



# Meeting Agenda

The Provincetown Board of Selectmen will hold a **Public Meeting on Monday August 11, 2014 at 4:30 pm**, in the Judge Welsh Meeting Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657.

1. Joint meeting with the Charter Review Ad Hoc Committee
2. OTHER: Other matters that may legally come before the board not known at the time of posting.



Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
August 11, 2014

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## Joint Meeting with Charter Review Ad Hoc Committee

Requested by: BOS/Charter Committee

Action Sought: Discussion

### Proposed Motion(s)

***Discussion Dependent***

### Additional Information

See Attached

### Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

# *Provincetown Charter Commission*

August 24, 2012

To the Provincetown Board of Selectmen:

Recently some of the Charter Commission members received input (personally) from members of the community regarding a review of the Town Charter, now over two decades old. Based on the information provided by Town Counsel, the Charter Enforcement Commission was advised that we may write to the Board of Selectmen recommending a Review of the Town Charter and the establishment of an Ad Hoc Committee so that a public process may ensue. The Board of Selectmen would appoint the members of the Ad Hoc Committee, and the members of the Charter Enforcement Commission can volunteer to serve on the Ad Hoc Committee. The purposes of the Ad Hoc Committee are to collect and review public comment and to potentially recommend a revision to the Town Charter. If a revision is recommended by the Ad Hoc Committee, that would then require a petition to the State Legislature which must be approved through a vote on an article at the Town Meeting, and the subsequent election of members to a Charter Revision Committee.

The Charter Commission met July 23, 2012 and voted 4-0 (1 absent) to recommend a review of the Town Charter to the Board of Selectmen, and respectfully request consideration of this matter. We look forward to assisting the Board of Selectmen in this process.

Sincerely,

Tina M. Trudel, PhD

Chair, Charter Commission

Charter Enforcement Commission Meeting with the Board of Selectmen

July 22, 2013

The Charter Enforcement commission is requesting the Board of Selectmen to consider initiating a Charter review Process. Issues forming the basis for this request that have been raised include:

1. Creation of an Ad Hoc Committee, to serve for one year (time limited), to address an overall review and potential revision of the Town Charter, based on the following:
  - i. It has now been over two decades since the last revision of the Town Charter.
  - ii. The Town Charter does not provide adequate guidance on Ad Hoc Committees.
  - iii. The Town Charter does not clearly address term limits/enforcement for members of the Town Committees.
  - iv. The Town Charter does not clearly address attendance/enforcement requirements for members of Town Committees, including remote attendance and applied technology.
  - v. The need for review of the mandates of Town Committees and whether they are presently consistent with the scope appearing in the Town Charter.
  - vi. The need for review of the new Town Planner position in the context of its implications for review or revision of the Town Charter.
2. The Charter Enforcement Commission intends to review in writing the present activities and Town Charter scope and mandates, with the Chairs of each of the Town Committees.
3. Recommendation that the Board of Selectmen direct the Ad Hoc Committee once formed, to hold open public meetings to collect comments regarding review and potential revision of the Town Charter from the citizens of the Town and the representatives of the Town Committees, with the option to submit comments in writing; all comments to be publicly available as the review and potential revision of the Charter moves forward.
4. Recommendation that the Board of Selectmen direct the Ad Hoc Committee to submit their recommendations in writing to the Board regarding the potential revision of the Charter. If a revision is recommended by the Ad Hoc Committee and approved by the Board of Selectmen, then that requires a Petition to the State Legislature which must be approved through a vote on an Article at Town Meeting, and the election of members to a Charter Revision Committee.
5. Charter Enforcement Commission members Ann Maguire and Julia Perry (Tina Trudel as alternate), have offered to serve on the Ad Hoc Committee at the discretion of the Board of Selectmen to ensure Charter Enforcement Commission support for the process.

**RECEIVED**  
BOS - Vernon  
JUL 18 2013  
CC: BOS/TM/ATM

## Mary Timmons

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**From:** Tom Donegan  
**Sent:** Monday, July 14, 2014 1:42 AM  
**To:** Mary Timmons  
**Subject:** please print 5 copies

### **Committee Report Delivered at the October 21, 2013 Special Town Meeting**

Good evening, I am Julia Perry, the Chair of the Charter Review Ad Hoc Committee.

The 1966 Home Rule Amendment to the Massachusetts Constitution allowed a Town to adopt or revise a local charter, provided that it was not inconsistent with the Massachusetts Constitution or Massachusetts General Laws. Provincetown adopted its first Charter in 1973. In 1990, the current Charter was significantly revised and updated. But no extensive review has been conducted since then.

The Charter Enforcement Commission – an elected Board of the Town – recommended to the Board of Selectmen that a review be conducted, and the Board of Selectmen approved the formation of this Ad Hoc Committee and named eleven members and an alternate.

The Ad Hoc Committee first met on September 10th of this year; met weekly through the beginning of October; and is now meeting on a biweekly basis, Tuesdays at 5 pm in the Town Hall. These meetings are open to the Public, and our Minutes and Agendas are posted on the Town website.

The Ad Hoc Committee has sent a letter to the Committees and Boards named in the Charter informing them of our role and asking for their initial input regarding their inclusion in the Charter – specifically whether the Charter accurately reflects their current operations. We will be meeting with them to discuss this and other issues in the future. We plan to send a similar letter to all Committees, Commissions, Boards and Councils in existence – including those not listed in the Charter. We are also planning to meet with the Board of Selectmen, the Moderator, the Town Manager, and the Assistant Town Manager to discuss how their roles are reflected in the current Charter.

At some time in the future, the Ad Hoc Committee will host public forums to allow the public to comment on the Charter. Members of the Public are also allowed to comment at our Meetings and to submit comments in writing to the Ad Hoc Committee at any time. All comments – oral or in writing – will be made a part of the public record.

In addition to updating the information in the Charter, the Ad Hoc Committee has taken on as its role an effort to make the Charter more readable by the general Public. For example, we are working on making references in the Charter to the Massachusetts General Law consistent and clear. Currently, reading the Charter requires constant cross-referencing to the Massachusetts General Laws on-line. We are hoping to eliminate or reduce that effort. We are also looking at organization of the Charter, the need for a glossary of Town political process terminology, and other indexes or appendices that would allow the Public a better understanding of the Charter and its role.

The Ad Hoc Committee has no authority to make changes to the Charter on its own. Its role is to propose a revised Charter to the Board of Selectmen for approval for inclusion in the warrant of a Town Meeting. As I have noted above, in addition any revisions must receive approval from the State Attorney General as not being inconsistent with Massachusetts law. And, finally, a revised Charter must be approved by vote of the Town at the Annual Meeting. This will be a long, detailed process – it is anticipated that we will have a revised Charter for approval at the Annual Meeting in 2015. It is the responsibility of the Ad Hoc Committee to keep the Town informed and involved during this process. That is the reason for my statement today, and you will be seeing other outreach in various forms in the future. The Charter is the foundation for your Town's political processes. I encourage you to be involved in its review.



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## Department of Revenue

About DOR

Home > Local Officials > Charting a Route for Charter Change

### Charting a Route for Charter Change

Massachusetts citizens should take pride in the fact that the Constitution of the Commonwealth is the oldest written Constitution in continuous use in the world - a document that predates and provides the basis for our federal Constitution. What many people in the state may not realize is that there is a good chance that their local government already existed at the time of the drafting of the Massachusetts Constitution in 1780. In fact, 110 of the Commonwealth's current 351 cities and towns - almost a third! - had been granted charters that marked the geographical boundaries of the community and established a rudimentary local government before the Massachusetts Constitution went into effect.

Just as the boundaries were in many cases quite different, the structure and role of local government have evolved too. When the citizens of a community want to change the charter that serves as the "constitution" of their local government in order to meet evolving responsibilities and demands, they must follow one of the charter change processes spelled out in the Massachusetts Constitution.

#### Definition of "Charter"

"Charter, when used in connection with the operation of city and town government shall include a written instrument adopted, amended or revised pursuant to the provisions of chapter forty-three B which establishes and defines the structure of city and town government for a particular community and which may create local offices, and distribute powers, duties and responsibilities among local offices and which may establish and define certain procedures to be followed by the city or town government. Special laws enacted by the general court applicable only to one city or town shall be deemed to have the force of a charter and may be amended, repealed and revised in accordance with the provisions of chapter forty-three B unless any such special law contains a specific prohibition against such action." (MGL, Chapter 4, Section 7)

#### The Two Main Charter Change Routes

The Home Rule Amendment to the state's constitution provides several routes for preparing or revising a charter. The most familiar are:

- Electing a home rule charter commission
- Petitioning the state legislature for special legislation ("the home rule petition").

While the two routes to charter change lead to the same aim - a new or revised charter - the procedures and timeline are quite different.

Option one is election of a home rule charter commission, which leads to what is often referred to as a "home rule charter." A commission of nine members may be elected to "frame a charter" or "revise its present charter" for a city or town upon petition of 15 percent of the municipality's voters. Chapter 43B of the Mass General Laws provides a specific framework, timeline, and set of responsibilities for the charter commission to fulfill. The commission has a maximum of 16 months to produce a preliminary report, and a maximum of 18 months to produce a final report. The statute requires that two public hearings be held. Both the preliminary and final reports must be printed and distributed.

Beyond the provisions of Chapter 43B, the commission as an elected local body operates under the provisions of MGL, Chapter 39, Section 23 ("the open meeting law") [1]. The charter commission may examine any and all features relating to the municipality's structure and may propose a form of government that they determine will be responsive to the city or town.

#### About the Home Rule Amendment

The Home Rule Amendment (HRA) provides limited home rule to Massachusetts cities and towns. Simply stated, the limitations encompass those powers that the state has reserved to itself (e.g., conduct of elections, determination of what constitutes a crime), and continues to have the authority to impose uniform state laws applicable to all cities, all towns, or a class thereof. When the Home Rule Procedures Act (MGL, c. 43B) was amended in 1984 by the addition of Section 20, a modest amount of flexibility was included to mitigate the "uniform state law" provision of the HRA as follows:

- Most local officers, boards, and commissions may be either elected or appointed. (Mayors, boards of selectmen, legislative bodies, school committees, and the moderator must be elected.)

