

SENATE No. 2388

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of the Senate amendment (Senator O’Leary) to the House Bill amending the town of Yarmouth charter (House, No. 4175).

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

4 1-3-1 The legislative powers of the town shall be vested in the town meeting. The
5 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 said chapter 1 of said charter, as so appearing, is hereby
8 amended by striking out the words “-Intent of the Voters”.

9 SECTION 3. Section 2-6-1 of chapter 2 of said charter, as so appearing, is hereby
10 amended by striking out the second sentence.

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

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

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

21 SECTION 6. Said chapter 2 of said charter, as so appearing, is hereby further amended
22 by striking out section 2-8-3 and inserting in place thereof the following section:-

23 Section 2-8-3 Any individual eligible to speak at town meeting shall not speak more than
24 once, unless and until all other voters wishing to speak, making themselves known and being
25 recognized by the moderator, have been provided an opportunity to speak. No individual shall
26 speak on any article for more than 5 minutes at any 1 time except upon receiving permission of
27 the moderator in advance of such individual's presentation. This restriction shall not apply to the
28 presenter of the article making a motion to move the article, the individual making a motion to
29 amend the article or to those individuals required to be in attendance under section 2-8-1.

30 SECTION 7. Said chapter 2 of said charter, as so appearing, is hereby further amended
31 by striking out section 2-8-4 and inserting in place thereof the following section:-

32 2-8-4 Only registered voters of the town of Yarmouth shall have the right to address
33 town meeting or vote on any article presented at any town meeting.

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

36 2-8-5 A Yarmouth property owner who is not a registered voter, an authorized
37 representative of such a property owner or of a registered voter who is not present at town
38 meeting, or any other individual may be permitted to address town meeting only in the discretion
39 of the town moderator.

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

42 2-8-6 The board of selectmen shall, by recorded vote in the warrant, indicate its
43 recommendations on all articles.

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

46 2-8-7 A motion for reconsideration of any article acted upon at an annual or special town
47 meeting may not be made prior to 15 minutes following the final vote on the article to be
48 reconsidered, nor more than 1 hour after such vote, unless deliberations on another article are
49 pending at the expiration of such hour, those deliberations need not be interrupted and such a
50 motion may be made immediately following the conclusion of the consideration of that article
51 and prior to the consideration of any further article. This minimum time limitation shall not
52 apply to any article acted upon within the last 15 minutes of town meeting, nor shall the time
53 limitations include any time when town meeting is not in session.

54 SECTION 11. Said chapter 2 of said charter, as so appearing, is hereby further amended
55 by inserting, after section 2-8-7, the following 2 sections:-

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

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

65 SECTION 12. Said charter, as so appearing, is hereby further amended by inserting after
66 the title “Chapter 3” the following subtitle:- Executive Branch.

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

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

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

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

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

79 3-4-1 No member of the board of selectmen shall serve on any appointed town board
80 established by this charter or by by-law, for which the board of selectmen is the appointing
81 authority, except by an affirmative vote of the members of the board of selectmen.

82 SECTION 18. Said chapter 3 of said charter, as amended by section 1 of chapter 105 of
83 the acts of 1999, is hereby further amended by striking out sections 3-4-2 to 3-4-5, inclusive.

84 SECTION 19. Section 3-5 of said chapter 3 of said charter, as appearing in chapter 133
85 of the acts of 1997, is hereby amended by striking out the word “Administration” and inserting in
86 place thereof the following words:- Powers in Intergovernmental Relations.

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

89 3-5-1 Members of the board of selectmen shall represent the town on regional or
90 intermunicipal committees or may designate a town employee or other person to represent the
91 town.

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

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

97 3-6-1 There shall be a town moderator, elected by popular vote for a term of 3 years at an
98 annual town election. If the office becomes vacant during any term, the board of selectmen shall
99 include the vacancy either in the next annual town election or in a special election and may, by a
100 four-fifths vote, appoint an interim moderator until such election.

101 SECTION 23. Said chapter 3 of said charter, as so appearing, is hereby further amended
102 by inserting, after section 3-6-1, the following 2 sections:-

103 3-6-2 The moderator shall be the individual designated to carry out all of the duties and
104 functions necessary to regulate proceedings of annual town meetings and special town meetings
105 in an orderly and efficient manner.

