

# **TOWN OF PROVINCETOWN CHARTER (Revised 2017)**

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## *Preamble*

We, the people of the Town of Provincetown, Massachusetts, in order to implement the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, and to reaffirm the customary and traditional liberties of our local government, do adopt the following Charter for this Town.

## **Chapter 1. THE TOWN AND THE CHARTER**

### ***Section 1. Powers of the Town***

- a. The Town of Provincetown, Massachusetts, within its territorial limits as established by law, is a body politic and corporate under the name of "Town of Provincetown", referred to herein as the Town. The Town shall possess and exercise all powers possible under the Constitution of the Commonwealth of Massachusetts as though expressly enumerated in this Charter.
- b. The Town of Provincetown operates under a Select Board/Town Manager form of Government. The elected Select Board and the Town Manager are the executive body of the Town and Town Meeting is the legislative body of the Town.
- c. The powers of the Town under this Charter shall be construed liberally in favor of the Town and its residents, and the specific mention of powers in the Charter shall not be construed as limiting the general powers of the Town. However, to the extent any specific provisions of this Charter conflicts with any provisions expressed in general terms, the specific provision shall prevail.
- d. The Town may exercise its powers and perform its functions, including financing, jointly or in cooperation with any municipality, County, State, or the United States, or any governmental division or agency.

### ***Section 2. The Provincetown Charter***

- a. This Charter may be replaced, revised, or amended only in accordance with the Constitution of the Commonwealth of Massachusetts and the Massachusetts General Laws.
- b. All Town Employees shall act in accordance with this Charter.
- c. This Charter has precedence over the Town of Provincetown General Bylaws.
- d. Each provision of this Charter is severable; therefore in the event any provision or its application is held by a properly constituted authority to be invalid, the remainder of the Charter provisions and applications shall continue in effect.
- e. Every five (5) years the Select Board shall appoint an Ad Hoc or Temporary Committee to review the Charter and make recommendations to be brought before Town Meeting.

### ***Section 3. Definitions of Terms within the Charter***

- a. "Ad Hoc" or "Temporary" Boards are Town Boards that are created to serve for a limited time. Temporary Boards may only be advisory, not regulatory, and must be reauthorized each year within thirty (30) days of the annual Town Election.
- b. "Advisory Boards" are Town Boards that may only establish rules that apply to the actions that they take themselves. Their purpose is to advise the Select Board, the Town Manager, and/or the voters; they do not have legal authority to direct other individuals or Boards.
- c. "Appointing Authority" is the person or Board with authority to appoint members of a Town Board. Authority to appoint members also includes the authority to remove members for good cause as determined by the Appointing Authority in accordance with Chapter 5.
- d. "Day" means calendar day except as otherwise indicated. If the final day falls on a weekend or legal holiday, the time is extended to the next workday of the Town Government.
- e. "Good Cause" in relation to a removal action means incapacity other than temporary illness, inefficiency, insubordination, conflict of interest or other misconduct.
- f. "Overlapping Terms" means Board Members' terms of service are arranged so that the term of at least one regular member shall expire each year.
- g. "Public Hearings" are hearings that are held to give the public an opportunity to speak to certain matters or to address a mandated determination, such as the Public Hearings held prior to Town Meeting regarding Warrant Articles. "Adjudicatory Hearings" are Public Hearings that are held to adjudicate a disputed matter, such as the removal of the Town Manager or consideration of a petition by the Charter Compliance Commission.
- h. "Regulatory Boards" are those Town Boards authorized by Massachusetts General Laws to establish and enforce rules or regulations related to activities within their authority.
- i. "Town Board" means any elected or appointed body of the Town, either created by the Massachusetts General Laws, a vote of the Town Meeting, the Select Board, or this Charter. Town Boards may be titled as Boards, Commissions, or Committees. "Town Board" includes the Select Board, but not, by law, the Board of Fire Engineers or the Provincetown Public Pier Corporation.
- j. "Town Employee" means a person performing services for the Town, or holding an office, position, employment or membership in a municipal agency of the Town of Provincetown, whether by election, appointment, or contract of hire; whether serving with or without compensation or as a volunteer; whether on a full, regular, part-time, intermittent or consultant basis. All Town Employees are subject to the Open Meeting law requirements and Ethics and Conflict of Interest standards of Massachusetts General Laws and this Charter.
- k. "Town Staff" are hired employees who report to the Town Manager.
- l. The "Warrant" is a document issued by the Select Board to call a Town Meeting. The Warrant lists an agenda of items to be voted on by the registered voters of the Town who are present at the Town Meeting.

m. "Writing" as used in this Charter includes email.

***Section 4. Compliance with the Charter and the Charter Compliance Commission***

a. There shall be a three member Charter Compliance Commission elected by the voters for three-year overlapping terms with the responsibility to educate the Town about the Charter and to encourage compliance with the Charter. A vacancy on the Commission that may be filled by a majority vote of the remaining members of the Commission, but only until the next annual election, and quorum is based on the filled positions.

b. The Commission shall provide its written interpretation of the Charter on the written request of any resident or official of the Town. The Commission's interpretation is advisory only and for educational purposes and shall not be the basis for any legal action. A copy of the request and the proposed response shall be provided to the Select Board and the Town Manager for review prior to being issued.

c. The Town Manager, as the administrative officer of the Town, shall be responsible to ensure that all Town Departments, Boards, Officers and Employees comply with the Charter. Whenever the Town Manager determines that any Town Department, Board, Officer or Employee is failing to comply with the Charter, it is the responsibility of the Town Manager to meet with them to discuss why they are not complying.

d. Whenever the Town Manager determines that any Town Department, Officer or Employee is continuing to fail to comply with the Charter after that failure has been discussed with them, the Town Manager shall determine the appropriate response.

e. Whenever the Town Manager determines that any Town Board is continuing to fail to comply with the Charter after that failure has been discussed with them, the Town Manager shall refer the matter to the Select Board to determine the appropriate response.

f. The Select Board shall be responsible to ensure that the Town Manager complies with the Charter.

g. Any registered voter of the Town may petition the Town Manager to ensure faithful compliance with the Charter by any Town Department, Officer or Employee, except with respect to matters related to employment, or to petition the Select Board to ensure faithful compliance with the Charter by the Town Manager or a Town Board. The petition shall be filed with the Town Clerk and shall state the provision or provisions of the Charter in question. The Town Clerk shall deliver a copy of the petition to the Town Manager, the Select Board and the Charter Compliance Commission within one business day of receipt.

h. Following receipt of a petition by a registered voter and prior to taking action thereon, the Town Manager and/or the Select Board shall consult with the Charter Compliance Commission for such input as may be appropriate. The Charter Compliance Commission will provide a recommended response if requested. The Charter Compliance Commission may also provide a recommendation regarding future implementation of the Charter, such as a proposed modification, if requested. The Town Manager and the Select Board shall take such action with respect to the petition as is deemed appropriate.

i. The foregoing sections shall not limit the right to seek enforcement of this Charter as otherwise provided by law.