- Appointments may be made by the official named in the charter
- Terms of office can be determined by the charter, not to exceed five years
- Appointments may be confirmed by the official(s) named in the charter
- Boards can be of any size, with the caveat that they contain an odd number of members
- Powers, duties, and responsibilities of municipal offices and departments may be divided or merged according to procedures provided in the charter

Option two is the "home rule petition" route, which leads to what is often referred to as a "special act charter." Section 8 of the Home Rule Amendment provides that cities and towns may use a "home rule petition" to achieve change in structure. This "petition" route was the only route available for cities and towns to make structural change prior to passage of the Amendment.

Section 8 does not provide detailed instructions regarding the preparation of a "home rule petition" charter. A mayor or board of selectmen may appoint a study committee, or such committees may be created by a city council or by a vote of a town meeting. Such actions may set a timeline for such committees to report back to the appointing body, but there is no state requirement for a specific timeline. There is also no requirement for printing and distribution of any proposal. There are no public hearing requirements, per se, although some study committees do provide a public forum for discussion of its recommendations, and town meetings or city council meetings where such changes would be considered are public meetings. In recent years, however, some study committees have made use of the city/town website to publicize their recommendations.

After completing its work, the committee submits its recommendations to the local legislative body, which must decide whether to approve a "home rule petition." In cities, such approval must also have the concurrence of the mayor. If the petition is passed by the legislative body (and receives the mayor's approval, where necessary), it is then treated as a piece of proposed legislation - i.e., it is filed with the House or Senate clerk, assigned to a legislative committee, passed by the House and Senate, signed by the Governor, and returned to the city or town. In most instances where a significant change is proposed, the legislation will be subject to ratification by the municipality's voters prior to taking effect.

#### Periodic Review of the Charter by a Charter Review Committee

Once a community has a charter, there is often a provision for the periodic appointment of a charter review committee. The committee undertakes an examination to determine the charter's ongoing utility and accuracy. Such committees do NOT have the powers, duties, and responsibilities of an elected charter commission. Such committees are formed to review the charter and to make recommendations to its appointing body (e.g., board of selectmen, city council) regarding the need for additions, deletions, clarifications, or other amendments that would improve the charter.

The term for such an advisory committee is usually one year. Recommendations of the committee may take the form of a proposed special act or a proposed charter amendment, but the local legislative body must act upon the recommendations before they take effect. The committee may also find, for example, that the charter's intent is clear, but related bylaws or ordinances may need clarification. The role of such committees can be important in assuring that the charter is working as intended, but the charter review committee has no assigned role in achieving any change beyond its recommendation to its appointing body.

#### Recent Charter Reform Activity

Since the adoption of the Home Rule Amendment in 1966, over 180 charter commissions have been elected, and 88 "home rule charters" are now in effect; 68 in towns and 20 in cities. Currently, 63 municipalities; 21 in towns and 42 in cities operate under special act charters and 17 towns have adopted special acts establishing the position of town manager or town administrator only.

Three recent examples of the special act route are the Towns of Randolph and Bridgewater, and the City of Melrose.

Randolph operated with the representative town meeting/board of selectmen/executive secretary government. But in the fall of 2008, representative town meeting approved a "home rule petition" to place two charter proposals before the Town's voters in the spring of 2009 - a town council/manager charter and a representative town meeting/board of selectmen/town manager charter. The "home rule petition" was enacted by the state legislature as Chapter 2 of the Acts of 2009, and the Town's voters chose the town council/manager option in the spring of 2009. In the fall of 2009, voters elected the Town's first council.

Borrowing from the Randolph example, the Town of Bridgewater proceeded via "home rule petition," proposing that two charters be brought to the town's voters - a town council/manager charter and an open town meeting/board of selectmen/town manager charter. In the spring of 2010, the Town's voters chose the town council/manager option, and the town will be electing its first council later this year.

The City of Melrose, operating under a charter enacted in 1899 (and subject to numerous amendments and additions since then) also sought to make changes in 2004. The mayor appointed a citizen government study committee to make recommendations on how the charter needed to be changed. The initial recommendations of this study committee evolved into a complete revision of the City's original charter. Among the major changes were: adding the mayor to the school committee's membership, providing a four-year term for the mayor, reducing the size of the school committee, and giving

the mayor authority for department organization/reorganization via adoption of an administrative code. The city's voters approved this special act charter at the 2005 municipal election.

Two examples of communities that have recently elected charter commissions to propose charters are Southbridge and Winthrop.

In 2002, Southbridge's voters elected a home rule charter commission to revise the home rule charter that the town had adopted in 1973. The charter commission worked to clarify and update the 1973 charter, but it also proposed a major change in the composition of the town council. The 13-member council was composed of both district and at-large members; the 2002 charter commission proposed that the council be reduced to 9 members, all elected at large. The Town's voters approved this charter revision.

The Town of Winthrop's voters elected a charter commission in spring of 2003. At that time, the Town operated with a representative town meeting/board of selectmen/executive secretary. The charter commission proposed a council/manager charter that was approved by the voters in the spring of 2005.

Beyond these examples, several municipalities have elected more than one charter commission and adopted successive home rule charters - e.g., Billerica, Hudson, Methuen, Palmer, Provincetown, Seekonk, and Southbridge.

Amesbury and Easthampton adopted representative town meeting/board of selectmen/manager charters via home rule charter adoption in the 1980s and elected subsequent commissions in 1995, resulting in mayor/council charters that were adopted.

The towns of Abington and Plymouth replaced earlier home rule charters with subsequent adoption of special act charters.

Other towns have used subsequent special acts to revise or replace earlier special act charters. For example, Danvers replaced its special act charter adopted in 1949 by use of the special act process, approving a new special charter in 1997; the town of Amherst replaced its 1951 special act providing for a manager and its 1936 special act authorizing representative town meeting with a single comprehensive act defining the Town's governance structure in 2001.

In two instances, Braintree and Randolph, adopted a city form of government (mayor/council and council/manager, respectively) using the special act process.

#### Pros and Cons of the Two Routes to Reform

In the 44 years since the adoption of the Home Rule Amendment, more communities have preferred electing a home rule charter commission than the "home rule petition" as the route for considering change. While the preference tilts toward home rule charter adoption (88 home rule charters vs. 63 special act charters), the totals for each route demonstrate that communities use and find benefit in both.

The route to charter change is a choice of the city or town. In the case of the election of a charter commission, the Home Rule Amendment provides more specific direction and a timeline, reflecting the premise that the process should be deliberative, provide opportunities for participation and comment by the municipality's voters, and that the final decision be solely a choice of the voters. While the Attorney General reviews the preliminary report to determine its consistency with state law, the intent of the Home Rule Amendment is to assure that local decision-making is the foundation of the charter adoption process.

Many factors may influence the route chosen. A populace and leadership already "on the same page" regarding the change needed in the structure of the government may find the "home rule petition" route more efficient and timely; a city or town seeking to weigh the advantages of several options before determining a particular course may find the more deliberative approach of electing a charter commission to undertake this examination more appealing. Municipalities with the experience of having a successful charter commission in the past may have more inclination to use this route again, while towns that did not find the charter commission route responsive may want to use the "home rule petition"/special act route.

The general belief is that the "special act route" is faster, since the local legislative body approval and state legislature/governor approval can be achieved in one year, while a charter commission taking the maximum amount of time available (18 months) will not see its proposal on a ballot until 2 years following its election. However, study committees may take longer than one year. For example, the committee in Bridgewater worked for almost two years before presenting its proposals to the town meeting in the fall of 2009.

#### Commonalities in the Charter Reform Processes

Whether it is an elected charter commission, an appointed study committee, the chief executive, or the local legislative body, some entity must direct the charter preparation process. While an elected charter commission has certain powers and duties as defined in statute, such a commission has no special status regarding what can be included in a charter. Thus, almost all home rule and special act charters address the same subject matter, most often in very similar ways. The fulcrum questions of such undertakings often include:

- The legislative body: If it is a representative body, such as a representative town meeting or city/town council, the issues of size, composition, and term must be addressed.
- The chief executive: In a town, the size of the board of selectmen may be an issue; in cities, the issue of combining the political and managerial responsibilities in an elected mayor vs. the preference for a professional focus on operations, fiscal conditions, and development by establishing a manager position will be crucial. Electing a mayor and the appointment of a chief operating officer could address both of these preferences.

- Centralization vs. dispersion of authority: Whether voters continue to elect certain offices, boards, and commissions is also a subject of deliberations. The overwhelming trend in charter adoption is to eliminate many elected offices and replace them with appointments by the chief executive. Most charters do provide transitional provisions allowing those in office at the time the charter is adopted to complete the term to which elected before the appointment provisions take effect. Some of the impetus for this type of change reflects the emphasis on professional training and experience, as well as certification, and ongoing continuing education requirements in many municipal positions.

#### To Avoid Reinventing the Wheel

As the Home Rule Amendment marks its 44<sup>th</sup> year in effect, the examples from which communities can learn are now numerous and cover the gamut from very small towns to some of the larger cities. The Department of Housing and Community Development also maintains a repository of all home rule charter proposals (adopted or not) and has a collection of many of the special act charters as well. There is also the guidance available from the responses the Attorney General provides to charter commissions regarding the proposal's consistency with state law.

Communities contemplating charter change ought to speak with officials in nearby communities who have undertaken charter change and/or now operate under a home rule or special act charter. Such practical advice from those who have undertaken the exercise is a valuable source of information for those looking to do the same.

The process of adopting or revising a charter is a challenging one for municipalities. This is partially deliberate, to ensure that it is difficult for mistakes to make it into a municipality's fundamental structure, but it is also partially a result of the accumulation of hundreds of years of evolving state and local laws and procedures in the Commonwealth.

Despite the challenges, every year a handful of municipalities undertake charter revisions or reforms and others undergo regularly-scheduled charter reviews. Understanding the legal options for charter change and the specific pros and cons of each option is critical for any public official or citizen contemplating an effort to change the charter of a Massachusetts municipality.