106 3-6-3 There shall be a town clerk whose duties shall include: maintaining the vital
107 statistics for the town and serving as custodian of the town seal and all town official records;
108 administering the oath of office to all town officers, elected and appointed; issuing permits and
109 licenses as required by law; supervising and managing the conduct of elections; serving as clerk
110 of town meeting; and having all other powers and duties which are given to town clerks by
111 General Law, this charter, by-law or town meeting vote, consistent with this charter.

112 SECTION 24. Section 3-7 of said chapter 3 of said charter, as so appearing, is hereby
113 amended by striking out the words "Powers in Intergovernmental Relations" and inserting in
114 place thereof the following words:- Codification of By-Laws and Regulations.

115 SECTION 25. Said chapter 3 of said charter, as so appearing, is hereby further amended
116 by striking out section 3-7-1 and inserting in place thereof the following section:-

117 3-7-1 The board of selectmen shall cause a compilation of by-laws and regulations to be
118 made within 12 months of the adoption of this charter and cause the compilation to be updated at
119 least every 5 years.

120 SECTION 26. Section 3-8 of said chapter 3 of said charter, as so appearing, is hereby
121 amended by striking out the words “Other Officers and Town Boards” and inserting in place
122 thereof the following words:- Charter Revisions.

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

125 3-8-1 At least once every 10 years, a special committee shall be appointed by the town
126 moderator, for the purpose of reviewing the provisions of the charter and to make a report, with
127 recommendations to the town meeting, concerning any proposed amendments or revision which
128 said committee may deem to be necessary or desirable.

129 SECTION 28. Said chapter 3 of said charter, as so appearing, is hereby further amended
130 by striking out sections 3-8-2, 3-8-3, 3-8-4, 3-9, 3-9-1, 3-10 and 3-10-1, inclusive.

131 SECTION 29. Said charter, as amended by section 2 of chapter 105 of the acts of 1999, is
132 hereby further amended by striking out chapters 4 to 8, inclusive, and inserting in place thereof
133 the following 7 chapters:-

134 CHAPTER 4.

135 ADMINISTRATIVE BRANCH.

136 Section 4-1 – Town Administrator.

137 4-1-1 There shall be a town administrator, who shall be responsible for the administration
138 of the town affairs and who shall be the chief administrator of the town.

139 Section 4-2 - Qualifications.

140 4-2-1 The town administrator shall be appointed under paragraph (a) of section 5-1 of
141 chapter 5 on the basis of education, experience, executive and administrative qualifications. The
142 professional qualifications shall be established by the board of selectmen and may be revised by
143 the board of selectmen 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 departments
147 placed by General Law or by by-law under the control of the board of selectmen and the town
148 administrator. The administrator shall implement the goals and carry out the policies of the
149 board of selectmen.

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

154 4-3-3 The powers and duties of the town administrator shall include, but not be limited
155 to, the following:

156 keeping the board of selectmen fully informed as to the needs of the town and
157 recommending 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 informing the selectmen relative to all department operations, fiscal affairs, general
160 problems and administrative action, and to submit periodic reports thereof;

161 keeping the selectmen fully informed relative to the availability of all sources of outside
162 funding, both public and private, including inter-governmental grants, 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 preparing and presenting to the board of selectmen a draft annual budget for the town and
166 a proposed capital outlay program;

167 administering, during the fiscal year, the annual operating budget and capital outlay
168 appropriations as voted by the town to ensure that all such funds are expended or committed in
169 accordance with the General Laws, by-laws and town meeting votes relating thereto; provided,
170 however, that the town administrator, with the approval of the selectmen and the finance
171 committee, shall have the authority to transfer funds within the budget if the total budget is not
172 increased thereby;

173 acting as the chief procurement officer for the town;

174 developing, maintaining and updating a full and complete inventory of all real and
175 personal property of the town annually;

176 having the right to attend and speak at any regular meeting of any town multi-member
177 body;

178 negotiating collective bargaining contracts on behalf of the board of selectmen, unless the
179 town administrator, with the approval of the board of selectmen, has designated another
180 negotiator or negotiating team; provided, however, that all such contracts shall be subject to the
181 approval of the board of selectmen;

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

188 attending all sessions of town meetings and answering all questions directed to the town
189 administrator which relate to that office; and

190 performing such duties as assigned by by-law or vote of the board of selectmen.