## **Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS**

### ***Section 1. Town Meeting***

- a. The legislative powers of the Town shall be exercised by decision of the Town's registered voters at an Annual Town Meeting and Special Town Meetings. The only matters not to be addressed at Town Meeting are the election of such officers and the determination of such matters as are required by law or this Charter to be elected or determined by ballot.
- b. An Annual Town Meeting shall be held to consider and act upon, with or without amendments, all proposed operating and capital improvement budgets, bond issues, and other financial proposals of the town. In addition, the Town Meeting shall address any other matters included in the Warrant.
- c. The Select Board may call a Special Town Meeting under the authority provided by Massachusetts General Laws. The Select Board shall call a Special Town Meeting upon the request, in writing, upon a form approved by the Secretary of the Commonwealth, of two hundred (200) registered voters for a specific reason or reasons stated on the form. A Special Town Meeting shall be held not later than forty-five (45) days after the receipt of said request.

### ***Section 2. The Moderator***

- a. There shall be a Moderator, elected for a term of three (3) years, whose principal duty is to preside over Town Meeting.
- b. The Moderator shall be the appointing authority for the Finance Committee, whose principal responsibility is to advise Town Meeting on the financial impact of proposed matters on the Warrant. The other responsibilities of the Finance Committee are addressed in Chapter 5.
- c. The Moderator may receive compensation on a per diem basis as provided by appropriation at the Annual Town Meeting.

### ***Section 3. Preparation of the Warrant and Preliminary Hearings and Reports***

- a. The Select Board shall prepare a Warrant for all Town Meetings listing the articles for decision by Town Meeting.
- b. The Select Board shall include in the Warrant for an Annual Town Meeting the following:
  - 1) all proposed operating expenditures in a single article in the Warrant,
  - 2) all proposed capital improvement expenditures in a single article in the Warrant,
  - 3) all articles submitted by the Town Manager, the Select Board, or any Town Board, and
  - 4) all articles submitted which are supported by a petition signed by ten (10) registered voters of the Town.
- c. The Select Board shall include in the Warrant for a Special Town Meeting:
  - 1) all matters relevant to the reason the Special Town Meeting was called by the Select Board,
  - 2) all articles submitted by the Town Manager or any Town Board, and
  - 3) all articles submitted which are supported by a petition signed by one hundred (100)

registered voters of the Town.

e. The Warrant for the Annual Town Meeting shall be opened at least sixty days (60) prior and closed thirty (30) days prior to the date of the Town Meeting. The Warrant shall be posted on the Town's website within two (2) business days of closing, and shall be provided to the registered voters of the Town by publication in a newspaper of general circulation within the Town at least fourteen (14) days prior to Town Meeting, and in printed form in the office of the Town Clerk. As an alternative to publication in a local newspaper, the Warrant may be mailed at least fourteen (14) days prior to a Town Meeting to the last known address on file of the registered voters of the Town.

f. A copy of the Warrant shall be provided by the Select Board to the Moderator, Town Counsel, and each Town Board within seven (7) days after the Warrant is closed.

g. When an article on the Town Meeting Warrant addresses the following topics, the Town Board identified below shall hold a Public Hearing, soliciting comments from the Public on the article and voting whether its members are in favor of or opposed to the article, and prior to the article coming to a vote at Town Meeting, the Town Board shall report the votes of its members and explain the view of the majority to the Town Meeting:

- 1) the Conservation Commission for matters relating to the natural environment,
- 2) the Board of Health for matters relating to public health,
- 3) the Planning Board for matters relating to land use or development,
- 4) the Charter Compliance Commission for matters concerning the Charter,
- 5) the Finance Committee for matters concerning the expenditure of town funds, and
- 6) any Town Board for an article submitted by that Town Board.

h. At least seven (7) days prior to any Town Meeting, the Finance Committee shall provide a Report detailing their votes on each Warrant article concerning the expenditure of Town funds. The Finance Committee Report shall be posted on the Town website and made available for distribution in the Town Clerk's office at the Town Hall. Sufficient copies for the expected attendance shall also be made available at the Town Meeting the day it opens.

#### ***Section 4. Conduct of the Town Meeting***

a. An Annual Town Meeting shall be held on the first Monday in April of every year and shall be called to order at 6:00 p.m. for the purpose of transacting all business of the Annual Town Meeting as listed in the Warrant. Pursuant to Massachusetts General Law Chapter 39, Section 10, the Annual Town Meeting may be postponed due to an emergency at the discretion of the Moderator, but must be rescheduled.

b. The Annual Town Meeting and any Special Town Meetings that are called shall be open to all registered voters of the Town.

c. Non-voters may request to speak to certain articles on the Warrant by contacting the Moderator at least three business days prior to the Town Meeting. The Moderator shall allow such a request if he or she determines that it is reasonable.

d. The quorum for the conduct of business by any Town Meeting shall be one hundred (100) registered voters. If quorum is lost during the Meeting, the Meeting may continue unless and until quorum is challenged.

- e. Registered voters must be seated in an area designated by the Moderator. The Moderator may agree to establish a remote site in addition to the main site of Town Meeting. The remote site must be able to communicate with the main Town Meeting site by some continuous visual and audio communication. If a remote site is established, the Moderator shall appoint a person to serve at the remote site as the Moderator's assistant, confirming registration and counting votes. Voters at the remote site shall be counted toward quorum.
- f. The Moderator shall preside at all sessions of the Town Meeting. A temporary Moderator shall be elected by the Town Meeting in the absence of the Moderator. In the event the Moderator recuses himself or herself, the Town Clerk shall serve as the Moderator. If this does not occur automatically, it may be requested by a majority of the registered voters in attendance.
- g. In all procedural matters, the Town Meeting shall follow the latest revised edition of **Town Meeting Times: A Handbook of Parliamentary Law**, by Johnson, Trustman, and Wadsworth, except as otherwise provided by the Massachusetts General Laws, the Provincetown General By-Laws, or this Charter.
- h. The order of consideration of articles as printed in the Warrant shall be changed only by a two-thirds vote of the Town Meeting.
- i. If action required by Section 3, Paragraph g, of this Chapter relating to review and recommendation of Warrant articles by Town Boards, has not been taken with respect to an article, the article may be considered and acted upon only after a majority of Town Meeting votes to consider it.
- j. No session of a Town Meeting shall be held on a legal or religious holiday.

### ***Section 5. Elections***

- a. The Board of Registrars, together with such assistant registrars as may be required and regularly designated, shall conduct and supervise all local elections in accordance with the laws of the Commonwealth of Massachusetts and with local laws which are not inconsistent with State law.
- b. The regular elections to any office shall be by official ballot held on the third Tuesday in June of each year.
- c. Any registered voter of the Town shall be eligible for election to any office, but no person shall hold more than one elected office concurrently.
- d. Elections to any office shall be nonpartisan, and election ballots for Town officers shall be printed without any party mark, emblem, or designation whatsoever.
- e. Following certification of the election by the Board of Registrars, a person duly elected to an office shall take up the duties of that office immediately after being sworn to the faithful performance of his or her duties by the Town Clerk.