*Stephen McGoldrick is the deputy director of the Edward J. Collins, Jr. Center for Public Management at the University of Massachusetts Boston. Marilyn Contreas is a senior program and policy analyst at the Massachusetts Department of Housing and Community Development, Michael Ward is an associate at the Collins Center.*

***Editor's note: this article represents the opinions and conclusions of the author and not those of the Department of Revenue.***

[1] This Open Meeting Law is only effective through June 30, 2010. As of July 1, 2010, the new Open Meeting Law is M.G.L. c. 30A, §§ 18-25.

Submission to the Board of Selectmen from the Charter Review Committee  
for Discussion at the Working Group Session, August 11, 2014

The Charter Review Ad Hoc Committee wants to thank you in advance for agreeing to meet with us. We have been at work for a year on needed revisions to the Town's Charter. We are providing you with a chart that compares the current Charter with the initial draft revisions being proposed by the Charter Review Committee for the first four Chapters. We are still working on Chapters 5-10. The following general changes are proposed throughout:

1. Capitalization of all proper nouns – such as Town of Provincetown, Town Meeting, Town Boards, Town Manager, Town Moderator, Board of Selectmen, etc. This is done for clarity and improves the readability of the document.
2. Consistent citation to the Massachusetts General Laws – in the current Charter the Massachusetts General Laws are sometimes abbreviated M.G.L. and sometimes as G.L., implying a different source.
3. Change of references to a requirement that the Town Clerk “post in a public place” to “post on the Town’s website”. References to mailing have also been changed to allow distribution by email.
4. Simplification of language throughout the Charter.
5. Reduction of repetitive language where possible. An example is new Subsection 2-3-1 which uses an introductory sentence and a list to reduce five Subsections to one.

In addition, we would draw your attention to the following minor, but significant changes in Chapters 1-4:

1. We are proposing that the date for the closing of the Warrant and the Town Meeting and the Annual Election shall be moved from the Charter to the By-Laws, so that these dates can be modified more easily. This is consistent with what other Towns on the Cape are doing. We are also proposing moving the Annual Town Meeting from April to May, and to close the Warrant sufficiently in advance of the Town Meeting to allow for education of the public on Warrant articles.
2. We've added references in 1-2-1 and 3-2-1 to the Open Meeting Law requirements.
3. We've made a clarification in 1-2-6 that the Charter takes precedence over the By-Laws.

More controversial proposals include:

1. A request from the Non-Resident Taxpayers Association that they be allowed to serve on appointed Committees – which would be a change to 3-4-1 – and to have a representative at Town Meeting who can speak for them, but not vote. Consideration of this request requires us to open the issue to include similar rights for business owners and non-resident renters.
2. A change to 3-4-2 to define “related to employment” as a restriction on Committee membership to include review of actions by one’s supervisor.
3. A clarification in 2-5-3 that eligibility for elected office is subject to the restrictions in the Charter.

We have asked all Town Boards to comment on the portions of the Charter related to them. Similarly we would appreciate input from the Board of Selectmen regarding Chapter 4. Potential changes or clarifications include:

1. That members of the Board of Selectmen have no individual authority (4-6-1).
2. That management of the Town staff shall be left to the Town Manager (4-6-3).
3. That the Board of Selectmen shall enforce compliance with the Charter (4-2-8).
4. Modification of the Board of Selectmen’s investigatory authority under Chapter 4, Section 5 to require that the individual being investigated be notified of the investigation and given the right to a hearing.

In addition, we are seeking the input of the Board of Selectmen as to how best to address certain more controversial issues as we continue to work on Chapters 5-10, including:

1. Whether the residency requirement applying to the Chief of Police and the Director of the DPW in Chapter 8 should be abolished or be subject to a potential waiver.
2. Whether the authority of the Charter Enforcement Commission in Chapter 5, Section 2 should be modified to allow it to provide non-binding interpretation of the Charter on request; to allow Named Parties to respond to Petitions prior to the scheduling of a Hearing; to allow the Commission a second opportunity to dismiss the Petition after receiving a response from the Named Party; and providing that all Commission determinations will be in writing which will provide the reason for the determination.
3. Whether the Recall provision in Chapter 10 should be modified to remove the right of an individual proposed to be recalled to succeed him or herself.

4. Whether members of the Finance Committee should be required to attend annual training on financial matters related to Town government.
5. Whether members of the Finance Committee should be allowed to be a candidate for elected office while serving on the Finance Committee.
6. And finally, the most controversial issue in the Charter – based on the Public Forums held to date - appears to be whether the Finance Committee should continue to be appointed by the Town Moderator, with or without endorsement at Town Meeting. We have considered multiple options to address this, including what is being done in other Towns on the Cape, and would appreciate the Board of Selectmen's input on this issue.

We would also like you to know that a Subcommittee of our Committee has been meeting with representatives of the Finance Committee to re-write Chapter 9 to clarify and include all Town financial procedures.

We look forward to our Working Group discussion on August 11 at 4:30.

Julia Perry, Chair  
Judith Cicero  
Tom Coen  
Marcy Feller  
Doug Johnstone  
Ann Maguire  
David McGlothlin  
Mark Phillips  
Robert Speiser  
Robert Vetrick  
Betty Williams

<b>2009 Charter of the Town of Provincetown</b>	<b>First Draft Revision</b>	<b>Reasons for Changes</b>
<p><b>PREAMBLE</b></p> <p>We, the people of the town of Provincetown, Massachusetts, in order to reaffirm the customary and traditional liberties of our local government, and to take the fullest advantage of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, do hereby adopt the following home rule charter for this town.</p>	<p><b>PREAMBLE</b></p> <p>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 hereby adopt the following Charter for this Town.</p>	<p>Changes throughout due to Logic and Brevity</p> <p>Throughout, proper nouns are capitalized.</p>
<p><b>Chapter 1</b> <b>THE FRAME OF GOVERNMENT</b></p> <p><i>Section 1: Powers of the Town</i></p> <p><b>1-1-1</b> The present town of Provincetown, Massachusetts, within its territorial limits, as now or shall hereafter be established by law, is hereby continued as a body politic and corporate under the name of "Town of Provincetown".</p> <p><b>1-1-2</b> The town shall possess, exercise, and enjoy all powers possible under the Constitution of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this charter.</p> <p><b>1-1-3</b> The powers of the town under this</p>	<p><b>Chapter 1</b> <b>THE POWERS AND AUTHORITY OF THE TOWN</b></p> <p><i>Section 1: Powers of the Town</i></p> <p><b>1-1-1</b> The Town of Provincetown, Massachusetts, within its territorial limits, as established by law, is hereby continued as a body politic and corporate under the name of "Town of Provincetown".</p> <p><b>1-1-2</b> The Town shall possess, exercise, and enjoy all powers possible under the Constitution of the Commonwealth of Massachusetts as though expressly enumerated in this Charter.</p> <p><b>1-1-3</b> The powers of the Town under</p>	<p>Title change for clarity</p>

