

TOWN OF PLYMOUTH, MASSACHUSETTS

CHARTER

TABLE OF CONTENTS

PREAMBLE

CHAPTER 1 POWERS OF THE TOWN

- Section 1 Incorporation
- Section 2 Scope of Town Powers
- Section 3 Form of Government
- Section 4 Construction of Charter
- Section 5 Intergovernmental Relations

CHAPTER 2 THE LEGISLATIVE BRANCH: REPRESENTATIVE TOWN MEETING

- Section 1 Division of the Town into Precincts
- Section 2 Composition, Membership, and Eligibility
- Section 3 Powers
- Section 4 Procedures
- Section 5 Attendance of Representative Town Meeting Members
- Section 6 Moderator
- Section 7 Rights of Non-Members
- Section 8 Compulsory Attendance
- Section 9 Filling Vacancies
- Section 10 Conflict of Interest
- Section 11 Caucuses
- Section 12. Finance Committee

CHAPTER 3 THE EXECUTIVE BRANCH: THE BOARD OF SELECTMEN, THE TOWN MANAGER AND PLANNING AND DEVELOPMENT

- Section 1 The Board of Selectmen: Composition and Terms
- Section 2 Board of Selectmen: General Powers and Duties
- Section 3 Appointments
- Section 4 Town Manager: Appointment and Removal
- Section 5 Town Manager: Powers and Duties
- Section 6 Department of Public Works
- Section 7 Board of Health
- Section 8 Establishment and Scope of the Department of Finance
- Section 9 Director of Finance
- Section 10 Conservation Commission
- Section 11 Development and Industrial Commission

Section 12 Zoning Board of Appeals
Section 13 Establishment and Scope of the Department of Planning and Development
Section 14 Planning Board
Section 15 Director of Planning and Development
Section 16 Building Committee

CHAPTER 4 ELECTED TOWN BOARDS AND OFFICERS

Section 1 General Provisions

CHAPTER 5 ELECTIONS

Section 1 Town Elections
Section 2 Elections to be Nonpartisan
Section 3 Time of Taking Office
Section 4 Nomination of Candidates for Election to Representative Town Meeting
Section 5 Initiative
Section 6 Referendum
Section 7 Recall of Elective Officeholders
Section 8 Recall of Representative Town Meeting Members

CHAPTER 6 TOWN BOARDS, COMMISSIONS, COMMITTEES, AND DEPARTMENT AND DIVISION HEADS

Section 1 General Provisions
Section 2 Delegation of Appointment, Discipline, and Removal Power

CHAPTER 7 GENERAL PROVISIONS

Section 1 Charter Amendment
Section 2 Specific Provisions to Prevail
Section 3 Severability of Charter
Section 4 Continuation, Revision, and Republication of By-Laws
Section 5 Enforceability of this Charter
Section 6 Periodic Charter Review

TOWN OF PLYMOUTH, MASSACHUSETTS

CHARTER

PREAMBLE

We, the people of the Town of Plymouth, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment of the constitution of the Commonwealth, do hereby adopt the following home rule charter for this town.

CHAPTER 1

POWERS OF THE TOWN

Section 1 **Incorporation**

1-1-1 The present Town of Plymouth, Massachusetts, within its territorial limits as now or may hereafter be established by law, is hereby continued as a body politic and corporate under the name Town of Plymouth.

Section 2 **Scope of Town Powers**

1-2-1 The town shall possess, exercise and enjoy all powers possible under the constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this Charter.

Section 3 **Form of Government**

1-3-1 This Charter provides for the representative town meeting-selectmen-town manager form of government.

Section 4 **Construction of Charter**

1-4-1 The powers of the town under this Charter shall be construed liberally in favor of the town and the specific mention of particular powers in this Charter shall not be construed as limiting in any measure the general powers of the town as stated in this chapter.

Section 5 **Intergovernmental Relations**

1-5-1 Consistent with any constitutional or statutory provision, the Town of Plymouth may exercise any of its powers or perform any of its functions, and may participate in the

financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, civil divisions, subdivisions or agencies of the Commonwealth, other states or the United States government.

CHAPTER 2

THE LEGISLATIVE BRANCH: REPRESENTATIVE TOWN MEETING

Section 1 Division of the Town into Precincts

2-1-1 The town shall be divided into voting precincts which shall contain, as nearly as possible, an equal number of inhabitants. Each voting precinct shall be composed of compact and contiguous territory, as prescribed by general law.

Section 2 Composition, Membership, and Eligibility

2-2-1 The town shall have a representative town meeting which shall consist of representative town meeting members who are elected for three-year (3) overlapping terms. The number of representative town meeting members shall be determined as follows: Each precinct shall elect (9) members; this provision shall be implemented by each precinct electing three (3) members in each annual town election occurring after the effective date of this Charter. Should the number of precincts in the town change, the total number of regular town meeting members shall increase or decrease accordingly.

2-2-2 Any registered voter of the town shall be eligible for election to town meeting membership.

2-2-3 The Town Clerk shall serve as clerk of the representative town meeting. The Town Clerk shall cause notice of all meetings to be posted in the town office building and a public place within each precinct. The Town Clerk shall mail copies of the notice to the place of residence of all representative town meeting members, citing the place, date, and time of the meeting.

2-2-4 The Town Clerk shall keep a detailed journal of all representative town meeting proceedings and perform such other duties as may be assigned by this Charter, by-law, or vote of the representative town meeting.

2-2-5 Representative town meeting members shall serve without compensation or monetary allowance for any expenses incurred in the performance of their duties.

2-2-6 Representative town meeting members shall occupy sections assigned to them by the Town Clerk in a section of the hall which has been reserved exclusively for them.

2-2-7 Any representative town meeting member who is unable to attend a representative town meeting session shall provide notice of his or her anticipated absence, and the expected duration of the absence, to the Town Clerk prior to such session.

Section 3 Powers

2-3-1 The representative town meeting shall exercise all legislative powers of the town.

2-3-2 The representative town meeting shall consider and act upon all proposed by- laws.

