

**B. NEW BUSINESS (First reading)**

**BARNSTABLE TOWN COUNCIL**

**ITEM # 2017-139  
INTRO: 04/27/17**

**2017-139 AN ORDER PROPOSING THAT THE TOWN COUNCIL PETITION THE GENERAL COURT FOR LEGISLATION PROVIDING FOR CERTAIN CHARTER AMENDMENTS**

**ORDERED** that the Town Council submit a petition to the Great and General Court of the Commonwealth for a special act incorporating the following proposed amendments to the Charter of the Town of Barnstable:

**“AN ACT AMENDING THE CHARTER OF THE CITY KNOWN AS THE TOWN OF BARNSTABLE”**

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

**SECTION 1.** Part II of the charter of the city known as the town of Barnstable adopted by the voters on April 11, 1989 and which is on file in the office of the archivist, as is provided in section 12 of chapter 43B of the General Laws, is hereby amended by inserting a new subsection Section 2-1 (d) as follows:

(d) Term Limits

No person elected to serve as a town councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the town council beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular election for the balance of the unexpired term; provided, however, the retiring councilor shall continue to serve until a successor is qualified.

**SECTION 2.** Part II of said charter is hereby further amended by striking out section 2-5 and inserting in place thereof the following section:

Section 2-5 Filling of Vacancies

If a vacancy occurs in the office of councilor during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled at that regular election; otherwise, the council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election.

**SECTION 3.** Part II of said charter is hereby further amended by striking out subsection 2-8(c) and inserting in place thereof the following subsection (c):

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### Section 2-8 (c) Charter Objection

(c) Charter Objection. Except for an emergency measure as defined in section 2-8(b), on the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

**SECTION 4.** Part II of said charter is hereby further amended by striking out the following last sentence contained in Section 2-11:“No person elected to serve as a town councilor may serve more than three consecutive terms of office.”

**SECTION 5.** Part III of said charter is hereby amended by striking out sections 3-1 to 3-7 inclusive and inserting in place thereof the following six sections:

#### Section 3-1. Elective Offices in General

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

#### Section 3-2. Eligibility

Any voter shall be eligible to hold any elective town office provided that, no person shall simultaneously hold more than one elective town office.

#### Section 3-3. School Committee

(a) Composition, Terms of Office. There shall be a school committee composed of five members elected by and from the voters at large.

(b) Term of Office. The terms of school committee members shall be four years beginning on the second Monday following election and continuing until a successor is qualified. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire at each regular election.

[Amended by Town Council vote December 1993; approved by Act of Legislature May 31, 1994]

(c) Powers and Duties. The school committee shall have general charge and superintendence of the public schools of the town. The powers of the school committee shall include, but need not be limited to: appoint a superintendent of schools, and all other officers and employees associated with the school, fix their compensation, define their duties and discharge them; make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the charter, ordinance or other council vote.

#### Section 3-4. Town Clerk

(a) Election. A town clerk shall be elected by and from the voters at large.

(b) Term of Office. The town clerk shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified.

[Amended by Town Council vote December 1993; approved by Act of Legislature May 31, 1994]

(c) Powers and Duties. The town clerk shall be the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

(d) Clerk of the Council. Unless otherwise provided by the town council the town clerk shall be the clerk of the council and shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform such duties as may be assigned by the charter, by ordinance, or by other council vote.

### Section 3-5. Housing Authority

(a) Composition, Election. There shall be a housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) Term of Office. The terms of the housing authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election.

(c) Powers and Duties. The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

### Section 3-6. Filling Vacancies

If a vacancy occurs in the office of town clerk whether by failure to elect or otherwise, the town council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith.

If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

**SECTION 6.** Part VI of said charter is hereby amended by striking out the word “ten” in Section 6-6 and inserting in place thereof the word “five”.

**SECTION 7.** Part VII of said charter is hereby amended by striking out sections 7-1 to 7-5 inclusive and inserting in place thereof the following four sections:

### Section 7-1 Town Elections

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

#### Section 7-2 Regular Election

##### (a) Signature Requirements

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than fifty signatures from said precinct.

##### (b) Information to Voters

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

##### (c) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

#### Section 7-3 Precincts

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

#### Section 7-4 Application of State Laws

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

**SECTION 8.** Part IX of said charter is hereby amended by inserting under Section 9-4 the following definition:

MEASURE:--The word "measure" shall mean matters to come before the town council which are inherently legislative in nature, including, without limitation, ordinances, charter amendments, appropriations, loan orders, lease approvals, contract approvals and eminent domain authorizations. "Measure" shall not encompass any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, without limitation, appointments, resolutions, proclamations, tax classification votes and petitions to the General Court.

