

HOUSE No. 4411

The Commonwealth of Massachusetts

PRESENTED BY:

Danielle W. Gregoire

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

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

An Act relative to the charter of the town of Westborough.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>6/8/2016</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>6/9/2016</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>6/8/2016</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>6/8/2016</i>

HOUSE No. 4411

By Miss Gregoire of Marlborough, a petition (accompanied by bill, House, No. 4411) of Danielle W. Gregoire and others (by vote of the town) relative to the charter of the town of Westborough. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the charter of the town of Westborough.

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

1 SECTION 1. Notwithstanding section 10 of chapter 43B of the General Laws, or any
2 other general or special law to the contrary, the charter of the town of Westborough, which is on
3 file in the office of the archivist of the commonwealth as provided in section 12 of said chapter
4 43B, is hereby amended by striking out section 2-3 and inserting in place thereof the following
5 section:-

6 Section 2-3 Time of Meeting

7 The regular Town Meetings of the Town of Westborough shall be held on such dates as
8 may from time to time be set forth in the Bylaws of the Town for the transaction of business
9 relating to the prudential affairs of the Town.

10 SECTION 2. The second paragraph of section 2-4 of said charter, as appearing in
11 chapter 298 of the acts of 2012, is hereby amended by striking out the words “If a” and inserting
12 in place thereof the following words:- In the event any Town officer or department head.

13 SECTION 3. Section 2-8 of said charter, as most recently amended by chapter 7 of the
14 acts of 2008, is hereby further amended by striking out the fifth, sixth and seventh sentences and
15 inserting in place thereof the following 4 sentences:- A copy of each warrant shall forthwith be
16 posted on the Town Clerk's web site and the Town of Westborough web site and any other
17 location chosen by the Town Clerk. The Board of Selectmen shall have a copy mailed to the
18 place of residence of the Town Moderator. Additional copies of all warrants shall be available
19 for distribution in the Office of the Town Clerk before the date on which the Town Meeting is to
20 convene and that complies with the General Laws. Articles for Special Town Meetings shall
21 follow the procedures in accordance with the General Laws.

22 SECTION 4. Section 3-2 of said charter is hereby amended by striking out subsection
23 (d), as most recently amended by chapter 79 of the acts of 2012, and inserting in place thereof
24 the following subsection:-

25 (d) Appointments - As chief executive officers of the Town, the Board of Selectmen shall
26 be the appointing authority for and shall appoint, for fixed overlapping terms, the members of the
27 following boards, commissions and committees, and any other members of any other Town
28 boards, commissions, and committees, special or standing, permanent or ad hoc as may from
29 time to time be established by the board or by Town Meeting unless another appointing authority
30 is designated in the Town Meeting or this Charter.

31 Zoning Board of Appeals;

32 Conservation Commission;

33 Recreation Commission;

34 Country Club Operating Committee;

35 Representative to the Capital Expenditure Planning Committee;

36 Council on Aging;

37 Emergency Planning Committee;

38 Historical Commission;

39 Housing Partnership Committee;

40 Massachusetts Bay Transportation Authority Advisory Board;

41 Open Space Preservation Committee;

42 Central Massachusetts Regional Planning Commission- Westborough members;

43 Westborough members of the Westborough/Shrewsbury Wastewater Treatment Plant

44 Board;

45 Water Resources Management Committee;

46 Trustees of Soldiers' Memorials;

47 Veterans Advisory Board;

48 Representative to the Walkup-Robinson Fund Committee;

49 Sandra Pond/Conservation Area Wardens;

50 Youth Commission, known as Westborough Youth and Family Service;

51 Westborough Cultural Council; and

52 Westborough TV, Inc., independent nonprofit town representatives.

53 Those members of the Insurance Advisory Committee to be appointed by the town shall
54 be appointed by the Board of Selectmen, in accordance with section 3 of chapter 32B of the
55 General Laws.

