

HOUSE No. 4175

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act amending the town of Yarmouth charter..

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. The charter of the town of Yarmouth, as appearing in chapter 133 of the
2 acts of 1997, and amended by chapter 105 of the acts of 1999, is hereby amended by striking out
3 section 1-3-1 and inserting in place thereof the following section:-

4 Section 1-3-1. The legislative powers of the town shall be vested in the town meeting.
5 The executive powers of the town shall be vested in the board of selectmen. The administrative
6 powers of the town shall be vested in the town administrator.

7 SECTION 2. Section 1-4 of the charter, as so appearing in said chapter 133 of said acts
8 of 1997 is hereby amended by striking out the words “-Intent of the Voters”.

9 SECTION 3. Section 2-6-1 of said charter, as appearing in said chapter 133 of said acts
10 of 1997, is hereby amended by striking out the 2nd sentence.

11 SECTION 4. Said charter, as appearing in said chapter 133 of said acts of 1997, is
12 hereby amended by inserting, after section 2-7-2, the following section:-

13 Section 2-7-3 By written petition to the board of selectmen, any 200 voters may require
14 the calling of a special town meeting.

15 SECTION 5. Section 2-8-1 of said charter, as appearing in said chapter 133 of said acts
16 of 1997, is hereby amended by adding the following 2 sentences:- The town moderator shall be
17 the presiding officer of town meetings as provided in section 2-2, shall regulate its proceedings
18 and shall perform such other duties as may be provided by the General Laws, this charter, by-
19 laws or vote of town meeting. The town moderator shall appoint members to special committees
20 as designated by town meeting vote.

21 SECTION 6. The charter of the town of Yarmouth, as appearing in said chapter 133 of
22 said acts of 1997, is hereby amended by striking out section 2-8-3 and inserting in place thereof
23 the following section:-

24 Section 2-8-3 Any individual eligible to speak at town meeting shall not speak more than
25 once, unless and until all other voters wishing to speak, making themselves known and being
26 recognized by the moderator, have been provided with an opportunity to speak, nor shall any
27 individual speak on any article for more than 5 minutes at any one time except upon receiving
28 permission of the moderator in advance of that individual's presentation. This restriction shall
29 not apply to the presenter of the article, making a motion to move an article, the individual
30 making a motion to amend the article, nor to those individuals required to be in attendance under
31 the provisions of section 2-8-1.

32 SECTION 7. Said charter, as so appearing, is hereby further amended by striking out
33 section 2-8-4 and inserting in its place thereof the following section:-

34 Section 2-8-4 Only registered voters of the town of Yarmouth shall have the right to
35 address town meeting or vote on any article presented at any town meeting.

36 SECTION 8. Said charter, as so appearing, is hereby further amended by striking out
37 section 2-8-5 and inserting in place thereof the following section:-

38 Section 2-8-5 A Yarmouth property owner who is not also a registered voter, or the
39 authorized representative of such a property owner or of a registered voter who is not present at
40 town meeting, or any other individual, may be permitted to address town meeting only in the
41 discretion of the town moderator.

42 SECTION 9. Said charter, as so appearing, is hereby further amended by striking out
43 section 2-8-6 and inserting in place thereof the following section:-

44 Section 2-8-6 The board of selectmen shall, by recorded vote in the warrant, indicate its
45 recommendations on all articles.

46 SECTION 10. Said charter, as so appearing, is hereby further amended by striking out
47 section 2-8-7 and inserting in place thereof the following section:-

48 Section 2-8-7 A motion for reconsideration of any article acted upon at an annual or
49 special town meeting may not be made prior to 15 minutes following the final vote on the article
50 to be reconsidered, nor more than one hour after such vote, except that if deliberations on another
51 article are pending at the expiration of the hour, those deliberations need not be interrupted and
52 such a motion may be made immediately following the conclusion of the consideration of that
53 article and prior to the consideration of any further article. This minimum time limitation shall

54 not apply to any article acted upon within the last 15 minutes of town meeting, nor shall the time
55 limitations include any time when town meeting is not in session.

