

HOUSE No.

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Cleon H. Turner

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act amending the town of Yarmouth charter.

PETITION OF:

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT AMENDING THE TOWN OF YARMOUTH CHARTER.

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

1 SECTION 1. The charter of the town of Yarmouth, as appearing in chapter 133 of the acts of 1997, and
2 amended by chapter 105 of the acts of 1999, is hereby amended by striking out section 1-3-1 and
3 inserting in place thereof the following section:-

4 Section 1-3-1. The legislative powers of the town shall be vested in the town meeting. The executive
5 powers of the town shall be vested in the board of selectmen. The administrative powers of the town shall
6 be vested in the town administrator.

7

8 SECTION 2. Section 1-4 of the charter, as so appearing in said chapter 133 of said acts of 1997 is hereby
9 amended by striking out the words “-Intent of the Voters”.

10

11 SECTION 3. Section 2-6-1 of said charter, as appearing in said chapter 133 of said acts of 1997, is hereby
12 amended by striking out the 2nd sentence.

13

14 SECTION 4. Said charter, as appearing in said chapter 133 of said acts of 1997, is hereby amended by
15 inserting, after section 2-7-2, the following section:-

16 Section 2-7-3 By written petition to the board of selectmen, any 200 voters may require the calling of a
17 special town meeting.

18

19 SECTION 5. Section 2-8-1 of said charter, as appearing in said chapter 133 of said acts of 1997, is
20 hereby amended by adding the following 2 sentences:- The town moderator shall be the presiding officer
21 of town meetings as provided in section 2-2, shall regulate its proceedings and shall perform such other
22 duties as may be provided by the General Laws, this charter, by-laws or vote of town meeting. The town
23 moderator shall appoint members to special committees as designated by town meeting vote.

24

25 SECTION 6. The charter of the town of Yarmouth, as appearing in said chapter 133 of said acts of 1997,
26 is hereby amended by striking out section 2-8-3 and inserting in place thereof the following section:-

27 Section 2-8-3 Any individual eligible to speak at town meeting shall not speak more than once, unless and
28 until all other voters wishing to speak, making themselves known and being recognized by the moderator,
29 have been provided with an opportunity to speak, nor shall any individual speak on any article for more
30 than 5 minutes at any one time except upon receiving permission of the moderator in advance of that
31 individual's presentation. This restriction shall not apply to the presenter of the article, making a motion
32 to move an article, the individual making a motion to amend the article, nor to those individuals required
33 to be in attendance under the provisions of section 2-8-1.

34

35 SECTION 7. Said charter, as so appearing, is hereby further amended by striking out section 2-8-4 and
36 inserting in its place thereof the following section:-

37 Section 2-8-4 Only registered voters of the town of Yarmouth shall have the right to address town
38 meeting or vote on any article presented at any town meeting.

39

40 SECTION 8. Said charter, as so appearing, is hereby further amended by striking out section 2-8-5 and
41 inserting in place thereof the following section:-

42 Section 2-8-5 A Yarmouth property owner who is not also a registered voter, or the authorized
43 representative of such a property owner or of a registered voter who is not present at town meeting, or any
44 other individual, may be permitted to address town meeting only in the discretion of the town moderator.

45

46 SECTION 9. Said charter, as so appearing, is hereby further amended by striking out section 2-8-6 and
47 inserting in place thereof the following section:-

48 Section 2-8-6 The board of selectmen shall, by recorded vote in the warrant, indicate its recommendations
49 on all articles.

50

51 SECTION 10. Said charter, as so appearing, is hereby further amended by striking out section 2-8-7 and
52 inserting in place thereof the following section:-

53 Section 2-8-7 A motion for reconsideration of any article acted upon at an annual or special town
54 meeting may not be made prior to 15 minutes following the final vote on the article to be reconsidered,
55 nor more than one hour after such vote, except that if deliberations on another article are pending at the
56 expiration of the hour, those deliberations need not be interrupted and such a motion may be made
57 immediately following the conclusion of the consideration of that article and prior to the consideration of
58 any further article. This minimum time limitation shall not apply to any article acted upon within the last
59 15 minutes of town meeting, nor shall the time limitations include any time when town meeting is not in
60 session.