2-3-3 The representative town meeting shall have the power to consider and act upon, pursuant to its legislative authority, with or without amendments, all proposed operating and capital improvement budgets, bond issues, and all other financial proposals of the town and such other matters as prescribed by law and all matters that appear on the town warrant, except as otherwise provided by general law.

2-3-4 The Committee of Precinct Chairs described in Section 2-11-4 may from time to time appoint subcommittees of itself or committees of Town Meeting members to review town by-laws, town meeting rules and for such other purposes as they shall deem appropriate and shall make recommendations to the Representative Town Meeting and/or the moderator at least annually. The committee also may perform other duties designated to facilitate the business of town meeting. In addition to any other powers conferred upon it by the representative town meeting, the Committee of Precinct Chairs shall periodically review the rules of procedure that govern the conduct of the representative town meeting and report its finding to the representative town meeting at least annually.

Section 4 Procedures

2-4-1 The representative town meeting shall meet at least twice (2) in each calendar year. The first such meeting, the spring annual representative town meeting, shall be convened during the period of March through April, at a time fixed by by-law. The spring annual representative town meeting shall be concerned primarily with the determination of all matters that concern raising, appropriating, or transferring funds, including, but not limited to the adoption of an annual operating budget covering all town agencies. The second such meeting shall be held during the last four calendar months, at a time fixed by by-law.

The budget, as adopted at the spring annual representative town meeting, may be reopened by a citizen-petitioned article pursuant to G.L. c.39, § 10, or any other applicable law, or may be reopened by an affirmative vote of a majority of the members of the Board of Selectmen.

2-4-2 The quorum necessary for the conduct of representative town meeting business shall be two-thirds (2/3) of the total number of elected representative town meeting members. A smaller number than the required quorum may adjourn any meeting forthwith to a stated date, time, and place.

2-4-3 The representative town meeting shall always operate in open session and secret ballots shall not be allowed.

2-4-4 The order of consideration of the articles on the warrant may be changed only by a two-thirds (2/3) vote of those present and voting.

2-4-5 The representative town meeting may adopt rules and regulations relating to its procedures and its methods of operation.

2-4-6 Except in the case of a unanimous voice vote as declared by the Moderator, a roll call vote shall be required for all final main motions with respect to the following subject matters: adoption or amendment of zoning by-laws; adoption or amendment of general by-laws; and fiscal matters which are defined as any appropriation, borrowing, fund transfer, or the creation of or re-authorization of such enterprise or revolving funds as may be authorized by state law, provided, however, that in the event of a vote which the Moderator determines to be near unanimous, the Moderator may elect to take a roll call of only those voting in the minority.

2-4-7 In the event that the Advisory and Finance Committee fails to comply with the provisions of Section 2-12-2 of this Charter, the scheduled representative town meeting shall convene and then adjourn to such a date as would allow the Advisory and Finance Committee to make copies of its detailed written report available to representative town meeting members and voters fourteen (14) days prior to said date.

If the Advisory and Finance Committee has failed to consider a warrant article, the representative town meeting may consider that article provided that two thirds (2/3) of the representative town meeting members in attendance vote to so do. No such vote shall be taken unless the article has been presented to the Advisory and Finance Committee.

Section 5 Attendance of Representative Town Meeting Members

2-5-1 Representative town meeting members shall attend all representative town meeting sessions. Each calendar day during which any portion or portions of a representative town meeting or meetings is/are conducted shall be deemed to be a single "representative town meeting session".

2-5-2 During each representative town meeting session, the Town Clerk shall cause the attendance to be taken prior to the commencement of the session, and the Moderator shall take roll on at least one occasion after commencement of the session and a quorum has been reached. A record of those in attendance shall be kept open until the end of each representative town meeting session to enable latecomers to be recorded as present. The attendance record shall be public and be made part of the representative town meeting proceedings.

2-5-3 A representative town meeting member who ceases to reside in the representative town meeting member's precinct during the term of office shall notify the Town Clerk, who shall declare the seat vacant as of the time of said notice. The Town Clerk may also declare such seat vacant if the registrars of voters, pursuant to G.L. c.51, §§ 47B, 48, 49,

or any other applicable law, determine that the representative town meeting member is illegally or incorrectly registered to vote in that precinct.

Section 6 Moderator

2-6-1 A Moderator shall be elected at the regular town elections for a term of three (3) years.

2-6-2 The Moderator shall have no vote unless the representative town meeting members present and voting are equally divided.

2-6-3 The Moderator shall preside at all representative town meeting sessions and shall perform such other duties as may from time to time be assigned to the office through by-law or vote of the representative town meeting.

2-6-4 Promptly following the annual town election, the Moderator shall appoint an Assistant Moderator for a term commencing at the first annual or special representative town meeting following such annual election, and ending on the date of the annual town election in the following year. Such appointment shall be subject to the approval of the next annual or special representative town meeting. The Assistant Moderator shall substitute for the Moderator in the event that the Moderator is absent from a representative town meeting session or at the discretion and request of the Moderator, and shall carry out the duties of the Moderator excluding any exercise of appointing authority at such representative town meeting session. In the event that the Moderator cannot carry out the duties of his office by reason of death or disability, then the Assistant Moderator shall carry out all of the duties of the office of Moderator. The Assistant Moderator position shall be uncompensated.

Section 7 Rights of Non-Members

2-7-1 Residents and taxpayers of the town may speak on any article in a warrant.

Section 8 Compulsory Attendance

2-8-1 All town officers, the Town Manager, the town engineer, chairpersons of boards, commissions, and the Advisory and Finance Committee, and all department heads or those officials' designated representatives, shall attend all representative town meeting sessions. They shall have all the privileges of representative town meeting members, except the power to vote, unless they have been elected to the office of representative town meeting member. The absence of any such person shall not invalidate the actions of the representative town meeting.

Section 9 Filling Vacancies

2-9-1 The Town Clerk shall notify forthwith the precinct of any vacancy which occurs in

a precinct delegation.

2-9-2 The person who received the highest number of votes among the unsuccessful representative town meeting member candidates at the most recent election in the precinct shall fill the vacancy until the next regular election. If such person declines, or is unable to fill the vacancy, the person who received the next highest number of votes among the unsuccessful representative town meeting member candidates at the most recent election shall fill the vacancy. If the vacancy cannot be filled in this manner, the precinct caucus delegation shall vote to fill the vacancy. If necessary, the Town Clerk shall call members of the precinct caucus delegation together by written notice and shall conduct the election.

