

SENATE No. 782

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to amend the town charter of Sandwich..

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

1 ARTICLE I

2 INCORPORATION, FORM OF GOVERNMENT

3 Section 1.1 INCORPORATION

4 The inhabitants of the Town of Sandwich, residing within its corporate boundaries as
5 heretofore established, are hereby constituted and shall continue to be a body politic and
6 corporate in perpetuity under the name of “The Town of Sandwich.”

7 Section 1.2 FORM OF GOVERNMENT

8 The municipal form of government provided by this Charter shall consist of a Town
9 Meeting open to all voters; a Board of Selectmen, elected by the people and accountable to the
10 people; and a Town Manager, appointed by and accountable to the Board of Selectmen for
11 proper administration of the affairs of the town.

12 ARTICLE II

13 POWERS OF THE TOWN

14 The town shall have all the powers granted to towns by the Constitution and General
15 Laws together

16 with all of the implied powers necessary to execute such granted powers.

17 The powers of the town under the Charter shall be construed and interpreted liberally in
18 favor of the town, and the specific mention of any particular power is not intended to limit in any
19 way the general powers.

20 c) The town may enter into agreements with any other agency of municipal
21 government, agency of the Commonwealth, other states, or the United States government to
22 perform jointly, by contract, or otherwise, any of its powers or functions and may participate in
23 the financing thereof.

24 ARTICLE III

25 LEGISLATIVE BRANCH

26 Section 3.1 OPEN TOWN MEETING

27 The legislative powers of the town shall be exercised by a Town Meeting open to all
28 voters.

29 Section 3.2 PRESIDING OFFICER

30 All sessions of the Town Meeting shall be presided over by a Moderator, elected as
31 provided in Section 4.4 of the Charter. The Moderator shall regulate the proceedings, decide
32 questions of order, and make public declarations of all votes. The Moderator shall have all of the

33 powers and duties given to Moderators under the Constitution and the General Laws, and such
34 additional powers and duties as may be authorized by the Charter, by By-law or by other Town
35 Meeting vote.

36 Section 3.3 ANNUAL TOWN MEEETING

37 The Annual Town Meeting shall be held on such date or dates as may be fixed by the
38 Board of Selectmen as provided in paragraph (e) of Section 4.2.5 of the Charter.

39 Section 3.4 SPECIAL TOWN MEETINGS

40 Special Town Meetings shall be held at the call of the Board of Selectmen at such times
41 as it may deem appropriate and whenever a special meeting is requested by the voters in
42 accordance with procedures made available by the General Laws.

43 Section 3.5 QUORUM

44 The quorum for both the Annual Town Meeting and any Special Town Meeting shall be
45 set by By-law.

46 Section 3.6 CLERK OF THE MEETIN

47 The Town Clerk shall serve as the clerk to the Town Meeting. In the event that the Town
48 Clerk is absent, the Assistant Town Clerk will serve.

49 Section 3.7 WARRANT ARTICLES

50 Except for procedural matters all subjects to be acted on by Town Meeting shall be
51 placed on

warrants issued by the Board of Selectmen.

The Board of Selectmen shall receive all petitions addressed to it which require the submission

of particular subject matter to the Town Meeting in accordance with the General Laws. Ten (10) signatures shall be required on a petition to have an article inserted in the warrant for an Annual Town Meeting, and one hundred (100) signatures shall be required on a petition to have an article inserted in a warrant for a Special Town Meeting.

Any warrant article that seeks to raise, transfer, appropriate or expend any funds shall show

comparative figures including actual figures for the preceding year, appropriations for the current year, requests for the next fiscal year and amounts recommended by the Finance Committee.

Section 3.8 PUBLICATION AND DISTRIBUTION OF THE WARRANT

In addition to any notice required by the General Laws, the Board of Selectmen shall cause the Annual Town Meeting warrant to be posted on the town bulletin board and otherwise distributed as provided by paragraph (e) of Section 4.2.5 of the Charter. Additional copies shall be kept available for distribution by the Town Clerk. In addition, the Board of Selectmen shall cause the Town Meeting warrant to be posted on the Town's website for the convenience of the residents of the Town; provided, however, that failure to post the warrant on the website or to post it one or more weeks prior to the date of the Town Meeting shall not invalidate or otherwise affect the legality or validity of the actions taken at the Town Meeting.

ARTICLE IV

ELECTED TOWN OFFICES

Section 4.1 ELECTED TOWN OFFICES, IN GENERAL

The offices to be filled by the voters shall be: a Board of Selectmen, five (5) members; a School Committee, seven (7) members; a Moderator; a Town Clerk;; a Board of Assessors, three (3) members; a Board of Health, three (3) members; a Planning Board, seven (7) members; Trustees of the Sandwich Library, nine (9) members; Trustees of the Weston Memorial Fund, three (3) members; Sandwich Historic District, five (5) members; Housing Authority, 5 members, 4 elected 1 appointed by the Governor; and such other regional authorities, districts, or committees as may be required by the General Laws or inter-local agreement. All elected or appointed multiple member boards shall be arranged so that as nearly an equal number of terms as possible shall expire each year. Notwithstanding any other provision of the Charter, all elected officials and officers shall have the powers and duties as prescribed by the General Laws.