61

62 SECTION 11. Said charter, as so appearing, is hereby further amended by inserting, after section 2-8-7,
63 the following sections:-

64 Section 2-8-8 No motion, the effect of which would be to dissolve the town meeting, shall be in order
65 until every article on the warrant has been duly considered and acted upon. See section 10-1, Definitions.
66 This requirement shall not preclude the postponement of an article or consideration of any motion to
67 adjourn the meeting to a stated time and place.

68

69 Section 2-8-9 All special committees created by any town meeting shall make a report in accordance
70 with the schedule set by the town meeting action which created the committee. Written copies of such
71 reports shall be submitted to the town clerk, town administrator, and the board of selectmen and shall be
72 published in full or in summary form in the next annual town report.

73

74 SECTION 12. Chapter 3 of said charter, as appearing in chapter 133 of the acts of 1997, shall be
75 entitled:- Executive Branch

76

77 SECTION 13. Section 3-1 of said charter, as so appearing, is hereby amended by striking out the words
78 “and Other Elected Officers”

79

80 SECTION 14. Section 3-1-2 of said charter, as so appearing, is hereby amended by striking out the words
81 “or appointed”.

82

83 SECTION 15. Section 3-2-1 of said charter, as so appearing, is hereby amended by striking out the words
84 “ day to day policies” and inserting in place thereof the following words:- the policies of the board.

85

86 SECTION 16. Section 3-4 of said charter, as so appearing, is hereby amended by striking out the word
87 “Appointments” and inserting in place thereof the following word:- Prohibitions

88

89 SECTION 17. Said charter, as so appearing, is hereby further amended by striking out section 3-4-1 and
90 inserting in place thereof the following section:-

91 Section 3-4-1 No member of the board of selectmen shall serve on any appointed town board established
92 by this charter or by by-law, for which the board of selectmen is the appointing authority, except by an
93 affirmative vote of 4/5ths of the members of the board of selectmen.

94

95 SECTION 18. Said charter, as so appearing, is hereby further amended by striking out sections 3-4-2 to
96 3-4-5 inclusive.

97

98 SECTION 19. Said charter, as so appearing, is hereby further amended by striking out, in section 3-5, the
99 word “Administration” and inserting in place thereof the following words:- Powers in Intergovernmental
100 Relations.

101

102 SECTION 20. Said charter, as so appearing, is hereby further amended by striking out section 3-5-1 and
103 inserting in place thereof the following section:-

104 Section 3-5-1 Members of the board of selectmen will represent the town on regional or intermunicipal
105 committees or may designate a town employee or other person to represent the town.

106

107 SECTION 21. Said charter, as so appearing, is hereby further amended by striking out, in section 3-6, the
108 word “Prohibitions” and inserting in place thereof the following words:- Other Officers and Town
109 Boards.

110

111 SECTION 22. Said charter, as so appearing, is hereby further amended by striking out section 3-6-1 and
112 inserting in place thereof the following section:-

113 Section 3-6-1 There shall be a town moderator, elected by popular vote for a term of 3 years at an annual
114 town election. If the office becomes vacant during any term, the board of selectmen shall include the
115 vacancy either in the next annual or in a special election and may, by a 4/5 vote, appoint an interim
116 moderator until the election.

117

118 SECTION 23. Said charter, as so appearing, is hereby further amended by inserting, after section 3-6-1
119 the following sections:-

120

121 Section 3-6-2 The moderator shall be the individual designated to carry out all of the duties and functions,
122 in an orderly and efficient manner, necessary to regulate proceedings of annual town meetings and special
123 town meetings.

124

125 Section 3-6-3 There shall be a town clerk, who shall be the keeper of the vital statistics for the town and
126 the custodian of the town seal and all town official records, shall administer the oath of office to all town
127 officers, elected and appointed, shall issue permits and licenses required by law, shall supervise and
128 manage the conduct of elections, shall serve as clerk of town meeting, and shall have all other powers and
129 duties which are given to town clerks by the General Laws, this charter, a by-law, or town meeting vote,
130 consistent with the provisions of this charter.

131

132 SECTION 24. Said charter, as so appearing, is hereby further amended by striking out, in section 3-7,
133 the words “Powers in Intergovernmental Relations” and inserting in place thereof the following words:-
134 Codification of By-Laws and Regulations.