## **Chapter 3. THE SELECT BOARD**

### ***Section 1. Composition, Compensation and Vacancies***

- a. There shall be a Select Board consisting of five members elected for three-year overlapping terms. The Board collectively is the executive branch of Town Government.
- b. Each member of the Select Board may receive an annual stipend as set forth in the Provincetown Bylaws, subject to appropriation by Town Meeting.
- c. If a member of the Select Board dies, resigns, is convicted of a felony while serving, or ceases to be a registered voter, the resulting vacancy may be filled by special election in accordance with Massachusetts General Laws.

***Section 2. General Powers and Responsibilities***

- a. The Select Board shall exercise the powers and duties prescribed by the Massachusetts General Laws, this Charter, and the Provincetown General Bylaws. The Select Board may delegate powers and duties to the Town Manager or to another Town Board. The Select Board shall enforce the laws and orders of the Town, including this Charter.
- b. The Select Board is the primary policy-making, planning, and goal-setting agency of the Town. The Select Board directs the Town Manager, who shall administer the day-to-day affairs of the Town in accordance with such goals, policies, or plans. The Select Board may refer matters or issues to the Town Manager for advice or recommendation.
- c. The Select Board has the responsibility to protect the assets of the Town.
- d. The Select Board makes provisions for traffic regulation and control following consultation with the Police Chief.
- e. The Select Board is the issuing authority for all fishing and shell-fishing grants, permits, and licenses that are issued under the provisions of Massachusetts General Laws Chapter 130 and over which the State's Division of Marine Fisheries has any power of review or administrative control.
- f. The Select Board shall ensure that the Provincetown General Bylaws are current.

***Section 3. Written Records and Communication to the Town***

- a. Any goal, policy, plan, or official act adopted by the Select Board shall be in writing and included in its entirety in the minutes of the Meeting at which it was adopted. The Town Manager shall ensure that a file containing a complete list of the Select Board's current policies and goals shall be posted on the Town's website for public reference. No person shall be accountable for failure to carry out an order issued by the Select Board unless it was made in writing, and either forwarded to that individual or generally distributed to all registered voters.
- b. The Select Board shall compile and publish an Annual Town Report for each calendar year which shall include reports from all elected and appointed Town Officials, including the Moderator and all Department Heads, and the Town Boards. The Annual Town Report shall be available at least 14 days before the Annual Town Meeting.

c. Within sixty (60) days after the Annual Town Election, the Select Board shall hold a Meeting for the purpose of stating the Board's goals for the coming fiscal year, referred to as the Annual Goal Setting Meeting.

#### ***Section 4. Powers of Appointment***

a. The Select Board shall select, and enter into a contract with, a Town Manager. If the Town Manager position becomes vacant for any reason, the Select Board shall promptly hire a new Town Manager.

b. The Select Board has the authority to appoint and remove members of Town Boards designated in the Chapter on Town Boards of this Charter to be appointed by the Select Board, subject to the provisions of that Chapter.

c. The Select Board shall appoint a Secretary to the Select Board.

#### ***Section 5. Investigatory Powers***

a. The Select Board may investigate the alleged misconduct of the Town Manager, any Town Board, or any member of a Town Board. The Select Board may direct the Town Manager to investigate the affairs of the Town, the conduct of any Town Department or Town Employee, and any claim against the Town.

b. Any criminal matter shall be referred to the Police or the Attorney General's Office for action after an initial investigation to determine if criminal behavior may have occurred.

c. Investigations shall be based only upon factual allegations that can be confirmed or denied. If allegations are received from an individual, that person must be identified and the allegations must be in writing and must be specific. Any anonymous allegation or one of general behavior shall not be responded to.

d. The individual who is the subject of an investigation shall be informed in writing of the investigation and shall have the right to a Public Hearing.

e. The Select Board shall identify sanctions if the conduct is determined to be inappropriate. Sanctions may include an oral reprimand and guidance for future action at a Select Board open meeting, removal in accordance with procedures set forth in this Charter, or referral to an appropriate body for action.

f. A report of the investigation shall be posted on the Town's website by the Town Clerk after review by Town Counsel for any matters protected by the State's privacy laws, which shall be deleted prior to posting. A summary of the investigation shall be printed in the next Town Report.

#### ***Section 6. Limitations and Public Ceremonies***

a. Unless specifically provided in State law, a member of the Select Board may not hold any other position in Town Government, whether appointed or elected, paid or unpaid, including on any

Temporary or Ad-hoc committee created by the Select Board or at Town Meeting. Service as a representative from the Town to a governmental body other than the Town shall not be prohibited by this provision.

b. The Select Board, and individual members thereof, shall deal with employees who are under the direction and supervision of the Town Manager solely through the Town Manager. Furthermore, neither the Select Board nor its individual members shall give direct orders to any such employee.

c. Except as otherwise specified in this Chapter, the Select Board shall be subject to the same rules as apply to all other Town Boards, including that members have no authority in their individual capacities except as delegated by majority vote of the Board.

d. The Select Board shall represent the Town for all ceremonial purposes.

## **Chapter 4. THE TOWN MANAGER**

### ***Section 1. Town Manager Position***

The Town Manager is the chief administrator of the Town and is responsible for Town operations. The Town Manager is hired by the Select Board and operates under its policy guidance, as specified in Chapter 3 of this Charter.

### ***Section 2. Qualifications***

- a. The Town Manager shall be hired on the basis of education and experience. The minimum education requirement for a candidate for the position of the Town Manager is a bachelor's degree, preferably in Public Administration, from an accredited degree-granting college or university. In addition, the candidate must have at least three years compensated service in public administration at a managerial level. If the educational qualification is waived by the Select Board, the professional qualification must include at least nine years compensated service in public administration with at least six at a managerial level.
- b. The Town Manager shall reside in Provincetown or shall become a resident within six months of being hired.
- c. The Town Manager shall be employed subject to a contract prepared by the Select Board. The contract shall be in accordance with and be subject to this Charter and the General Bylaws. If there is any conflict or omission between the contract and this Charter, the Charter shall prevail. Nothing in the contract shall limit the right of the Town to remove the Town Manager, as specified in this Chapter or the Bylaws, nor shall the contract grant tenure to the Town Manager.
- d. The Town Manager's salary shall be set within the amount appropriated for that purpose by the Town.
- e. The Town Manager shall execute a bond in favor of the Town for the faithful performance of duties and indemnification of the Town in such sum and with such surety as directed by the Select Board. The Select Board may not waive the requirement of a performance bond.
- f. The Town Manager shall not hold any other public office, or engage in any other business or occupation while serving as Town Manager. Any further restrictions on outside activities may be included in the Contract by the Select Board.
- g. The Town Manager shall not have served in any elected or appointed office in Town government for at least one year before being considered as a candidate for the position.
- h. The Contract shall include a six month probationary period and shall include a procedure for the removal of the Town Manager after the probationary period.