**SECTION 9.** Part X of the charter is hereby amended by striking out Section 10-7(b) and inserting in place thereof the following:

The incumbent in the office of tax collector shall continue to serve in said office until the completion of the current elected term.

**SECTION 10.** Part X of said charter is hereby further amended by inserting under Section 10-7(k)(1) the words "a town collector."

**SECTION 11.** The town clerk for the town of Barnstable shall cause the following question to be placed on the official ballot to be used in the town of Barnstable at the biennial town election to be held on November 7, 2017: Shall an act entitled "An Act amending the charter of the town of Barnstable" be accepted?

The town attorney shall prepare a summary of the proposed special act to amend the charter which shall appear on the ballot along with the question provided in this section.

If a majority of votes cast to the question is in the affirmative, the town of Barnstable shall be taken to have accepted the amendments to the charter of the town of Barnstable, but not otherwise.

**SECTION 12.** This act shall take effect upon its passage.

# BARNSTABLE TOWN COUNCIL

**ITEM#2017-139**  
**INTRO: 04/27/17**

## SUMMARY

**TO:** Town Council  
**THROUGH:** Mark S. Ells, Town Manager  
**FROM:** Jennifer Cullum, Chair, Charter Review Subcommittee  
**DATE:** April 13, 2017  
**SUBJECT:** Order Proposing that the Town Council Petition the General Court for Legislation Providing for Certain Charter Amendments

**BACKGROUND:** Section 9-1 of the Charter states that “[t]he charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth and any laws of the Commonwealth enacted to implement said constitutional amendment.” The Charter Review Subcommittee was tasked with reviewing all areas of the existing charter. The Subcommittee, comprised of five councilors and two at-large members, met approximately 16 times. Included in the discussions were the Director of Finance, the Town Clerk and the Town Collector. An update was provided to the Town Council on November 19, 2015 and a workshop was conducted before the Town Council on August 11, 2016. At the workshop, the Town Council discussed possible additional changes, voted to accept the Subcommittee’s final report and referred the matter back to the Subcommittee to present an agenda item to the Town Council incorporating the proposed charter amendments in the form of a Special Act.

**RATIONALE:** Identifying potential charter changes was a collaborative effort with input from town staff, members of the public, elected officials and the two at-large members of the Subcommittee.

Certain proposed amendments have been discussed over the years. The current town clerk and her predecessor had requested the elimination of preliminary elections because of the cost factors involved. The Citizen Advisory Committee has requested changing the long term forecast from ten years to five years as that being a more useful metric. With regard to the proposed change in the Town Collector’s position from an elected to an appointed position, a survey of similarly sized communities revealed that the majority had appointed collectors, reflecting the trend toward ensuring that town collectors possess professional credentials to fulfill the position’s responsibilities. The proposed amendment would not take effect until the current town collector has completed her term of office.

Other proposed amendments represent efforts to clarify certain provisions of the charter about which questions have been raised. The existing “term limits” provision of the charter, found under Prohibitions (Section 2-11), states that a Town Councillor shall serve no more than three terms. Questions have arisen as to how that provision should be interpreted when a four year term is truncated by an event, such as a redistricting or a vacancy. The proposed amendment,

now under a separate “term limits” Section 2-1(d), states the prohibition as “No person elected to serve as a town councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater.” Another charter provision that has raised concerns in the past is the charter objection provision, Section 2-8 (c). The proposed amendment does not subject emergency measures to the charter objection process and eliminates the provision that if two councilors object, the measure will not be heard until the next regular council meeting.

The proposed amendment to Section 2-5, Filing of Vacancies, is a housekeeping measure proposed by the town clerk to eliminate the anachronistic reference to a “special election within the general election.”

Finally, a definition of measure was added because while the charter references “measure” in several sections, it is currently undefined.

Below you will find the existing charter provision, a redlined version of the proposed change to that provision and a “clean” text of the charter provision incorporating the proposed amendment.

## **Part II of Charter**

### **CURRENT CHARTER TERM LIMITS (UNDER PROHIBITIONS)**

#### **Section 2-1 Composition; Eligibility; Election and Term**

##### (a) Composition

There shall be a town council which shall exercise the legislative powers of the town. One Councilor shall be elected from each precinct.