135

136 SECTION 25. Said charter, as so appearing, is hereby amended by striking out section

137 3-7-1 and inserting in place thereof the following section:-

138 Section 3-7-1 The board of selectmen shall cause a compilation of by-laws and regulations to be made
139 within 12 months of the adoption of this charter, and cause the compilation to be updated at least every 5
140 years.

141

142 SECTION 26. Said charter, as so appearing, is hereby further amended by striking out, in section 3-8,
143 the words “Other Officers and Town Boards” and inserting in place thereof the following words:- Charter
144 Revisions.

145

146 SECTION 27. Said charter, as so appearing, is hereby further amended by striking out section 3-8-1 and
147 inserting in place thereof the following section:-

148 Section 3-8-1 At least once every 10 years, a special committee shall be appointed by the town
149 moderator, for the purpose of reviewing the provisions of the charter and to make a report, with
150 recommendations to the town meeting, concerning any proposed amendments or revision which said
151 committee may deem to be necessary or desirable.

152

153 SECTION 28. Said charter, as so appearing, is hereby further amended by striking out sections 3-8-2, 3-
154 8-3, 3-8-4, 3-9, 3-9-1, 3-10 and 3-10-1.

155

156 SECTION 29. Said charter, as so appearing, is hereby further amended by striking out chapter 4 in its
157 entirety and inserting in place thereof the following chapter:-

158

159 CHAPTER 4.

160 ADMINISTRATIVE BRANCH.

161

162 Section 4-1 – Town Administrator.

163

164 Section 4-1-1 There shall be a town administrator, who shall be responsible for the administration of the
165 town affairs, and who shall be the chief administrator of the town.

166

167 Section 4-2 - Qualifications.

168

169 Section 4-2-1 The town administrator shall be appointed under 5-1(a) on the basis of education,
170 experience, executive and administrative qualifications. The professional qualifications shall be
171 established by the board of selectmen and may be revised if necessary.

172

173 Section 4-3 - Powers and Duties.

174

175 4-3-1 The town administrator shall be the chief administrative officer of the town and shall be
176 responsible for administering and coordinating all employees, activities, and departments placed by
177 General Laws or by-laws under the control of the board of selectmen and the town administrator. The
178 administrator shall implement the goals and carry out the policies of the board of selectmen.

179

180 4-3-2 The administrator shall devote full time to the duties of the office and shall not hold any other
181 public office, elective or appointive, nor be engaged in any other business, occupation or profession while

182 serving in such office unless such action is approved, in advance and in writing, by the board of
183 selectmen.

184

185 4-3-3 The powers and duties of the town administrator shall include, but are not limited to the
186 following:

187

188

189 a) Keep the board of selectmen fully informed as to the needs of the town, and to recommend
190 to the selectmen, for adoption by it, such measures requiring action by it or by the town as
191 the town administrator deems necessary or expedient.

192

193 b) Inform the selectmen on all department operations, fiscal affairs, general problems, and
194 administrative action, and to this end submit periodic reports.

195

196 c) Keep the selectmen fully informed of the availability of all sources of outside funding,
197 both public and private, including inter-governmental grants, so-called in lieu of
198 payments, gifts, grants, contributions, and otherwise, giving special consideration as to
199 how any such funding source might relate to the short and long-range needs of the town.

200

201 d) Prepare and present to the board of selectmen, a draft annual budget for the town, and a
202 proposed capital outlay program.

203

204 e) Administer during the fiscal year the annual operating budget and capital outlay
205 appropriations as voted by the town to assure all such funds are expended or committed in
206 accordance with General Laws, by-laws, and the town meeting votes relating thereto. The
207 town administrator, with the approval of the selectmen and the finance committee, shall
208 have the authority to transfer funds within the budget as long as the total budget is not
209 increased.

210

211 f) Act as the chief procurement officer for the town.

212

213 g) Develop, keep and update annually a full and complete inventory of all real and personal
214 property of the town.

215

216 h) Possess the right to attend and speak at any regular meeting of any town multi-member
217 body.

218

219 i) Negotiate collective bargaining contracts on behalf of the board of selectmen, unless the
220 town administrator, with the approval of the board of selectmen, has designated another
221 negotiator or negotiating team. All such contracts shall be subject to the approval of the
222 board of selectmen.