191 Section 4-4 - Personnel Administration.

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

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

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

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

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

207 Section 4-5 - Administrative Reorganization.

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

212 Section 4-6 - Evaluation.

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

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

219 Section 4-7 - Term of Office.

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

223 Section 4-8 - Acting Town Administrator.

224 4-8-1 The town administrator may, by letter filed with the board of selectmen and the
225 town clerk and subject to the approval of the board of selectmen, designate a qualified town
226 officer or employee to exercise the powers and perform the duties of the town administrator
227 during a temporary absence.

228 CHAPTER 5.

229 APPOINTMENTS AND PERSONNEL POLICIES.

230 Section 5-1 - Selectmen Appointments.

231 The board of selectmen shall appoint a town administrator by affirmative vote of a least
232 four- fifths of the members of the board of selectmen.

233 The board of selectmen shall appoint a town counsel by affirmative vote of at least four-
234 fifths of the members of the board of selectmen.

235 If a vacancy arises in the office of the town administrator, the board of selectmen shall
236 advertise the vacancy as soon as practical in local and regional publications. The board of
237 selectmen shall fill the vacancy as quickly as possible, but in no event shall such office remain
238 vacant for longer than 9 months.

239 During a vacancy caused by prolonged illness, suspension, removal, resignation or death
240 of the town administrator, the board of selectmen shall designate, within 10 days of the vacancy,
241 a town employee or other qualified person to exercise the powers and perform the duties of the
242 town administrator. This designation shall be effective for periods not to exceed 90 days. In the
243 case of suspension, removal, resignation or death, not more than 2 such 90 day designations shall
244 be made.

245 The board of selectmen shall appoint the board of registrars of voters and election
246 officials by an affirmative vote of at least four-fifths, in conformance with the General Laws.

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

251 The board of selectmen shall appoint all department heads. The town administrator shall
252 submit to the board of selectmen the names of not less than 3 candidates for department head
253 interview and subsequent appointment. The group of department heads shall include those who
254 are designated as such by the town administrator and approved by the board of selectmen.

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

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

259 5-2-1 The board of selectmen, by the affirmative vote of at least four-fifths of the
260 members, may initiate the removal of the town administrator by adopting a resolution to that
261 effect. Such resolution shall state the reason therefore; provided, however, that no such
262 resolution shall be adopted within 60 days following any town election. Any such resolution
263 shall be adopted only at a regularly scheduled public meeting and in open session.

264 5-2-2 The adoption of such resolution shall serve to suspend the town administrator for
265 not more than 45 days, during which the salary thereof shall continue to be paid. A copy of such
266 resolution shall be delivered in-hand, forthwith, to the town administrator or sent by registered
267 mail, return receipt requested to the administrator's last known address.

268 5-2-3 Within 5 days following receipt of such resolution, the town administrator may file
269 a written request for a public hearing with the board of selectmen. Upon receipt of such request,
270 the board of selectmen shall schedule a public hearing to be held within 2 weeks. At least 7 days
271 prior to the public hearing, the board shall advertise the hearing in a local newspaper and shall
272 cause identical notices stating the purpose, location, time and date to be posted in the town hall
273 and in every post office in town.

274 5-2-4 The town moderator shall preside at any such hearing.

275 5-2-5 At such hearing, the reasons for the removal shall first be read aloud. The town
276 administrator shall then have the right to respond, personally or through counsel. The board of
277 selectmen and the town administrator shall have the power to compel testimony and to subpoena
278 any town records.

279 5-2-6 Final removal of any town administrator shall be effected by the affirmative vote of
280 at least four-fifths of the members of the board of selectmen at a public meeting, the time and
281 place of which shall have been published and held within 7 days of any such hearing held
282 pursuant to sections 5-2-3 to 5-2-5, inclusive. If no hearing has been requested, final removal
283 may be effected by affirmative vote of at least two-thirds of the members of the board of
284 selectmen at a meeting of the board of selectmen held not earlier than 14 days after the resolution
285 initiating removal is adopted. The salary of the town administrator shall be paid for a period of
286 60 days after the vote effecting removal from office or in accordance with the termination clause
287 in the town administrator's contract.

288 5-2-7 The town administrator shall provide the board of selectmen with not less than 90
289 days notice of the town administrator's intent to resign. The board of selectmen may reduce the
290 number of days notice required or waive this requirement.

