

THE COMMONWEALTH OF MASSACHUSETTS

In the One Hundred and Ninety-First General Court

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. Chapter 84 of the acts of 2008 is hereby repealed.

SECTION 2. Notwithstanding any general or special law to the contrary, the following shall be the charter for the town of Medway:

CHAPTER 1. 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 possible 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 select board unless otherwise specified in this charter.

Section 5. Construction

1-5-1 The powers of the town 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 subsection 1-3-1. To the extent that this charter conflicts with existing by-laws of the town, 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 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 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:
“Charter”, this charter and any amendments to it that may hereafter be adopted.
“Days”, business days, not including Saturdays, Sundays and legal holidays; provided, however, that when the time set is not less than 7 days, every day shall be counted unless the term “business days” is clearly noted in the charter.
“Emergency”, a sudden, unexpected, unforeseen happening, occurrence, event or condition that necessitates immediate action and does not refer to financial events that could be or should have been anticipated and planned for in the fiscal budgeting process.
“Majority vote”, a majority of those present and voting; provided, however, that there is a quorum of the body present when the vote is taken.
“Multiple-member body”, any board, commission, committee, subcommittee or other body consisting of not less than 2 or more persons, however constituted.
“Quorum”, a majority of those members of a multiple-member body then in office, not including any vacancies that might then exist.
“Town”, the town of Medway.
“Town agency”, any board, commission, committee, department, division or office of the town government.
“Town bulletin board”, the bulletin board in the town hall on which official town notices are posted and the bulletin boards in other locations within the town that may be designated as town bulletin boards by by-law.
“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.
“Voters”, the registered voters of the town.
“Website”, the town official website.

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 voters.

2-1-2 The town meeting shall meet in regular session not less than twice in each calendar year. The first meeting shall be the annual town meeting, 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.

- 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 select 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 select board that 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 select 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 select board, following receipt of a petition containing a proposed warrant article filed with the board in accordance with subsection 2-3-1, shall deliver an accepted and signed copy of the proposed warrant article to the chair or designee of the finance committee and a copy thereof shall be posted on the town bulletin board and the town's website. The 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 each department and head of each division within a department shall attend all town meeting sessions to provide the town meeting with information and answer questions concerning matters appearing in the warrant.
- 2-4-2 If a town officer or head of a department or division is to be absent from a town meeting due to illness or other reasonable cause, that person shall designate a deputy to attend the meeting in their place.
- 2-4-3 If a person designated to attend a town meeting under this section is not a voter, the person may address the town meeting to comply with this section.

Section 5. Committees

2-5-1 Subject to this charter and 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 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 consult with any town officer.

2-5-2 Finance committee. There shall be a finance committee, consisting of 9 voters, 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 select 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 select 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 select board's budgeting calendar for the annual town meeting, and not less than 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, this charter or 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 If 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.

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, this charter, by-law or other town meeting vote. Notice of all meetings shall also be posted 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 select board, school committee and town moderator. The election of town officers shall be held annually on the third Tuesday in May.

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

3-1-3 Any voter shall be eligible to hold an elected 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 select 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 body other than the select board, the remaining members shall give written notice of the existence of the vacancy to the select board. The select board and the remaining members of the multiple-member body, shall fill the vacancy by a joint roll call vote.

The select 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 select 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 on the select 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 select board shall provide for notice of the vacancy by posting the vacancy on the town bulletin board and the town's website. Any person who desires to be considered to fill the vacancy shall file with the select board a statement that sets forth in clear and specific terms the person's qualifications for the position within 10 days following the date the notice is posted. The board shall fill the vacancy not earlier than 14 days and not later than 30 days after the notice is posted. The person who receives a majority of the votes cast at the select 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 may, by vote of the town meeting not less than 90 days before the annual town meeting, determine whether an elected office, board, committee or commission shall be abolished, divided or appointed by the town manager or select 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 at the next annual town election in the form of a ballot question and a majority of votes cast in the affirmative.