223

224 j) Coordinate the activities of all town agencies serving under the office of the town
225 administrator and the office of the board of selectmen with those under the control of other
226 officers and multi-member bodies elected directly by the voters. For this purpose, the town
227 administrator shall have authority to require the persons so elected, or their
228 representatives, to meet with the town administrator, at reasonable times, for the purpose
229 of effecting coordination and cooperation among all agencies of the town.

230

231

232 k) Attend all sessions of all town meetings and answer all questions directed to the town
233 administrator which relate to that office.

234

235 l) Perform such duties as assigned by by-law or vote of the board of selectmen.

236

237 Section 4-4 - Personnel Administration.

238

239 Section 4-4-1 The town administrator shall administer and enforce collective bargaining agreements,
240 personnel policies and practices, rules and regulations and personnel regulations adopted by the board of
241 selectmen.

242

243 Section 4-4-2 The town administrator shall prepare, maintain, and keep current a plan establishing the
244 personnel staffing requirements for each town agency, except those under the jurisdiction of the Dennis-
245 Yarmouth regional school committee.

246

247 Section 4-4-3 The personnel board shall review and vote recommendations to the town administrator on
248 proposed changes to job descriptions and pay classifications for year round, benefited positions.

249

250 Section 4-4-4 The creation of any new full time compensated position shall require approval by the
251 selectmen, and such action shall not be effective until the position has been funded by town meeting vote.

252

253 Section 4-4-5 The town administrator shall supervise, evaluate and direct all department heads, and
254 through the department heads, the town administrator shall supervise, evaluate and direct all paid
255 employees of the town.

256

257 Section 4-5 - Administrative Reorganization.

258

259 Section 4-5-1 The town administrator may recommend to the board of selectmen and implement, with the
260 selectmen's approval, reorganization of any department or position placed by this charter under the town
261 administrator's direction or supervision, except as otherwise provided by General Laws, by-laws, or this
262 charter.

263

264 Section 4-6 - Evaluation.

265

266 Section 4-6-1 At least 3 selectmen shall annually evaluate the performance of the town administrator.
267 The selectmen shall adopt a written set of procedures and criteria which shall form the basis for the
268 evaluation.

269

270 Section 4-6-2 The board of selectmen shall provide a copy of the evaluation to the town administrator
271 and a copy shall be kept on file in the office of the board of selectmen for examination by the public.

272

273 Section 4-7 - Term of Office.

274

275 Section 4-7-1 The town administrator shall serve a term of years under a contract as provided by section
276 108N of chapter 41 of the General Laws. The town administrator shall not have served in an elective
277 office in the town government for at least 12 months prior to the appointment.

278

279 Section 4-7 of said acts shall be hereby amended by striking out the following subsection 4-7-2

280

281 Section 4-8 - Acting Town Administrator.

282

283 Section 4-8-1 The town administrator may, subject to the approval of the board of selectmen, and by letter
284 filed with the board of selectmen and the town clerk, designate a qualified town officer or employee to
285 exercise the powers and perform the duties of the town administrator during a temporary absence.

286

287 SECTION 30. Said charter, as so appearing, is hereby further amended by striking out Chapter 5, in its
288 entirety, and inserting in place thereof the following chapter:-

289

290

291 CHAPTER 5.

292 APPOINTMENTS AND PERSONNEL POLICIES.

293

294 Section 5-1 - Selectmen Appointments.

295

296 a) The board of selectmen shall appoint a town administrator by affirmative vote of a least 4/5ths of
297 the members of the board of selectmen.

298

299 b) The board of selectmen shall appoint town counsel by affirmative vote of at least 4/5ths of the
300 members of the board of selectmen.

301

302 c) When a vacancy arises in the office of the town administrator, the board of selectmen shall
303 advertise the vacancy as soon as practical in the local and regional publications. The board of
304 selectmen shall fill the vacancy as quickly as possible, but in any case, within 9 months.

305

306 d) During a vacancy caused by prolonged illness, suspension, removal, resignation or death of the
307 town administrator, the board of selectmen shall designate, within ten days of the vacancy, a town
308 employee or other qualified person to exercise the powers and perform the duties of the town
309 administrator. This designation shall be for periods not to exceed 90 days.

310 In the case of suspension, removal, resignation, or death, no more than 2 such 90 day designations shall
311 be made.