<p>charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any measure the general powers of the town as stated in the charter.</p> <p><b>1-1-4</b> The town shall exercise any of its powers or perform any of its functions and participate in the financing thereof, by contract or otherwise, jointly or in cooperation with any municipality, county, state, or the United States, or any governmental division or agency.</p> <p><b>Section 2: The Provincetown Charter</b></p> <p><b>1-2-1</b> To the extent that any specific provision of this charter shall conflict with any provisions expressed in general terms, the specific provision shall prevail.</p> <p><b>1-2-2</b> In this charter the following words, unless a different meaning is required by context or is specifically prescribed, shall have the following meanings: (a) "Good Cause": any ground which is put forward in good faith and which is not arbitrary, irrational, unreasonable, or irrelevant to the duties with which the employee is charged, including incapacity other than temporary illness, inefficiency, insubordination, or misconduct. (b) "Town employee": a person performing services for or holding an office,</p>	<p>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 provision(s) of this Charter conflicts with any provision(s) expressed in general terms, the specific provision shall prevail.</p> <p><b>1-1-4</b> The Town may exercise its powers and perform its functions, including the financing thereof, jointly or in cooperation with any Municipality, County, State, or the United States, or any governmental division or agency.</p> <p><b>Section 2: The Provincetown Charter</b></p> <p><b>1-2-1</b> In this Charter, "Town Employee" means a person performing services for <u>the Town</u> or holding an office, position, employment or membership in a municipal agency of the Town of Provincetown, whether by election, appointment, contract of hire, or engagement, whether serving with or without compensation <u>or as a volunteer</u>, on a full, regular, part-time, intermittent or consultant basis. <u>All Town Employees are subject to the Open Meeting law requirements and ethical and conflict of interest standards of Massachusetts</u></p>	<p>1-1-3: Language added from old 1-2-1</p> <p>1-1-4 Changes the exercise from mandatory to optional</p> <p>Old 1-2-1 merged into 1-1-3</p> <p>Definition of "Good Cause" moved to Chapter 7, Section 4 where referenced</p> <p>Definition of "Town Board" moved to Chapter 3</p>
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<p>position, employment or membership in a municipal agency of the town of Provincetown, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent or consultant basis. (c) "Town board": a town board, committee, commission or council, including the board of selectmen, but not including the board of fire engineers, created by the Massachusetts General By-Laws, a vote of the town meeting, the board of selectmen, or this charter.</p> <p><b>1-2-3</b> In computing time under this charter every calendar day shall be counted.</p> <p><b>1-2-4</b> This charter may be replaced, revised, or amended in accordance with the Constitution of the Commonwealth of Massachusetts or the Massachusetts General Laws.</p> <p><b>1-2-5</b> If any provision of this charter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the charter which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.</p> <p><b>1-2-6</b> The provisions of this charter shall not be waived by the board of selectmen, the town manager, or any other town board or person.</p>	<p><u>General Laws and this Charter.</u></p> <p><b>1-2-2</b> Time computed under this Charter shall be by calendar days except as otherwise indicated.</p> <p><b>1-2-3</b> This Charter may be replaced, revised, or amended <u>only</u> in accordance with the Constitution of the Commonwealth of Massachusetts <u>and</u> the Massachusetts General Laws.</p> <p><b>1-2-4</b> Each provision of this Charter is severable. 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.</p> <p><b>1-2-5</b> The provisions of this Charter <u>cannot</u> be waived by the Board of Selectmen, the Town Manager, or any other Town</p>	
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	<p>Board, or any person.</p> <p><b><u>1-2-6</u></b> This Charter is subject to <u>Massachusetts General Law and the Massachusetts Constitution, but has precedence over the Town of Provincetown General By-Laws.</u></p>	<p>1-2-6 Added to clarify relationship between laws.</p>
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<p><b>Chapter 2</b> <b>THE TOWN MEETING AND ELECTIONS</b></p>	<p><b>Chapter 2</b> <b>THE TOWN MEETING AND ELECTIONS</b></p> <p><i>Section 1: Purpose and Timing of Town Meeting</i></p> <p><b>2-1-1</b> Except as otherwise delegated to the Board of Selectmen by Chapter 4 of this Charter, the legislative powers of the Town shall be exercised by the conduct of an Annual Town Meeting or Special Town Meeting, as specified below, which is open to all registered Voters of the Town.</p> <p><b>2-1-2</b> The Annual Town Meeting shall be held on the first Monday in May at 6 pm - <u>unless otherwise specified in the Provincetown General By-Laws</u> - for the purpose of transacting all business of the Annual Town Meeting, except the election of Officers and matters required by law to be determined by ballot.</p> <p><b>2-1-3</b> The Board of Selectmen may call a Special Town Meeting as provided by the Massachusetts General Laws.</p> <p><b>2-1-4</b> The Board of Selectmen shall call a Special Town Meeting upon the request, in writing, upon a form approved by the Secretary of the Commonwealth, of two hundred registered Voters. A Special Town Meeting shall be held not later than forty-five days after the certification by</p>	<p>A new Section 1 was created with clauses from other Sections to address the purpose and timing of the Town Meeting.</p> <p>2-1-2 Annual Town Meeting changed from April to May. In addition, authority to modify the date moved to the By-Laws.</p>
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<p><i>Section 1: Preparation of the Warrant</i></p> <p><b>2-1-1</b> The board of selectmen shall prepare the warrant for all town meetings.</p> <p><b>2-1-2</b> The board of selectmen shall include in the warrant all articles submitted by the town manager, the board of selectmen, or any town board.</p> <p><b>2-1-3</b> The board of selectmen shall include in the warrant for an annual town meeting all articles submitted which are supported by a petition signed by ten registered voters of the town.</p> <p><b>2-1-4</b> The board of selectmen shall include in the warrant for a special town meeting all articles submitted which are supported by a petition signed by one hundred registered voters of the town.</p> <p><b>2-1-5</b> The board of selectmen shall also include in the warrant for a special town meeting all subjects the insertion of which shall be</p>	<p>the Town Clerk of this request.</p> <p><b>2-1-5</b> No session of an Annual or Special Town Meeting shall be held on a <u>State or Federal</u> holiday.</p> <p><i>Section 2: Preparation of the Warrant</i></p> <p><b>2-2-1</b> The Board of Selectmen shall prepare the Warrant for all Town Meetings. <u>The Warrant shall contain all Articles to be voted on at Town Meeting. Items not in the Warrant may not be raised at Town Meeting.</u></p> <p><b>2-2-2</b> The Board of Selectmen shall include in the Warrant all articles submitted by the Town Manager, the Board of Selectmen, or any Town Board.</p> <p><b>2-2-3</b> For an Annual Town Meeting the Board of Selectmen shall include in the Warrant all articles supported by a Petition signed by ten registered Voters of the Town.</p> <p><b>2-2-4</b> For a Special Town Meeting the Board of Selectmen shall include in the Warrant all articles supported by a petition signed by one hundred registered voters of the Town.</p> <p><b>2-2-5</b> The Board of Selectmen shall also include in the Warrant for a Special Town Meeting all subjects the insertion of which shall be</p>	<p>2-1-5 Clarification that “holiday” refers to a State or Federal holiday.</p> <p>2-2-1 Language added to define a Warrant.</p> <p>2-2-3 Language reorganized for clarity.</p> <p>2-2-4 Language reorganized for clarity.</p>
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<p>included in the request for the special town meeting.</p> <p><b>2-1-6</b> The board of selectmen shall include all proposed operating expenditures in a single article on the warrant, and all regular proposed capital improvement expenditures in a single article in the warrant.</p> <p><b>2-1-7</b> The warrant shall be closed thirty days prior to the date of the meeting, shall be published in a newspaper of general circulation within the town at least seven days prior to the meeting and shall be posted in at least ten public places in the town at least seven days prior to the annual town meeting, and at least fourteen days prior to a special town meeting.</p> <p><b>2-1-8</b> At least fourteen days prior to the date of the town meeting, a copy of the warrant shall be mailed by the board of selectmen to the moderator, town counsel, and each town board.</p> <p><b>2-1-9</b> At least seven days prior to the annual town meeting, copies of the town report shall be made available for distribution at the town hall, and at least seven days prior to any town meeting copies of the finance committee report</p>	<p>included in the request for the Special Town Meeting.</p> <p><b>2-2-6</b> The Board of Selectmen shall include all proposed Operating Expenditures in a single article on the Annual Town Meeting Warrant, and all regular proposed Capital Improvement Expenditures in a single article in the Warrant.</p> <p><b>2-2-7</b> The Warrant shall be closed <u>sixty</u> days prior to the date of the <u>Annual Town Meeting and thirty days prior to a Special Town Meeting</u>, shall be <u>posted on the Town website and</u> published in a newspaper of general circulation within the Town at least <del>seven</del> <u>fourteen</u> days prior to the Annual Town Meeting and at least fourteen days prior to a Special Town Meeting.</p> <p><b>2-2-8</b> At least forty-five (45) days prior to the date of the Annual Town Meeting and at least fourteen (14) days prior to the date of the Special Town Meeting, a copy of the Warrant shall be <u>provided</u> by the Board of Selectmen to the Moderator, Town Counsel, and to each Town Board.</p> <p><b>2-2-9</b> At least <u>fourteen</u> days prior to the Annual Town meeting, copies of the Town Report <u>and the Finance Committee Report</u> shall be made available for distribution at the Town Hall.</p>	<p>2-2-8 Additional time provided after the closing of the Warrant to allow public education.</p> <p>2-2-9 Finance Report added to Town Report. Both to be provided 2 weeks before the Town Meeting rather than 1 to</p>
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<p>shall be made available at the town hall.</p> <p><b>Section 2: Preliminary Hearings and Reports</b></p> <p><b>2-2-1</b> Prior to the town meeting on whose warrant is a petitioned article concerning the natural environment, the conservation commission shall hold a public hearing on the article, and prior to a vote at the town meeting on the article the conservation commission shall state the numbers of its members in favor of and opposed to the article, and its chairman, or his or her designee, shall explain the view of the majority to the meeting.</p> <p><b>2-2-2</b> Prior to the town meeting on whose warrant is a petitioned article concerning public health, the board of health shall hold a public hearing on the article, and prior to a vote at the town meeting on the article the board of health shall state the numbers of its members in favor of and opposed to the article, and its chairman or his or her designee, shall explain the view of the majority to the meeting.</p> <p><b>2-2-3</b> Prior to the town meeting on whose warrant is a petitioned article concerning land use or development, the planning board shall hold a public hearing on the article, and prior to a vote at the town meeting on the article the planning board shall state the numbers of its members in favor of and opposed to the article, and its chairman, or his or her designee, shall explain the view of the majority to the meeting.</p> <p><b>2-2-4</b> Prior to the town meeting on whose warrant is a petitioned article concerning</p>	<p><b>Section 3: Preliminary Hearings and Reports</b></p> <p><b>2-3-1</b> Prior to a Town Meeting on whose Warrant is a petitioned Article concerning the following items, the named Board shall hold a Public Hearing on the Article, and when the Article is presented at Town Meeting the Board shall state the numbers of its members in favor of and opposed to the Article, and its Chair, or his or her designee, shall explain the view of the majority to the Town Meeting:</p> <ul style="list-style-type: none"> <li>(a) Natural environment – the Conservation Commission;</li> <li>(b) Public health – the Board of Health;</li> <li>(c) Land use or development – the Planning Board;</li> <li>(d) This Charter – the Charter Enforcement Commission</li> <li>(e) The Budget and any other Articles regarding the expenditure of Town funds – the Finance Committee;</li> <li>(f) <u>All other items on the Warrant – the Board of Selectmen.</u></li> </ul> <p><b>2-3-2</b> If the appropriate entity has not taken the steps required to hold a Public Hearing and determine and announce the vote of its members regarding a proposed Article in accordance with Section 2-3-1, the Article may only be considered and acted upon following a</p>	<p>allow public education.</p> <p>2-3-1 Consolidation of 2-2-1 to 2-2-4 into a single Clause</p> <p>2-3-2 Moved from 2-3-12 because related to 2-3-1.</p>