##### (b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of Councilor. A member of the Town Council who shall remove from one precinct to another during the term for which such Councilor was elected shall cease to be a member of the Town Council, provided however, a Councilor with six months or less remaining on the term for which such Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

##### (c) Election and Term

The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

#### **Section 2-11 Prohibitions**

No Councilor shall, while a member of the town council, hold any other compensated town office or position. No former Councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or

employment following service as a member of the Town Council. No person elected to serve as a Town Councilor may serve more than three consecutive terms of office.

## **REDLINED VERSION OF PROPOSED TERM LIMITS**

### **Section 2-1 Composition; Eligibility; Election and Term**

#### (a) Composition

There shall be a town council which shall exercise the legislative powers of the town. One councillor shall be elected from each precinct.

#### (b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of Councilor. A member of the town council who shall remove from one precinct to another during the term for which such Councilor was elected shall cease to be a member of the town council, provided however, a Councilor with six months or less remaining on the term for which such Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

#### (c) Election and Term

The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

#### (d) Term Limits

No person elected to serve as a **Town Councilor** may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the **Town Council** beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular election for the balance of the unexpired term; provided, however, the retiring **Councilor** shall continue to serve until a successor is qualified.

### **Section 2-11 Prohibitions**

No Councilor shall, while a member of the town council, hold any other compensated town office or position. No former Councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the Town Council from returning to such office or employment following service as a member of the Town Council. ~~No person elected to serve as a town councillor may serve more than three consecutive terms of office.~~



## **CLEAN PROPOSED AMENDED TERM LIMITS**

### **Section 2-1 Composition; Eligibility; Election and Term**

#### (a) Composition

There shall be a town council which shall exercise the legislative powers of the town. One Councilor shall be elected from each precinct.

#### (b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of Councilor. A member of the town council who shall remove from one precinct to another during the term for which such Councilor was elected shall cease to be a member of the town council, provided however, a Councilor with six months or less remaining on the term for which such Councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

#### (a) Election and Term

The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

#### (d) Term Limits

No person elected to serve as a town councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the town council beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular election for the balance of the unexpired term; provided, however, the retiring councilor shall continue to serve until a successor is qualified.

### **Section 2-11 Prohibitions**

No Councilor shall, while a member of the town council, hold any other compensated town office or position. No former Councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or employment following service as a member of the town council.

## **CURRENT CHARTER FILLING OF VACANCIES**

### **Section 2-5 Filling of Vacancies**

If a vacancy occurs in the office of Councilor occurs during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled by a special election within that regular election; otherwise, the council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said

special election, provided no preliminary election shall be held. (Amended by Town Council item 9 1-03-02 on 6/20/91; amendment approved by voters 11/5/91)

## **REDLINED PROPOSED AMENDED FILLING OF VACANCIES**

### **Section 2-5 Filling of Vacancies**

If a vacancy occurs in the office of Councilor ~~occurs~~ during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled ~~by a special election within at~~ that regular election; otherwise, the council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election, ~~provided no preliminary election shall be held~~. (Amended by Town Council item 9 1-03-02 on 6/20/91; amendment approved by voters 11/5/91)

## **CLEAN PROPOSED AMENDED FILLING OF VACANCIES**

### **Section 2-5 Filling of Vacancies**

If a vacancy occurs in the office of Councilor during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled at that regular election; otherwise, the council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election. (Amended by Town Council item 9 1-03-02 on 6/20/91; amendment approved by voters 11/5/91)

## **CURRENT CHARTER OBJECTION PROVISION**

### **Section 2-8 Measures; Emergency Measures; Charter Objection**

#### **(c) Charter Objection**

On the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. *(Changed by legislative action dated August 3, 1995)*

## **REDLINED VERSION OF PROPOSED AMENDMENT TO CHARTER OBJECTIONS**

### **Section 2-8. Measures; Emergency Measures; Charter Objection.**

#### **(c)**

Charter Objection.- Except for an emergency measure as defined in section 2-8(b), ~~On~~ the first occasion that the question on adoption of a measure ~~is~~ put to the town council, ~~if~~ a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. ~~If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object.~~ A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease This procedure

shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. [Changed by legislative action dated August 3, 1995]

## **CLEAN VERSION PROPOSED AMENDED CHARTER OBJECTION TO CHARTER OBJECTION PROVISION**

### **Section 2-8. Measures; Emergency Measures; Charter Objection.**

(c) Charter Objection. Except for an emergency measure as defined in section 2-8(b), on the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

## **Part III**

### **TOWN COLLECTOR**

#### **Section 3.1**

The town collector would become an appointed rather than elected position. The legislation would specify that the amendment would become effective at the expiration of the term of the town collector in office at the time of the adoption.