Section 10 **Conflict of Interest**

2-10-1 Notwithstanding any general or special law to the contrary, any representative town meeting member who also holds a position of employment by the town shall be prohibited from voting on any town meeting article in which such employee, or such employee's department, has a financial interest. Such representative town meeting member shall notify the Town Clerk, in writing, prior to the representative town meeting session or during such session at such time as such member becomes so aware, as to any articles giving rise to such financial interest. This section shall apply to the annual budget article, or any later amendment thereto, as follows: The representative town meeting member is prohibited from voting on the budget line item for his or her department or agency, but shall not be prohibited from voting on any other line item, or from voting on the overall budget appropriation.

2-10-2 Notwithstanding any general or special law to the contrary, no representative town meeting member shall vote on any town meeting article in which an immediate family member, or any business or organization in which the representative town meeting member serves as an officer, director, partner, or employee, or has a financial interest. For purposes of this section, "immediate family member" shall be defined as the representative town meeting member, his or her spouse and each of their parents, children, brothers, and sisters. Any such representative town meeting member shall notify the Town Clerk, in writing prior to the representative town meeting session, as to any articles giving rise to such financial interest.

2-10-3 For the purposes of Section 10 of Chapter 2 of this Charter, the "financial interest" of a representative town meeting member shall be determined pursuant to the interpretation of the term "financial interest" by the State Ethics Commission and applicable reported appellate court decisions, which are hereby incorporated by reference. The "financial interest" of a department shall be defined as any particular warrant article and related motions or votes which specifically refer to said department.

Section 11 **Caucuses**

2-11-1 The representative town meeting members from each precinct shall, within twenty

(20) days following each town election, meet and elect from among their own precinct's representative town meeting members, a chairperson, vice-chairperson, and clerk, to serve for a term of one (1) year, and shall file a notice of such organization with the Town Clerk. If the Town Clerk fails to receive a notice of organization within twenty-one (21) days following a town election, the Town Clerk shall immediately call a meeting of the representative town meeting members from such precincts that have failed to organize, for the purposes of organizing.

2-11-2 Each precinct delegation shall hold a caucus meeting for the purpose of reviewing the subject matter of the upcoming representative town meeting. Caucus meetings may be held in conjunction with other precinct delegations.

2-11-3 Each precinct chairperson shall arrange for the posting of notices of caucus meetings in Town Hall. Each such caucus meeting shall be conducted in accordance with G.L. c.39, § 23A et seq., the Open Meeting Law.

2-11-4 The precinct chairpersons shall meet together within forty-five (45) days following each town election, and shall organize as a Committee of Precinct Chairs, electing a Chairperson and a Clerk.

Section 12 **Advisory and Finance Committee**

2-12-1 An Advisory and Finance Committee of fifteen (15) members shall be appointed by the Moderator for three-year (3) overlapping terms. There shall be at least one member from each precinct of the town. The Advisory and Finance Committee shall choose from its members a chairperson and fill such other offices as it may create. The Moderator may fill any vacancy by appointment and the term of such appointment shall be for the remainder of the unexpired term of the person causing such vacancy.

Persons not registered to vote in the Town of Plymouth, Town of Plymouth employees, and representative town meeting members shall not be eligible for appointment to, or service on, the Advisory and Finance Committee.

2-12-2 The Advisory and Finance Committee shall conduct one (1) or more public hearings on the proposed operating and capital budget and shall issue its recommendations in a detailed written report and make copies available to representative town meeting members and voters at least fourteen (14) days prior to the scheduled date of the representative town meeting. In preparing its report, the Committee may require any town department, board, or office to furnish it with appropriate financial reports and budgetary information.

2-12-3 The Advisory and Finance Committee shall present the proposed budget to the representative town meeting.

2-12-4 In the final month of the fiscal year, no department, commission, office or agency may expend, except for amounts previously encumbered, more than one-twelfth (1/12) of

its annual appropriation, unless expenditures have been approved by the Advisory and Finance Committee.

CHAPTER 3

THE EXECUTIVE BRANCH: THE BOARD OF SELECTMEN, THE TOWN MANAGER AND PLANNING BOARD

Section 1 The Board of Selectmen: Composition and Terms

3-1-1 A Board of Selectmen of five (5) members shall be elected for three-year (3) overlapping terms. The regular election for the office of selectman shall be held in accordance with Chapter Five of this Charter.

3-1-2 Vacancies in the office of selectman shall be filled by special election in accordance with G.L. c. 41, § 10, and any other applicable law.

Section 2 Board of Selectmen: General Powers and Duties

3-2-1 The Board of Selectmen shall be the chief executive body of the town. It shall serve as the goal setting, long-range planning and policy-making body of the town. It shall make recommendations on major courses of action to the representative town meeting. It shall adopt policy directives and guidelines which the officers, boards, committees, commissions and employees of the town shall implement. The Board of Selectmen shall maintain a policy handbook containing such policy directives and guidelines.

3-2-2 The Board of Selectmen shall have the power to enact rules and regulations to implement its policies.

3-2-3 The Board of Selectmen shall review the annual proposed operating and capital budgets submitted by the Town Manager and make recommendations with respect thereto as it deems advisable. The Town Manager shall present the budget, incorporating the recommendations of the Board of Selectmen, to the Advisory and Finance Committee.

3-2-4 The Board of Selectmen shall act as the licensing authority of the town and shall have the power and responsibility to issue licenses, to make all necessary rules and regulations regarding the issuance of licenses, to attach conditions and impose restrictions in the public interest, and to enforce, or cause to be enforced, laws, rules and regulations relating to all businesses for which it issues licenses.

3-2-5 The Board of Selectmen shall have the power to approve all collective bargaining agreements to which the town is the contracting agency.

3-2-6 The Board of Selectmen shall be responsible, through the Town Manager, for the efficient and orderly operation of all agencies of the town except those under the direction of another elected town agency.