291 Section 5-3 - Town Administrator Appointments.

292 5-3-1 The town administrator may appoint an assistant town administrator. If such
293 appointment is made, it shall be made consistent with the General Laws and town by-laws.

294 5-3-2 The town administrator shall appoint all division heads. Appointments to the
295 position of division head, as defined by the town administrator, shall become effective not later
296 than the fifteenth day following the day on which notice of the proposed appointment is filed

297 with the board of selectmen, unless four-fifths of the members of the board of selectmen vote to
298 reject such an appointment within such period.

299 5-3-3 The town administrator shall have the authority to appoint special single purpose
300 committees after notifying the board of selectmen.

301 5-3-4 The town administrator shall appoint all other compensated town personnel.

302 5-3-5 Except as provided in section 5-3-1, all appointments made or approved by the
303 town administrator shall be effective immediately.

304 Section 5-4 - Town Moderator Appointments.

305 5-4-1 The town moderator shall appoint members to special committees as designated by
306 town meeting vote. The town moderator shall participate in the appointment of members to the
307 finance committee pursuant to clause (f) of section 5-1.

308 Section 5-5 - Personnel Policies.

309 5-5-1 With the approval of the town administrator, department heads may employ,
310 terminate and discipline employees under their departmental jurisdiction.

311 CHAPTER 6.

312 TOWN BOARDS, COMMITTEES AND COMMISSIONS.

313 Section 6-1 - Powers.

314 6-1-1 Multi-member bodies shall possess and exercise all powers given to them under the
315 constitution and the General Laws, and shall have and exercise such additional powers and duties

316 as shall be granted and delegated by this charter, by-law or vote of the town meeting. Such
317 committees or boards shall report to the board of selectmen for policy matters and report to the
318 town administrator for administrative matters.

319 Section 6-2 – Organizations and Procedures.

320 6-2-1 All appointed boards, committees and commissions shall:

321 organize annually;

322 elect a chairperson and other necessary officers;

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

324 adopt rules of procedure and voting;

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

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

328 6-2-2 To maximize communication and cooperation between the board of selectmen and
329 the elected and appointed boards and committees, all multi-member bodies shall meet with the
330 board of selectmen at least annually.

331 6-2-3 All multi-member bodies, elected and appointed, shall conduct their meetings in
332 accordance with the open meeting provisions of the General Laws.

333 6-2-4 Except as provided in this charter and chapter 268A of the General Laws, a
334 compensated town employee may serve on a multi-member body if such body has no
335 administrative responsibility over such employee.

336 6-2-5 Any person duly appointed to any office or multi-member body shall take up the
337 duties of the office immediately; provided, however, that such person first shall have been sworn
338 to the faithful performance of those duties by the town clerk.

339 6-2-6 The absence, without appropriate explanation, of a member from 4 consecutive
340 meetings of any appointed multi-member body shall be grounds for removal from office by the
341 appointing authority. The legitimacy of an explanation provided by the absent member shall be
342 assessed by majority vote of the multi-member board and reported to the appointing authority. If
343 4 consecutive unexcused absences occur, the chairperson shall advise the appointing authority
344 forthwith, and such authority shall take appropriate action which may include removal of the
345 member from the office and filling the vacancy in a timely fashion in accordance with the
346 General Laws and this charter.

347 Section 6-3 - Compensation.

348 6-3-1 Members of appointed multi-member boards may receive such compensation as
349 may be authorized by the town meeting. During the term for which a member is appointed and
350 for 1 year following expiration of such term, no member of any appointed board under this
351 charter shall be eligible to accept any additional paid position under any such multi-member
352 board.

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

354 6-4-1 The town meeting may, by amendment to the applicable by-laws, increase or
355 decrease the number of persons to serve as members of multi-member boards established under
356 this chapter; provided, however, that all such boards shall consist of an uneven number of
357 members and not fewer than 3.

358 CHAPTER 7.

359 FINANCIAL PROVISIONS AND PROCEDURES.

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

361 7-1-1 Each year, not later than October 15, the town administrator shall establish and
362 issue a budget schedule which shall set forth the calendar dates relating to the development of the
363 annual operating budget for the ensuing fiscal year.