56 The Board of Selectmen shall also appoint the following department heads, known as
57 "key personnel" for terms not to exceed 3 years, except for the Fire Chief who shall be
58 appointed for an indefinite term:

59 Town Manager, as defined in section 4-1;

60 Town Counsel;

61 Police Chief;

62 Fire Chief; and

63 Director of the Department of Public Works.

64 For the purposes of this section, the term key personnel shall be used to determine the
65 appointing authority and the appointment process and shall have no effect on compensation,
66 benefits, privileges, term, renewals of term, job description, responsibilities, authority, duties or
67 performance.

68 The Board of Selectmen shall also appoint the following:

69 Election Officials for fixed terms, upon nomination by the Town Clerk; and

70 Registrars of Voters for fixed overlapping terms, upon nomination by the Town Clerk.

71 SECTION 5. Subsection (e) of section 3-2 of said charter, as appearing in chapter 385 of
72 the acts of 2008, is hereby amended by striking out the second sentence.

73 SECTION 6. Section 3-5 of said charter is hereby stricken out.

74 SECTION 7. Section 3-6 of said charter, as appearing in chapter 385 of the acts of 2008,
75 is hereby amended by striking out subsection (c) and inserting in place thereof the following
76 subsection:-

77 (c) Appointments- In accordance with its planning function, the Planning Board shall be
78 the appointing authority for the Design Review Board. The Planning Board shall appoint its
79 department head who shall be the Town Planner. The Planning Board may, in writing, appoint
80 other employees of the Planning Department, or, with express written consent, may delegate
81 such appointments to the Town Planner.

82 SECTION 8. Section 3-7 of said charter, as so appearing, is hereby amended by adding
83 the following subsection:-

84 (c) Town Clerk- The Town Clerk shall act as a department head and shall appoint all
85 employees in the Town Clerk's department. The Town Clerk shall nominate candidates for
86 Election Officials and Registrars of Voters to the Board of Selectmen.

87 SECTION 9. Section 3-9 of said charter, as so appearing, is hereby amended by striking
88 out subsection (c) and inserting in place thereof the following subsection:-

89 (c) Appointments- The Board of Library Trustees shall appoint its department head who
90 shall be the Library Director. The Board of Library Trustees may appoint other employees of the

91 Town's Library Department or may, in writing, delegate such appointments to the Library
92 Director.

93 SECTION 10. The following sections of said charter shall be renumbered accordingly:

94 Section 3-6 shall be renumbered section 3-5;

95 Section 3-7 shall be renumbered section 3-6; and

96 Section 3-9 shall be renumbered 3-7.

97 SECTION 11. Paragraph (i) of subsection (a) of section 4-2 of said charter, as most
98 recently amended by chapter 79 of the acts of 2012, is hereby further amended by striking out the
99 words "Town Boards, commissions and committees and other town personnel for which section
100 5-2 of this charter has explicitly designated the Town Manger as appointing authority;" and
101 inserting in place thereof the following words:-

102 The Town Manager, with the concurrence of the Board of Selectmen, shall appoint, for
103 fixed terms, the following positions:

104 Assistant Town Managers;

105 Chief Assessor;

106 Town Accountant;

107 Treasurer /Collector;

108 Commissioners of Trust Funds;

109 Veterans Agent, Director of Veterans Services, Burial Agent and Graves Officer; and

- 110 Animal Control Officer.
- 111 The Town Manager shall appoint for fixed terms the following positions:
- 112 Building Commissioner;
- 113 Zoning Enforcement Officer;
- 114 Building Inspectors;
- 115 MIS/GIS Director;
- 116 Wiring Inspector;
- 117 Plumbing and Gas Inspector;
- 118 Affirmative Action Officer;
- 119 Sexual Harassment Officer;
- 120 Constables;
- 121 Fence Viewer;
- 122 Insect and Pest Control Officer;
- 123 Measurer of Wood;
- 124 Municipal Hearing Officer;
- 125 Sealer of Weights and Measures; and
- 126 Weight Masters at Tate and Lyle.

127 As the Chief Administrative Officer of the Town, the Town Manager shall appoint for
128 fixed overlapping terms, the members of the following Boards, Commissions and Committees:

129 Board of Assessors;

130 Board of Health; and

131 Municipal Building Committee.

132 The determination of whether a particular Board, Commission, or Committee not
133 specifically listed in this subsection is primarily related to the administration of the Town shall
134 be determined by the Board of Selectmen.