3-2-7 The Board of Selectmen may investigate or authorize the Town Manager, or another town officer or any agency, to investigate the conduct of any town department, office or agency. A detailed written report of any such investigation shall be filed in the Town Manager's office, and a report summarizing such investigation shall be printed in the next published annual town report.

3-2-8 The Board of Selectmen shall meet jointly with the School Committee, and all other elected boards of the town for the purpose of sharing information. The Board of Selectmen shall schedule the joint meeting(s), which shall be held no less than once (1) a year.

Section 3 **Appointments**

3-3-1 The Board of Selectmen shall appoint a Town Manager, town counsel, registrars of voters, election officers, constables, and members of all multiple-member boards, committees, and commissions except as otherwise provided in this Charter and/or the town by-laws.

Section 4 **Town Manager: Appointment and Removal**

3-4-1 The Board of Selectmen shall appoint a Town Manager by an affirmative vote of four (4) members of the Board.

3-4-2 The Town Manager shall be appointed solely on the basis of executive and administrative qualifications. The Town Manager shall be a professionally qualified person of proven ability, especially fitted to perform the duties of the office by education, training, and previous experience in municipal administration. The Town Manager shall have had at least five (5) years of full-time paid experience as a City or Town Manager, Assistant City or Town Manager, Town Administrator or Assistant Town Administrator, or the equivalent level of experience.

The town may, from time to time, establish such additional qualifications as deemed necessary and appropriate. The Town Manager shall not be subject to a personnel by-law, if any.

In addition to other terms as set forth in this Charter generally and in this Section 4 of Chapter 3 specifically, the Town Manager shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during the term of office, unless such action is approved in advance, in writing, by the Board of Selectmen. With the approval of the Board of Selectmen, the Town Manager may serve as the town's representative to regional boards, commissions, and the like, but the Town Manager may not receive additional compensation from the

town for such services.

To the extent permitted by law, the terms of the Town Manager's employment shall be the subject of a written agreement between the parties setting forth the length of service, compensation, vacation, sick leave, benefits, and such other matters (excluding tenure) as are customarily included in an employment contract.

3-4-3 The Board of Selectmen may discipline or discharge the Town Manager at any time by an affirmative vote of four (4) members of the Board of Selectmen. Within seven (7) days thereafter, the Town Manager may appeal the decision of the Board of Selectmen by filing a written request for a public hearing with the Board of Selectmen. If such a request is filed, the Board of Selectmen shall conduct a public hearing within fourteen (14) days of the written request, and act upon the appeal within seven (7) days after the public hearing.

3-4-4 The Board of Selectmen shall designate a qualified person to serve as Acting Town Manager and to perform the duties of the office during any vacancy of the Town Manager exceeding thirty (30) days caused by the Town Manager's absence, illness, suspension, removal, or resignation. The term of appointment of an Acting Town Manager shall not exceed one hundred eighty (180) days.

Section 5 Town Manager: Powers and Duties

3-5-1 The Town Manager shall be the chief administrative officer of the town. The Town Manager shall be responsible to the Board of Selectmen for the effective management of all town affairs placed in the Town Manager's charge by this Charter, the Board of Selectmen, by-law, or vote of the representative town meeting. The Town Manager shall be responsible for the implementation of town policies established by the Board of Selectmen.

The Town Manager shall:

a. unless otherwise provided herein and in Section 2 of Chapter 6 of this Charter, and except as may be otherwise provided in Civil Service Law, appoint, suspend, or remove all department heads, a Board of Assessors, and all officers, subordinates, and employees of the town, including those under grant funding, except employees of the school department. The Town Manager shall appoint a town clerk, whose duties shall be as specified in general or special legislation. In the case of an employee who works with a multiple-member board or the Plymouth Public Library Corporation, the Town Manager shall act in accordance with this Section only after consultation with that multiple-member board, or the Plymouth Public Library Corporation, as the case may be. Except as may be otherwise provided in Civil Service Law, appointments, suspension, or removals of Department and Division Heads, or equivalents regardless of title, shall take effect on the fifteenth (15) day after the Town Manager files notice of the action with the Board of Selectmen unless the Board shall within that period, by a vote of four members

veto the action. The Board of Selectmen may, by a majority vote, waive this fifteen (15) day period, whereupon the action shall become effective forthwith. This same authority to veto the actions of the Town Manager provided herein to the Board of Selectmen shall accrue to the Planning Board in the case of the appointment, suspension or removal of the Director of Planning and Development;

b. fix the compensation of all town officers and employees appointed by the Town Manager within the limits of existing appropriations and personnel bylaws;

c. supervise all town departments under the jurisdiction of the Board of Selectmen and direct the operations of the town;

d. may, with the approval of the Board of Selectmen, establish, reorganize, consolidate or abolish any department or position under the Town Manager's direction and supervision;

e. administer, either directly or through designated persons, all provisions of general and special laws applicable to the town, and all by-laws and regulations established by the Board of Selectmen;

f. coordinate the operational and strategic planning for the town;

g. administer all grants received by the town;

h. submit to the Board of Selectmen a written proposed operating budget for the ensuing fiscal year, providing in detail the estimated revenue from all sources and all expenditures, including debt services, for the previous, current and ensuing year;

i. submit annually to the Board of Selectmen a five-year (5) capital improvements program, including a list of all capital improvements proposed for the next five (5) fiscal years with supporting data, cost estimates, methods of financing, recommended time schedules, and the effect on the operating budget or revenues for each proposed capital improvement;

j. keep full and complete records of the financial and administrative activities of the town and render a detailed written report on all operations as often and for such periods as may be required by the Board of Selectmen;

k. administer and enforce collective bargaining contracts, and personnel rules, regulations, and by-laws adopted by the town;

l. develop and maintain a complete inventory of real and personal property of the town, except school property, at least annually.

m. procure from the school department, a detailed written report of the complete inventory of real and personal school property for annual submission to the Board of Selectmen. The school department shall be obligated to prepare the detailed written

report;

n. have full jurisdiction over the lease, rental, and use of all town property, except schools, and shall be responsible for the maintenance and repair of all town property;

o. be the Chief Procurement Officer under the provisions of G.L. c. 30B , responsible for the purchasing of all supplies, materials, and equipment for the town, including the bidding and awarding of all contracts, except for the school department;

p. approve all warrants or vouchers for payment of town funds submitted by the Town Accountant;

q. negotiate collective bargaining contracts on behalf of the Board of Selectmen, unless the Town Manager specifically designates another negotiator or negotiating team;

r. represent the town at local, state, and regional meetings, and undertake public relations activities for the Board of Selectmen;

s. have authority to examine, without notice, the activities of any agency under the Town Manager's control, or the conduct of any officer or employee thereof;

t. have access to all town books and records necessary for the performance of the duties of Town Manager;

u. conduct periodic operational and staffing evaluations of selected town departments, and provide a written report of the assessments performed to the Board of Selectmen and to the representative town meeting; and

v. perform any other duties required by town by-laws, the Board of Selectmen, or vote of the representative town meeting.