56 SECTION 11. Said charter, as so appearing, is hereby further amended by inserting, after
57 section 2-8-7, the following sections:-

58 Section 2-8-8 No motion, the effect of which would be to dissolve the town meeting,
59 shall be in order until every article on the warrant has been duly considered and acted upon. See
60 section 10-1, Definitions. This requirement shall not preclude the postponement of an article or
61 consideration of any motion to adjourn the meeting to a stated time and place.

62 Section 2-8-9 All special committees created by any town meeting shall make a report in
63 accordance with the schedule set by the town meeting action which created the committee.
64 Written copies of such reports shall be submitted to the town clerk, town administrator, and the
65 board of selectmen and shall be published in full or in summary form in the next annual town
66 report.

67 SECTION 12. Chapter 3 of said charter, as appearing in chapter 133 of the acts of 1997,
68 shall be entitled:- Executive Branch

69 SECTION 13. Section 3-1 of said charter, as so appearing, is hereby amended by striking
70 out the words “and Other Elected Officers”

71 SECTION 14. Section 3-1-2 of said charter, as so appearing, is hereby amended by
72 striking out the words “or appointed”.

73 SECTION 15. Section 3-2-1 of said charter, as so appearing, is hereby amended by
74 striking out the words “ day to day policies” and inserting in place thereof the following words:-
75 the policies of the board.

76 SECTION 16. Section 3-4 of said charter, as so appearing, is hereby amended by striking
77 out the word “Appointments” and inserting in place thereof the following word:- Prohibitions

78 SECTION 17. Said charter, as so appearing, is hereby further amended by striking out
79 section 3-4-1 and inserting in place thereof the following section:-

80 Section 3-4-1 No member of the board of selectmen shall serve on any appointed town
81 board established by this charter or by by-law, for which the board of selectmen is the appointing
82 authority, except by an affirmative vote of 4/5ths of the members of the board of selectmen.

83 SECTION 18. Said charter, as so appearing, is hereby further amended by striking out
84 sections 3-4-2 to 3-4-5 inclusive.

85 SECTION 19. Said charter, as so appearing, is hereby further amended by striking out,
86 in section 3-5, the word “Administration” and inserting in place thereof the following words:-
87 Powers in Intergovernmental Relations.

88 SECTION 20. Said charter, as so appearing, is hereby further amended by striking out
89 section 3-5-1 and inserting in place thereof the following section:-

90 Section 3-5-1 Members of the board of selectmen will represent the town on regional or
91 intermunicipal committees or may designate a town employee or other person to represent the
92 town.

93 SECTION 21. Said charter, as so appearing, is hereby further amended by striking out,
94 in section 3-6, the word “Prohibitions” and inserting in place thereof the following words:-
95 Other Officers and Town Boards.

96 SECTION 22. Said charter, as so appearing, is hereby further amended by striking out
97 section 3-6-1 and inserting in place thereof the following section:-

98 Section 3-6-1 There shall be a town moderator, elected by popular vote for a term of 3
99 years at an annual town election. If the office becomes vacant during any term, the board of
100 selectmen shall include the vacancy either in the next annual or in a special election and may, by
101 a 4/5 vote, appoint an interim moderator until the election.

102 SECTION 23. Said charter, as so appearing, is hereby further amended by inserting, after
103 section 3-6-1 the following sections:-

104 Section 3-6-2 The moderator shall be the individual designated to carry out all of the
105 duties and functions, in an orderly and efficient manner, necessary to regulate proceedings of
106 annual town meetings and special town meetings.

107 Section 3-6-3 There shall be a town clerk, who shall be the keeper of the vital statistics
108 for the town and the custodian of the town seal and all town official records, shall administer the
109 oath of office to all town officers, elected and appointed, shall issue permits and licenses
110 required by law, shall supervise and manage the conduct of elections, shall serve as clerk of town
111 meeting, and shall have all other powers and duties which are given to town clerks by the
112 General Laws, this charter, a by-law, or town meeting vote, consistent with the provisions of this
113 charter.

114 SECTION 24. Said charter, as so appearing, is hereby further amended by striking out,
115 in section 3-7, the words “Powers in Intergovernmental Relations” and inserting in place thereof
116 the following words:- Codification of By-Laws and Regulations.