### **CURRENT CHARTER PROVISION ELECTED TOWN COLLECTOR**

#### **Section 3-1 Elective Offices in General**

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk, a town collector and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

#### **Section 3-5 Town Collector**

##### **(a) Election**

A town collector shall be elected by and from the voters at large.

##### **(b) Term of Office**

The town collector shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature May 31, 1994.)

##### **(c) Powers and Duties 8**

The town collector shall be responsible for the collection of all accounts due and payable to the town. Town officials and town agencies, from time to time, shall commit to the town collector for collection all accounts due and payable to the town, listed against the parties obligated to assume and pay the same. The town collector shall pay over to the town treasurer all collections received with any sums received in interest. The town collector shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

## Section 3-7 Filling Vacancies

If a vacancy occurs in the office of town clerk or town collector whether by failure to elect or otherwise, the town council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith.

If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

## REDLINED VERSION ELIMINATING ELECTED COLLECTOR

### PART III Elected Town Offices

#### Section 3-1 Elective Offices in General

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk, ~~a town collector~~ and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

#### ~~Section 3-5 Town Collector~~

##### ~~(a) Election~~

~~A town collector shall be elected by and from the voters at large.~~

##### ~~(b) Term of Office~~

~~The town collector shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993— Approved by Act of Legislature May 31, 1994.)~~

##### ~~(c) Powers and Duties~~

~~The town collector shall be responsible for the collection of all accounts due and payable to the town. Town officials and town agencies, from time to time, shall commit to the town collector for collection all accounts due and payable to the town, listed against the parties obligated to assume and pay the same. The town collector shall pay over to the town treasurer all collections received with any sums received in interest. The town collector shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.~~

#### Section 3-56 Housing Authority

(a) Composition, Election

There shall be a housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) Term of Office

The terms of the housing authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election. (Amended by vote of Town Council Dec. 1993 - Approved by Act of Legislature May 31, 1994)

(c) Powers and Duties

The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

**Section 3-~~67~~ Filling Vacancies**

If a vacancy occurs in the office of town clerk ~~or town collector~~ whether by failure to elect or otherwise, the town council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

**PROPOSED CLEAN AMENDED SECTION 3 ELIMINATING ELECTED TOWN COLLECTOR**

**PART III**

**Elected Town Offices**

**Section 3-1 Elective Offices in General**

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

### **Section 3-2 Eligibility**

Any voter shall be eligible to hold any elective town office provided that, no person shall simultaneously hold more than one elective town office.

### **Section 3-3 School Committee**

#### **(a) Composition, Terms of Office**

There shall be a school committee composed of five members elected by and from the voters at large.

#### **(b) Term of Office**

The terms of school committee members shall be four years beginning on the second Monday following election and continuing until a successor is qualified. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire at each regular election. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature - May 31, 1994)

#### **(c) Powers and Duties**

The school committee shall have general charge and superintendence of the public schools of the town. The powers of the school committee shall include, but need not be limited to: appoint a superintendent of schools, and all other officers and employees associated with the school, fix their compensation, define their duties and discharge them; make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the charter, ordinance or other council vote.

### **Section 3-4 Town Clerk**

#### **(a) Election**

A town clerk shall be elected by and from the voters at large.

#### **(b) Term of Office**

The town clerk shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 - Approved by Act of Legislature May 31, 1994)

#### **(c) Powers and Duties**

The town clerk shall be the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

(d) Clerk of the Council

Unless otherwise provided by the town council the town clerk shall be the clerk of the council and shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform such duties as may be assigned by the charter, by ordinance, or by other council vote.

**Section 3-5 Housing Authority**

(a) Composition, Election

There shall be a housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) Term of Office

The terms of the housing authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election. (Amended by vote of Town Council Dec. 1993 - Approved by Act of Legislature May 31, 1994).

(c) Powers and Duties

The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

**Section 3-6 Filling Vacancies**

If a vacancy occurs in the office of town clerk whether by failure to elect or otherwise, the town council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

Part VI

**LONG TERM FINANCIAL FORECAST**

**Section 6-6**

Consistent with the recommendation made by CFAC and the Director of Finance, the amendment would require an annual five year forecast rather than the annual ten year forecast currently required.