Section 6 Department of Public Works

3-6-1 The Director of the Department of Public Works shall be appointed by the Town Manager and shall be a civil engineer or any other combination of experience and education including a Masters Degree in a related field. The Director of the Department of Public Works shall be qualified by education and experience for the duties of the office.

3-6-2 The Department of Public Works shall be responsible for:

the design, construction, maintenance, repair, and cleaning of roads, sidewalks, storm drains, bridges, and other public way related structures;

the maintenance, repair, and cleaning of all buildings owned or leased by the Town;

the development and maintenance of all cemeteries, parks, and recreation facilities;

snow removal;

providing for and supervising the collection and disposal of garbage and other refuse, and the maintenance and operation of all facilities for the disposal of the same;

the supervision, care and replacement of trees;

the design, construction, operation, and maintenance of all water and sewer facilities;

such other functions as the Town Manager assigns; and

have general responsibility and supervision of the maintenance and custodial services for all town-owned buildings and grounds.

Section 7 Board of Health

3-7-1 A Board of Health of five (5) members shall be appointed by the Board of Selectmen for three-year (3) overlapping terms.

3-7-2 The Board of Health shall exercise such powers and duties as prescribed by the General Laws, this Charter and town by-laws.

Section 8 Establishment and Scope of the Department of Finance

3-8-1 There shall be a Department of Finance responsible for the fiscal and financial affairs of the town and for the coordination and overall supervision of all fiscal and financial activities of all town government agencies except the School Department. The Department of Finance shall include the functions of Accountant, Treasurer, Collector, Assessors and Director of Data Processing.

3-8-2 The Department of Finance shall be responsible for, and shall include, the following functions:

coordination of all financial services and activities of town government;

maintenance of all accounting records and other financial statements for all town government offices and agencies;

payment of all financial obligations on behalf of the town;

investment of town funds and management of debt;

receipt of all funds due to the town from any source;

maintenance of the system of property valuation;

rendering of advice, assistance, guidance and recommendations to all other town offices and agencies in any financial or fiscal affairs;

monitoring throughout the fiscal year of the expenditure of funds by town offices and agencies;

general supervision of the purchase of all goods, services, materials and supplies by the town; and

general supervision of all data processing functions, activities and equipment of town government offices and agencies.

Section 9 **Director of Finance**

3-9-1 The Town Manager shall appoint a Director of Finance. The Director of Finance shall be especially fitted by education, training, and experience to perform the duties of the office.

3-9-2 At the discretion of the Town Manager, the Director of Finance may serve as the head of any division within the department. The Town Manager also may designate a person to serve as head of more than one (1) division within the department.

3-9-3 The Director of Finance shall be responsible to the Town Manager for the effective operation of the Department of Finance and all fiscal and financial activities of town government. The Director shall coordinate and provide overall supervision for all activities of the department and, in consultation with the division head and the Town Manager, shall have the authority to direct and assign all personnel serving in that department.

3-9-4 The Director of Finance shall be responsible to the Town Manager and shall have the following specific powers and duties, subject to the direction of the Town Manager:

coordination of the financial functions of all departments and agencies and supervision of the following functions: accounting, treasury, tax collections, assessing, data processing, budgeting and procurement; ensure that each function is operating efficiently and in accordance with the applicable statute, by-law, code and/or accepted practice;

accountability for planning, organizing and providing administrative direction for all financial functions;

working with the Town Manager and the Board of Selectmen in developing strategic financial plans and policies;

compilation and submission of an annual operating budget and an annual capital

improvement plan to the Town Manager. The Director shall receive all requests made for the expenditure of town funds from every town office and agency and shall assemble all such requests into a form deemed to be best suited to show a complete financial plan for all town funds and activities for the ensuing fiscal year. The proposed budget shall show in detail all estimated income from the proposed property tax levy and from every other source by category; and

general oversight, throughout the year, of the expenditure of all town funds pursuant to such budgets and expenditures as authorized by the representative town meeting.

Section 10 Conservation Commission

3-10-1 The Board of Selectmen shall appoint a Conservation Commission of seven (7) members for three-year (3) overlapping terms.

3-10-2 The commission shall exercise such powers and duties as prescribed by general law, this Charter, and town by-laws.

Section 11 Development and Industrial Commission

3-11-1 The Town Manager shall appoint a Development and Industrial Commission of nine (9) members for five-year (5) overlapping terms.

3-11-2 The Commission shall exercise such powers and duties as prescribed by general law, this Charter, and town by-laws.

Section 12 Zoning Board of Appeals

3-12-1 The Board of Selectmen shall appoint a Zoning Board of Appeals of five (5) members and two (2) associate members for three-year (3) overlapping terms.

3-12-2 The board shall exercise such powers and duties as prescribed by general law, this Charter, and town by-laws.

Section 13 Establishment and Scope of the Department of Planning and Development

3-13-1 There shall be a Department of Planning and Development responsible for the planning of the land use, environmental, community planning, and economic planning and development functions of the town. The Department of Planning and Development shall supervise and coordinate all planning and development activities of all town government offices and agencies. The Department of Planning and Development shall include the functions of comprehensive planning, subdivision control, zoning appeals, preservation of natural open space, community development, economic development, design review, redevelopment, and planning of new buildings and facilities.