Section 2. Select board

- 3-2-1 There shall be a select board consisting of 5 members, each elected for 3-year terms, arranged so that the terms 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 select board, which shall be the chief executive office of the town. The board shall have all of the executive powers available to the board under the constitution and the General Laws, and such additional powers and duties as may be authorized by this charter, by-law, or other town meeting vote. The board shall serve as the chief policy making agency of the town and 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, for developing and promulgating policy guidelines designed to bring all town agencies into harmony; provided, however, that nothing in this section shall authorize a member of the board or a majority of such members to become involved in the day-to-day administration of a town agency. As chief policymaking agency of the town, the board shall seek to secure the cooperation of the town's elected boards, committees and officials in the implementation of such policies. The 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 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 select board, or a designee appointed by the board, shall be the licensing board for the town and may grant licenses, as authorized under the General Laws, make all necessary rules and regulations regarding the granting of such licenses, to attach conditions and restrictions on any such licenses as it deems to be in the public interest and enforce all laws, rules, regulations and restrictions relating to all such businesses for which it grants licenses.

3-2-4 The select board shall enforce the charter, by-laws, 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 on the town's website.

3-2-5 The select board shall appoint a town manager for a term not to exceed 3 years. Appointment of a town manager shall be by the affirmative vote of not less than 3 members of the board, with reappointment not less than 3 affirmative votes of the board. Removal of the town manager shall require the affirmative vote of 4 members of the board and shall be in accordance with procedures outlined in subsection 5-4-1.

3-2-6 The select board shall, appoint the officers and representatives set forth in section 1 of chapter 4 and such other appointments as it deems necessary, as provided by the General Laws, this charter, by-law or other town meeting vote.

3-2-7 Notwithstanding this charter to the contrary, the terms of office of all appointments made by the select board shall be as specified by the General Laws, this charter, by-law or town meeting vote.

3-2-8 The select board may investigate or 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. A report of the investigation shall be placed on file in the office of the board.

Section 3. Town Moderator

3-3-1 There shall be a town moderator elected for a 3-year term.

3-3-2 The town moderator shall be the presiding officer of the town meeting, regulate its proceedings, decide all questions of order, ensure that accurate and complete records and minutes of the town meeting are maintained by the town clerk and have such other powers and duties as may be provided by the General Laws, this charter, by-law or other town meeting vote.

Section 4. School Committee

3-4-1 There shall be a school committee consisting of 5 members, each elected for 3-year terms so arranged that the terms 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 that are given to school committees by the General Laws and shall have such additional powers and duties granted by by-law or other town meeting vote. The powers of the school committee shall include, but are not limited to:

- (i) Appointing and discharging the superintendent of schools and other officers as authorized by the General Laws, fixing their compensation, defining their duties and making rules concerning their tenure;
- (ii) Making all reasonable policies consistent with the General Laws or department of elementary and secondary education regulations for the administration and management of the public school system and for the conduct of its own business and affairs and reviewing and approving budgets for public education in the district; and
- (iii) Establishing 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, each elected for 3-year terms, so arranged that the terms 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 of and manage the public library and 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 in accordance with the terms of the gift or bequest. The board shall have all the other powers and duties provided to boards of library trustees by the General Laws, this charter, by-law or town meeting vote.

Section 6. Planning and Economic Development Board

3-6-1 There shall be a planning and economic development board consisting of 5 members, each elected for 3-year terms, so arranged that the terms 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 such additional powers and duties as may be authorized by this charter or by-law. 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, which shall set 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 the zoning by-laws of the town.

The planning and economic development board shall prepare an annual report regarding the condition of the town and any plans or proposals for the town's 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-laws.

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 select board, each serving 3-year terms, so arranged that the terms of office of as nearly an equal number of members as possible shall expire each year. The select 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 this charter, by-law or town meeting vote.