### ***Section 3. Powers and Duties***

- a. The Town Manager shall be responsible for the administration of all Town functions, including but not limited to:

- 1) assessing and collecting taxes,
- 2) receiving and disbursing monies, accounting funds, and auditing accounts,
- 3) evaluating and maintaining the quality of streets, parks, wharves, and cemeteries,
- 4) evaluating and maintaining the water system, the disposing of sewage and waste,
- 5) maintaining the conditions of town buildings, such as the Town Hall, the Library, etc.,
- 6) controlling licensing, parking, civil defense, public health, and disaster relief,
- 7) administering the Police Department, Fire Department, and Rescue Squad,
- 8) and such other duties and responsibilities as provided for by this Charter, the Town Bylaws, or the majority vote of the Select Board.

b. With the approval of the Select Board, the Town Manager may organize operational functions into departments or offices, and establish, consolidate, or abolish departments, offices, or positions within the purview of the Town Manager. The Town Manager may also remove an employee who has become redundant.

c. With the approval of the Select Board, the Town Manager may transfer powers and duties from one Department or Office to another. With the approval of the Finance Committee, the Town Manager may transfer the appropriations of one Department or Office to another.

d. The Town Manager may hire, promote and remove all Town Staff, except the secretary to the Select Board. Any action with regard to the following positions shall be subject to confirmation by the Select Board, except that if the Select Board fails to confirm or object within fifteen (15) days of the notice of such proposed action, such failure shall constitute implied confirmation:

- 1) Assistant Town Manager
- 2) Finance Director
- 3) Police Chief
- 4) Town Clerk

e. The Town Manager shall consult a Human Resources expert on any matter relating to personnel issues that involve discrimination, harassment, or Americans with Disabilities Act issues.

f. The Town Manager shall ensure that all Town employees are informed of and comply with training required by the Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, and any supplemental ethical standards determined appropriate by the Town Manager.

g. The Town Manager may suspend with pay any Town employee not subject to a collective bargaining agreement for up to fifteen days for good cause or if the Town Manager deems the suspension to be necessary to protect the interests of the Town.

h. In addition, the Town Manager may discharge any Town employee not subject to a collective bargaining agreement for good cause if the action is taken in accordance with all applicable personnel policies and laws. The discharge shall be done in person, in private, and with a person with HR expertise in attendance.

i. The Town Manager shall appoint members to Town Boards designated in the Chapter on Town Boards of this Charter.

j. The Town Manager is the Commissioner of Public Safety, as further discussed in the Chapter on Public Safety of this Charter.

- k. The Town Manager is the Chief Procurement Officer of the Town, with authority to award and execute contracts for the purchase of all supplies and services for all Town Departments and offices, and, if requested, for the School Committee and for the Board of Library Trustees.
- l. The Town Manager shall maintain and keep current an inventory of all Town property and Town equipment.
- m. Annually, the Town Manager shall develop and revise a five-year Capital Improvements Program, in accordance with the Finance Chapter of this Charter.
- n. As further described in the Finance Chapter of this Charter, the Town Manager shall present to the Select Board annual and capital budgets of the Town, except the budget of the School Committee, for submission to Town Meeting for approval. Once Town Meeting approves these budgets, the Town Manager is responsible to ensure all such funds are expended or committed according to applicable provisions of Massachusetts General Law, this Charter, and the Bylaws.
- o. The Town Manager shall:
- 1) attend all meetings of the Select Board, except when excused, and has the right to speak but not to vote;
  - 2) inform the Select Board about Town operations, including any needs or concerns that have come to the attention of the Town Manager, and recommend necessary and expedient solutions;
  - 3) inform the Select Board of possible sources of available funding, both private and public, relating to Town needs;
  - 4) inform the Select Board of vacancies in Town Offices and on Town Boards; and
  - 5) accept referred matters from the Select Board for advice or action as directed by the Select Board.
- p. The Town Manager shall have such other powers and duties as conferred or assigned by vote of the Select Board, vote of Town Meeting, or the Provincetown General Bylaws.

#### ***Section 4. Resignation or Removal of the Town Manager***

- a. The Town Manager's contract shall require notice of an intention to resign and shall address the Town Manager's right to receive accrued sick pay and vacation time at the time of resignation.
- b. The first six (6) months of the Town Manager's term is a trial period, during which the Select Board may remove the Town Manager by an affirmative vote of at least three members. The trial period applies whether or not it is included in the Contract to hire the Town Manager.
- c. After the Town Manager has been in office longer than six (6) months, the Select Board may initiate the removal of the Town Manager by following the procedure included in the Contract. The right to the removal process delineated in the Contract does not apply if the term of the Town Manager's Contract term (original or extended) has expired.
- d. No action to remove a Town Manager can be started within ninety (90) days following any Town Election that has resulted in a change in the incumbents on the Select Board.

***Section 5. The Acting Town Manager***

- a. When the position of Town Manager becomes vacant for any reason, the Assistant Town Manager assumes all the powers and duties of the Town Manager as the Acting Town Manager until the Select Board hires a new Town Manager. Nothing in this Charter prohibits the Acting Town Manager from being hired by the Select Board as the Town Manager.
- b. If the position of the Assistant Town Manager is not filled, or if the Assistant Town Manager is unable to serve or to continue serving as determined by the Select Board, the Town Clerk shall become the Acting Town Manager, and the Assistant Town Clerk shall become the Acting Town Clerk.
- c. The Acting Town Manager receives the pay voted by Town Meeting for the Town Manager. If there is an Acting Town Clerk, that person shall receive the pay voted by Town Meeting for the Town Clerk.
- d. No member of any other elected Board, including the Select Board, may serve as Acting Town Manager.

## **Chapter 5 THE TOWN BOARDS**

### ***Section 1. Formation of Town Boards***

- a. Town Boards may be established by Town Meeting whether by adoption of a bylaw, by vote of Town Meeting, or otherwise in accordance with the General Laws, and such boards shall have the duties and provided by such law or vote.
- b. Town Boards may also be created by a majority vote of the Select Board, but such Boards shall be Ad Hoc or Temporary Advisory Boards, unless and until ratified by a majority vote of Town Meeting. Ad Hoc or Temporary Advisory Boards must be reauthorized by the Select Board each year within thirty (30) days of the annual Town Election or they are automatically dissolved. Ad Hoc or Temporary Boards are only advisory and cannot be established to carry out a requirement of State law.
- c. The Town shall have a School Committee per Massachusetts General Laws Chapter 43, Section 33 and Chapter 71, Sections 36A, 52, 63, and 68, in order to make all reasonable rules and regulations, consistent with law, for the management of the public schools of the Town.
- d. The Town Clerk is responsible to maintain a current list of active Town Boards and their duties and responsibilities as provided by either State law, Town Meeting vote, or, for Temporary Boards, by the vote of the Select Board.

### ***Section 2. Merger and Dissolution of Town Boards***

- a. Unless otherwise prohibited by State law, the Appointing Authority of two or more Town Boards may merge those Boards by majority vote, after an opportunity for comment by the Chairs of both of the Boards and after receiving the recommendation of the Charter Compliance Commission whether merger would be in conflict with any provision of this Charter. The Finance Committee cannot be merged with any other Board.
- b. Boards that were created by a vote at Town Meeting can only be dissolved by a vote at Town Meeting. Prior to any vote to dissolve a Board, the Charter Compliance Commission shall be asked whether dissolution shall negatively impact on the Town's Home Rule status or this Charter.
- c. Boards that were created by a vote of the Select Board can be dissolved by a majority vote of the Select Board after an opportunity for the Public to comment on the potential impact of abolishing the Board.
- d. In the event that an appointed, non-regulatory Town Board shall have failed to convene a meeting for the period of one year, or shall have had no members for one year, the Town Clerk shall notify the Appointing Authority, the Select Board and the Charter Compliance Commission. If that Town Board does not convene a meeting for a period of six months immediately following that notice, then it shall be automatically dissolved.