3-13-2 The Department of Planning and Development shall be responsible for, and shall have, the following specific duties:

development and maintenance of a Comprehensive Master Plan

coordination of all land use planning and development activities of town government;

administration of subdivision control rules and regulations;

preservation of natural open space, and land acquisition and management;

conservation administration and enforcement;

redevelopment, revitalization and rehabilitation activities;

administration of design review, historic district review, and zoning board of appeals, review and planning of affordable housing;

administration of economic development;

maintenance of all land use planning, development, and related records and reports for all town government offices and agencies;

rendering of advice, assistance, guidance, and recommendations to all other town offices and agencies on land use, environmental, community and economic planning, and development matters; and

cooperation with, and participation in, regional area planning.

Section 14 Planning Board

3-14-1 The town shall elect a Planning Board of five (5) members for five-year (5) overlapping terms.

3-14-2 The Planning Board shall exercise such powers and duties as prescribed by general law, this Charter, and applicable town by-laws.

3-14-3 The Planning Board shall serve as the long-range planning body of the town with respect to the planning of the physical, environmental, community, and economic development of the town. The Planning Board shall be responsible, through the Director of Planning and Development, for the efficient and orderly operation of all Planning Board functions and all related activities.

3-14-4 The Planning Board shall develop and maintain a Comprehensive Master Plan (CMP) which shall be the guidance document for departmental duties under Section 3-13-2, above, and for the Board's recommendations to the representative town meeting.

The CMP shall be updated periodically to address current issues concerning the physical, environmental, community and economic development of the town, including planning strategies for Open Space Preservation, Land Acquisition, Village Centers Development, Economic Development, Housing, and Historic Preservation. The Board shall report annually to the representative town meeting to inform the town of all updates to the CMP and any implementation measures that may require town meeting approval. The Planning Board's recommendations on zoning by-law amendments to the representative town meeting shall be consistent with the CMP. The Planning Board shall solicit public comment and participation throughout the Comprehensive Master Planning Process and shall adopt the CMP and/or annual CMP updates only after a duly noticed public hearing.

3-14-5 The Planning Board shall make recommendations to the representative town meeting and to the Board of Selectmen on all matters concerning the planning of the physical, environmental, community, and economic development of the town as prescribed by general law, this Charter, and applicable town by-laws, and specifically with reference to the consistency of such matters with the current CMP.

3-14-6 At the request of the Planning Board any town board or agency dealing with significant public improvements relating to the physical, environmental, community or economic development of the town, shall report the status of such plans or development to the Planning Board so as to be evaluated and included in the CMP and in the Planning Board's recommendations to the representative town meeting and the Board of Selectmen.

3-14-7 The Planning Board may appoint committees to assist and advise the Board in carrying out its duties under this charter such as a Master Plan committee, a Land Use and Acquisition Committee and such other committees as the Board deems necessary to assist the Board in performing its duties. Failure of the Board to appoint such committees shall not relieve the Board of its responsibilities to fulfill all the duties enumerated under this charter.

3-14-8 The Planning Board shall appoint an open space committee comprised of nine persons to act in an advisory capacity to the Planning Board, representative town meeting with respect to the preservation of natural open space and to assist the Community Preservation Committee in fulfilling its duties under the Community Preservation Act. Five members shall be appointed by the Planning Board, two by the Selectmen and 2 by the Conservation Commission.

Section 15 Director of Planning and Development

3-15-1 There shall be a Director of Planning and Development appointed by the Town Manager with veto authority by the Planning Board as delineated in Chapter 3. The Director shall be a professionally qualified person of proven ability, especially fitted to perform the duties of the office by education and training. The Director of Planning and Development shall have had at least five (5) years of full-time paid experience in community planning and development.

3-15-2 At the discretion of the Town Manager, the Director of Planning and Development may serve as the head of any division within the Department of Planning and Development. The Town Manager may also designate one person to serve as the head of more than one division within the Department.

3-15-3 The Director of Planning and Development shall be responsible to the Planning Board for the effective operation of all Planning Board functions and all related activities. The Director shall coordinate and provide overall supervision of all activities of the Department of Planning and Development, and shall have, in consultation with the division head and the Town Manager, the authority to direct and assign all personnel serving in the Department of Planning and Development.

3-15-4 The Director of Planning and Development shall be responsible for, and shall have, the following specific duties:

coordination of the land use, environmental, community, and economic planning and development functions of all town departments and agencies;

supervision of the following functions: planning, preservation of natural open space, land acquisition, community development, economic development, design review, subdivision control, affordable housing, and zoning appeals;

assuring that each function is operating efficiently and in accordance with the applicable statute, by-law, code, and/or accepted practice;

accountability for long-range planning and organizing;

provision of administrative direction for all functions of the Department of Planning and Development; and

working with the Planning Board, Town Manager, and Board of Selectmen in developing strategic plans and policies.

Section 16 **Building Committee**

3-16-1 The Board of Selectmen shall appoint a Building Committee which shall consist of nine (9) members. The committee shall have among its members one (1) member of the Planning Board, a registered professional engineer or architect, an attorney, a person employed in the construction industry or a related trade or occupation, two (2) members of the School Committee and three (3) other persons. Members of the committee shall be appointed for three-year overlapping terms.

3-16-2 The Building Committee shall meet with various town departments from time to time to determine the need for additions or renovations to any existing buildings or

facilities, for the construction of new buildings or facilities, or for the demolition or disposal of existing buildings. The committee shall report its recommendations to the Board of Selectmen and the Representative Town Meeting and the School Committee when applicable. Whenever any such work is authorized by the Representative Town Meeting, the Building Committee shall be responsible for the supervision of all work relating thereto, including site planning, preliminary architectural drawings, final plans, and the supervision of all construction.

3-16-3 Upon request of the Building Committee the town manager may provide support personnel to assist the Building Committee in carrying out its duties.