117 SECTION 25. Said charter, as so appearing, is hereby amended by striking out section
118 3-7-1 and inserting in place thereof the following section:-

119 Section 3-7-1 The board of selectmen shall cause a compilation of by-laws and
120 regulations to be made within 12 months of the adoption of this charter, and cause the
121 compilation to be updated at least every 5 years.

122 SECTION 26. Said charter, as so appearing, is hereby further amended by striking out,
123 in section 3-8, the words “Other Officers and Town Boards” and inserting in place thereof the
124 following words:- Charter Revisions.

125 SECTION 27. Said charter, as so appearing, is hereby further amended by striking out
126 section 3-8-1 and inserting in place thereof the following section:-

127 Section 3-8-1 At least once every 10 years, a special committee shall be appointed by the
128 town moderator, for the purpose of reviewing the provisions of the charter and to make a report,
129 with recommendations to the town meeting, concerning any proposed amendments or revision
130 which said committee may deem to be necessary or desirable.

131 SECTION 28. Said charter, as so appearing, is hereby further amended by striking out
132 sections 3-8-2, 3-8-3, 3-8-4, 3-9, 3-9-1, 3-10 and 3-10-1.

133 SECTION 29. Said charter, as so appearing, is hereby further amended by striking out
134 chapter 4 in its entirety and inserting in place thereof the following chapter:-

135 CHAPTER 4.

136 ADMINISTRATIVE BRANCH.

137 Section 4-1 – Town Administrator.

138 Section 4-1-1 There shall be a town administrator, who shall be responsible for the
139 administration of the town affairs, and who shall be the chief administrator of the town.

140 Section 4-2 - Qualifications.

141 Section 4-2-1 The town administrator shall be appointed under 5-1(a) on the basis of
142 education, experience, executive and administrative qualifications. The professional
143 qualifications shall be established by the board of selectmen and may be revised if necessary.

144 Section 4-3 - Powers and Duties.

145 4-3-1 The town administrator shall be the chief administrative officer of the town and
146 shall be responsible for administering and coordinating all employees, activities, and
147 departments placed by General Laws or by-laws under the control of the board of selectmen and
148 the town administrator. The administrator shall implement the goals and carry out the policies of
149 the board of selectmen.

150 4-3-2 The administrator shall devote full time to the duties of the office and shall not
151 hold any other public office, elective or appointive, nor be engaged in any other business,
152 occupation or profession while serving in such office unless such action is approved, in advance
153 and in writing, by the board of selectmen.

154 The powers and duties of the town administrator shall include, but are not limited to the
155 following:

156 Keep the board of selectmen fully informed as to the needs of the town, and to
157 recommend to the selectmen, for adoption by it, such measures requiring action by it or by the
158 town as the town administrator deems necessary or expedient.

159 Inform the selectmen on all department operations, fiscal affairs, general problems, and
160 administrative action, and to this end submit periodic reports.

161 Keep the selectmen fully informed of the availability of all sources of outside funding,
162 both public and private, including inter-governmental grants, so-called in lieu of payments, gifts,
163 grants, contributions, and otherwise, giving special consideration as to how any such funding
164 source might relate to the short and long-range needs of the town.

165 Prepare and present to the board of selectmen, a draft annual budget for the town, and a
166 proposed capital outlay program.

167 Administer during the fiscal year the annual operating budget and capital outlay
168 appropriations as voted by the town to assure all such funds are expended or committed in
169 accordance with General Laws, by-laws, and the town meeting votes relating thereto. The town
170 administrator, with the approval of the selectmen and the finance committee, shall have the
171 authority to transfer funds within the budget as long as the total budget is not increased.

172 Act as the chief procurement officer for the town.

173 Develop, keep and update annually a full and complete inventory of all real and personal
174 property of the town.

175 Possess the right to attend and speak at any regular meeting of any town multi-member
176 body.

177 Negotiate collective bargaining contracts on behalf of the board of selectmen, unless the
178 town administrator, with the approval of the board of selectmen, has designated another
179 negotiator or negotiating team. All such contracts shall be subject to the approval of the board of
180 selectmen.