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<p>this charter, the charter enforcement commission shall hold a public hearing on the article, and prior to a vote at the town meeting on the article the charter enforcement commission shall state the numbers of its members in favor of and opposed to the article and its chairman, or his or her designee, shall explain the view of the majority to the meeting.</p> <p><b>Section 3:     <i>Conduct of the Town Meeting</i></b>  <b>2-3-1</b>     The 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 except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot.</p> <p><b>2-3-2</b>     The board of selectmen may call a special town meeting as provided by the Massachusetts General Laws.</p> <p><b>2-3-3</b>     The board of selectmen shall call a special town meeting upon the request, in writing, upon a form approved by the Secretary of the Commonwealth, of two hundred registered voters. A special town meeting shall be held not later than forty-five days after the receipt of said request.</p> <p><b>2-3-4</b>     Except as otherwise delegated to the board of selectmen by chapter 4, the legislative powers of the town shall be exercised by annual</p>	<p>majority vote of the Town Meeting indicating that it wishes to consider such Article.</p> <p><b>Section 4:     <i>Conduct of the Town Meeting</i></b></p>	<p>Old 2-3-1 to 2-3-5 moved to new Section 1</p>
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<p>town meetings and special town meetings open to all registered voters of the town.</p> <p><b>2-3-5</b> The town meeting shall consider and act upon, with or without amendments, all proposed operating and capital improvement budgets, bond issues, and other financial proposals of the town.</p> <p><b>2-3-6</b> The moderator shall preside at all sessions of the town meeting, and a temporary moderator shall be elected by the town meeting in the absence of the moderator.</p> <p><b>2-3-7</b> In all procedural matters, the town meeting shall follow the latest revised edition of <b>Town Meeting Times: A Handbook of Parliamentary Law</b>, by Johnson, Trustman, and Wadsworth, except as otherwise provided by the Massachusetts General Laws, the Provincetown General By-Laws, or this charter.</p> <p><b>2-3-8</b> The quorum for the conduct of business by any annual town meeting or special town meeting shall be one hundred registered voters.</p> <p><b>2-3-9</b> The order of consideration of articles as printed in the warrant shall be changed only by a two-thirds vote of the town meeting.</p>	<p><b>2-4-1</b> The Town Moderator is the presiding officer at all sessions of an Annual or Special Town Meeting, and a temporary Moderator shall be elected by the Town Meeting in the absence of the Town Moderator.</p> <p><b>2-4-2</b> In all procedural matters, Town Meetings shall follow the <u>current</u> edition of <b>Town Meeting Times: A Handbook of Parliamentary Law</b>, by Johnson, Trustman, and Wadsworth, except as otherwise provided by the Massachusetts General Laws, this Charter, or the Provincetown General By-Laws.</p> <p><b>2-4-3</b> The quorum for the conduct of business by any Annual Town Meeting or Special Town Meeting is one hundred (100) registered Voters.</p> <p><b>2-4-4</b> The order of consideration of Articles as printed in the Warrant is <u>determined by the Board of Selectmen and</u> changed only by a two-thirds vote of the Town Meeting.</p> <p><b>2-4-5</b> The Town Meeting shall consider</p>	<p>2-4-4 Language added for clarity.</p> <p>2-4-5 Previously 2-3-5</p>
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<p><b>2-3-10</b> Prior to a vote on an article concerning the expenditure of town funds, the finance committee shall state the number of its members in favor of and opposed to the article, and its chairman, or his or her designee, shall explain the view of the majority to the meeting.</p> <p><b>2-3-11</b> Prior to a vote on an article submitted by a town board, the town board shall state the numbers of its members in favor of and opposed to the article, and its chairman, or his designee, shall explain the view of the majority to the meeting.</p> <p><b>2-3-12</b> If action required by sections 2-2-1, 2-2-2, 2-2-3, 2-2-4, 2-3-10, or 2-3-11 has not been taken with respect to an article, the article may be considered and acted upon only by a majority vote of town meeting.</p> <p><b>2-3-13</b> No session of an annual or special town meeting shall be held on a holiday.</p> <p><b>Section 4: Elections</b></p> <p><b>2-4-1</b> 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</p>	<p>and act upon, with or without amendments, all proposed Operating and Capital Improvement budgets, bond issues, and other financial proposals of the Town.</p> <p><b>2-4-6</b> When any article concerning the expenditure of Town funds is presented, the Finance Committee shall state the number of its members in favor of and opposed to the Article, and its Chair, or his/her designee, shall explain the view of the majority to the Town Meeting.</p> <p><b>2-4-7</b> Prior to a vote on an Article submitted by a Town Board, the Town Board shall state the numbers of its members in favor of and opposed to the Article, and its Chair, or his/her designee, shall explain the view of the majority to the Town Meeting.</p> <p><b>Section 5: Elections</b></p> <p><b>2-5-1</b> The Board of Registrars, together with such Assistant Registrars as may be required and <u>appropriately</u> designated, shall conduct and supervise all local elections in accordance with the laws of the Commonwealth of Massachusetts and</p>	<p>Old 2-3-12 moved to 2-3-2</p> <p>Old 2-3-13 moved to Section 1.</p>
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<p>local laws not inconsistent therewith.</p> <p><b>2-4-2</b> The regular elections to any office shall be by official ballot held on the first Tuesday in May of each year.</p> <p><b>2-4-3</b> Any registered voter of the town shall be eligible for election to any office, but no person shall concurrently hold more than one elected office.</p> <p><b>2-4-4</b> Elections to any office shall be nonpartisan, and election ballots for town officers shall be printed without any party mark, emblem, or designation whatsoever.</p> <p><b>2-4-5</b> A person duly elected to an office shall take up the duties of his or her office immediately following his or her certification after being sworn to the faithful performance of his or her duties by the town clerk.</p>	<p>local laws not inconsistent therewith.</p> <p><b>2-5-2</b> The regular election to any Office is by official ballot held on <u>the date designated in the By-Laws, but not less than 40 days after the end of the Annual Town Meeting.</u></p> <p><b>2-5-3</b> Any Voter of the Town is eligible for election to any Office <u>except as otherwise restricted in this Charter,</u> but no person shall hold more than one elected Office concurrently.</p> <p><b>2-5-4</b> Elections to any <u>Town</u> Office shall be nonpartisan, and election ballots for Town Officers shall be printed without any Party mark, emblem, or designation whatsoever.</p> <p><b>2-5-5</b> A person duly elected to an Office shall take up the duties of his or her Office immediately following his/her certification upon being sworn to the faithful performance of his/her duties by the Town Clerk.</p>	<p>2-5-2 Language added to allow matters voted at Town Meeting to be placed on the ballot at the next Election.</p> <p>2-5-3 Language added to reflect various restrictions in the Charter.</p>
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<p><b>Chapter 3 TOWN BOARDS</b></p> <p><i>Section 1: Membership on Town Boards</i></p> <p><b>3-1-1</b> All appointing authorities of the town shall file with the town clerk a copy of each notice of appointment to a town board, or any rescinding of appointments thereto, and the same shall be a public record.</p> <p><b>3-1-2</b> The chairman of any town board shall notify the appointing authority in writing when a vacancy occurs on the town board. The appointing authority shall fill the vacancy within sixty days of the receipt of the notice of vacancy. In the event of the failure of the appointing authority to fill the vacancy within the allowed time, the moderator shall then be charged with</p>	<p><b>Chapter 3 RULES OF OPERATION OF TOWN BOARDS</b></p> <p><i>Section 0: Definition of a Town Board</i></p> <p><b>3-0-1</b> "Town Board" means any elected or appointed body of the Town, created by the Massachusetts General By-Laws, a vote of the Town Meeting, the Board of Selectmen, or this Charter. "Town Board" includes the Board of Selectmen, but not the Board of Fire Engineers or the Pier Corporation.</p> <p><i>Section 1: Membership on Appointed Town Boards</i></p> <p><b>3-1-1</b> All Appointing Authorities of the Town – <u>as defined in Chapter 5, Appointed Boards</u> - shall file a copy of each notice of appointment to a Town Board, or any rescission of an appointment, with the Town Clerk, and the same shall be a public record. <u>The Town Clerk shall swear in all new Town Board members.</u></p> <p><b>3-1-2</b> Vacancies on appointed Boards shall be filled as follows:</p> <p>(a) The Chair of the Board shall notify the Appointing Authority in writing when a vacancy occurs on the Town Board.</p> <p>(b) The Appointing Authority shall fill the vacancy within sixty days of the receipt of the notice of vacancy.</p>	<p>Title changed to clarify the contents of the Chapter.</p> <p>3-0-1 Temporary Section 0 created to moved definition of Town Board from Chapter 1 to Chapter 3.</p> <p>3-1-2 The CRAH recommends that this process be simplified.</p>
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<p>filling the vacancy within sixty days. In the event of the failure of the moderator to fill the vacancy within the allowed time, the town board shall fill the vacancy. In the event of the failure of the town board to fill the vacancy within sixty days for the sole reason that the board lacks a quorum to act, the appointing authority shall thereafter fill the vacancy and the appointment process set forth in this section shall be repeated until such time as the vacancy is filled.</p> <p><b>3-1-3</b> A member or alternate member of any town board, who is absent from three consecutive meetings without informing the chairman, shall automatically cease to be a member of the board.</p> <p><b>3-1-4</b> The chairman of a town board who is absent from three consecutive meetings without informing the appointing authority and without appointing an acting chairman for such meetings shall automatically cease to be a member of such board.</p>	<p>(c) In the event of the failure of the Appointing Authority to fill the vacancy within the allowed time, the Moderator shall then be charged with filling the vacancy within sixty days.</p> <p>(d) In the event of the failure of the Moderator to fill the vacancy within the allowed time, the Board shall fill the vacancy.</p> <p>(e) In the event of the failure of the Board to fill the vacancy for the sole reason that the Board lacks a quorum to act, the Appointing Authority shall thereafter fill the vacancy, and the appointment process set forth in this section shall be repeated until such time as the vacancy is filled.</p> <p><b>3-1-3</b> A member, or an alternate who has been designated to fill a vacancy, of any Town Board, who is absent from three consecutive meetings without informing the Chair, shall cease to be a member of the Town Board by a vote of a majority of the Board, <u>unless the reason for the absence is known to the Chair and formally excused in the Minutes.</u></p> <p><b>3-1-4</b> The Chair of an appointed Town Board who is absent from three consecutive meetings without <u>notifying the Vice Chair or appointing an Acting Chair for such meetings, or informing the Appointing Authority,</u> shall automatically cease to be a member of such Board, <u>unless the reason for the absence is known by the Vice or Acting Chair and formally excused in the Minutes.</u></p>	<p>3-1-3, 3-1-4: Language was added to address the situation of an accident or serious illness.</p>