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 select board, each serving 3-year terms, so arranged that the terms 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 the 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 public works; provided, however, that not less than twice annually the director of public works shall meet with the advisory board at a properly posted meeting held in accordance with sections 18 to 25, inclusive, of chapter 30A of the General Laws to review departmental priorities with respect to water and sewer systems.

Section 9. Housing Authority

- 3-9-1 There shall be a housing authority composed of 5 members who shall be elected and appointed in accordance with the requirements of sections 5 and 5A of chapter 121B of the General Laws for the election and appointment of a housing authority in a town. The housing authority member shall serve for terms as provided in said sections 5 and 5A.

3-9-2 The housing authority shall conduct studies of housing needs of the town and shall provide programs to make available housing for low-income families and low-income elderly persons. The housing authority shall have all of the powers and duties provided to housing boards and authorities under the 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 select board, each serving for 3-year terms, so arranged that the terms of as nearly an equal number of members as possible shall expire each year. The 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 provided to parks and recreation commissions under the General Laws and such additional powers and duties as may be authorized by this charter, by-law or town meeting vote.

Section 11. Recall Provisions

3-11-1 Any holder of elected office in the town may be recalled and removed from the office by the voters of the town as provided in this section.

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 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 town clerk's signature and official seal attached thereto and shall be dated and addressed to the select board. The blanks shall list the names of the lead petitioner and the next nine persons signing the affidavit, 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 demand the election of a successor to the 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 submission, 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 that are names of voters of the town.

- 3-11-3 If the petition is found and certified by the town clerk to be sufficient, the clerk shall submit the petition with the town clerk's certificate to the select board without delay. The board shall immediately 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 the board not less than 64 days from the date the board calls for the election but not more than 90 days after the date of the town clerk's certificate; provided, however, that if another town election is to occur within 100 days after the date of the certificate, the board may postpone the date of the recall election to the date of the 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 to the office 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 recall election, 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 the elected officer.
- 3-11-5 The incumbent shall continue to perform the duties of the office until the recall election. If re-elected in the recall election, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall, except as provided in subsection 3-12-7. If not re-elected in the recall election, the incumbent shall be 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 vacant.
- 3-11-6 Ballots used in a recall election shall submit the following propositions in the order indicated:
For the recall of (name and title of officer whose recall is sought).
Against the recall of (name and title officer whose recall is sought).
Under this recall question shall appear the word "candidates" and the direction "vote for one", beneath which shall be listed the names of the candidates nominated as provided in this section.
If a majority of the votes cast on the recall question is in the affirmative, the candidate who 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, 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 not less than 3 months after the 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 the recall or resignation.

CHAPTER 4. APPOINTED OFFICERS

Section 1 General Provisions

- 4-1-1 The select 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, the members of the community preservation committee provided for by town by-law, and other committee or commission representatives as required by the General Laws, this charter or by-law.
- 4-1-2 The select board shall appoint the board of assessors, comprised of 3 members, each appointed to serve staggered 3-year terms. The town manager shall appoint the administrative assessor pursuant to subsection 6-4-5.
- 4-1-3 The select board shall appoint an independent external auditor, who shall report to the 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 members, made up of the chair of the select board, chair of the school committee and town moderator, shall appoint a resident of the town for a 3-year term to represent the town on the Tri-county regional vocational technical high school committee, or as may otherwise be provided from time to time.
- 4-1-5 Town agency appointments by the select board and the town manager shall be for terms not to exceed 3 years, unless otherwise stated in this charter or required by by-law or the General Laws.

CHAPTER 5. TOWN MANAGER

Section 1. Appointment; Qualifications; Term of Office

- 5-1-1 The town manager, appointed by the select board for a 3-year term, shall be the chief administrative officer of the town and responsible for the administration of all town affairs placed in the town manager's charge pursuant to this charter. The town manager shall be a person especially fitted by education, which shall consist of not less than a bachelor's degree from an accredited degree-granting college or university and a minimum of 7 years of professional experience that shall include previous, full-time, compensated service in a managerial capacity in public or business administration.
- 5-1-2 The town manager shall not be required to be a resident of the town or the commonwealth at the time of their appointment but shall establish residence within the

commonwealth and within reasonable proximity of the town, as determined by the select board, within 12 months following their appointment.