312

313 e) The board of selectmen shall appoint in conformance with the General Laws, the board of
314 registrars of voters and election officials by an affirmative vote of at least 4/5ths.

315

316 f) The finance committee members shall be appointed by the chairman of the board of selectmen,
317 the chairman of the finance committee, and the town moderator, as provided for in the town by-
318 law 47-4. All other functions and responsibilities of the finance committee shall be as outlined in
319 section 47-4 of the town by-law.

320

321 g) The board of selectmen shall appoint all department heads. The town administrator shall submit
322 to the board of selectmen the names of not less than 3 candidates for department head interviews
323 and subsequent appointments. The group of department heads shall include those who are
324 designated as such by the town administrator and approved by the board of selectmen.

325

326 h) The board of selectmen shall appoint such other town officers and members of multi-member
327 bodies for which no other provision is made. Such appointments shall be consistent with the
328 General Laws.

329

330 Section 5-2 - Removal of the Town Administrator.

331

332 Section 5-2-1 The board of selectmen, by the affirmative vote of at least 4/5ths of the members, may
333 initiate the removal of the town administrator by adopting a resolution to that effect. Said resolution shall
334 state the reason therefore, provided that no such resolution shall be adopted within 60 days following any

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

337

338 Section 5-2-2 The adoption of said resolution shall serve to suspend the town administrator for not more
339 than 45 days, during which his/her salary shall continue to be paid. A copy of such resolution shall be
340 delivered in hand, forthwith to the town administrator or sent by registered mail, return receipt requested
341 to the administrator's last known address.

342

343 Section 5-2-3 Within 5 days following receipt of such resolution, the town administrator may file a
344 written request for a public hearing with the board of selectmen. Upon receipt of such request, the board
345 of selectmen shall schedule a public hearing within 2 weeks. At least 7 days prior to the public hearing,
346 the board shall advertise the hearing in a local newspaper and shall cause identical notices stating the
347 purpose, location, time, and date to be posted in the town hall and in every post office in town.

348

349 Section 5-2-4 Town moderator shall preside at any such hearing.

350

351 Section 5-2-5 At any such hearing the reasons for the removal shall first be read aloud. The town
352 administrator shall then have the right to respond, personally, or through counsel. The board of selectmen
353 and the town administrator shall have the power to compel testimony and to subpoena any town records.

354

355 Section 5-2-6 Final removal of any town administrator shall be effected by the affirmative vote of at least
356 4/5ths of the members of the board of selectmen at a public meeting, the time and place of which are
357 announced, held within 7 days of such hearing, if any. If no hearing has been requested, final removal
358 may be effected by affirmative vote of at least 2/3rds of the members of the board of selectmen, at a
359 meeting of the board of selectmen held not earlier than 14 days after the resolution initiating removal is
360 adopted. The salary of the town administrator shall be paid for a period of 60 days after the vote effecting
361 removal from the office or in accordance with the termination clause in the town administrator's contract.

362

363 Section 5-2-7 The town administrator shall provide the board of selectmen with at least 90 days notice of
364 the town administrator's intent to resign. The board of selectmen may shorten or waive this requirement.

365

366 Section 5-3 - Town Administrator Appointments.

367

368 Section 5-3-1 The town administrator may appoint an assistant town administrator. Should such
369 appointment be made, it shall be consistent with the General Laws and town by-laws.

370

371 Section 5-3-2 The town administrator shall appoint all division heads. Appointments to the position of
372 division head, as defined by the town administrator, shall become effective no later than the 15th day
373 following the day on which notice of the proposed appointment is filed with the board of selectmen,
374 unless 4/5ths of the members of the board of selectmen shall vote to reject such an appointment within
375 such period. Amended 4-14-1999 by Article 35.

376

377 Section 5-3-3 The town administrator shall have the authority to appoint special single purpose
378 committees after notifying the board of selectmen.

379

380 Section 5-3-4 The town administrator shall appoint all other compensated town personnel.

381

382 Section 5-3-5 Except as provided in section 5-3-1, all appointments made or approved by the town
383 administrator shall be effective immediately.