181 Coordinate the activities of all town agencies serving under the office of the town
182 administrator and the office of the board of selectmen with those under the control of other
183 officers and multi-member bodies elected directly by the voters. For this purpose, the town
184 administrator shall have authority to require the persons so elected, or their representatives, to
185 meet with the town administrator, at reasonable times, for the purpose of effecting coordination
186 and cooperation among all agencies of the town.

187 Attend all sessions of all town meetings and answer all questions directed to the town
188 administrator which relate to that office.

189 Perform such duties as assigned by by-law or vote of the board of selectmen.

190 Section 4-4 - Personnel Administration.

191 Section 4-4-1 The town administrator shall administer and enforce collective bargaining
192 agreements, personnel policies and practices, rules and regulations and personnel regulations
193 adopted by the board of selectmen.

194 Section 4-4-2 The town administrator shall prepare, maintain, and keep current a plan
195 establishing the personnel staffing requirements for each town agency, except those under the
196 jurisdiction of the Dennis-Yarmouth regional school committee.

197 Section 4-4-3 The personnel board shall review and vote recommendations to the town
198 administrator on proposed changes to job descriptions and pay classifications for year round,
199 benefited positions.

200 Section 4-4-4 The creation of any new full time compensated position shall require
201 approval by the selectmen, and such action shall not be effective until the position has been
202 funded by town meeting vote.

203 Section 4-4-5 The town administrator shall supervise, evaluate and direct all department
204 heads, and through the department heads, the town administrator shall supervise, evaluate and
205 direct all paid employees of the town.

206 Section 4-5 - Administrative Reorganization.

207 Section 4-5-1 The town administrator may recommend to the board of selectmen and
208 implement, with the selectmen's approval, reorganization of any department or position placed
209 by this charter under the town administrator's direction or supervision, except as otherwise
210 provided by General Laws, by-laws, or this charter.

211 Section 4-6 - Evaluation.

212 Section 4-6-1 At least 3 selectmen shall annually evaluate the performance of the town
213 administrator. The selectmen shall adopt a written set of procedures and criteria which shall
214 form the basis for the evaluation.

215 Section 4-6-2 The board of selectmen shall provide a copy of the evaluation to the town
216 administrator and a copy shall be kept on file in the office of the board of selectmen for
217 examination by the public.

218 Section 4-7 - Term of Office.

219 Section 4-7-1 The town administrator shall serve a term of years under a contract as
220 provided by section 108N of chapter 41 of the General Laws. The town administrator shall not
221 have served in an elective office in the town government for at least 12 months prior to the
222 appointment.

223 Section 4-7 of said acts shall be hereby amended by striking out the following subsection
224 4-7-2

225 Section 4-8 - Acting Town Administrator.

226 Section 4-8-1 The town administrator may, subject to the approval of the board of
227 selectmen, and by letter filed with the board of selectmen and the town clerk, designate a
228 qualified town officer or employee to exercise the powers and perform the duties of the town
229 administrator during a temporary absence.

230 SECTION 30. Said charter, as so appearing, is hereby further amended by striking out
231 Chapter 5, in its entirety, and inserting in place thereof the following chapter:-

232 CHAPTER 5.

233 APPOINTMENTS AND PERSONNEL POLICIES.

234 Section 5-1 - Selectmen Appointments.

235 The board of selectmen shall appoint a town administrator by affirmative vote of a least
236 4/5ths of the members of the board of selectmen.

237 The board of selectmen shall appoint town counsel by affirmative vote of at least 4/5ths
238 of the members of the board of selectmen.

239 When a vacancy arises in the office of the town administrator, the board of selectmen
240 shall advertise the vacancy as soon as practical in the local and regional publications. The board
241 of selectmen shall fill the vacancy as quickly as possible, but in any case, within 9 months.

242 During a vacancy caused by prolonged illness, suspension, removal, resignation or death
243 of the town administrator, the board of selectmen shall designate, within ten days of the vacancy,
244 a town employee or other qualified person to exercise the powers and perform the duties of the
245 town administrator. This designation shall be for periods not to exceed 90 days.

246 In the case of suspension, removal, resignation, or death, no more than 2 such 90 day
247 designations shall be made.

248 The board of selectmen shall appoint in conformance with the General Laws, the board of
249 registrars of voters and election officials by an affirmative vote of at least 4/5ths.