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<p><b>Section 2: Meetings of Town Boards</b></p> <p><b>3-2-1</b> At least forty-eight hours before any meeting of a town board is to be held, an agenda containing all items which are scheduled to come before the town board at the meeting shall be posted on the town bulletin board.</p> <p><b>3-2-2</b> A quorum for a meeting of any</p>	<p><b>3-1-5</b> <u>No person can be appointed to a Town Board:</u></p> <ul style="list-style-type: none"> <li>a) <u>If they are unqualified for the specific duties of the Board.</u></li> <li>b) <u>If they have a conflict of interest with the duties of the Board.</u></li> <li>c) <u>Based on political consideration.</u></li> </ul> <p><b>Section 2: Meetings of Town Boards</b></p> <p><b>3-2-1</b> <u>All Town Boards are required to comply with the Open Meeting Law. This includes the following requirements:</u></p> <ul style="list-style-type: none"> <li>a) At least forty-eight hours before any meeting of a Town Board is to be held, an Agenda <u>identifying when and where the meeting shall take place and</u> containing all items which are scheduled to come before the Board at the meeting must be posted on the Town <u>website.</u></li> <li>b) <u>All meetings must be open to the public.</u></li> <li>c) <u>Within a reasonable time after the meeting, Minutes of the meeting including a record of votes must be provided to the Town Clerk for posting on the Town website.</u></li> </ul>	<p>3-1-5 Created to address potential conflicts and qualifications.</p> <p>3-2-1 Modified to reflect Open Meeting Law requirements.</p>
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<p>town board shall be a majority of the maximum complement of the town board. No action of a town board shall be valid and binding unless taken or ratified by an affirmative vote of the majority of the members attending the meeting, unless another quantum of vote is allowed or required by the Massachusetts General Laws.</p> <p><b>3-2-3</b> If a member of a town board is absent or excuses himself from voting on a certain issue, an alternate shall assume the powers of a member. If two alternates are present but only one is needed, the one shall be selected by lot.</p> <p><b>3-2-4</b> All town boards shall annually elect a chairman and other necessary officers; establish a quorum requirement for their meetings as provided in section 3-2-2; and maintain minutes including a record of votes, copies of which shall be a public record filed regularly with the town clerk, and kept in a place convenient to the public at all times.</p> <p><b>Section 3: Rules of Procedure</b></p> <p><b>3-3-1</b> In all procedural matters, meetings of town boards shall follow the latest revised edition of <i>Robert's Rules of Order</i>, except as provided in section 3-3-2.</p> <p><b>3-3-2</b> The board of selectmen, the charter enforcement commission, the conservation</p>	<p><b>3-2-2</b> A quorum for a meeting of any Town Board shall be a majority of the maximum complement of the Board. No action of a Town Board shall be valid and binding unless taken or ratified by an affirmative vote of the majority of the members attending the meeting, unless another quantum of vote is allowed or required by the Massachusetts General Laws.</p> <p><b>3-2-3</b> If a member of a Town Board is absent or excuses him/herself from voting on a certain issue, an alternate, <u>if any, may</u> assume the powers of a member. If two alternates are present but only one is needed, the one shall be selected by some rational basis.</p> <p><b>3-2-4</b> <u>At its first meeting after the Annual Town Election, each</u> Town Board shall elect a Chair and other necessary officers; establish the quorum requirement for their meetings as provided in section 3-2-2; and <u>educate their members about the authority and responsibility of the Board.</u></p> <p><b>Section 3: Rules of Procedure</b></p> <p><b>3-3-1</b> In all procedural matters, meetings of Town Boards shall follow the <u>current</u> edition of <i>Robert's Rules of Order</i>, except as provided in section 3-3-2.</p>	<p>3-2-3 Language added to reflect that some Boards do not have alternates.</p> <p>3-2-4 Language added to set the time to elect officers. Language added to reflect the need to educate new members about the duties of the Board.</p> <p>3-3-2 Language added to define an</p>
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<p>commission, the board of health, the licensing board, the personnel board, the planning board, and the zoning board of appeals shall adopt rules and regulations governing the conduct of adjudicatory hearings. An adjudicatory hearing is a hearing in which the legal rights, duties or privileges of specifically named persons are required by law to be determined after an opportunity for a hearing.</p> <p><b>3-3-3</b> A copy of all rules and regulations adopted by an officer, department, or town board, shall be filed in the office of the town clerk and made available for review by any person who requests such information.</p> <p><b>Section 4: Prohibited Activities</b></p> <p><b>3-4-1</b> A person shall not be a member</p>	<p><b>3-3-2</b> <u>An Adjudicatory Hearing means a hearing in which the legal rights, duties or privileges of specific persons are required by law to be determined after the opportunity for a hearing.</u> The following entities have authority to conduct Adjudicatory Hearings and shall adopt Adjudicatory Hearing procedures:</p> <ul style="list-style-type: none"> <li>(a) the Board of Selectmen – as further discussed at Chapter 4, Section 5 of this Charter;</li> <li>(b) the Charter Enforcement Commission – as further discussed at Chapter 5, Section 2 of this Charter;</li> <li>(c) the Conservation Commission;</li> <li>(d) the Board of Health;</li> <li>(e) the Licensing Board;</li> <li>(f) the Personnel Board – as further discussed at Chapter 7, Sections 4 and 6 of this Charter;</li> <li>(g) the Planning Board; and</li> <li>(h) the Zoning Board of Appeals.</li> </ul> <p><b>3-3-3</b> A copy of all rules and regulations adopted by an Officer, Department, or Town Board – including procedures for Adjudicatory Hearings - shall be filed with the Town Clerk and posted on the Town website. <u>In addition, a copy of specific regulations or procedures shall be printed by the Town Clerk for any person who requests it.</u></p>	<p>Adjudicatory Hearing.</p> <p>3-3-3 Language added to accommodate individuals without computer access.</p> <p>3-4-1 The Non-Resident Taxpayers</p>
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<p>of a town board unless he or she is a registered voter of the town of Provincetown.</p> <p><b>3-4-2</b> A paid town employee shall not be a member of a town board which is any way related to his employment.</p> <p><b>3-4-3</b> A paid town employee with supervisory duties shall not be a member of a town board which is in any way related to his employment during his or her term of office or for at least one year after leaving office.</p> <p><b>3-4-4</b> An elected member of a town board shall not serve on that town board for more than three consecutive terms. An appointed member of a town board shall not serve on that town board for more than four consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the board after two years have elapsed from the ending date of his or her previous service.</p>	<p><b>Section 4: Prohibited Activities</b></p> <p><b>3-4-1</b> Persons may not be members of an appointed Town Board unless <u>they are a registered Voter of the Town of Provincetown.</u></p> <p><b>3-4-2</b> A paid Town Employee may not be a member of any Town Board which oversees matters in any way related to his or her employment. <u>Potential responsibility to review actions or decisions by one's supervisor is considered to be related to employment.</u></p> <p><b>3-4-3</b> A paid Town Employee with supervisory duties may not be a member of a Town Board which is in any way related to his or her employment, during the time of his or her <u>employment</u> and for at least one year after leaving <u>that employment.</u></p> <p><b>3-4-4</b> An elected member of a Town Board may not serve on that Board for more than three consecutive terms. An appointed member of a Town Board may not serve on that Board for more than four consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the Board after two years have elapsed from the ending date of his or</p>	<p>Association has requested changes to this Section.</p> <p>3-4-2: Added language prohibits service on a Board that may have potential oversight for one's supervisor – primarily related to service on the Charter Enforcement Commission or the Personnel Board.</p>
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<p><b>3-4-5</b> A member of a town board shall be a volunteer and shall not receive compensation for service on the board except reimbursement for vouchered expenses pertaining to town business.</p> <p><b>3-4-6</b> A member of a town board shall not be paid for any work done for the town, or be allowed to bid on any town contract for a job, which is in any way related to the board on which he or she serves or on which he or she has served within the past year.</p> <p><b>3-4-7</b> A member of the board of assessors, the finance committee, the personnel board, or the school committee shall not receive any payment from the town except reimbursement for vouchered expenses pertaining to town business.</p> <p><b>3-4-8</b> Town employees and members of town boards shall be governed by the ethical standards set forth in Chapter 268A of the Massachusetts General Laws, the Provincetown General By-Laws, and this charter.</p> <p><b>3-4-9</b> No person shall serve simultaneously as a member/alternative member of more than one of the following regulatory town</p>	<p>her previous service.</p> <p><b>3-4-5</b> A member of a Town Board is a volunteer and may not receive compensation for service on the Board except reimbursement for vouchered expenses pertaining to Town business. Notwithstanding any provisions of this charter to the contrary, the Town may, by By-Law, establish an annual stipend for members of the Board of Selectmen.</p> <p><b>3-4-6</b> A member of a Town Board shall not be paid for any work done for the Town <u>or which benefits the Town, either directly or as a consultant or contractor</u>, which is in any way related to the Board on which he or she serves, or on which he or she has served within the past year.</p> <p><b>3-4-7</b> A member of the Board of Assessors, the Finance Committee, the Personnel Board, or the School Committee may not receive any payment from the Town except reimbursement for vouchered expenses pertaining to <u>their respective Town Board</u> business.</p> <p><b>3-4-8</b> Town employees and members of Town Boards shall be governed by the ethical standards set forth in Chapter 268A of the Massachusetts General Laws, <u>as supplemented by this Charter</u>.</p> <p><b>3-4-9</b> No person shall serve</p>	<p>3-4-5: Language added from 3-4-10.</p> <p>3-4-6: Modified to include work benefitting the Town but paid or contracted by another</p> <p>3-4-7 repeats 3-4-5 and 3-4-6 for emphasis – no change</p> <p>3-4-8: Clarification that the Charter may supplement the ethical standards and restrictions in the Massachusetts General Laws.</p>
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<p>boards: conservation commission, board of health, historic district commission, licensing board, planning board or zoning board of appeals.</p> <p><b>3-4-10</b> Notwithstanding any provisions of this charter to the contrary, the town may, by by-law, establish an annual stipend for members of the board of selectmen.</p>	<p>simultaneously as a member/alternative member of more than one of the following regulatory Town Boards:</p> <ul style="list-style-type: none"><li>(a) the Conservation Commission,</li><li>(b) the Board of Health,</li><li>(c) the Historic District Commission,</li><li>(d) the Licensing Board,</li><li>(e) the Planning Board or</li><li>(f) the Zoning Board of Appeals.</li></ul>	<p>3-4-10 was merged with 3-4-5</p>