384

385 Section 5-4 - Town Moderator Appointments.

386

387 Section 5-4-1 The town moderator shall appoint members to special committees as designated by town
388 meeting vote.

389

390 Section 5-4-2 See also section 5-1(f)

391

392 Section 5-5 - Personnel Policies.

393

394 Section 5-5-1 With the approval of the town administrator, department heads may employ, terminate, and
395 discipline employees under their departmental jurisdiction.

396

397 SECTION 31. Said charter, as so appearing, is hereby further amended by striking out Chapter 6 in its
398 entirety and inserting in place thereof the following chapter:-

399

400 CHAPTER 6.

401 TOWN BOARDS, COMMITTEES AND COMMISSIONS.

402

403 Section 6-1 - Powers.

404

405 Section 6-1-1 Multi-member bodies shall possess and exercise all powers given to them under the
406 constitution and the General Laws, and shall have and exercise such additional powers and duties as shall
407 be granted and delegated by this charter, by-law, or vote of the town meeting. Such committees or boards
408 shall report to the board of selectmen for policy matters and report to the town administrator for
409 administrative matters.

410

411

412 Section 6-2 – Organizations and Procedures.

413

414 Section 6-2-1 All appointed boards, committees and commissions shall:

415

416 a) organize annually;

417

418 b) elect a chairperson and other necessary officers;

419

420 c) publish a quorum requirement for their meetings in accordance with the General Laws;

421

422 d) adopt rules of procedure and voting; and

423

424 e) maintain minutes and all other records of proceedings, copies of which shall be a public record
425 and filed monthly with the town clerk; and

426

427 f) annually submit a report for inclusion in the annual town report.

428

429 Section 6-2-2 To maximize communication and cooperation between the board of selectmen and the
430 elected and appointed boards and committees, all multi-member bodies shall meet with the board of
431 selectmen at least annually.

432

433 Section 6-2-3 All multi-member bodies, elected and appointed, shall conduct their meetings in accordance
434 with the open meeting provisions of the General Laws.

435

436 Section 6-2-4 Except as provided in this charter, nothing shall be deemed to prevent or prohibit a
437 compensated town employee from serving on a multi-member body, provided that such body shall have
438 no administrative responsibility over any such employee, subject only to chapter 268A of the General
439 Laws.

440

441 Section 6-2-5 Any person duly appointed to any office or multi-member body shall take up the duties of
442 the office immediately; provided that such person first shall have been sworn to the faithful performance
443 of those duties by the town clerk.

444

445 Section 6-2-6 The absence, without appropriate explanation, of a member from 4 consecutive meetings of
446 any appointed multi-member body shall be grounds for removal from office by the appointing authority.
447 The legitimacy of the explanation provided by the absent member shall be assessed by majority vote of
448 the multi-member board and reported to the appointing authority. When such an absence occurs, the
449 chairperson shall advise the appointing authority forthwith, who shall take appropriate action which may
450 include removal of the member from the office and filling the vacancy in a timely fashion in accordance
451 with the General Laws and this charter.

452

453 Section 6-3 - Compensation.

454

455 Section 6-3-1 Members of appointed multi-member boards may receive such compensation as may be
456 authorized by the town meeting. During the term for which a member is appointed and for 1 year
457 following expiration of such term, no member of any appointed board under this charter shall be eligible
458 to accept any additional paid position under any such multi-member board.

459

460 Section 6-4 - Change in Composition of Appointed Multi-Member Bodies.

461

462 Section 6-4-1 The town meeting may, by amendment to the applicable by-laws, increase or decrease the
463 number of persons to serve as members of multi-member boards established under this chapter, provided,
464 however, that all such boards shall always consist of an uneven number of members and no fewer than 3.

465

466

467 CHAPTER 7

468 FINANCIAL PROVISIONS AND PROCEDURES.

469

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

471

472 7-1-1 Annually, by October 15, the town administrator shall establish and issue a budget schedule
473 which shall set forth the calendar dates relating to the development of the annual operating budget for the
474 ensuing fiscal year.

475

476 7-1-2 The schedule shall be in accordance with this charter unless deviation there from is recommended
477 by the town administrator and approved by the board of selectmen and the finance committee.

478

479 7-1-3 Annually, by October 15, the town administrator shall request and receive from the town
480 treasurer, town collector, the town accountant, the board of selectmen, and the board of assessors the
481 estimated revenue for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided
482 by the commonwealth or any other source, the above officials shall revise, update, and submit the data
483 forthwith to the town administrator.

