7. FINANCE AND FISCAL PROCEDURES

### Section 1. Fiscal Year and Duties

- 7-1-1 The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required under the General Laws.
- 7-1-2 The finance committee, acting on behalf of the town residents, shall be responsible for the timely and thorough review of all financial statements, forecasts, and recommendations to be presented in conjunction with warrants for expenditures at the annual town meeting, as authorized under section 5-2 of chapter 2.

### Section 2. Budget Process

- 7-2-1 Annually, before October 1, the executive board, with the assistance of the town manager and financial review team, shall establish and issue a budgeting calendar, which

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shall set forth the scheduled calendar dates relating to the development of the town's annual operating budget for the ensuing fiscal year.

- 7-2-2 The schedule shall comply with all of the Massachusetts department of revenue reporting deadlines, unless deviation therefrom is recommended by the town manager and approved by the executive board and the finance committee.
- 7-2-3 Annually, before October 1, the town manager shall receive from the executive board, finance director, treasurer-collector, town accountant and the board of assessors the estimated revenues for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided by the Commonwealth or any other source, the above officials shall within 10 business days revise, update and submit the data forthwith to the town manager.
- 7-2-4 Annually before November 1, the executive board, after consultation with the town manager shall issue a policy statement that establishes the general guidelines for the next fiscal year's town budget.
- 7-2-5 All agency and department heads and all multiple member bodies, including the school department and library, shall submit the next fiscal year's detailed budget to the town manager, in accordance with the executive board's budgeting calendar and guidelines.
- 7-2-6 The town manager shall submit to the executive board, in accordance with the executive board's budgeting calendar, a comprehensive draft budget for all town functions for the next fiscal year and an accompanying budget message.
- 7-2-7 The draft budget message shall explain the draft budget in fiscal terms and in terms of what specific projects are contemplated for the next year. It shall:
- (a) outline the proposed financial policies of the town for the next year;
  - (b) describe the important features of the budget;
  - (c) indicate any major changes from the current fiscal year in financial policy; expenditures and revenues, together with reasons for such changes;
  - (d) summarize the town's debt position; and
  - (e) include such other material as the town manager may deem appropriate
- 7-2-8 The draft budget shall provide a complete financial plan for all town funds and activities and it shall be in such form as the town manager, in consultation with the financial review team and finance committee, may establish. The draft budget shall indicate proposed expenditures for town and school department operations and for capital projects during the ensuing year, detailed by each town agency and by specific purposes and projects.
- 7-2-9 The executive board shall, within 30 days following submission of the draft budget by the town manager, adopt a proposed budget, with or without amendments, and shall submit it to the finance committee. The executive board shall also transmit the budget request of the school committee, with its recommendations thereon, to the finance committee.

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7-2-10 The finance committee shall conduct at least 1 public hearing on the proposed budget, including the school budget, and shall issue printed recommendations and detailed explanations and of all finance articles in an annual finance committee report, in accordance with the executive board's budgeting calendar. In preparing its recommendations, the finance committee may require the town manager, any town agency or department, office, board, commission or committee to appear and furnish it with appropriate additional financial reports and budgetary information.

7-2-11 The executive board shall meet with and consider all finance committee recommendations and present its proposed budget to the town meeting, with or without finance committee changes thereto.

7-2-12 The finance committee shall present its recommendations to the town meeting and shall be given first opportunity at town meeting to move amendments to the budget.

**Section 3. Budget Tracking**

7-3-1 The finance director shall ensure the timely monitoring, at least monthly, of actual revenues and expenditures to budget of all town agencies and departments, including the school department and library, throughout the town's fiscal year. All variances to budget shall be included in a monthly report to the executive board and finance committee.

7-3-2 Wherever variances to budget exist, the executive board will ensure that corrective action is taken by each agency or department to bring the town's revenues and expenses in line. Annually, at the fall town meeting, the executive board will report all significant, anticipated and actual variances to budget and the corrective actions being taken to bring the total revenues and expenses in line.

**Section 4. Long Term Budget**

7-4-1 Annually, the town manager shall update a 5 year revenue and expense budget. Budget guidelines shall be issues based on revenue projections.

**CHAPTER 8. GENERAL PROVISIONS****Section 1. Rules and Regulations**

8-1-1 A copy of the rules and regulations adopted by a town agency shall be filed in the office of the town clerk, shall be posted on the town's website, and shall become effective immediately upon filing with said clerk.

**Section 2. Periodic Review, Charter and By-Laws**

8-2-1 Charter Review. Once every 10 years, a special committee consisting of 5 members shall be established for the purpose of reviewing this charter and to make a report, with recommendations, to the town meeting concerning any proposed amendments which said

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committee may determine to be necessary or desirable. The 5 members of the committee shall be chosen as follows: the executive board, the school committee, the library trustees, the finance committee and the town moderator shall each designate one person. Persons designated by said agencies may be members of the agency by which they are designated. The committee shall meet to organize forthwith following the final adjournment of the annual town meeting.

8-2-2 By-law Review The executive board shall immediately and no more than three months following adoption of this charter or any amendments to this charter, and otherwise at intervals of no more than 10 years, appoint a special committee for review of the town by-laws, which committee shall submit a report to the town meeting in the year following the year in which the committee is appointed, and which report shall propose revision or modification to any or all town by-laws, as may be necessary and appropriate. The review of town by-laws shall be in conjunction with town counsel or special counsel retained for that purpose. Copies of the revised by-laws shall be made available for distribution to the public and shall be posted on the town's website.

Section 2. The charter of the town of Medway set forth in section 1 of this act may be replaced, revised or amended in accordance with any procedures made available under the Massachusetts constitution and the General Laws to implement the constitutional provisions.

Section 3. The provisions of the charter of the town of Medway set forth in section 1 of this act are severable. If any provision of the charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 4. To the extent that any specific provision of the charter of the town of Medway set forth in in section 1 of this act shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 5. Words in the charter of the town of Medway set forth in section 1 of this act importing the singular number may extend and be applied to several persons or things; words importing the plural number may include a singular person or thing; words importing gender shall extend and be applied to any gender.

Section 6. Upon the effective date of this act, the elected position of town clerk shall be become appointed; provided, however, that the elected incumbent holding the office of town clerk shall serve for the remainder of her unexpired term subject to recall or sooner vacating of office; upon the expiration of the elected term, the elected incumbent shall become the first appointed town clerk, subject to removal in accordance with section 5-4 of the charter set forth in section 1 of this act or her sooner vacating of office. Thereafter, appointments to the positions shall be made in accordance with section 5-2-2 of the charter set forth in section 1 of this act.

Section 7. This act shall take effect upon passage.