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<p><b>Chapter 4</b> <b>THE BOARD OF SELECTMEN</b></p> <p><i>Section 1: Composition</i></p> <p><b>4-1-1</b> There shall be a board of selectmen consisting of five members elected for three-year overlapping terms so arranged that the term of at least one member shall expire each year.</p> <p><b>4-1-2</b> If a member of the board of selectmen dies, resigns, or ceases to be a registered voter, a vacancy shall result which shall be filled in accordance with G.L. c. 41, s. 10.</p> <p><b>4-1-3</b> A member of the board of selectmen shall not hold any other appointed or elected, paid or non-paid, position in town government, including any temporary, or ad-hoc committee created at town meeting, or otherwise.</p> <p><i>Section 2: General Powers</i></p> <p><b>4-2-1</b> The board of selectmen shall be the primary policy making, planning, and goal setting agency of the town.</p> <p><b>4-2-2</b> The board of selectmen shall make provisions for traffic regulation and control.</p> <p><b>4-2-3</b> The board of selectmen shall insure that the Provincetown General By-Laws shall be up to date and republished at least every five years and that copies shall be available.</p> <p><b>4-2-4</b> The board of selectmen shall be</p>	<p><b>Chapter 4</b> <b>THE BOARD OF SELECTMEN</b></p> <p><i>Section 1: Composition</i></p> <p><b>4-1-1</b> There shall be a Board of Selectmen consisting of five members elected for three-year overlapping terms.</p> <p><b>4-1-2</b> If a member of the Board of Selectmen dies, resigns, or ceases to be a registered voter, a vacancy shall result which shall be filled by special election in accordance with the provisions of the Massachusetts General Laws.</p> <p><b>4-1-3</b> Stipend for Selectmen. Each member of the Board of Selectmen may receive an annual stipend as set forth in the Provincetown By-Laws.</p> <p><i>Section 2: General Powers</i></p> <p><b>4-2-1</b> The Board of Selectmen shall exercise the powers and duties prescribed by the Massachusetts General Laws, this Charter, or the Provincetown General By-Laws, except for those powers and duties which are specifically vested in a Town Officer or another Town Board by those authorities.</p> <p><b>4-2-2</b> The Board of Selectmen shall be the primary policy-making, planning, and goal-</p>	<p>4-1-1 No Change</p> <p>4-1-2 Added explanation of MGL 41,10.</p> <p>Old 4-1-3 Moved to new Section 6 Limitations New 4-1-3 Moved from By-Laws</p> <p>New 4-2-1 is old 4-2-6 rewritten for clarity</p> <p>New 4-2-2 is old 4-2-1</p>
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<p>recognized as the head of town government for all ceremonial purposes.</p> <p><b>4-2-5</b> The board of selectmen shall exercise the powers and duties prescribed by the Massachusetts General Laws, the Provincetown General By-Laws, or this charter, except as provided herein.</p> <p><b>4-2-6</b> The board of selectmen shall exercise the powers and duties which are not vested in a town officer or another town board by the Massachusetts General Laws, the Provincetown General By-Laws, or this charter.</p> <p><b>4-2-7</b> Notwithstanding any other provisions of this charter, the board of selectmen shall be the issuing authority for all fishing and shellfishing grants, permits and licenses that are issued under the provisions of chapter one hundred and thirty of the General Laws and over which the state's division of marine fisheries has any power of review or administrative control.</p>	<p>setting agency of the Town.</p> <p><b>4-2-3</b> The Board of Selectmen shall regularly provide direction to the Town Manager who shall administer the day-to-day affairs of the Town in accordance with such goals, policies, or plans.</p> <p><b>4-2-4</b> The Board of Selectmen shall ensure that the Provincetown General By-Laws shall be up to date and republished at least every five years and that copies shall be available.</p> <p><b>4-2-5</b> The Board of Selectmen shall make provisions for traffic regulation and control.</p> <p><b>4-2-6</b> Notwithstanding any other provisions of this charter, the Board of Selectmen shall be the issuing authority for all fishing and shellfishing grants, permits and licenses that are issued under the provisions of M.G.L. c. 130 and over which the State's Division of Marine Fisheries has any power of review or administrative control.</p> <p><b>4-2-7</b> The Board of Selectmen shall be recognized as the head of Town government for all ceremonial purposes. The Chairman of the Board of Selectmen shall be the official representative of the Town at all official functions. If the Chairman is unable or unshalling to serve as such on a specific occasion, the Board of</p>	<p>New 4-2-3 added</p> <p>New 4-2-4 is old 4-2-3</p> <p>New 4-2-5 is old 4-2-2</p> <p>New 4-2-6 is old 4-2-7</p> <p>New 4-2-7 is old 4-2-4</p>
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<p><i>Section 3: Written Records</i></p> <p><b>4-3-1</b> The board of selectmen shall keep a written record of their official acts and shall cause the record to be made available to those requesting it.</p> <p><b>4-3-2</b> Any policy, plan, or goal adopted by the board of selectmen shall be made in writing.</p> <p><b>4-3-3</b> No person shall be accountable for failure to carry out an order emanating from the board of selectmen unless it shall be made in writing.</p>	<p>Selectmen shall appoint an official representative in the following order of precedence: another member of the Board of Selectmen, the Town Manager, the Town Moderator, or some other person.</p> <p><b>4-2-8</b> <u>The Board of Selectmen shall cause the laws and orders of the government of the Town to be enforced, including this Charter.</u></p> <p><i>Section 3: Written Records and Communication to the Town</i></p> <p><b>4-3-1</b> Any goal, policy, plan, or official act adopted by the Board of Selectmen shall be in writing and included in its entirety in the minutes of the meeting at which it is adopted. A file containing the Board of Selectmen's current policies and goals shall be posted on the Town's website for public reference.</p> <p><b>4-3-2</b> No person shall be accountable for failure to carry out an order emanating from the Board of Selectmen unless it shall be made in writing and forwarded to that individual.</p> <p><b>4-3-3</b> <u>The Board of Selectmen shall cause to be compiled and published an Annual Town Report for each calendar year; such report shall be available at least 14 days before the next Annual Town Meeting; it shall include reports from all elected and appointed Town Officials,</u></p>	<p>New 4-2-8 is added</p> <p>New 4-3-1 combines old 4-3-1 and 4-3-2</p> <p>New 4-3-2 is old 4-3-3</p> <p>New 4-3-3 is added – copied from Truro Charter</p>
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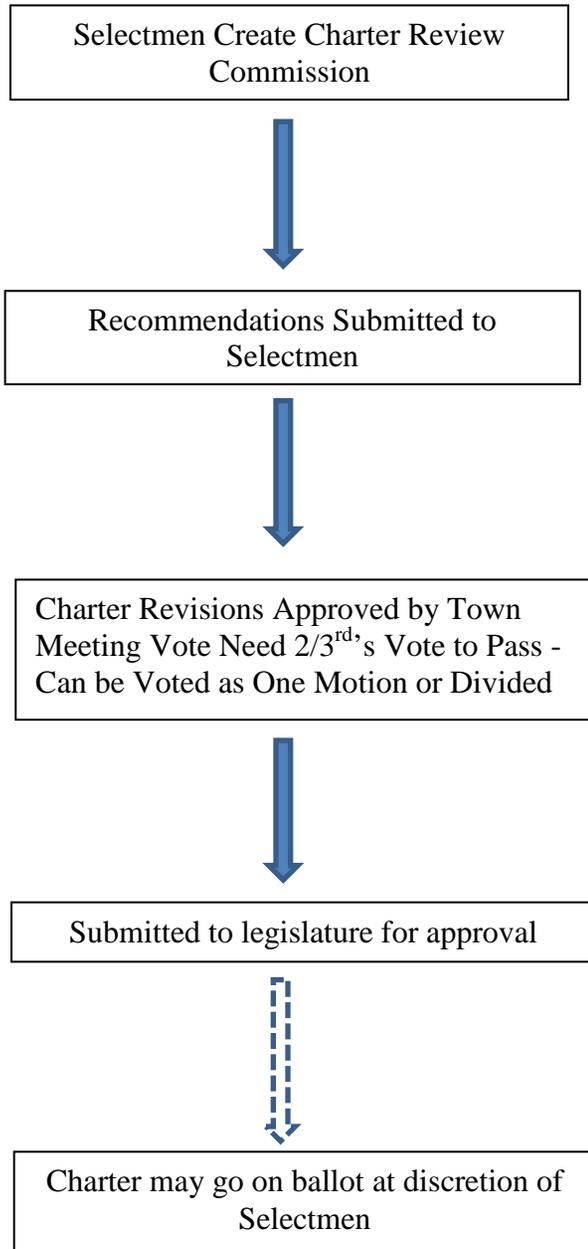
<p><i>Section 4: Powers of Appointment</i></p>	<p><u>department heads and multi-member bodies. The Moderator shall be excepted from submitting a report.</u></p> <p><b>4-3-4</b> <u>The Board of Selectmen shall annually within 60 days of the Annual Town Election hold a meeting for the purpose of stating the Board's goals for the coming fiscal year. The Board shall revisit its goals for the year concluding and review its accomplishments relative to those goals. This presentation is to be followed by a question and answer session led by the Town Moderator. All Town Officials, Department Heads and Chairpersons of multi-member bodies shall attend. The Public Hearing Notice shall be advertised in one or more local papers and the general public shall be invited.</u></p> <p><i>Section 4: Powers of Appointment</i></p> <p><b>4-4-1</b> The Board of Selectmen shall appoint:</p> <ul style="list-style-type: none"> <li>a. the Town Manager,</li> <li>b. a Secretary to the Board of Selectmen, and</li> <li>c. members of those Town Boards designated in Chapter 6 of this Charter to be appointed by the Board of Selectmen, subject to the provisions of Section 3-1-2 of this Charter which provides guidance on vacancies on Town Boards.</li> </ul>	<p>New 4-3-4 is added – copied from Truro Charter</p> <p>New 4-4-1 is old 4-4-4</p>
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<p><b>4-4-1</b> The board of selectmen shall establish an employment contract with the town manager for a period of time not to exceed three years, to provide the conditions of employment, including but not limited to, duties, termination and severance pay, disability, salary, performance evaluation, hours of work, outside activities, moving expenses, home sale and purchase expenses, automobile use and expenses, vacation, sick leave, military leave, disability insurance, health insurance, life insurance, retirement, dues and subscriptions, professional development, general expenses, civic club membership, indemnification and bonding.</p> <p><b>4-4-2</b> Said contract shall be in accordance with and subject to the provisions of the General By-Laws and this charter, and the compensation to be paid to the town manager shall be within the amount appropriated by the town.</p>	<p><b>4-4-2</b> The Board of Selectmen shall establish an employment contract with the Town Manager for a period of time not to exceed three years, to provide the conditions of employment, which may include:</p> <ul style="list-style-type: none"> <li>a. duties and hours of work,</li> <li>b. performance evaluations,</li> <li>c. salary, termination and severance pay, and disability pay,</li> <li>d. limitations on outside activities,</li> <li>e. moving expenses, home sale and purchase expenses,</li> <li>f. automobile use and expenses,</li> <li>g. vacation, sick leave, and military leave,</li> <li>h. disability insurance, health insurance, and life insurance,</li> <li>i. dues and subscriptions,</li> <li>j. professional development,</li> <li>k. general expenses,</li> <li>l. civic club memberships,</li> <li>m. indemnification and bonding, and</li> <li>n. retirement.</li> </ul> <p><b>4-4-3</b> Said contract shall be in accordance with and subject to the provisions of this Charter and the General By-Laws, and the compensation to be paid to the Town Manager shall be within the amount appropriated by the Town.</p>	<p>New 4-4-2 is old 4-4-1</p>
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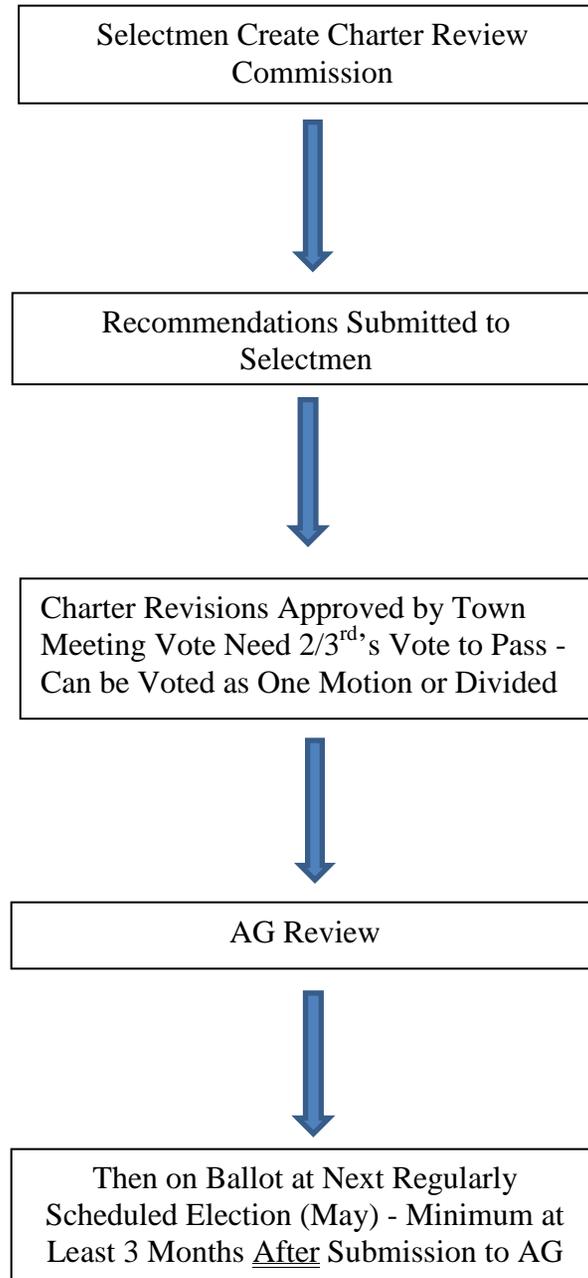
<p><b>4-4-3</b> Nothing contained in this section shall affect the appointment and removal powers of the town over the town manager, nor shall it grant tenure to the town manager.</p> <p><b>4-4-4</b> The board of selectmen shall appoint a town manager, a secretary to the board of selectmen, and members of those town boards designated in chapter 6 of this charter, subject to the provisions of section 3-1-2 of this charter.</p> <p><b>Section 5: Investigatory Powers</b></p> <p><b>4-5-1</b> The board of selectmen may investigate and may authorize the town manager to investigate the affairs of the town and the conduct of any town department or town board, including any claim against the town.</p> <p><b>4-5-2</b> For the purposes of this section, the board of selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.</p> <p><b>4-5-3</b> The report of the investigation shall be placed on file in the office of the town clerk, and a report summarizing the investigation shall be printed in the next town report.</p>	<p><b>4-4-4</b> Nothing contained in this section shall affect the removal powers of the Town over the Town Manager as specified in this Charter, nor shall it grant tenure to the Town Manager.</p> <p><b>4-4-5</b> <u>In the event of the resignation, death or removal of the Town Manager, the Board of Selectmen shall act expeditiously to identify and appoint a new Town Manager.</u></p> <p><b>Section 5: Investigatory Powers</b></p> <p><b>4-5-1</b> The Board of Selectmen may investigate the Town Manager or any Town Board, or 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.</p> <p><b>4-5-2</b> <u>The subject of any such investigation shall be informed of the conduct of the investigation and shall have the right to an Adjudicatory Hearing, as defined in Chapter 3, Section 3-2 of this Charter.</u></p> <p><b>4-5-3</b> A <u>comprehensive</u> report of the investigation shall be <u>posted on the Town's website</u> by the Town Clerk, and a summary of the investigation shall be printed in the next Town Report.</p>	<p>New 4-4-5</p> <p>4-5-1 No change</p> <p>Old 4-5-2 is deleted as unnecessary New 4-5-2 added</p> <p>New 4-5-3 is old 4-5-3 with clarifying and updated language.</p>
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	<p><b><i>Section 6: Limitations</i></b></p> <p><b>4-6-1</b> <u>Members of the Board of Selectmen shall possess no individual authority.</u></p> <p><b>4-6-2</b> A member of the Board of Selectmen shall not hold any other appointed or elected, paid or non-paid, position in Town government, including any temporary or ad-hoc committee created at Town Meeting, or otherwise. <u>Service as a representative from the Town to a governmental body other than the Town shall not be prohibited by this provision.</u></p> <p><b>4-6-3</b> <u>Except for the purposes of investigation in accordance with section 4-5-1 of this Charter, the Board of Selectmen shall deal with employees who are under the direction and supervision of the Town Manager solely through the Town Manager, and neither the Board nor its members shall give orders to any such employee.</u></p>	<p>4-6 New Section New 4-6-1 added – copied from Truro Charter 4-6-2 is old 4-1-3 with added language</p> <p>4-6-3 is added – copied from Truro Charter</p>
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### Route for Charter Change Special Act