484

485 7-1-4 Annually, by November 5, the board of selectmen, after consulting with the town administrator,
486 shall issue a policy statement to the town administrator, finance committee and Dennis-Yarmouth
487 regional school committee.

488

489 7-1-5 All department heads and all multi-member bodies shall submit their budget requests to the town
490 administrator by December 1.

491

492 7-1-6 By December 31, the town administrator shall submit to the board of selectmen and the finance
493 committee a comprehensive draft budget for all town functions for the ensuing fiscal year and an
494 accompanying draft budget message.

495

496

497 7-1-7 The draft budget message shall explain the draft budget both in fiscal terms and in terms of what
498 specific projects are contemplated in the year ahead. It shall:

499

500 a) outline the proposed financial policies of the town for the ensuing fiscal year;

501

502 b) describe the important features of the budget;

503

504 c) indicate any major changes from the current fiscal year in financial policies, expenditures, and
505 revenues, together with the reasons for such changes;

506

507 d) summarize the town debt positions; and

508

509 e) include such other material as the town administrator may deem appropriate.

510

511 7-1-8 The draft budget shall provide a complete financial plan for all town funds and activities and shall
512 be in such form as the town administrator, in consultation with the finance committee, may establish. The
513 draft budget shall indicate proposed expenditures for current operations and for capital projects during the
514 ensuing fiscal year, detailed by each town agency and by specific purposes and projects.

515

516 Section 7-2 - Action on Proposed Budget.

517

518 7-2-1 The finance committee shall, by February 29, recommend a proposed budget, with or without
519 amendments, and shall submit it to the board of selectmen. In preparing its review, the committee may
520 require the town administrator, any town department, office, board, commission, or committee, including
521 school, to appear or to furnish it with appropriate additional financial reports and budgetary information.

522

523 7-2-2 A public hearing with public participation is to be held prior to town meeting at which time the
524 town administrator shall present the financial projection for the coming fiscal year, and the finance
525 committee, capital budget committee and the Dennis-Yarmouth regional school committee shall present
526 their budgets to the board of selectmen.

527

528 Section 7-3 - Budget Adoption.

529

530 7-3-1 The town meeting shall adopt the annual operating budget, with or without amendments, prior to
531 the beginning of the fiscal year.

532

533 Section 7-4 - Capital Improvements Plan.

534

535 7-4-1 The town administrator shall prepare a five year capital improvements plan which shall be
536 designed to deal with unmet long-range needs, and to implement the goals and objectives of the official
537 town plan.

538

539 7-4-2 The capital improvements plan shall include all town activities and departments, and the Dennis-
540 Yarmouth regional school district.

541

542 7-4-3 The capital improvements plan shall include:

543

544 a) a clear summary of its contents;

545

546 b) a list of all capital improvements proposed to be undertaken during the next five years,
547 together with supporting data;

548

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

550

551 d) the estimated annual cost of operating and maintaining the facilities or equipment to be
552 constructed or acquired.

553

554 The above information may be revised and shall be extended each year with regard to capital
555 improvements pending or in the process of construction or acquisition.

556

557 7-4-4 The town administrator shall submit the capital improvements plan to the capital budget
558 committee and the finance committee prior to October 1. The capital budget committee shall act thereon
559 and submit its recommendations to the finance committee and the board of selectmen by December 1.
560 The board of selectmen may at its discretion insert warrant articles seeking appropriations for proposed
561 capital expenditures and adopt the capital improvement plan with or without amendment.

562

563 Section 7-5 - Notice of Public Hearing on Capital Improvements Plan.

564

565 7-5-1 The board of selectmen shall publish the capital improvements plan on the official town website
566 and shall publish in a local newspaper a notice stating:

567

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

569

570 b) the date, time and place when the board of selectmen and the finance committee shall conduct a joint
571 public hearing on said plan.

572

573 Section 7-6 Capital Improvements Planning.

574

575 7-6-1 A committee of seven voters shall be appointed by the finance committee to be known as the
576 capital budget committee, in accordance with article 16 of the annual Town meeting held on April 7,
577 1981.

578

579 7-6-2 The requirements of section 7-6-1 may be waived by a 2/3rds vote of the annual meeting.