CHAPTER 4

ELECTED TOWN BOARDS AND OFFICERS

Section 1 **General Provisions**

4-1-1 Beginning with the first town election held after the effective date of this Charter, the town shall elect the following boards and offices:

a board of selectmen of five (5) members;

a school committee of seven (7) members who shall be elected for three-year (3) overlapping terms;

a housing authority of five (5) members, four (4) to be elected, and one (1) to be appointed in accordance with applicable law, for five-year (5) overlapping terms;

a planning board of five (5) members; and

a redevelopment authority of five (5) members, four (4) to be elected, and one (1) to be appointed in accordance with applicable law, for five-year (5) overlapping terms.

4-1-2 The terms of office of multiple-member boards shall overlap, except as general or special law may provide otherwise. Representative town meeting members shall be elected in accordance with Section 2-2-1 of this Charter.

4-1-3 During the term for which a member is elected, and for one (1) year following expiration of such term, no member of any elected board under this Charter shall be eligible to accept any paid position under such board or in the same department.

4-1-4 Vacancies in boards established under this chapter, except the Board of Selectmen, shall be filled by the Board of Selectmen, together with the remaining members of the appropriate board in accordance with the provisions of general law.

Section 2 **Simultaneous Elected Offices**

4-2-1 No representative town meeting member, or elected town official representing the entire town, shall hold simultaneously any other elected town office other than member of a Charter Commission. Any person who holds multiple offices in violation of this section shall promptly inform the Town Clerk as to which office that person will vacate. Election to any county, state or federal office shall be deemed to be an event disqualifying an elected town official (including but not limited to representative town meeting member) from continuing in his or her elected town office.

CHAPTER 5

ELECTIONS

Section 1 Town Elections

5-1-1 The regular election for all town offices shall be by official ballot held on the second Saturday of May of each year.

5-1-2 The order in which names of candidates appear on election ballots for any office, including that of representative town meeting member, shall be determined by a drawing by lot conducted by the town clerk which shall be open to the public. Notification to the candidates and to the public shall be by publication in a local newspaper during the week preceding the week in which the day of the drawing is to take place. The ballot shall identify candidates seeking re-election with the phrase "Candidate for Re-election" placed next to the candidate's name.

5-1-3 Information for Voters

Notwithstanding section 22A of chapter 55 of the General Laws, section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, the official election ballot in the town of Plymouth shall include a fair and concise summary of any binding or non-binding question to be submitted solely to the voters of the town, along with a 1-sentence statement describing the effect of a yes or no vote, both prepared by town counsel and approved by the board of selectmen. Submission to the town clerk of the summary and 1-sentence statement shall be governed by section 42C of chapter 54 of the General Laws. The board of selectmen shall, not less than 7 nor more than 14 days before an election at which a question is to be voted upon, publish the following in a newspaper of general circulation in the town: (1) the full text of the question; (2) a fair and concise summary of the question; and (3) the 1-sentence statement describing the effect of a yes or no vote on the question; provided, however, that failure to timely publish such information shall not affect the validity of the election. The board of selectmen shall also post the full text of each ballot question, the summary and the 1-sentence statement in at least 1 location in the town or on the town's official website and shall make the same available at each polling place on the day of the election. The town

may, by by-law, require additional posting or publishing of such information, subject to available funds and any other conditions that may be imposed by by-law.

Section 2 Elections to be Nonpartisan

5-2-1 All town elections shall be nonpartisan, and election ballots for town offices shall be printed without any party mark, emblem, vignette, or designation whatsoever.

Section 3 Time of Taking Office

5-3-1 Any person duly elected to any office or board shall take up the duties of the office immediately upon certification, provided that such person shall first have been sworn to the faithful performance of the duties of that office by the Town Clerk.

Section 4 Nomination of Candidates for Election to Representative Town Meeting

5-4-1 The nomination of a candidate for election or reelection as representative town meeting member shall be made by separate nomination papers signed by not less than ten (10) registered voters of the precinct in which the candidate resides. Nomination papers shall be filed with the Town Clerk no later than the last day on which the nomination papers of candidates for other offices must be filed.

5-4-2 Nomination papers shall identify representative town meeting members seeking re-election with the phrase "Candidate for Re-election" placed next to each candidate's name.

5-4-3 The nomination procedure for all other elected positions shall be as set forth in general or special law.

Section 5 Initiative

5-5-1 Any ten (10) registered voters of the town may secure the inclusion of an article in the warrant for either of the annual representative town meetings by written petition to the Board of Selectmen. At least one hundred (100) registered voters may secure the same for any special town meeting.

Section 6 Referendum

5-6-1 A vote of the town meeting under any article in the warrant shall not be operative until ten (10) days after its final passage other than the following: (a) to adjourn; (b) to appropriate money for the payment of principal and interest of bonds and notes of the town; (c) to authorize the temporary borrowing of money in anticipation of revenues and (d) to amend zoning bylaws or as otherwise provided by statute.

5-6-2 If within ten (10) days of an affirmative vote of final passage by the representative

town meeting, a petition signed by not less than three (3) percent of the registered voters in the town is filed with the Town Clerk asking that any question involved in such a vote be submitted to the voters of the town, then the town shall hold a referendum for the sole purpose of presenting the question to the voters of the town.

5-6-3 Within five (5) days after receipt of the petition the Town Clerk shall determine whether the petition contains a sufficient number of signatures. If there is a sufficient number of signatures, the Town Clerk shall inform the Board of Selectmen, who, with the Town Clerk, shall provide for a referendum to be held between thirty-five (35) and forty-five (45) days after such determination.

5-6-4 Each question to be voted on in the referendum shall be submitted to the voters in the following form: "Shall the town vote to approve the action of the representative town meeting whereby it was voted that (here insert a brief summary of the substance of the vote)?"

5-6-5 The vote on a referendum question shall be in accordance with the provisions of general law relating to special town elections.

Section 7 Recall of Elective Officeholders

5-7-1 Voters may recall any elected officeholder as herein provided.

5-7-2 Five hundred (500) registered voters of the town may file an initial petition containing the name of the officeholder sought to be recalled and a statement of the grounds for recall with the Town Clerk. No more than fifty (50) names shall be counted from any one (1) precinct of the town.