250 The finance committee members shall be appointed by the chairman of the board of
251 selectmen, the chairman of the finance committee, and the town moderator, as provided for in the
252 town by-law 47-4. All other functions and responsibilities of the finance committee shall be as
253 outlined in section 47-4 of the town by-law.

254 The board of selectmen shall appoint all department heads. The town administrator shall
255 submit to the board of selectmen the names of not less than 3 candidates for department head

256 interviews and subsequent appointments. The group of department heads shall include those
257 who are designated as such by the town administrator and approved by the board of selectmen.

258 The board of selectmen shall appoint such other town officers and members of multi-
259 member bodies for which no other provision is made. Such appointments shall be consistent with
260 the General Laws.

261 Section 5-2 - Removal of the Town Administrator.

262 Section 5-2-1 The board of selectmen, by the affirmative vote of at least 4/5ths of the
263 members, may initiate the removal of the town administrator by adopting a resolution to that
264 effect. Said resolution shall state the reason therefore, provided that no such resolution shall be
265 adopted within 60 days following any town election. Any such resolution shall be adopted only
266 at a regularly scheduled public meeting and in open session.

267 Section 5-2-2 The adoption of said resolution shall serve to suspend the town
268 administrator for not more than 45 days, during which his/her salary shall continue to be paid. A
269 copy of such resolution shall be delivered in hand, forthwith to the town administrator or sent by
270 registered mail, return receipt requested to the administrator's last known address.

271 Section 5-2-3 Within 5 days following receipt of such resolution, the town administrator
272 may file a written request for a public hearing with the board of selectmen. Upon receipt of such
273 request, the board of selectmen shall schedule a public hearing within 2 weeks. At least 7 days
274 prior to the public hearing, the board shall advertise the hearing in a local newspaper and shall
275 cause identical notices stating the purpose, location, time, and date to be posted in the town hall
276 and in every post office in town.

277 Section 5-2-4 Town moderator shall preside at any such hearing.

278 Section 5-2-5 At any such hearing the reasons for the removal shall first be read aloud.

279 The town administrator shall then have the right to respond, personally, or through counsel. The
280 board of selectmen and the town administrator shall have the power to compel testimony and to
281 subpoena any town records.

282 Section 5-2-6 Final removal of any town administrator shall be effected by the
283 affirmative vote of at least 4/5ths of the members of the board of selectmen at a public meeting,
284 the time and place of which are announced, held within 7 days of such hearing, if any. If no
285 hearing has been requested, final removal may be effected by affirmative vote of at least 2/3rds
286 of the members of the board of selectmen, at a meeting of the board of selectmen held not earlier
287 than 14 days after the resolution initiating removal is adopted. The salary of the town
288 administrator shall be paid for a period of 60 days after the vote effecting removal from the
289 office or in accordance with the termination clause in the town administrator's contract.

290 Section 5-2-7 The town administrator shall provide the board of selectmen with at least
291 90 days notice of the town administrator's intent to resign. The board of selectmen may shorten
292 or waive this requirement.

293 Section 5-3 - Town Administrator Appointments.

294 Section 5-3-1 The town administrator may appoint an assistant town administrator.
295 Should such appointment be made, it shall be consistent with the General Laws and town by-
296 laws.

297 Section 5-3-2 The town administrator shall appoint all division heads. Appointments to
298 the position of division head, as defined by the town administrator, shall become effective no
299 later than the 15th day following the day on which notice of the proposed appointment is filed
300 with the board of selectmen, unless 4/5ths of the members of the board of selectmen shall vote to
301 reject such an appointment within such period. Amended 4-14-1999 by Article 35.

302 Section 5-3-3 The town administrator shall have the authority to appoint special single
303 purpose committees after notifying the board of selectmen.

304 Section 5-3-4 The town administrator shall appoint all other compensated town
305 personnel.

306 Section 5-3-5 Except as provided in section 5-3-1, all appointments made or approved by
307 the town administrator shall be effective immediately.