135 SECTION 12. Paragraph (iii) of subsection (a) of section 4-2 of said charter, as
136 appearing in chapter 385 of the acts of 2008, is hereby amended by striking out the figure “5-2”
137 and inserting in place thereof the following figure:- 5-3(e).

138 SECTION 13. Subsection (a) of section 4-2 of said charter, as most recently amended by
139 chapter 79 of the acts of 2012, is hereby further amended by renaming the paragraphs from (i),
140 (ii) and (iii) to (1), (2) and (3), respectively.

141 SECTION 14. Section 5-2 of said charter, as appearing in chapter 385 of the acts of
142 2008, is hereby amended by striking out the title and inserting in place thereof the following
143 title:- Elected Official’s Policy Setting Authority.

144 SECTION 15. Section 5-2(a) of said charter, as most recently amended by chapter 32 of
145 the acts of 2013, is hereby further amended by striking out the following paragraphs:-

146 Zoning Board of Appeals;

147 Conservation Commission; Recreation Commission;

148 Country Club Operating Committee;

149 Representative to the Capital Expenditure Planning Committee;

150 Council on Aging;

151 Emergency Planning Committee;

152 Historical Commission;

153 Housing Partnership Committee;

154 Massachusetts Bay Transportation Authority Advisory Board;

155 Open Space Preservation Committee;

156 Central Massachusetts Regional Planning Commission- Westborough members;

157 Westborough members of the Westborough/Shrewsbury Wastewater Treatment Plant

158 Board;

159 Water Resources Management Committee;

160 Trustees of Soldiers' Memorials;

161 Veterans Advisory Board;

162 Representative to the Walkup-Robinson Fund Committee;

163 Sandra Pond/Conservation Area Wardens;

164 Youth Commission, known as Westborough Youth and Family Service;

165 Westborough Cultural Council; and

166 Westborough TV, Inc., independent nonprofit town representatives.

167 Those members of the Insurance Advisory Committee to be appointed by the town shall
168 be appointed by the Board of Selectmen, in accordance with section 3 of chapter 32B of the
169 General Laws.

170 In accordance with its planning functions, the Planning Board shall be the appointing
171 authority for the Design Review Board.

172 SECTION 16. Section 5-2(b) of said charter is hereby stricken out.

173 SECTION 17. Section 5-2(c) of said charter, as appearing in chapter 385 of the acts of
174 2008, is hereby amended by striking out the first paragraph and inserting in place thereof the
175 following paragraph:- The department head of any board, commission, or committee appointed
176 by the Board of Selectmen or Town Manager, if one exists, shall be appointed by the Town
177 Manager, with the exception that the department heads of the Recreation Commission, Council
178 on Aging, and Youth Commission shall be appointed by the Town Manager with the
179 concurrence of said Commission or Council, and with the further exception that the Board of
180 Health shall appoint the Health Director.

181 SECTION 18. Said charter is hereby amended by striking out section 5-2(d) and
182 inserting in place thereof the following section:-

183 Section 5-2(d) Appointed Key Personnel: Appointing Town Employees

184 The town’s key personnel shall be responsible for the management and operation of their
185 respective departments. The key personnel shall appoint the employees in their respective
186 departments in a manner consistent with this section.

187 The Police Chief shall appoint employees of the Police Department.

188 The Fire Chief shall appoint all employees of the Fire Department.

189 The Director of the Department of Public Works shall appoint all employees of the
190 Department of Public Works.

191 The Town Counsel shall appoint the employees of the town’s legal department.

192 SECTION 19. Section 5-2(e) of said charter is hereby stricken out.

193 SECTION 20. Section 5-3 of said charter is hereby stricken out.

194 SECTION 21. Section 5-3(a) of said charter, as appearing in chapter 385 of the acts of
195 2008, is hereby amended by striking out the words “(b) of section 5-2”, each time they appear,
196 and inserting in place thereof, in each instance, the following words:- (d) of section 3-2.