- 5-1-3 The town manager shall not hold elected office or other appointed town office, shall devote full-time to the duties of the office and shall not engage in other business or occupation without written authorization of the select board.
- 5-1-4 The town manager shall not have served in an elected office in the town government for not less than 12 months before their appointment.
- 5-1-5 The select board shall annually evaluate the performance of the town manager based on mutually established pre-determined goals, standards and criteria for performance.
- 5-1-6 The select 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, vote of the board or town meeting.

Section 2. Powers and Duties

- 5-2-1 The town manager shall be the administrative officer of the town and shall be responsible to the select board for the proper operation of town affairs for which the town manager has been given responsibility by this charter, vote of the town meeting or vote of the 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, this 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 in this charter. The town manager shall consider the recommendations of department heads, committees and commissions when making any appointment within their respective areas. Department heads, committees and commissions shall be notified in writing, before the town manager makes any appointment within their respective areas if the appointment is other than the recommendation of the department heads, committees and commissions. A list of positions appointed by the town manager shall be kept on file in the office of the select 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 town 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 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 select board, finance committee and school committee.
- 5-2-6 The town manager shall prepare and submit the annual capital outlay program to the select board, finance committee and capital improvement planning committee. 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 select board, unless excused at the town manager's request, but shall not have a 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 not have a 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 ensure that the provisions of the General Laws, this charter, by-laws and votes of the town meeting and select board that require enforcement by the town manager or officers subject to the town manager's direction and supervision are faithfully carried out.
- 5-2-11 The town manager shall administer the general and special laws applicable to the town, this charter, by-laws and votes of the town and all rules and regulations made by the select board.
- 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, parks 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 select 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 select 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 select 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 town manager. During a temporary absence, the select board shall not revoke the designation until not less than 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 select board. Pending such regular appointment, the board shall appoint a qualified administrative officer or other qualified individual to perform the duties of the office on temporary basis. The temporary appointment shall not exceed 3 months; provided, however, that successive temporary appointments shall not exceed 1 year. Compensation for the person appointed for the temporary appointment shall be set by the board.
- 5-3-3 The powers of a temporary or acting town manager appointed pursuant to subsections 5-3-1 and 5-3-2 shall be limited to matters that should not be delayed and shall include authority to make 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 select board may for just cause, by the affirmative vote of 4 of its members, remove or suspend the town manager from office in accordance with this section.
 - (a) The board shall adopt a preliminary resolution of removal or suspension by affirmative vote of 4 members that shall state the reason for removal or suspension. This preliminary resolution may suspend the town manager for a period of not more than 45 days. A copy of the resolution shall be delivered to the town manager immediately.
 - (b) Within 5 days after receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for the hearing with the board. The hearing shall be held at a meeting of the board not later than 30 days after the request is filed nor earlier than 20 days after such request is filed. The town manager may file a written statement responding to the reasons stated in the

resolution of removal or suspension with the board; provided however, that the written statement is received at the board's office more than 48 hours in advance of the public hearing.

- (c) The 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: (i) 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 (ii) 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 provided in this section shall nullify the preliminary resolution of removal or suspension and the town manager shall resume the duties of the office at the expiration of the time.
 - (d) Faced with action by the select board to terminate, remove or suspend the town manager, the town manager shall be afforded all of the provisions provided municipal employees under sections 18 to 25, inclusive, of chapter 30A of the General Laws.
- 5-4-2 The action of the select board in suspending or removing the town manager shall be final and all authority and responsibility for such suspension and removal shall be vested solely in the board.
- 5-4-3 An 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 that 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 inefficiency, insubordination, conduct unbecoming to the office and incapacity other than temporary illness.
- 5-4-4 An appointed officer, member of a multiple-member body or employee of the town may be suspended from office by the appointing authority if the authority determines the suspension 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 subsection 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 this subsection:
- (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) At least 1 but not more than 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 not less than 6 but not more than 15 days after delivery of the notice 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 person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods 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 be reinstated immediately.