Section 4.2 BOARD OF SELECTMEN

The Board of Selectmen shall be composed of five (5) members. Each member shall be elected from the town at-large to a three (3) year term.

Section 4.2.1 QUALIFICATIONS

In addition to any other qualifications prescribed by law, each Selectman shall be a qualified voter of the town, and shall reside within the town while in office.

Section 4.2.2 COMPENSATION

93 Selectmen shall receive such compensation as may be specified in the annual budget,
94 provided, however, that they shall be entitled to all necessary expenses incurred in the
95 performance of their official duties upon approval by the Board of Selectmen.

96 Section 4.2.3 CHAIRMAN AND VICE CHAIRMAN

97 A chairman shall be elected by the Board of Selectmen at the first meeting following
98 each regular

99 town election. The chairman shall preside at all meetings of the Board. The chairman
100 shall perform such other duties consistent with this Charter, or as may be imposed on him by the
101 Board.

102 b) A vice chairman shall be elected by the Board of Selectmen at the first meeting
103 following each

104 regular town election. The vice chairman shall act as chairman during the disability or
105 absence of the chairman, and in this capacity shall have the rights and duties conferred upon the
106 chairman.

107 Section 4.2.4 VACANCIES

108 Vacancies in the office of Selectman shall be filled by special election if the vacancy
109 occurs eight (8) months or more prior to the next annual election. In this case, the Board of
110 Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election
111 that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing
112 the call. Any vacancy which occurs less than eight (8) months prior to the next annual election
113 shall be filled at the next annual election.

114 Section 4.2.5 GENERAL POWERS AND DUTIES

115 Except as otherwise provided by the General Laws or this Charter, all executive powers
116 of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall provide
117 for the exercise thereof and for the performance of all duties and obligations imposed on the
118 Town by law.

119 At least a majority of the Board of Selectmen shall sign all official documents, and
120 approve the financial warrants.

121 The Board of Selectmen shall serve as the Board of Directors and policy making body of
122 the Town.

123 They shall appoint a Town Manager to carry out the day-to-day operations of the Town
124 within the policies set by the Board of Selectmen. The Board of Selectmen shall appoint
125 members of committees.

126 No member of the Board of Selectmen may serve in any other elected and/or appointed
127 Town office

128 or committee during his or her term as Selectman, excluding ex-officio positions, except
129 that Selectmen may serve on committees when authorized by State law or Town bylaw. Service
130 as a representative from the Town to another body other than the Town shall not be prohibited by
131 this provision.

132 The Board of Selectmen shall set guidelines for the preparation of the annual budget and
133 present

134 the budget to the Town Meeting. The Board of Selectmen shall set the date and Warrant
135 Articles for the Town Meeting and any Special Town Meeting. The Board of Selectmen shall
136 make available sufficient copies of the warrant for the Town Meeting for all registered voters.
137 The Board of Selectmen shall either provide direct mailings to households, or publish notice of
138 the availability of said warrants at town facilities and other common locations throughout the
139 town at least two (2) weeks prior to the Town Meeting; provided, however, that failure to post
140 the warrant on the website or to post it one or more weeks prior to the date of the Town Meeting
141 shall not invalidate or otherwise affect the legality or validity of the actions taken at the Town
142 Meeting

143 The Board of Selectmen shall be a licensing board for the Town and shall have the power
144 to issue

145 licenses as authorized by law, to make all necessary rules and regulations regarding the
146 issuance of such licenses, and to impose restrictions on any such license as it deems to be in the
147 public interest, and to enforce all laws, rules, regulations, and restrictions relating to all such
148 businesses for which it issues licenses.

149 The Board shall require bonds for all municipal officers and employees who receive or
150 pay out any

151 moneys of the town. The amount of such bonds shall be determined by the Board and the
152 cost thereof shall be borne by the town.

153 The Board of Selectmen shall be authorized to institute, prosecute, compromise or defend
154 any claim,

155 action, suit or other proceeding in the name of the Town and to settle any claim, action,
156 suit or other proceeding brought by or on behalf or against the Town. In the event that a
157 settlement requires the issuance of a permit or license or the transfer of property, and such matter
158 is not within the Board of Selectmen's jurisdiction, the Town board or officer with legal
159 jurisdiction over the matter shall retain sole authority to act on behalf of the Town.

160 The Board of Selectmen shall annually review a Long Range Plan to project the future
161 needs of the

162 Town and report on this at Town Meeting.

163 The Board of Selectmen shall serve as custodians of all Town property except as
164 otherwise provided

165 by the General Laws or by vote of the Town.

166 k) The Board of Selectmen shall exercise any other responsibilities as set forth in the
167 General Laws.

168 Section 4.2.6 MEETINGS OF THE BOARD

169 The Board of Selectmen shall hold at least two regular meetings each month. The board
170 shall fix, by

171 resolution, the days, times and location of its regular meetings.