364 7-1-2 The schedule shall be in accordance with this charter unless deviation therefrom is
365 recommended by the town administrator and approved by the board of selectmen and the finance
366 committee.

367 7-1-3 Each year, not later than October 15, the town administrator shall request and
368 receive from the town treasurer, the town collector, the town accountant, the board of selectmen
369 and the board of assessors the estimated revenue for the ensuing fiscal year. Upon receipt of any
370 additional specific fiscal data provided by the commonwealth or any other source, these officials
371 shall revise, update and submit the data forthwith to the town administrator.

372 7-1-4 Each year, not later than November 5, the board of selectmen, after consulting with
373 the town administrator, shall issue a policy statement to the town administrator, the finance
374 committee and the Dennis-Yarmouth regional school committee.

375 7-1-5 All department heads and all multi-member bodies shall submit the budget
376 requests thereof to the town administrator not later than December 1, each year.

377 7-1-6 Each year, not later than December 31, the town administrator shall submit to the
378 board of selectmen and the finance committee a comprehensive draft budget for all town
379 functions for the ensuing fiscal year and an accompanying draft budget message.

380 7-1-7 The draft budget message shall explain the draft budget both in fiscal terms and in
381 terms of what specific projects are contemplated in the year ahead. This message shall include:

382 an outline of the proposed financial policies of the town for the ensuing fiscal year;

383 a description of the important features of the budget;

384 an indication of any major changes from the current fiscal year in financial policies,
385 expenditures and revenues, together with the reasons for such changes;

386 a summary of the town debt positions; and

387 such other material as the town administrator may deem appropriate.

388 7-1-8 The draft budget shall provide a complete financial plan for all town funds and
389 activities and shall be in such form as the town administrator, in consultation with the finance
390 committee, may establish. The draft budget shall indicate proposed expenditures for current
391 operations and for capital projects during the ensuing fiscal year, detailed by each town agency
392 and by specific purposes and projects.

393 Section 7-2 - Action on Proposed Budget.

394 7-2-1 Each year, not later than February 28, the finance committee shall, recommend a
395 proposed budget, with or without amendments, and shall submit it to the board of selectmen. In
396 preparing its review, the committee may require the town administrator, any town department,
397 office, board, commission or committee, including the school committee, to appear with, or to
398 provide, appropriate additional financial reports and budgetary information.

399 7-2-2 A public hearing with public participation shall be held prior to town meeting at
400 which time the town administrator shall present the financial projection for the coming fiscal
401 year and the finance committee, capital budget committee and the Dennis-Yarmouth regional
402 school committee shall present their budgets to the board of selectmen.

403 Section 7-3 - Budget Adoption.

404 7-3-1 The town meeting shall adopt the annual operating budget, with or without
405 amendments, prior to the beginning of the fiscal year.

406 Section 7-4 - Capital Improvements Plan.

407 7-4-1 The town administrator shall prepare a 5-year capital improvements plan which
408 shall be designed to deal with unmet long-range needs and to implement the goals and objectives
409 of the official town plan.

410 7-4-2 The capital improvements plan shall include all town activities and departments
411 and the Dennis-Yarmouth regional school district.

412 7-4-3 The capital improvements plan shall include:

413 a clear summary of its contents;

414 a list of all capital improvements proposed to be undertaken during the next 5 years,
415 together with supporting data;
416 cost estimates, methods of financing and recommended time schedules; and
417 the estimated annual cost of operating and maintaining the facilities or equipment to be
418 constructed or acquired.

419 The information required by this section may be revised by the town administrator and
420 shall apply each year to pending capital improvements and capital improvements in the process
421 of construction or acquisition.

422 7-4-4 Each year, not later than October 1, the town administrator shall submit the capital
423 improvements plan to the capital budget committee and the finance committee. The capital
424 budget committee shall act thereon and submit its recommendations to the finance committee
425 and the board of selectmen not later than December 1. The board of selectmen may, in its
426 discretion, insert warrant articles seeking appropriations for proposed capital expenditures and
427 adopt the capital improvement plan, with or without amendment.

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

429 7-5-1 The board of selectmen shall publish the capital improvements plan on the
430 official town website and shall publish, in a local newspaper, a notice stating:

431 the times and places where copies of the capital improvements plan shall be available for
432 inspection; and

433 the date, time and place when the board of selectmen and the finance committee shall
434 conduct a joint public hearing on such plan.