### **EXISTING TEN YEAR FORECAST**

#### **Section 6-6 Long Term Financial Forecast**

The town manager shall annually prepare a ten year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town, revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

### **REDLINED LONG TERM FORECAST CHANGING TEN YEAR TO FIVE YEAR**

#### **Section 6-6 Long Term Financial Forecast**

The town manager shall annually prepare a ~~ten~~ five year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town, revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

### **CLEAN COPY OF PROPOSED REVISION**

#### **Section 6-6 Long Term Financial Forecast**

The town manager shall annually prepare a five year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town, revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

## **Part VII**

### **EXISTING PRELIMINARY ELECTION CHARTER PROVISION**

#### **Nominations and Elections**

##### **Section 7-1 Town Elections; General and Preliminary**

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year. On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates. (Amended by Town Council item #93-106; Amendment passed by Act of Legislature August 6, 1993).



## **Section 7-2 Preliminary Elections**

### **(a) Signature Requirements**

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than twenty five signatures from said precinct.

### **(b) Ballot Position**

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend such drawings.

### **(c) Determination of Candidates for Election**

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number to be so elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which but for said tie vote would entitle a person receiving the same to have the person's name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence thereof, there be printed on such ballots the names of candidates exceeding twice the number to be elected.

### **(d) Nomination of Candidates;**

#### **Conditions Making Preliminary Election Unnecessary**

If at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been filed with the town clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the town clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made . If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any precinct or precincts of the town, no preliminary election shall be held in any such precinct or precincts.

## **Section 7-3 Regular Election**

### **(a) Information to Voters**

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

### **(b) Ballot Position**

The order in which names of candidates appear on the ballot for each office in a regular

town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

### **Section 7-4 Precincts**

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

### **Section 7-5 Application of State Laws**

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

## **REDLINED CHANGES ELIMINATING PRELIMINARY ELECTION**

### **Section 7-1 Town Elections; ~~General and Preliminary~~**

The regular town election shall be held on the first Tuesday following the first Monday in ~~November of each odd-numbered year. On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates. (Amended by Town Council item #93-106; Amendment passed by Act of Legislature August 6, 1993).~~

#### **~~Section 7-2 Preliminary Elections~~**

##### **~~(a) Signature Requirements~~**

~~The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than twentyfive signatures from said precinct.~~

##### **~~(b) Ballot Position~~**

~~The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend such drawings.~~

##### **~~(c) Determination of Candidates for Election~~**

~~The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number to be so elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.~~

~~If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which but for said tie vote would entitle a person receiving the same to have the person's name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in~~

~~consequence thereof, there be printed on such ballots the names of candidates exceeding twice the number to be elected.~~

~~(d) Nomination of Candidates;~~

~~Conditions Making Preliminary Election Unnecessary~~

~~If at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been filed with the town clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the town clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any precinct or precincts of the town, no preliminary election shall be held in any such precinct or precincts.~~

### **Section 7-23 Regular Election**

#### **(a) Signature Requirements**

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than fifty signatures from said precinct.

#### **(b)a) Information to Voters**

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

#### **(c)b) Ballot Position**

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

### **Section 7-34 Precincts**

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

### **Section 7-45 Application of State Laws**

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

## **PROPOSED CHARTER CHANGE ELIMINATING PRELIMINARY ELECTIONS**

### **Nominations and Elections**

#### **Section 7-1 Town Elections**

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

## **Section 7-2 Regular Election**

### **(a) Signature Requirements**

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than fifty signatures from said precinct.

### **(b) Information to Voters**

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

### **(c) Ballot Position**

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

## **Section 7-3 Precincts**

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

## **Section 7-4 Application of State Laws**

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

## **Part IX**

### **AMENDING SECTION 9-4 TO ADD DEFINITION OF MEASURE**

#### **Section 9-4 Definitions.**

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

(i)

MEASURE:--The word "measure" shall mean matters to come before the town council which are inherently legislative in nature, including ordinances, charter amendments, appropriations, loan orders, lease approvals and eminent domain authorizations. "Measure" shall not encompass any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, without limitation, appointments, resolutions, proclamations, tax classification votes, contract approvals, and petitions to the General Court

## **Part X AMENDING SECTION 10-7 COLLECTOR TRANSITION AND APPOINTMENT**

### Section 10-7. Time of Taking Effect.

(b) The incumbent in the office of tax collector shall continue to serve in said office until the completion of the current elected term.

(k)(1)

The town manager shall appoint subject to the approval of the town council:

a town attorney

a town accountant/director of finance

a town collector

a town treasurer

a police chief

a director of personnel

a building commissioner

a director of civil defense

an inspector of animals

the constables

a dog officer

the fence viewers

a forest fire warden

a gas inspector

a harbor master

and, all other officers, department heads, and employees for whom no other method of appointment is provided.