172 The Board of Selectmen may hold such special meetings as it deems necessary and
173 appropriate,

174 which may be called for by three members of the Board. In no event shall a regular or
175 special meeting be held in any facility or at any locations which are not readily accessible to the
176 public or handicap accessible.

177 Section 4.2.7 RULES OF PROCEDURE

178 The Board of Selectmen shall by resolution, determine its own rules and order of
179 business;

180 however, the rules shall provide that citizens of the town shall have a reasonable
181 opportunity to be heard at any meeting in regard to any matter under consideration.

182 Voting except on procedural motions, shall be by roll call if requested by a Selectman,
183 and the ayes

184 and nays shall be recorded in the minutes.

185 Three Selectmen shall constitute a quorum for the purposes of transaction of business.

186 d) No action of the Board of Selectmen shall be valid or binding unless adopted by the
187 affirmative vote

188 of three or more members of the Board.

189 Section 4.2.8 PROHIBITIONS

190 Except where authorized by law, no Selectman shall hold any other town office or town
191 employment

192 during his term as Selectman, nor any former Selectman shall hold any compensated
193 appointed town office or town employment until one year after the expiration of his term as
194 Selectman.

195 The Selectmen shall not in any manner dictate the appointment or removal of any town
196 administrative officers or employees whom the Town Manager or any of his subordinates are
197 empowered to appoint. The Board of Selectmen may express its views and fully and freely
198 discuss with the Town Manager anything pertaining to appointments and
199 removal of such officers and employees.

200 Except for the purpose of inquiries and investigations, the Board of Selectmen and its
201 members shall

202 deal with town officers and employees who are subject to the direction and supervision of
203 the Town Manager, solely through the Town Manager, and neither the Board of Selectmen nor
204 any of its members shall give orders to any such officer or employee, either publicly or privately.

205 Section 4.3 SCHOOL COMMITTEE

206 The School Committee shall be composed of seven (7) members. Each member shall be
207 elected from the town at-large to a three (3) year term. The three (3) year terms of office for
208 school committee shall be staggered.

209 Section 4.3.1 GENERAL POWERS AND DUTIES

210 The School Committee shall have all the powers and duties given to school committees
211 by the General Laws. The School Committee shall have the power to select, oversee, and to
212 terminate the Superintendent of Schools, establish educational goals and policies for the schools

213 consistent with requirements of the General Laws and standards established by the
214 Commonwealth.

215 Section 4.3.2 BUDGET HEARING

216 The School Committee shall hold a public hearing on its proposed annual budget
217 pursuant to General Laws, Chapter 71, Section 38N, on or before the first day of March.

218 Section 4.3.3 VACANCIES

219 Vacancies in the School Committee shall be filled by special election if the vacancy
220 occurs eight (8) months or more prior to the next annual election. In this case, the Board of
221 Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election
222 that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing
223 the call. Any vacancy which occurs less than eight (8) months prior to the next annual election
224 shall be filled at the next annual election.

225 Section 4.4 MODERATOR

226 A Moderator shall be elected by the voters for a term of three years. In the event of
227 absence of the Moderator, the Town Meeting may elect a temporary Moderator, for the purpose
228 of presiding over the Town Meeting.

229 Section 4.4.1 POWERS AND DUTIES

230 The Moderator shall have the powers and duties provided by the General Laws, by this
231 Charter,

232 by By-law or by any other Town Meeting vote.

233 The Moderator shall appoint members of the Finance Committee which shall consist of
234 nine (9) members. Should the Moderator fail to fill a vacancy on the Finance Committee within
235 forty-five (45) days of having been notified in writing by the Town Clerk of said vacancy, a
236 majority of the remaining members of the Finance Committee may nominate a person for each
237 such vacancy. Should the Moderator fail to take action on said nomination within 21 days, the
238 nominee shall become a member of the Finance Committee.

239 c) The Moderator shall appoint members to other committees as directed by
240 Town Meeting.

241 Section 4.5 TOWN CLERK

242 A Town Clerk shall be elected by the voters at the annual town election, for a term of
243 three years.

244 Section 4.7 BOARDS, COMMITTEES AND OFFICERS

245 Each Board or Committee will be organized and charged with the powers and duties
246 specified in

247 the General Laws and Special Acts of the Commonwealth, Town By-law or elsewhere in
248 this Charter. The Board of Selectmen may also, from time to time, establish boards or
249 committees to address specific needs or issues. Each board or committee shall, at its annual
250 organization meeting, elect a presiding officer and shall cause the Board of Selectmen and the
251 Town Clerk to be notified of its selection. Such boards and committees shall make a written
252 annual report of its activities to the Board of Selectmen.

253 Members of permanent committees shall be elected for a staggered term of three years
254 unless otherwise provided for by the General Laws or this Charter. Appointees to temporary and
255 special committees shall be appointed by the Board of Selectmen for the duration of the charge
256 of the board or committee. Boards, committees or officers specifically provided for by the
257 General Laws or this Charter may be continued or terminated only by the Board of Selectmen.