### ***Section 3. Rules of Town Boards***

- a. The Town shall maintain a Handbook for Members of Town Boards describing their general responsibilities as members. In the event of a conflict, this Charter shall prevail over any contradiction in the Handbook.
- b. A copy of all rules and regulations adopted by a Town Board – including procedures for Public Hearings - shall be filed with the Town Clerk and posted on the Town website.

### ***Section 4. Membership on Town Boards***

- a. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent.
- b. A paid Town Employee may not be a member of any Town Board that oversees matters in any way related to his or her employment, during the time of his or her employment. Potential responsibility to review actions or decisions by one's supervisor is considered to be "related to employment". In addition, a paid Town Employee with supervisory duties may not be a member of any Town Board in any way related to his or her employment for at least one year after leaving that employment.
- c. Members of a Town Board may not receive compensation for service on the Board except reimbursement for expenses pertaining to Town business. A voucher must be submitted for such expenses. By majority vote of Town Meeting and under authority of this Charter, the Town may establish or suspend an annual stipend for members of the Select Board, the amount of which shall be specified in the Bylaws.
- d. Members of Town Boards shall be governed by the ethical standards set forth in the Massachusetts General Laws Chapter 268A, as supplemented by this Charter. In general, a member of a Town Board may not serve as a paid consultant or contractor for the Town for work which is in any way related to the Board on which they serve or on which they have served within the past year.
- e. Members of the Town Boards listed below may not serve as a paid consultant or contractor for the Town while serving on the Board and for one year after serving, even if the work is not related to the Board on which they serve or have served:
  - 1) the Board of Assessors,
  - 2) the Charter Compliance Commission,
  - 3) the Finance Committee,
  - 4) the Personnel Board, or
  - 5) the School Committee.
- f. Members of Town Boards, including the Officers, have no authority in their individual capacities except as delegated by majority vote of the Board, except that administrative matters, such as the posting of Agendas, may be handled by Officers without prior approval.

**Section 5. Meetings and Officers of Town Boards**

- a. A quorum for a meeting of a Town Board shall be a majority of the number of positions available to the Board, not including Alternates. If State law allows for a larger number of positions, but the Town has chosen to designate a smaller number, it is the number of positions that the Town has chosen which shall be the basis for determining quorum. Vacancies shall not affect the number required for a quorum. Alternates count toward quorum only if they are taking the place of an absent Member.
- b. Unless another number is required by the Massachusetts General Laws or this Charter, no action of a Town Board shall be valid and binding unless ratified by an affirmative vote of the majority of the Members present, not including Alternates unless they are taking the place of an absent Member.
- c. At its first meeting after the Annual Town Election, and any time a position is open, each Town Board shall elect a Chair, a Vice Chair and other necessary officers. Since the term of the Finance Committee continues until July 15th to cover to the end of the fiscal year, their election would occur at that time. The names of the elected Officers shall be reported to the Town Clerk whenever an election takes place.
- d. It is the responsibility of the Officers of a Board to educate their Members about the authority and responsibility of the Board.
- e. No member of a Town Board may serve as Chair for more than six consecutive years, unless at the end of the sixth year (and each successive year) no other member is willing to serve as Chair.
- f. All Town Boards have the authority to conduct Public Hearings after adopting appropriate procedures.

**Section 6. Rules Specific to the Regulatory Town Boards**

- a. Regulatory Town Boards are those Boards authorized by Massachusetts General Laws to establish regulations applicable to activities within their authority. The following are identified as the Regulatory Town Boards for the Town of Provincetown:
  - 1) the Conservation Commission,
  - 2) the Board of Health,
  - 3) the Historic District Commission,
  - 4) the Licensing Board,
  - 5) the Planning Board,
  - 6) the Water and Sewer Board, and
  - 7) the Zoning Board of Appeals.
- b. Members of Regulatory Town Boards must be registered voters in the Town of Provincetown, unless otherwise allowed or directed by State law.
- c. Members of Regulatory Town Boards may serve for only three three-year overlapping full terms. When a member is appointed to complete the term of another, it shall count as a full term if it exceeds 18 months. Members may be re-appointed after an absence of one year.

d. No person shall serve as a member/alternate member of more than one of the Regulatory Town Boards simultaneously.

e. Since failure of a Regulatory Town Board to act is an abdication of responsibility under the Home Rule laws, in the event that there are an inadequate number of members appointed to provide quorum for any Regulatory Town Board, the responsibilities of that Board shall fall to the Select Board.

### ***Section 7. Rules Specific to Appointed Town Boards***

a. The Moderator is the Appointing Authority for the Finance Committee and the Personnel Committee. The Town Manager is the Appointing Authority for the Conservation Commission and the Historical Commission. The Select Board is the Appointing Authority for all other appointed Town Boards. Appointment by the Select Board shall be by majority vote.

b. No person shall be appointed to a Town Board:

- 1) unless determined to be qualified by the Appointing Authority, or able to become qualified by serving and there are sufficient number of members already serving on the Board who are qualified to carry out the responsibilities of the Board,
- 2) if appointment would be contrary to the Conflict of Interest laws, or
- 3) based on political party consideration, with the exception of the Board of Registrars or as otherwise provided by State law.

c. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint part-time residents to serve as alternates, as long as the majority of members are registered voters. Individuals who are not registered voters shall be appointed to a non-regulatory Town Board only if they can commit to being present for a majority of the meetings of the Board.

d. A member or alternate member of any Town Board who is absent from three consecutive meetings without informing the Chair shall automatically cease to be a member of the Board. The Chair shall notify the Appointing Authority and the Town Clerk in writing. The Appointing Authority shall then follow the procedure below for filling vacancies on Appointed Town Boards.

e. Vacancies on appointed Boards shall be filled as follows:

- 1) The Appointing Authority shall fill the vacancy within sixty days of the receipt of the notice of vacancy.
- 2) In the event of the failure of the Appointing Authority to fill the vacancy within the allotted time, and when the Moderator is not the Appointing Authority, the Moderator shall fill the vacancy within thirty days.
- 3) In the event of the failure of the Appointing Authority/Moderator to fill the vacancy within the allotted time, the Board may fill the vacancy, unless the Board lacks the quorum to act.

f. There is no time limit for service on an appointed, non-regulatory Board.

g. An appointed member of a Town Board may be removed for Good Cause as outlined below:

- 1) A written notice to remove shall be sent by the Town Clerk by registered mail to the last known address of the member who is proposed to be removed. The notice shall include a

statement by the Appointing Authority of the reasons for the removal which must be based on a finding of Good Cause.

