HOUSE DOCKET, NO. 3958 FILED ON: 5/8/2017

HOUSE . . . . . No. 3706

The Commonwealth of Massachusetts

PRESENTED BY:

William L. Crocker, Jr.

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

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

An Act amending the charter of the city known as the town of Barnstable.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
William L. Crocker, Jr.	*2nd Barnstable*	*5/8/2017*
Timothy R. Whelan	*1st Barnstable*	*5/8/2017*
Randy Hunt	*5th Barnstable*	*5/9/2017*

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HOUSE . . . . . No. 3706

By Mr. Crocker of Barnstable, a petition (accompanied by bill, House, No. 3706) of William L. Crocker, Jr., Timothy R. Whelan and Randy Hunt (by vote of the town) that the town of Barnstable be authorized to amend the charter of said town. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act amending the charter of the city known as the town of Barnstable.

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

Section 1. Part II of the Charter of the city known as the Town of Barnstable adopted by the voters on April 11, 1989 and which is on file in the office of the archivist, as is provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by inserting a new subsection Section 2-1 (d) as follows:

(d) Term Limits

No person elected to serve as a Town Councilor may serve more than three consecutive terms of office or twelve consecutive years, whichever is greater. When the term of office for which said person is elected would extend membership on the Town Council beyond twelve consecutive years if the member served the full term, the seat shall be deemed vacant at the time of the next scheduled biennial town election and the vacancy shall be filled at that regular

election for the balance of the unexpired term; provided, however, the retiring Councilor shall continue to serve until a successor is qualified.

Section 2. Part II of said Charter is hereby further amended by striking out section 2-5 and inserting in place thereof the following section:

Section2-5 Filling of Vacancies

If a vacancy occurs in the office of Councilor during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled at the regular election; otherwise, the Council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election.

Section 3. Part II of said charter is hereby further amended by striking out subsection 2-8(c) and inserting in place thereof the following section (c):

Section 2-8 (c) Charter Objection

(c) Charter Objection. Except for an emergency measure as defined in section 2-8(b), on the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. A charter objection shall have privilege over all motions but must be made at the call for a vote on the measure by the presiding officer and all debate shall cease. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

Section 4. Part II of said charter is hereby further amended by striking out the following last sentence contained in Section 2-11: “No person elected to serve as a town councilor may serve more than three consecutive terms of office.”

Section 5. Part III of said charter is hereby amended by striking out sections 3-1 to 3-7 inclusive and inserting in place thereof the following six sections:

Section 3-1. Elective Offices in General

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

Section 3-2. Eligibility

Any voter shall be eligible to hold any elective town office provided that, no person shall simultaneously hold more than one elective town office.

Section 3-3. School Committee

(a) Composition, Terms of Office. There shall be a school committee composed of five members elected by and from the voters at large.

(b) Term of Office. The terms of school committee members shall be four years beginning on the second Monday following election and continuing until a successor is qualified. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire at each regular election.

[Amended by Town Council vote December 1993; approved by Act of Legislature May 31, 1994]

(c) Powers and Duties. The school committee shall have general charge and superintendence of the public schools of the town. The powers of the school committee shall include, but need not be limited to: appoint a superintendent of schools, and all other officers and employees associated with the school, fix their compensation, define their duties and discharge them; make all reasonable rules and regulations, consistent with the law, for the administration and management of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the charter, ordinance or other council vote.

Section 3-4. Town Clerk

(a) Election. A town clerk shall be elected by and from the voters at large.

(b) Terms of Office. The town clerk shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified.

[Amended by Town Council vote December 1993; approved by Act of Legislature May 31, 1994]

(c) Powers and Duties. The town clerk shall by the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall

have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

Section 3-5 Housing Authority

(a) Composition, Election. There shall be a housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b)Term of Office. The terms of the housing authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election.

(c) Powers and Duties. The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

Section 3-6. Filling Vacancies

If any vacancy occurs in the membership of the office of town clerk whether by failure to elect or otherwise, the town council shall, within thirty days following the date of such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired terms. Any person so chosen shall be sworn and commence to serve forthwith.

If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty

days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

Section 6. Part VI of said charter is hereby amended by striking out the word “ten” in Section 6-6 and inserting in place thereof the word “five”.

Section 7. Part VII of said charter is hereby amended by striking out sections 7-1 to 7-5 inclusive and inserting in place thereof the following four sections:

Section 7-1 Town Elections

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

Section 7-2 Regular Election

(a) Signature Requirements

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by

vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than fifty signatures from said precinct.

(b) Information to Voters

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase “candidate for re-election.”

(c) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

Section 7-3 Precincts

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

Section 7-4 Application of State Laws

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

Section 8. Part IX of said charter is hereby amended by inserting under Section 9-4 the following definition:

MEASURE:- The word “measure” shall mean matters to come before the town council which are inherently legislative in nature, including, without limitation, ordinances, charter amendments, appropriations, loan orders, lease approvals, contract approvals and eminent domain authorizations. “Measure” shall not encompass any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, without limitation, appointments, resolutions, proclamations, tax classification votes and petitions to the General Court.

Section 9. Part X of the Charter is hereby amended by striking out Section 10-7(b) and inserting in place thereof the following:

The incumbent in the office of Tax Collector shall continue to serve in said office until the completion of the current elected term.

Section 10. Part X of said Charter is hereby further amended by inserting under Section 10-7(k)(1) the words “a Town Collector.”

Section 11. The Town Clerk for the Town of Barnstable shall cause the following question to be placed on the official ballot to be used in the Town of Barnstable at the biennial town election to be held on November 7, 2017: Shall an act entitled “An Act amending the charter of the Town of Barnstable” be accepted.

The Town Attorney shall prepare a summary of the proposed special act to amend the Charter which shall appear on the ballot along with the question provided in this section.

If a majority of votes cast to the question is in the affirmative, the Town of Barnstable shall be taken to have accepted the amendments to the Charter of the Town of Barnstable, but not otherwise.

Section 12. This act shall take effect upon its passage.