308 Section 5-4 - Town Moderator Appointments.

309 Section 5-4-1 The town moderator shall appoint members to special committees as
310 designated by town meeting vote.

311 Section 5-4-2 See also section 5-1(f)

312 Section 5-5 - Personnel Policies.

313 Section 5-5-1 With the approval of the town administrator, department heads may
314 employ, terminate, and discipline employees under their departmental jurisdiction.

315 SECTION 31. Said charter, as so appearing, is hereby further amended by striking out
316 Chapter 6 in its entirety and inserting in place thereof the following chapter:-

317 CHAPTER 6.

318 TOWN BOARDS, COMMITTEES AND COMMISSIONS.

319 Section 6-1 - Powers.

320 Section 6-1-1 Multi-member bodies shall possess and exercise all powers given to them
321 under the constitution and the General Laws, and shall have and exercise such additional powers
322 and duties as shall be granted and delegated by this charter, by-law, or vote of the town meeting.
323 Such committees or boards shall report to the board of selectmen for policy matters and report to
324 the town administrator for administrative matters.

325 Section 6-2 – Organizations and Procedures.

326 Section 6-2-1 All appointed boards, committees and commissions shall:

327 organize annually;

328 elect a chairperson and other necessary officers;

329 publish a quorum requirement for their meetings in accordance with the General Laws;

330 adopt rules of procedure and voting; and

331 maintain minutes and all other records of proceedings, copies of which shall be a public
332 record and filed monthly with the town clerk; and

333 annually submit a report for inclusion in the annual town report.

334 Section 6-2-2 To maximize communication and cooperation between the board of
335 selectmen and the elected and appointed boards and committees, all multi-member bodies shall
336 meet with the board of selectmen at least annually.

337 Section 6-2-3 All multi-member bodies, elected and appointed, shall conduct their
338 meetings in accordance with the open meeting provisions of the General Laws.

339 Section 6-2-4 Except as provided in this charter, nothing shall be deemed to prevent or
340 prohibit a compensated town employee from serving on a multi-member body, provided that
341 such body shall have no administrative responsibility over any such employee, subject only to
342 chapter 268A of the General Laws.

343 Section 6-2-5 Any person duly appointed to any office or multi-member body shall take
344 up the duties of the office immediately; provided that such person first shall have been sworn to
345 the faithful performance of those duties by the town clerk.

346 Section 6-2-6 The absence, without appropriate explanation, of a member from 4
347 consecutive meetings of any appointed multi-member body shall be grounds for removal from
348 office by the appointing authority. The legitimacy of the explanation provided by the absent
349 member shall be assessed by majority vote of the multi-member board and reported to the
350 appointing authority. When such an absence occurs, the chairperson shall advise the appointing
351 authority forthwith, who shall take appropriate action which may include removal of the member
352 from the office and filling the vacancy in a timely fashion in accordance with the General Laws
353 and this charter.

354 Section 6-3 - Compensation.

355 Section 6-3-1 Members of appointed multi-member boards may receive such
356 compensation as may be authorized by the town meeting. During the term for which a member
357 is appointed and for 1 year following expiration of such term, no member of any appointed board
358 under this charter shall be eligible to accept any additional paid position under any such multi-
359 member board.

360 Section 6-4 - Change in Composition of Appointed Multi-Member Bodies.

361 Section 6-4-1 The town meeting may, by amendment to the applicable by-laws, increase
362 or decrease the number of persons to serve as members of multi-member boards established
363 under this chapter, provided, however, that all such boards shall always consist of an uneven
364 number of members and no fewer than 3.

365 CHAPTER 7

366 FINANCIAL PROVISIONS AND PROCEDURES.

367 Section 7-1 - Submission of Budget and Budget Message.

368 7-1-1 Annually, by October 15, the town administrator shall establish and issue a budget
369 schedule which shall set forth the calendar dates relating to the development of the annual
370 operating budget for the ensuing fiscal year.

371 7-1-2 The schedule shall be in accordance with this charter unless deviation there from
372 is recommended by the town administrator and approved by the board of selectmen and the
373 finance committee.

374 7-1-3 Annually, by October 15, the town administrator shall request and receive from
375 the town treasurer, town collector, the town accountant, the board of selectmen, and the board of

376 assessors the estimated revenue for the ensuing fiscal year. Upon receipt of any additional
377 specific fiscal data provided by the commonwealth or any other source, the above officials shall
378 revise, update, and submit the data forthwith to the town administrator.