435 Section 7-6 Capital Improvements Planning.

436 7-6-1 A committee of 7 voters shall be appointed by the finance committee to be known
437 as the capital budget committee, in accordance with article 16 of the annual town meeting held
438 on April 7, 1981.

439 7-6-2 The requirements of section 7-6-1 may be waived by a two-thirds vote of the
440 annual meeting.

441 Section 7-7 Annual Audit.

442 7-7-1 Prior to the end of each fiscal year, the board of selectmen and the town
443 administrator shall retain a certified public accountant or qualified accounting firm to conduct an
444 independent annual audit.

445 CHAPTER 8.

446 ELECTIONS.

447 Section 8-1 - Town Elections.

448 8-1-1 The regular election for all town offices shall be by official ballot held on the date
449 established by by-law.

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

451 8-2-1 All town elections shall be nonpartisan and election ballots shall be printed
452 without any party mark or designation.

453 Section 8-3 - Eligibility for Town Office.

454 8-3-1 Any resident eligible to vote in town elections shall be eligible for election to any
455 elective office or multi-member body of the town.

456 8-3-2 No person shall hold, concurrently, more than 1 paid executive or town office.

457 Section 8-4 - Time of Taking Office.

458 8-4-1 Any person duly elected to an office or multi-member body shall forthwith be
459 sworn to the faithful performance of the duties thereof by the town clerk or a designee thereof
460 and shall assume the duties of the office thereof.

461 Section 8-5 - Recall Election.

462 8-5-1 Any recall election shall be conducted pursuant to chapter 344 of the acts of 1989.

463 CHAPTER 9.

464 CONTINUITY.

465 Section 9-1 - Continuation of Existing Laws.

466 9-1-1 Except as specifically provided by this charter and by general or special law, by-
467 law or, vote, rule or regulation of, or pertaining to, the town of Yarmouth not inconsistent with
468 this charter, shall continue in full force and effect until amended or rescinded by the due course
469 of law or expiration thereof.

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

471 9-2-1 Except as specifically provided in this charter, all committees, boards,
472 commissions, councils, departments, offices and other agencies of the town shall continue in

473 existence and the incumbents thereof shall continue to perform their duties until not reappointed,
474 reelected or elected or their duties have been transferred.

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

476 9-3-1 If a power or duty is reassigned as the result of the adoption of this charter, the
477 records, property and equipment necessary to fulfill such power or duty shall likewise be
478 reassigned to the newly responsible office or agency.

479 9-3-2 A transfer pursuant to section 9-3-1 shall be carried out under the direction of the
480 town administrator.

481 Section 9-4 - Amending This Charter.

482 9-4-1 This charter may be revised, amended or replaced in accordance with the
483 procedures made available by Article 89 and Article 113 of the Amendments to the Constitution
484 of the commonwealth and any legislation enacted to implement said amendments.

485 CHAPTER 10.

486 DEFINITIONS.

487 10-1-1 In this charter, unless the context clearly otherwise requires, the following words
488 shall have the following meanings: -

489 "Appoint", to select to fill an office or to employ in the service of the town.

490 "Certification", the town clerk's validation that a person has been declared elected to a
491 town office or multi-member body and sworn to the faithful performance of the duties thereof.

492 "Charter", this charter and any amendments to it made through any of the methods
493 provided under Article 89 and Article 113 of the Amendments to the Constitution of the
494 commonwealth.

495 "Dissolve town meeting", the final and permanent ending of the town meeting at which
496 the motion to dissolve town meeting is made, so that no further action may thereafter be taken on
497 any matter included in that meeting's warrant.

498 "General Laws", the Massachusetts General Laws.

499 "Local newspaper", a newspaper of general circulation in the town.

500 "Majority vote", a majority of those present and voting; provided, however, that a
501 quorum of the body shall be present.

502 "Multi-member body", any board, commission or committee of the town consisting of 3
503 or more persons, whether appointed or elected.

504 "Town", the town of Yarmouth.

505 "Town agency", any office, department, board, committee or commission of the town
506 government.

507 "Voter", a registered voter of the town.

508 Words importing the singular number may extend and be applied to several persons or
509 things, words importing the plural number may include the singular and, except where the
510 context requires, wherever words are used in 1 gender, they shall be construed to include the
511 other gender and the neuter."