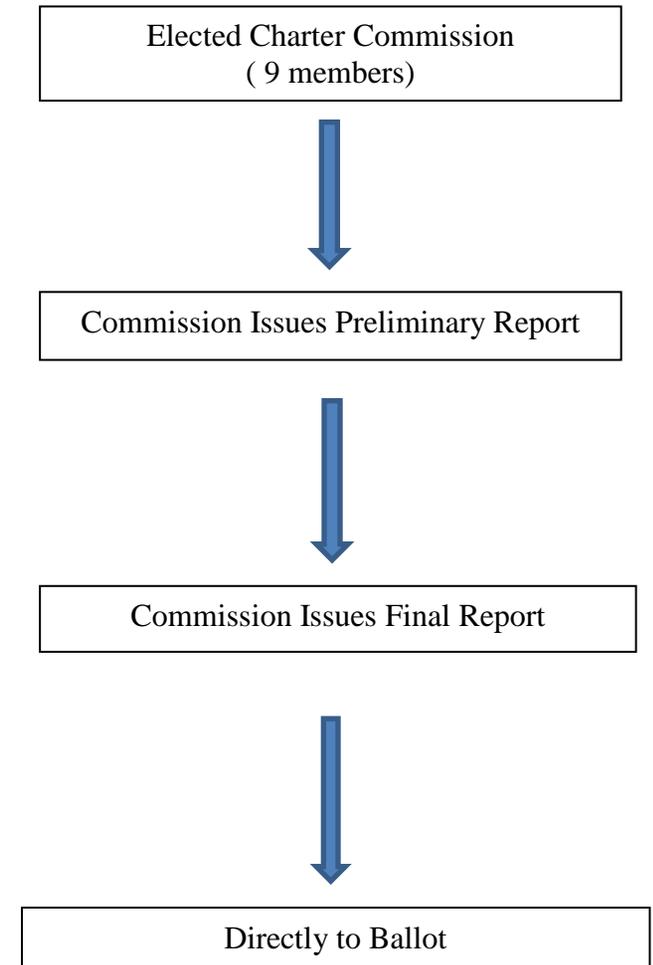


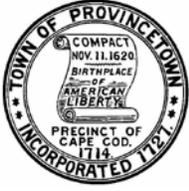
### Route for Charter Change 43b §10b



### Route for Charter Change 43b §10A

*Note: No less than 2 year process*





Provincetown Board of Selectmen  
**AGENDA ACTION REQUEST**  
August 11, 2014

2

## OTHER

Requested by: Acting Town Manager David Gardner

Action Sought: Discussion

### Proposed Motion(s)

Discussion dependent.

Votes may be taken.

### Additional Information

### Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>