- 2) Within one week of receiving the written notice, the member may resign or may request a closed meeting with the Appointing Authority by delivering written notice to the Town Clerk. If the member does neither, the Town Clerk shall send out a written notice identifying a date and time within fourteen (14) days for a Public Hearing on the proposed removal.
- 3) If the closed meeting takes place, within seven (7) days following adjournment of the closed meeting, the member may resign or may request a Public Hearing by delivering notice to the Town Clerk. The Public Hearing shall be held within fourteen (14) days of the request. If the member fails to resign or to request a Public Hearing, the Appointing Authority shall decide whether to remove the member for Good Cause. The decision shall be by a majority vote if the Appointing Authority is a multi-member body.
- 4) The member who is proposed to be removed may be represented by counsel at his or her own expense at the closed meeting as well as at the Public Hearing. The member and the Appointing Authority shall be entitled to present evidence, call witnesses, and examine any witness at the Public Hearing.
- 5) Within ten days after the Public Hearing is adjourned, the Appointing Authority shall decide whether to remove the member for Good Cause. The decision shall be by a majority vote if the Appointing Authority is a multi-member body.
- 6) A notice of the decision whether or not to remove the member and the reasons therefor shall be sent by the Town Clerk by registered mail to the last known address of the member.
- 7) This procedure does not grant any rights when a member who has been appointed to a fixed term is not reappointed when the term expires.

h. The Appointing Authority shall file a copy with the Town Clerk of each notice of appointment or rescission of an appointment to a Town Board, and the same shall be a public record.

### ***Section 8. Rules Specific to Elected Town Boards***

- a. Elected members of Town Boards serve for three-year overlapping terms, each term beginning the day after the member is elected and ending at the close of the Town Election day three years later.
- b. Vacancies on elected Town Boards shall be filled in accordance with Massachusetts General Law Chapter 41, Section 11.
- c. Members of elected Town Boards shall be registered voters in the Town throughout their terms. Failure to remain a registered voter shall result in the automatic removal of the member.
- d. No paid Town Employee may simultaneously serve as a paid Town Employee and on an elected Town Board. No member of an elected Town Board may become a paid Town Employee while serving on the Board.
- e. Members of elected Town Boards and elected individuals, such as the Moderator, can be removed from service on such Boards only by the recall process delineated below:
  - 1) Any fifty (50) registered voters of the Town may file with the Town Clerk an affidavit naming an elected Official sought to be recalled along with a list of the specific grounds for recall.

- 2) No recall petition can be issued against an Official within three (3) months after that Official takes office, nor within six (6) months of the end of their term. In the case of an Official subjected to a Recall Election but not recalled, no further Recall Petition shall be accepted within the six (6) months following the Recall Election.
- 3) After confirming that the affidavit meets the requirements above, the Town Clerk shall issue dated Recall Petition blanks bearing the Town Clerk's signature and official seal, addressed to the voters who swore to the affidavit, in a manner consistent with the requirements of the Commonwealth. The Recall Petitions shall state the name of the Official sought to be recalled, the specific grounds for recall, and the demand for Election of a successor. Upon request, the Town Clerk may issue any reasonably required number of Recall Petition blanks but no fewer than enough to collect the signatures of at least ten percent (10%) of the registered voters. Additional Recall Petition blanks may be issued when all of those originally issued have been filled with voters' signatures. A copy of the Recall Petition shall be kept by the Town Clerk.
- 4) Unless otherwise permitted by the Commonwealth, signatures must be obtained on the issued Recall Petition blanks, not copies. The Recall Petitions must be signed by no fewer than ten percent (10%) of the registered voters, and must legibly state the home street address and the house or unit number of the residence of each signer. The signed Recall Petitions must be returned to the Town Clerk within twenty (20) days after the initial issuance of the Recall Petition blanks.
- 5) Within twenty-four (24) hours of receipt, the Town Clerk shall confirm the authenticity of each signature on the Recall Petitions and refer the Recall Petitions to the Board of Registrars of Voters to certify the signatures. Then the Town Clerk shall submit the Recall Petitions to the Select Board.
- 6) The Select Board shall give written notice of receipt of the certificate to the Official identified in the Recall Petition. The Official may choose to resign by submitting a written resignation to the Town Clerk. Resignation shall be effective at 11:59 p.m. of the fifth (5<sup>th</sup>) calendar day following receipt by the Town Clerk of the written resignation.
- 7) If the Official has not submitted a written resignation within five (5) days, the Selectmen shall order a Recall Election to be held on a date not less than seventy-five (75) or more than eighty-five (85) calendar days after the date of the Town Clerk's certificate. However, if any other Election is scheduled to occur within one hundred (100) calendar days after the date of the certificate, the Selectmen shall postpone the Recall Election to the date of the pending Election. The Incumbent who has not resigned as described above, shall continue to perform the duties of the Office until the Recall Election.
- 8) If after a Recall Election has been ordered, the Official resigns or a vacancy otherwise occurs because the individual has died or no longer qualifies as a registered voter of the Town, the Recall Election shall proceed solely for the purpose of electing a successor. Candidates shall be nominated in the same manner as for an Annual Election.
- 9) Ballots used in a Recall Election shall state the following in the order indicated:
  - For the Recall of [name of Official]
  - Against the Recall of [name of Official]
- 10) Immediately at the right of each proposition there shall be a square in which the voter may vote for or against recall by making a mark. Under the propositions shall appear the word "Candidates", the directions to voters required by Massachusetts General Laws Chapter 54, Section 42, and beneath this the names of the candidates nominated. The nomination of candidates, the publication of the Warrant for the Recall Election, and the conduct of the Recall Election, shall comply with the laws governing elections.
- 11) A majority vote of at least twenty-five percent (25%) of registered voters is required to recall an elected Official. If fewer than twenty-five percent (25%) of registered voters cast a

- ballot, the ballots regarding the Recall shall not be counted.
- 12) If the Recall Election fails, the Official shall continue in Office for the remainder of his/her term, and is subject to Recall as before, except as provided above.

## **CHAPTER 6. FINANCE**

### ***Section 1. The Finance Department***

- a. There shall be a Finance Department, as provided by Massachusetts General Law, Chapter 43C, Section 11, managed by a Finance Director.
- b. The Finance Department shall include the functions, duties and responsibilities of the Assessor, the Treasurer, the Collector, and the Accountant. The Department's functions shall include, but shall not be limited to, the following:
  - 1) Coordination of all financial services and related activities of the Town,
  - 2) Provision of a liaison to provide support to the Finance Committee,
  - 3) Supporting the Town Manager in the preparation of the annual operating and capital improvement budgets, and
  - 4) Supporting the Town Manager in long-range financial planning, including the forecasting of revenue and expenditures and the general financial condition of the Town.
- c. The Finance Director shall be appointed by the Town Manager, with the concurrence of the Select Board. The Finance Director shall be qualified by education, training and experience to perform the duties of the position.
- d. The Finance Director exercises administrative control and management of the department and may also serve, ex officio, as the Assessor, Accountant, Treasurer or Collector of the Town, provided that the Finance Director may serve in only one of these four positions at any one time.