379 7-1-4 Annually, by November 5, the board of selectmen, after consulting with the town
380 administrator, shall issue a policy statement to the town administrator, finance committee and
381 Dennis-Yarmouth regional school committee.

382 7-1-5 All department heads and all multi-member bodies shall submit their budget
383 requests to the town administrator by December 1.

384 7-1-6 By December 31, the town administrator shall submit to the board of selectmen
385 and the finance committee a comprehensive draft budget for all town functions for the ensuing
386 fiscal year and an accompanying draft budget message.

387 7-1-7 The draft budget message shall explain the draft budget both in fiscal terms and in
388 terms of what specific projects are contemplated in the year ahead. It shall:

389 a) outline the proposed financial policies of the town for the ensuing fiscal year;

390 b) describe the important features of the budget;

391 c) indicate any major changes from the current fiscal year in financial policies,
392 expenditures, and revenues, together with the reasons for such changes;

393 d) summarize the town debt positions; and

394 e) include such other material as the town administrator may deem appropriate.

395 7-1-8 The draft budget shall provide a complete financial plan for all town funds and
396 activities and shall be in such form as the town administrator, in consultation with the finance
397 committee, may establish. The draft budget shall indicate proposed expenditures for current
398 operations and for capital projects during the ensuing fiscal year, detailed by each town agency
399 and by specific purposes and projects.

400 Section 7-2 - Action on Proposed Budget.

401 7-2-1 The finance committee shall, by February 29, recommend a proposed budget,
402 with or without amendments, and shall submit it to the board of selectmen. In preparing its
403 review, the committee may require the town administrator, any town department, office, board,
404 commission, or committee, including school, to appear or to furnish it with appropriate
405 additional financial reports and budgetary information.

406 7-2-2 A public hearing with public participation is to be held prior to town meeting at
407 which time the town administrator shall present the financial projection for the coming fiscal
408 year, and the finance committee, capital budget committee and the Dennis-Yarmouth regional
409 school committee shall present their budgets to the board of selectmen.

410 Section 7-3 - Budget Adoption.

411 7-3-1 The town meeting shall adopt the annual operating budget, with or without
412 amendments, prior to the beginning of the fiscal year.

413 Section 7-4 - Capital Improvements Plan.

414 7-4-1 The town administrator shall prepare a five year capital improvements plan which
415 shall be designed to deal with unmet long-range needs, and to implement the goals and
416 objectives of the official town plan.

417 7-4-2 The capital improvements plan shall include all town activities and departments,
418 and the Dennis-Yarmouth regional school district.

419 7-4-3 The capital improvements plan shall include:

420 a clear summary of its contents;

421 a list of all capital improvements proposed to be undertaken during the next five years,
422 together with supporting data;

423 cost estimates, methods of financing, and recommended time schedules; and

424 the estimated annual cost of operating and maintaining the facilities or equipment to be
425 constructed or acquired.

426 The above information may be revised and shall be extended each year with regard to
427 capital improvements pending or in the process of construction or acquisition.

428 7-4-4 The town administrator shall submit the capital improvements plan to the capital
429 budget committee and the finance committee prior to October 1. The capital budget committee
430 shall act thereon and submit its recommendations to the finance committee and the board of
431 selectmen by December 1. The board of selectmen may at its discretion insert warrant articles
432 seeking appropriations for proposed capital expenditures and adopt the capital improvement plan
433 with or without amendment.

434 Section 7-5 - Notice of Public Hearing on Capital Improvements Plan.

435 7-5-1 The board of selectmen shall publish the capital improvements plan on the
436 official town website and shall publish in a local newspaper a notice stating:

437 a) the times and places where copies of the Capital Improvements Plan are available for
438 inspection; and

439 b) the date, time and place when the board of selectmen and the finance committee shall
440 conduct a joint public hearing on said plan.

441 Section 7-6 Capital Improvements Planning.

442 7-6-1 A committee of seven voters shall be appointed by the finance committee to be
443 known as the capital budget committee, in accordance with article 16 of the annual Town
444 meeting held on April 7, 1981.