197 SECTION 22. Section 5-3(b) of said charter, as so appearing, is hereby amended by
198 striking out the words "Department of Public Works Manager" and inserting in place thereof the
199 following words:- Director of the Department of Public Works.

200 SECTION 23. Said charter is hereby amended by striking out section 5-3(c), as
201 appearing in chapter 385 of the acts of 2008 and inserting in place thereof the following section:-

202 Section 5-3(c) Town-Wide Management Team

203 The Town Manager shall be responsible for leading and directing the Town Wide
204 Management Team (The Team) consisting of the Town's key personnel and heads of Town
205 departments. The Team shall specifically consist of the Chief of Police, the Fire Chief, the
206 Director of the Department of Public Works, and Town Counsel, and such other department
207 heads or officials as may be designated by the Town Manager from time to time.

208 Notwithstanding the manner of their appointment or who their respective appointing
209 authority may be, the Chief of Police, Fire Chief, Director of the Department of Public Works,
210 Town Counsel and all other department heads, except for the Library Director and the Town
211 Planner, shall report directly to the Town Manager, who shall be responsible for the day-to-day
212 oversight, coordination, and supervision of the administration and operations of each Town
213 Department, other than the Public Library or the Planning Board.

214 Each department head shall be responsible for the delivery of service and the manner and
215 method of such delivery within their respective department to the residents of the Town.

216 The Town Manager shall conduct the performance reviews of the Town's key personnel
217 and of each department head and shall provide evaluative reports to the Chairman of the Board
218 of Selectmen for those department heads appointed by the Board of Selectmen. The Town
219 Manager shall provide evaluative reports to other appointing authorities of a department head not
220 appointed by the Board of Selectmen for use in the performance review process.

221 SECTION 24. Section 5-3(d) of said charter, as so appearing, is hereby amended by
222 striking out the first paragraph.

223 SECTION 25. Section 6-2 of said charter is hereby amended by adding the following 2
224 sentences:- The proposed budget shall be available on the Town Clerk's web site, the Town of

225 Westborough web site and any other locations chosen by the Town Clerk within seven (7) days
226 of submission. Additional copies shall be available in the Office of the Town Clerk.

227 SECTION 26. Section 6-5 of said charter is hereby amended by striking out the first
228 sentence and inserting in place thereof the following sentence:- The Board of Selectmen, the
229 Advisory Finance Committee, and the Capital Expenditures Planning Committee shall hold a
230 joint meeting to include a public hearing on the proposed budget not later than the first scheduled
231 Selectmen’s meeting in February of the year the budget is to be considered at Town Meeting.

232 SECTION 27. Subsection (d) of section 6-6 of said charter is hereby stricken out.

233 SECTION 28. Notwithstanding section 10 of chapter 43B of the General Laws, or any
234 other general or special law to the contrary, section 6-7 of said charter is hereby amended by
235 striking out the words “twenty (20)” and inserting in place there of the following words:- ten
236 (10).

237 SECTION 29. Said charter is hereby further amended by striking out section 7-5 and
238 inserting in place thereof the following section-

239 Section 7-5 Rules and Regulations

240 All rules and regulations become effective upon adoption by a Town agency (Board or
241 Committee) having jurisdiction and shall be filed in the Office of the Town Clerk and made
242 available for review by any person who requests such information.

243 SECTION 30. The first paragraph of subsection (a) of section 7-7 of said charter is
244 hereby amended by striking out the words “twenty-four (24)” and inserting in place thereof the
245 following words:- forty eight (48).

246 SECTION 31. Said subsection (a) of said section 7-7 of said charter is hereby further
247 amended by striking out, in the second paragraph, the words “except when his conduct of office
248 is to be discussed;”.

249 SECTION 32. Subsection (b) of section 7-7 of said charter is hereby amended by
250 striking out the words “twenty-four (24)” and inserting in place thereof the following words:-
251 forty eight (48).