### ***Section 2. The Finance Committee***

- a. There shall be a Finance Committee, as provided by Massachusetts General Law, Chapter 39, Section 16. The Finance Committee shall exercise the powers and duties prescribed by the Massachusetts General Laws, the Provincetown General Bylaws, and this Charter.
- b. The Finance Committee shall consist of seven regular members and two alternate members appointed for three-year overlapping terms arranged so that the terms of at least three members shall expire at the end of the day on July 15<sup>th</sup> of each year, provided that no more than one alternate member's term expires in any given year.
- c. Finance Committee members shall be appointed by the Moderator.
- d. No person shall be eligible to serve on the Finance Committee while serving on an elected or appointed Town Board, or while a paid Town Employee.
- e. The Finance Committee shall formally consider and provide a recommendation to Town Meeting on all articles contained in any Warrant that require or request an appropriation of money, except articles on zoning. However, the Finance Committee may consider, if it sees fit, an article which does not require or request an appropriation of money.
- f. The Finance Committee shall report its recommendations, in writing, at or prior to each Town Meeting, but the omission of the Committee to consider, recommend and/or report shall not affect the validity of any vote or other action at any Town Meeting. The Finance Committee may also make

such general suggestions, criticisms and recommendations, as it deems expedient. The Finance Committee shall make majority and minority reports to the Town Meeting on the articles it has considered.

g. The Finance Committee has the power and authority to examine the books and records of any town board or official, as permitted by law.

### ***Section 3. Financial Procedures - The Long Term Financial Plan.***

a. The Town Manager shall annually prepare a Long Term Financial Plan, covering a minimum period of five fiscal years, and including the following:

- 1) A forecast of all Town revenues and expenditures and the assumptions made to predict them,
- 2) A forecast of the Town's debt service levels, based on the Town's Capital Improvements Plan,
- 3) A forecast of property tax rates and any Proposition 2½ operating overrides that may be required,
- 4) A statement of the Town's liabilities for future retiree pensions and health benefits, including funding strategies,
- 5) A summary of the general financial condition of the Town, including the Town's credit rating, and
- 6) Policy recommendations to address any projected deficits or other financial challenges.

b. The Town Manager shall submit the Long Term Financial Plan to the Select Board and the Finance Committee on or before October 1<sup>st</sup>. The Select Board and the Finance Committee shall conduct a joint public meeting on or before October 15<sup>th</sup>, to review the Long Term Financial Plan. At the same meeting, the Select Board shall adopt financial policies for the ensuing year's budget and for the term of the Long Term Financial Plan.

### ***Section 4. Financial Procedures - The Annual Budget.***

a. To enable the Town Manager to make up the annual estimate of expenditures, all Boards, Officials, Committees and Commissions shall, upon his or her written request, furnish all relevant financial information in their possession, and shall submit to the Town Manager in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective Departments or Boards during the next fiscal year.

b. On or before the third Tuesday in January each year, the Town Manager shall submit to the Select Board a careful, detailed estimate in writing of the probable expenditures of the Town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each Fund and Department. The Town Manager must also submit a statement of the expenditures of the Town for the same purposes in the two preceding years and an estimate of the expenditures for the current year.

c. The Town Manager shall also submit a statement showing all revenues received by the Town in the two preceding fiscal years and an estimate of the amount of income from all sources of revenue, including property taxes, for the ensuing year.

- d. The Town Manager shall also submit a Budget Message which shall:
- 1) explain the Budget both in fiscal terms and in terms of work programs,
  - 2) outline the proposed financial policies of the Town for the ensuing fiscal year,
  - 3) describe the important features of the Budget,
  - 4) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes,
  - 5) summarize the Town's debt position and the funding status of the Town's post-employment benefits, and
  - 6) include such other material as the Town Manager deems appropriate.
- e. The Select Board shall consider the proposed Budget submitted by the Town Manager and make such recommendations as it deems expedient and proper in the interests of the Town. On or before January 31<sup>st</sup>, the Select Board shall transmit a copy of the Budget, together with its recommendations, to the Finance Committee.
- f. The Finance Committee shall consider the proposed Budget submitted by the Select Board and make recommendations as it deems expedient and proper in the interests of the Town. On or before February 28<sup>th</sup>, the Finance Committee shall transmit a copy of the Budget, together with its recommendations relative thereto, to the Select Board.
- g. The Select Board and the Finance Committee shall jointly hold one or more public hearings on the proposed Budget not later than twenty-one (21) days prior to the Annual Town Meeting at which it is to be submitted for adoption.<sup>190</sup>
- h. The Town Manager shall present the Budget, including the Budget adopted [\*separately] by the School Committee, to the Town Meeting. The Budget shall first be subject to Amendments, if any, proposed by the Finance Committee before any other Amendments may be proposed.

***Section 5. Financial Procedures - Specific to the School Committee***

- a. The School Committee shall conduct a Public Hearing on all proposed School Budgets and shall have preliminary summaries of its recommendations available at said Hearing for distribution to those who request them. Following such Public Hearing, the School Committee shall adopt its budget.
- b. The School Committee may provide its proposed Budget to the Town Manager and the Select Board for their recommendations.
- c. The School Committee shall deliver its proposed Budget to the Town Manager by January 31<sup>st</sup> of each year.

***Section 6. Financial Procedures - The Capital Improvements Program.***

- a. The Town Manager shall prepare a five-year Capital Improvements Program which shall include:
- 1) a clear summary of its contents,
  - 2) a summary of the general condition of the Town's capital assets,
  - 3) a list of all improvements proposed to be undertaken during the next five fiscal years, together with supporting data, including:

- a) acquisition, construction, and expansion of existing facilities,
- b) repairs and major maintenance, and
- c) replacement program, including existing equipment and vehicles,
- 4) cost estimates, methods of financing, and recommended time schedules,
- 5) the estimated annual cost of operating and maintaining the facilities to be constructed or acquired, and
- 6) the above information may be revised and extended each year regarding capital improvements pending or in the process of construction or acquisition.

b. The Town Manager shall submit the Capital Improvements Program to the Select Board and the Finance Committee by the third Tuesday of January prior to the Annual Town Meeting. On or before January 31<sup>st</sup>, the Select Board shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.

c. The Finance Committee shall publish, in one or more newspapers of general circulation in the Town, the general summary of the Capital Improvements Program and notice stating:

- 1) the times and places where copies of the Capital Improvements Program are available for inspection, and
- 2) the date, time, and place, not less than seven days following such publication, when the committee shall conduct a public hearing on the Capital Improvements Program.

d. The Select Board shall present the Capital Improvements Program to the Annual Town Meeting.

#### ***Section 7. Financial Procedures - Publication of Financial Information.***

The Budget and the Capital Improvements Program shall be public records, published in the Town Report and on the Town website. Copies shall be made available for inspection at the office of the Town Clerk.

#### ***Section 8. Financial Procedures - Collections and Disbursements***

a. Except as otherwise provided by Massachusetts General Laws, all monies and fees received by the Town or by any Division, Department, Officer or Employee, shall be paid daily into the Town Treasury.

b. Warrants for the payment of Town funds, prepared and signed by the Finance Director in accordance with Massachusetts General Laws, and submitted to the Town Manager for approval, shall be sufficient authorization for payment by the Town Treasurer. At least three members of the Select Board shall approve all warrants if the Town Manager position is not filled or in the event that the payment cannot be delayed by the absence of the Town Manager.