- (d) Nothing in this section shall grant 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 a person appointed as a member of a multiple-member body fails to attend 4 consecutive meetings or 1/2 of all meetings 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 the body, request that the appointing authority declare the office vacant; provided, however, that not less than 10 days before declaring the office vacant, the appointing authority delivered in hand, or mailed by registered or certified mail, return receipt requested, notice of the pending declaration to the last known address of the person.

Section 6. Resolution of Policy Conflicts

- 5-6-1 The select board shall maintain an “open door” policy, and shall establish procedures for addressing policy conflicts that may arise between or among appointed or elected town officials and could impact the health, safety or welfare of the town.

CHAPTER 6. ADMINISTRATIVE ORGANIZATION

Section 1. Organization of Agencies

- 6-1-1 The organization of the town into operating agencies and departments for the provision of services and administration of the government may be accomplished through the methods provided in this chapter.
- 6-1-2 The town manager, after consultation with the select board, may prepare and submit to the town meeting plans for organization or reorganization that establish operating agencies and departments for the orderly, efficient or convenient conduct of the business of the town.

If the town manager prepares such a plan, the 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. The public hearing shall be held not less than 7 nor more than 14 days after the publication. Following the 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 plan submitted pursuant to subsection 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 subsections 6-1-2 and 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 agency to another; provided, however, that a function assigned by this charter to a particular agency shall not be discontinued or, unless this charter so specifically provides, assigned to another town agency.

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 works. The director shall be the town manager or a director of public works appointed by the town manager, and 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 that are placed under the director's control by this charter, by-law, vote of the town or otherwise. Public services operations may include, but shall not be limited to, refuse collection and disposal, sewer, water supply and distribution, forestry services and maintenance of town infrastructure, including town buildings, roads, parks and cemeteries.
- 6-2-3 The select board may set water and sewer rates and promulgate regulations in connection with the scope of the authority of the department of public works; provided, however, that before taking any action hereunder the 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 sections 18 to 25, inclusive, of chapter 30A of the General Laws for a period of not less than 14 days before the date of the public 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 the 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 shall be responsible for all matters dealing with town finance and may simultaneously serve as the town accountant or treasurer-collector. The appointed treasurer-collector, appointed town accountant and appointed administrative assessor shall report to the finance director.

- 6-3-2 The finance director shall coordinate all financial services and activities, provide assistance to all other town departments in any matter related to finances and conduct other 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, finance director, treasurer-collector, town accountant, administrative assessor, human resources director, school business manager and management information systems director.

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

- 6-4-1 The town manager shall appoint a treasurer-collector for a 3-year term, who shall report to the finance director as provided in subsection 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 due the town or any agency of the town, as determined by by-law or town meeting vote.
- 6-4-3 The town manager shall appoint a town accountant for a 3-year term, who shall report to the finance director as provided in subsection 6-3-1.
- 6-4-4 The town accountant shall be responsible for the administrative, supervisory and technical work involved in keeping detailed, complete and accurate general ledger and accounting records for the town.
- 6-4-5 The town manager shall appoint an administrative assessor for a 3-year term who shall report to the finance director as provided in subsection 6-3-1.
- 6-4-6 The 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 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 demonstrated by examination or other evidence of competency and suitability. The human resources director shall ensure the town personnel system contains an employee classification plan, compensation plan, promotion policy and grievance procedure.