5-7-3 The Town Clerk shall thereupon deliver to the first ten (10) registered voters named on such initial petition, a sufficient number of copies of recall petition blanks demanding such recall. The Town Clerk shall keep these printed forms available. The Town Clerk shall sign and affix the official seal to the recall petition blanks that are issued. Photocopies of recall petitions which do not bear the official seal shall not be accepted by the Town Clerk. The recall petition blanks shall be dated and addressed to the Board of Selectmen, demanding the election of a successor to such office. The recall petition blanks shall contain the names of the ten (10) persons to whom the recall petition blanks are issued, the number of recall petitions issued, the name of the officeholder whose recall is sought, and the grounds for recall as stated in the initial petition.

5-7-4 The Town Clerk shall enter a copy of the recall petition in the town records. The recall petition shall bear the signatures and residential addresses of at least fifteen (15) percent of the registered voters and shall be returned to the Town Clerk within twenty (20) business days after the filing of the initial petition. All completed recall petitions containing the signatures requesting a recall election need not be submitted simultaneously.

5-7-5 The Town Clerk shall submit the recall petition to the registrars of voters within one (1) business day of receipt. The registrars of voters shall certify thereon the number of signatures which represent registered voters within seven (7) business days.

5-7-6 If the recall petition is certified by the registrars of voters as sufficient, the Town Clerk shall submit the same with a certificate so stating to the Board of Selectmen. Within three (3) business days of receipt of the certificate of certification, the Board of Selectmen shall give written notice by registered mail, of the receipt of the certificate to the officeholder sought to be recalled.

5-7-7 If the officeholder does not resign within five (5) business days thereafter, the Board of Selectmen shall order a special election to be held on a date fixed by them, which shall be not less than sixty (60) nor more than ninety (90) days after the date of the Town Clerk's certificate that a sufficient recall petition has been filed; provided, however, that if any other town election is to occur within one hundred (100) days after the date of the certificate, the Board of Selectmen shall postpone the holding of the special election to the date of such other election.

5-7-8 The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of general law relating to elections. The election to replace the officeholder sought to be removed shall be held on the same day as the recall election.

5-7-9 The incumbent shall continue to perform the duties of office until the recall election. If not recalled, the incumbent shall continue in office for the remainder of the unexpired term. An incumbent having successfully survived a recall election shall not again be subject to recall during the same term of office. If recalled, the incumbent shall be deemed removed upon the qualification of the successor who shall hold office for the remainder of the unexpired term. If the successor fails to qualify within five (5) business days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

5-7-10 The form of the question to be voted upon shall be substantially as follows: "Shall (here insert the name and title of the elective officeholder whose recall is sought) be recalled?" The action of the voters to recall shall require a majority vote, but shall not be effective unless the total of those voting for and against recall exceeds twenty (20) percent of the registered voters of the town.

5-7-11 No person, having been removed from office by recall or having resigned from office while recall proceedings were pending, shall be appointed to any town office within two (2) years following said removal or resignation.

5-7-12 Recall proceedings shall not be initiated during the first or last one hundred eighty (180) days of any officeholder's term of office.

Section 8 Recall of Representative Town Meeting Members

5-8-1 Representative town meeting members shall be subject to recall as generally provided in Section 7 of Chapter 5 of this Charter, provided:

that the words "representative town meeting member" shall be substituted for the word "officeholder" throughout Section 7 of Chapter 5 of this Charter;

that in Section 5-7-2 the number "one hundred twenty-five (125)" shall be substituted for the number "five hundred (500)," and that names submitted shall be those of registered voters residing in the precinct of the intended recall election;

that in Section 5-7-4, the recall petition shall include the signatures and residential addresses of at least fifteen (15) percent of the registered voters residing in the precinct, and the words "ten (10) business days" shall be substituted for the words "twenty (20) business days";

that in Section 5-7-7 the words "special precinct election" shall be substituted for the words "special election";

that in Section 5-7-10 the words "of the precinct" shall be substituted for the words "of the town"; and

that any vacancy created by a recall election shall be filled in accordance with the provisions of Section 9 of Chapter 2 of this Charter.

CHAPTER 6

TOWN BOARDS, COMMISSIONS, COMMITTEES, AND DEPARTMENT AND DIVISION HEADS

Section 1 General Provisions

6-1-1 All boards, commissions, and committees of the town shall organize annually as soon after the annual election as practicable, to elect necessary officers, establish quorum requirements, adopt rules of procedure, and maintain minutes. All boards, commissions, and committees of the town regularly shall file approved meeting minutes with the Town Clerk. Such minutes shall be made available for inspection to all persons requesting them.

Section 2 Delegation of Appointment, Discipline, and Removal Power

6-2-1 The powers conferred upon the Town Manager in Section 3-5-1(a) of this Charter, for all employees subject to the provisions of G.L. c.31, the Civil Service Law, (except Department and Division Heads, or their equivalents regardless of title, and school employees), may be delegated to the appropriate Department Heads. To the extent permitted by law, such powers, which shall include the ability to appoint, discipline, or

discharge an employee, shall be subject to final approval by the Town Manager, without appeal or recourse to the Board of Selectmen.

CHAPTER 7

GENERAL PROVISIONS

Section 1 Charter Amendment

7-1-1 This Charter may be replaced, revised, or amended in accordance with the provisions of general law.

Section 2 Specific Provisions to Prevail

7-2-1 To the extent that any specific provision of this Charter conflicts with any general provision, the specific provision shall prevail.

Section 3 Severability of Charter

7-3-1 If any provision of this Charter is held invalid, the other provisions of this Charter shall not be affected thereby. If the application of this Charter or any of its provisions to any person or circumstances is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 4 Continuation, Revision, and Republication of By-Laws

7-4-1 All special acts, by-laws, resolutions, rules, regulations, and votes of the town meeting in force on the effective date of this Charter, not inconsistent with its provisions, shall continue in force until amended or repealed.

Section 5 Enforceability of this Charter

7-5-1 The provisions of this Charter may be enforced by any applicable general or special law, including, but not limited to G.L. c.43B, § 14 and G.L. C. 231A.

Section 6 Periodic Charter Review

7-6-1 At least once in every five (5) years, a special committee shall be appointed by the town Moderator for the purpose of reviewing this Charter and to make a report, with recommendations, to the next annual representative town meeting concerning any proposed amendments which said committee may determine to be necessary or desirable.