580

581 Section 7-7 Annual Audit.

582

583 7-7-1 Prior to the end of each fiscal year, the board of selectmen and the town administrator shall retain
584 a certified public accountant or qualified accounting firm to conduct an independent annual audit.

585

586 CHAPTER 8

587 ELECTIONS.

588

589 Section 8-1 - Town Elections.

590

591 8-1-1 The regular election for all town offices shall be by official ballot held on the date established by
592 by-law.

593

594 Section 8-2 - Town Elections to be Nonpartisan.

595

596 8-2-1 All town elections shall be nonpartisan and election ballots shall be printed without any party
597 mark or designation.

598

599 Section 8-3 - Eligibility for Town Office.

600

601 8-3-1 Any residents eligible to vote in town elections shall be eligible for election to any elective office
602 or multi-member body of the town.

603

604 8-3-2 No person shall hold, concurrently, more than one paid executive or town office.

605

606 Section 8-4 - Time of Taking Office.

607

608 8-4-1 Any person duly elected to any office or multi-member body shall forthwith be sworn by the
609 town clerk or his or her designee and assume the duties of the office.

610

611 Section 8-5 - Recall Election.

612

613 8-5-1 Any recall election shall be conducted under the provisions of chapter 344 of the acts of 1989.

614

615 CHAPTER 9

616 CONTINUITY.

617

618 Section 9-1 - Continuation of Existing Laws.

619

620 9-1-1 Except as specifically provided in this charter, all general and special laws, by-laws, votes, rules
621 and regulations of or pertaining to the town of Yarmouth which are not inconsistent with the provision of
622 this charter shall continue in full force and effect until amended or rescinded by due course of law or
623 expire by their own limitation.

624

625 Section 9-2 - Continuation of Boards, Committees and Agencies.

626

627 9-2-1 Except as specifically provided in the charter, all committees, boards, commissions, councils,
628 departments, offices, and other agencies of the town shall continue in existence and their incumbents shall
629 continue to perform their duties until not reappointed, reelected or elected or their duties have been
630 transferred.

631

632 Section 9-3 - Transfer of Records and Property.

633

634 9-3-1 If a power or duty is reassigned as the result of the provisions of this charter, the records,
635 property, and equipment necessary to fulfill said power or duty shall likewise be reassigned to the newly
636 responsible office or agency.

637

638 9-3-2 Said transfer shall be carried out under the direction of the town administrator.

639

640 Section 9-4 - Amending Charter.

641

642 9-4-1 This charter may be revised, amended, or replaced in accordance with the procedures made
643 available by article 89 and article 113 of the amendments to the constitution of the commonwealth and
644 any legislation enacted to implement said amendments.

645

646

647 CHAPTER 10

648 DEFINITIONS.

649

650 10-1 Unless the context otherwise requires, from the manner in which the word is used, the following
651 words, as used in this charter, shall have the following meanings:

652

653 **“Appoint”**- To select to fill an office or to employ in the service of the town.

654

655 **“Certification”** - A person has been declared elected and sworn to the faithful performance of
656 duty by the town clerk.

657

658 **“Charter”** - This charter and any amendments to it made through any of the methods provided
659 under articles 89 and 113 of the amendments to the constitution of the commonwealth.

660

661 **“Dissolve the Town Meeting”** - As used in section 2-8-8, shall refer to the final and

662 permanent ending of the town meeting at which the motion is made, so that no further action may
663 thereafter be taken on any matter included in that meeting’s warrant.

664

665 **“General Laws”** - The Massachusetts General Laws.

666

667 **"Local newspaper"** - A newspaper of general circulation in the town.

668

669 **"Majority vote"** - A majority of those present and voting; provided, however, that a quorum of the body
670 is present.

671

672 **"Multi-Member-Body"** - Any board, commission, or committee of the town consisting of 3 or more
673 persons, whether appointed or elected.

674

675 **"Town"** - The town of Yarmouth.

676

677 **"Town Agency"** - Any office, department, board, committee, or commission of the town government.

678

679 **"Voters"** - The registered voters of the town of Yarmouth.

680

681 **"Words"** - Importing the singular number may extend and be applied to several persons or things, words
682 importing the plural number may include the singular, and except where the context requires, wherever
683 words are used in one gender, they shall be construed to include the other gender and the neuter.