Section 6. Management Information Systems Director

- 6-6-1 There shall be a management information systems director for the town. The director shall be a shared resource between town agencies, the school department and the library. The 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 procedures, security policies for all hardware and software applications across the entire town and the 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. The department of inspectional services 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, inspector of weights and measures, wiring inspector, gas and plumbing inspector and health agent for 3-year terms in accordance with the General Laws. The town manager may appoint assistants to any of the inspectors referenced in this section, as provided by 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, this 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 July 1 and shall end on June 30, unless another period is required by 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 subsection 2-5-2.

Section 2. Budget Process

- 7-2-1 Annually, before October 1, the select board, with the assistance of the town manager and financial review team, shall establish and issue a budgeting calendar that 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 department of revenue reporting deadlines, unless deviation therefrom is recommended by the town manager and approved by the select board and the finance committee.
- 7-2-3 Annually, before October 1, the town manager shall receive from the select board, finance director, treasurer-collector, town accountant and 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 immediately to the town manager.
- 7-2-4 Annually, before November 1, the select board, after consultation with the town manager, shall issue a policy statement that establishes the general guidelines for the ensuing 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 ensuing fiscal year's detailed budget to the town manager, in accordance with the select board's budgeting calendar and guidelines.
- 7-2-6 The town manager shall submit to the select board, in accordance with the board's budgeting calendar, a comprehensive draft budget for all town functions for the ensuing 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 ensuing fiscal year. It shall:
- (i) outline proposed financial policies of the town for the ensuing fiscal year;
 - (ii) describe the important features of the budget;
 - (iii) indicate any major changes from the current fiscal year in financial policies, expenditures and revenues, together with reasons for such changes;
 - (iv) summarize the town's debt position; and
 - (v) 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 for the ensuing fiscal year 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 for the ensuing year, detailed by each town agency and by specific purposes and projects.
- 7-2-9 The select 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 board shall also transmit the budget request of the school committee, with its recommendations thereon, to the finance committee.
- 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 select 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 the finance committee with appropriate additional financial reports and budgetary information.
- 7-2-11 The select board shall meet with and consider all finance committee recommendations and present the board's 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 the town meeting to move amendments to the budget.

Section 3. Budget Tracking

- 7-3-1 The finance director shall ensure the timely monitoring, not less than monthly, of actual revenues and expenditures to the budget of all town agencies and departments, including the school department and library, throughout the town's fiscal year. All variances to the budget shall be included in a monthly report to the select board and finance committee.
- 7-3-2 Wherever variances to the budget exist, the select board shall 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 board shall report all significant,

anticipated and actual variances to the 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 issued 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 any town agency shall be filed in the office of the town clerk, be posted on the town's website, and become effective immediately upon the date of filing.

8-1-2 This charter may be replaced, revised or amended in accordance with any procedure made available under the constitution and the General Laws to implement the constitutional provisions.

8-1-3 The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

8-1-4 To the extent that a specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

8-1-5 Words in this charter 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 and words importing gender shall extend and be applied to any gender.

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 to review this charter and report, with recommendations, to the town meeting concerning any proposed amendments that the committee may determine to be necessary or desirable. The select board appointed, school committee, library trustees, finance committee and town moderator shall each designate 1 person to serve on the committee. A person designated by a body may be a member of the agency by which they are designated. The committee shall meet to organize immediately following the final adjournment of the annual town meeting.

8-2-2 By-law Review. The select board shall immediately and not more than 3 months following adoption of this charter or any amendments to this charter, and otherwise at intervals of not more than 10 years, appoint a special committee for review of the by-laws. The committee shall submit a report to the town meeting in the year following the year in which the committee is appointed. The committee's report shall propose revision or modification to any or all by-laws as may be necessary and appropriate. The review of 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 3. Upon the effective date of this act, the elected position of town clerk shall become appointed; provided, however, that the elected incumbent holding the office of town clerk shall serve for the remainder of their 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 4 of chapter 5 of the charter of the town of Medway as set forth in section 2 of this act or their sooner vacating of office. Thereafter, appointments to the position of town clerk shall be made in accordance with subsection 5-2-2 of said charter.

SECTION 4. This act shall take effect upon passage.