445 7-6-2 The requirements of section 7-6-1 may be waived by a 2/3rds vote of the annual
446 meeting.

447 Section 7-7 Annual Audit.

448 7-7-1 Prior to the end of each fiscal year, the board of selectmen and the town
449 administrator shall retain a certified public accountant or qualified accounting firm to conduct an
450 independent annual audit.

451 CHAPTER 8

452 ELECTIONS.

453 Section 8-1 - Town Elections.

454 8-1-1 The regular election for all town offices shall be by official ballot held on the date
455 established by by-law.

456 Section 8-2 - Town Elections to be Nonpartisan.

457 8-2-1 All town elections shall be nonpartisan and election ballots shall be printed
458 without any party mark or designation.

459 Section 8-3 - Eligibility for Town Office.

460 8-3-1 Any residents eligible to vote in town elections shall be eligible for election to any
461 elective office or multi-member body of the town.

462 8-3-2 No person shall hold, concurrently, more than one paid executive or town office.

463 Section 8-4 - Time of Taking Office.

464 8-4-1 Any person duly elected to any office or multi-member body shall forthwith be
465 sworn by the town clerk or his or her designee and assume the duties of the office.

466 Section 8-5 - Recall Election.

467 8-5-1 Any recall election shall be conducted under the provisions of chapter 344 of the
468 acts of 1989.

469 CHAPTER 9

470 CONTINUITY.

471 Section 9-1 - Continuation of Existing Laws.

472 9-1-1 Except as specifically provided in this charter, all general and special laws, by-
473 laws, votes, rules and regulations of or pertaining to the town of Yarmouth which are not
474 inconsistent with the provision of this charter shall continue in full force and effect until
475 amended or rescinded by due course of law or expire by their own limitation.

476 Section 9-2 - Continuation of Boards, Committees and Agencies.

477 9-2-1 Except as specifically provided in the charter, all committees, boards,
478 commissions, councils, departments, offices, and other agencies of the town shall continue in
479 existence and their incumbents shall continue to perform their duties until not reappointed,
480 reelected or elected or their duties have been transferred.

481 Section 9-3 - Transfer of Records and Property.

482 9-3-1 If a power or duty is reassigned as the result of the provisions of this charter, the
483 records, property, and equipment necessary to fulfill said power or duty shall likewise be
484 reassigned to the newly responsible office or agency.

485 9-3-2 Said transfer shall be carried out under the direction of the town administrator.

486 Section 9-4 - Amending Charter.

487 9-4-1 This charter may be revised, amended, or replaced in accordance with the
488 procedures made available by article 89 and article 113 of the amendments to the constitution of
489 the commonwealth and any legislation enacted to implement said amendments.

490 CHAPTER 10

491 DEFINITIONS.

492 10-1 Unless the context otherwise requires, from the manner in which the word is used,
493 the following words, as used in this charter, shall have the following meanings:

494 "Appoint"- To select to fill an office or to employ in the service of the town.

495 "Certification" - A person has been declared elected and sworn to the faithful
496 performance of duty by the town clerk.

497 "Charter" - This charter and any amendments to it made through any of the methods
498 provided under articles 89 and 113 of the amendments to the constitution of the commonwealth.

499 "Dissolve the Town Meeting" - As used in section 2-8-8, shall refer to the final and
500 permanent ending of the town meeting at which the motion is made, so that no further
501 action may thereafter be taken on any matter included in that meeting's warrant.

502 "General Laws" - The Massachusetts General Laws.

503 "Local newspaper" - A newspaper of general circulation in the town.

504 "Majority vote" - A majority of those present and voting; provided, however, that a
505 quorum of the body is present.

506 "Multi-Member-Body" - Any board, commission, or committee of the town consisting of
507 3 or more persons, whether appointed or elected.

508 "Town" - The town of Yarmouth.

509 "Town Agency" - Any office, department, board, committee, or commission of the town
510 government.

511 "Voters" - The registered voters of the town of Yarmouth.

512 "Words" - Importing the singular number may extend and be applied to several persons
513 or things, words importing the plural number may include the singular, and except where the
514 context requires, wherever words are used in one gender, they shall be construed to include the
515 other gender and the neuter.