#### ***Section 9. Financial Procedures - Lapse of Appropriations***

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been

accomplished or abandoned. The purpose of an appropriation for a capital expenditure shall be deemed abandoned if five years have passed without any disbursement for or encumbrance of the appropriation.

***Section 10. Financial Procedures - Annual Audit***

- a. At least thirty days before the end of each fiscal year, the Select Board shall retain a Certified Public Accountant or an accounting firm to make an audit of all accounts, books, records, and financial transactions of every Department, Board, and Commission of the Town Government.
- b. The Select Board shall annually conduct a joint meeting with the Finance Committee to review the findings and recommendations included in the audit report.
- c. A copy of every Audit Report shall be filed with the Town Clerk, shall be a public record, and a summary thereof shall be published in the next Annual Town Report.

## **CHAPTER 7 PUBLIC SAFETY**

### ***Section 1. Residency Requirements***

- a. The Chief of Police and the Director of the Department of Public Works shall be residents of Provincetown or Truro, or shall become residents within six months of assuming office.
- b. The Fire Chief shall be a resident of Provincetown.

### ***Section 2. The Police Department***

- a. The Town Manager shall appoint the Chief of Police with the approval of the Select Board under authority of this Charter. The parties shall enter into a Contract describing the authority, responsibilities, rights and entitlements of the Chief of Police.
- b. The Town Manager shall make all appointments within the Police Department after consultation with the Chief of Police on the suitability of proposed candidates. For all appointments within the Police Department, applicants, whether temporary or permanent, who are residents of the Town of Provincetown shall be given preference.
- c. The Chief of Police shall have responsibility within the legal authority of the Department for the maintenance of law and order within the limits of the Town. The Chief of Police is authorized to coordinate on behalf of the Town with other legal authorities within and adjoining the Town, including the Federal Government, the Commonwealth of Massachusetts, and other Towns on the Cape.
- d. There shall be an Officer of the Duty for each shift, who shall assume the duties of the Chief when the Chief is absent or unavailable and no Acting Chief has been named by the Town Manager.
- e. The Chief of Police shall support the Field Director during a declared emergency situation.

### ***Section 3. The Fire Department***

- a. The Town Manager shall appoint for a one-year term a Board of Fire Engineers consisting of not more than seven members. This Board shall elect a Fire Chief from within its membership.
- b. The Fire Chief shall submit reports to the Town Manager, who in turn shall submit the reports to the Select Board, as the Board may direct.
- c. The Fire Chief shall support the Field Director during a declared emergency situation.

### ***Section 4. The Department of Public Works***

- a. In accordance with the authority in this Charter, the Town Manager shall appoint a Director of the Department of Public Works (DPW) who shall be responsible for the planning, design and operation of the wastewater and water treatment and distribution system, storm drainage systems, road construction and improvements, winter maintenance, cemetery maintenance, public buildings

and grounds maintenance projects, equipment maintenance, and various special projects of a public works nature.

b. The Director of DPW shall seek State and Federal grants and loans where and when applicable for DPW projects and purchases.

c. The Director of DPW shall provide engineering assistance to other Town departments; prepares property plans, easement plans, and engineering construction drawings.

d. In the absence of a qualified Tree Warden the Director of DPW shall act or be appointed Tree Warden until such time when a permanent replacement is assigned.

e. The Director of DPW shall support the Field Director during a declared emergency situation.

### ***Section 5. The Provincetown Public Pier Corporation and the Shellfish Constable***

a. Chapter 13 of the Acts of 2000, as amended by Chapter 260 of the Acts of 2002, enacted by the Senate and House of Representatives in General Court of the State of Massachusetts, authorized the creation of a public corporation to be called the Provincetown Public Pier Corporation, referred to in this Charter as the Pier Corporation. According to the enabling Legislation, the Pier Corporation was created for the purpose of bringing sound and market-based management practices to MacMillan Pier operations, and permitting the removal or addition of structures and improvements of sites for marine and marine-related uses. The Pier Corporation is a public instrumentality separate from the Town, and is not an Authority, Board, or Committee of the Town. The Pier Corporation may be dissolved only in accordance with the procedure appearing in the Pier Corporation Act.

b. As authorized by Massachusetts General Laws Chapter 130, Section 98, Provincetown has established the position of Shellfish Constable and created a Shellfish Committee to serve as an advisory Board. The Constable's function is to initiate, promote and manage shellfisheries in Provincetown; make or cause to be made studies necessary to enhance the value of such shellfisheries and shall enforce all Statutes, Ordinances, Bylaws, Rules and Regulations relative to shellfish in Provincetown.

### ***Section 6. Emergency Management***

a. The Town Manager, as the Commissioner of Public Safety, serves as the Emergency Management Coordinator for the Town, including serving as the contact with local, State, and Federal officials.

b. In the absence of a different designation by the Town Manager, the Chief of Police shall act as Field Director during a declared emergency.

c. An Emergency Management Plan, including the chain of command, shall be developed by the Emergency Management Coordinator and placed on file with the Town Manager and the Select Board. Such sections determined to be a matter of public record, including the location of public shelters and the availability to the citizens of the Town of emergency management information and updates, shall be posted on the Town website.

## **CHAPTER 8 TRANSITION PROVISIONS**

### ***Section 1. Effective Date***

After adoption by the voters, this revised Charter shall take effect on July 1 of the year of its adoption.

### ***Section 2. Town Boards - General***

This list of Town Boards in the previous Charter was not current. The Commission determined that keeping the listing current was complicated by the fact that the Charter can only be revised, in accordance with State law, by a process that required legislative approval, and the listing was not valid or valuable if incomplete or incorrect. Therefore, the Commission decided to remove the listing from the Charter and to mandate that the Town Clerk keep a current list of Town Boards.

All Town Boards that were in place when this Charter was revised shall continue to exist until modified, merged or dissolved in accordance with this Charter. Those persons who are serving on Town Boards at the time the Charter is adopted shall continue to serve in accordance with their appointment or election.

### ***Section 3. Charter Compliance Commission***

The Charter Enforcement Commission has been renamed the Charter Compliance Commission and its responsibility has been modified to focus on education to encourage compliance with the Charter and assistance to the Select Board and the Town Manager in their responsibility to compel compliance with the Charter.

Those persons serving on the Charter Enforcement Commission at the time the Charter is adopted shall become the members of the Charter Compliance Commission and shall continue to serve in accordance with their election.

### ***Section 4. Impact on Existing Laws, Agreements, or Litigation***

All special acts, by-laws, resolutions, rules, regulations, and votes of the Town Meeting in force on the effective date of this revised Charter which are not inconsistent with its provisions shall continue in force and effect until amended or repealed. All contracts, leases, franchises and obligations entered into by the Town, or for its benefit, prior to the effective date of this revised Charter shall continue in full force and effect. No action or proceedings, civil or criminal, in law or in equity, pending at the time this revised Charter takes effect, brought by or against the Town or any Office, Department, Employee, Town Board, or any other agency of the Town, shall be affected or abated by the adoption of this revised Charter.