252 SECTION 33. Section 7-8 of said charter, as most recently amended by chapter 31 of the
253 acts of 2009, is hereby further amended by striking out the first 3 paragraphs and inserting in
254 place thereof the following 3 paragraphs:-

255 Any permanent Town employee, except for the Town Manage and department heads,
256 may be suspended or removed from office by the appointing authority after the probationary
257 period for good cause. During the probationary period an employee may be suspended or
258 removed for any reason or no reason, with or without good cause. The term “good cause” shall
259 include, but not be limited to, the following: incapacity other than temporary illness;
260 inefficiency; insubordination; and conduct unbecoming the office.

261 Any appointed officer or employee of the Town may be suspended from office by the
262 appointing authority if such action is deemed by them necessary to protect the interests of the
263 Town.

264 The appointing authority, when removing any such officer or employee, shall act in
265 accordance with policies established by the Town. This section shall not apply to any member of
266 a collective bargaining unit.

267 SECTION 34. Article 8 of said charter, as appearing in chapter 79 of the acts of 2012, is
268 hereby amended by striking out the word "Manager", each time it appears, and inserting in place
269 thereof, in each instance, the following word:- Director.

270 SECTION 35. The fourth paragraph of Article 8 of said charter, as so appearing, is
271 hereby amended by inserting after the words "guide the" the following words:- Director of the
272 Department.

273 SECTION 36. Said charter is hereby further amended by capitalizing the words, "Town",
274 "Bylaws", "Board of Selectmen", "Charter", "Town Meeting", "Article", "Town Manager" and
275 "Open Town Meeting", in the following sections, as follows:-

276 Section 3-1(a)(b) & (c)- Capitalize the words, "Town" & "Bylaws".

277 Section 3-2(c)(d) & (e)- Capitalize the words, "Board of Selectmen" "Charter", "Town"
278 & "Town

279 Meeting".

280 Section 3-3(a)- Capitalize the word, "Town".

281 Section 3-4(c)- Capitalize the words, "Bylaws" & "Charter".

282 Section 3-6(b) & (c) -Capitalize the words, "Charter", "Bylaw" & "Town Meeting" .

283 Section 3-7(b)- Capitalize the words, "Charter", "Bylaw" & "Town Meeting".

284 Section 3-9(b)- Capitalize the word, "Town".

285 Section 4-1-Capitalize the words, "Town", "Board of Selectmen" & "Bylaw".

286 Section 4-2(a) & (b)- Capitalize the word, "Town", "Charter", "Bylaws", "Article" &
287 "Open".

288 Section 4-3- Capitalize the word, "Town".

289 Section 5-1(a) & (c)- Capitalize the words, "Town", "Charter", & "Bylaw".

290 Section 5-1(d)- Capitalize the words, "Town Meeting".

291 Section 5-2(a)- Capitalize the words, "Charter", "Town", & "Bylaws".

292 Section 5-3(a)- Capitalize the words, "Town Meeting".

293 Section 5-3 5-3(b) &(e)- Capitalize the words, "Town", "Board of Selectmen", "Bylaw",
294 "Town Manager" & "Charter".

295 Section 5-4- Capitalize the words, "Town", "Charter", "Town Meeting" & "Bylaws".

296 Section 5-6- Capitalize the word, "Town".

297 Section 6-4(b) -Capitalize the word, "Town".

298 Section 6-6- Capitalize the words, "Town Meeting".

299 SECTION 37. Said charter is hereby further amended by removing footnotes 1 to 6,
300 inclusive, and deleting all references to the annual town meeting as follows:-

301 Section 2-2- Delete reference to "ATM 2008".

302 Section 3-2(a)- Delete footnote 1.

303 Section 4- Delete footnotes 2 and 3.

- 304 Section 5-6- Delete reference to "ATM 2008".
- 305 Section 6-2 - Delete footnote 4.
- 306 Section 6-6- Delete footnote 5
- 307 Section 6-7- Delete reference to "ATM 2008".
- 308 Section 7-12 - Delete "ATM 2008".
- 309 Section 9-1- Delete "Approved ATM March 22, 1983. Effective April 20, 1983".
- 310 Section 10- Delete footnote 6.