

HOUSE No. 4976

The Commonwealth of Massachusetts

PRESENTED BY:

Jack Lewis

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 approving the town of Ashland Home Rule Charter as amended and as voted in Article 34 of the annual town meeting of the town of Ashland including parts I through IX by repealing Chapter 405 of the Acts of 2008 and replacing it in its entirety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>10/28/2018</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>	<i>11/19/2018</i>

HOUSE No. 4976

By Mr. Lewis of Framingham, a petition (accompanied by bill, House, No. 4976) of Jack Lewis and Karen E. Spilka (by vote of the town) relative to the charter of the town of Ashland. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act approving the town of Ashland Home Rule Charter as amended and as voted in Article 34 of the annual town meeting of the town of Ashland including parts I through IX by repealing Chapter 405 of the Acts of 2008 and replacing it in its entirety.

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 Chapter 405 of the Acts of 2008 is hereby repealed.

2 SECTION 2. The following shall be the Charter of the Town of Ashland:

3 PART I. Incorporation and Authority

4 Section 1-1. Incorporation Continued.

5 The inhabitants of the town of Ashland, Massachusetts, within its territorial limits as now
6 or may hereafter be established by law, shall continue to be a body politic and corporate, known
7 as the “Town of Ashland”.

8 Section 1-2. Short Title.

9 This instrument shall be known and may be cited as the “Ashland Home Rule Charter”.

10 Section 1-3. Division of Powers.

11 All legislative powers of the town shall be exercised by a town meeting open to all
12 voters. The administration of all town fiscal, prudential and municipal affairs shall be vested in
13 the executive branch comprised of the board of selectmen and elected independent boards
14 pursuant to their enabling legislation.

15 Section 1-4. Powers of the Town.

16 The intent and purpose of the charter is to secure for the voters of the town of Ashland,
17 through the adoption of the charter, all the powers possible to secure for their government under
18 article LXXXIX of the amendments to the constitution and laws of the commonwealth, as fully
19 as though each such power was specifically and individually enumerated herein.

20 Section 1-5. Interpretation of Powers.

21 The powers of the town under the charter shall be construed and interpreted liberally in
22 favor of the town, and the specific mention of any particular power shall not limit the general
23 powers of the town as stated in section 1-4.

24 Section 1-6. Intergovernmental Relations.

25 The town may enter into agreements with any other unit of government to perform jointly
26 or in cooperation, by contract or otherwise, any of its powers or functions.

27 Part II. Legislative Branch.

28 Section 2-1. Open Town Meeting.

29 The legislative powers of the town shall be vested in a town meeting open to all voters.

30 Section 2-2. Presiding Officer.

31 All sessions of the town meeting shall be presided over by a town moderator, elected as
32 provided in part III. The town moderator shall regulate the proceedings, decide questions of
33 order and make public declarations of all votes. The town

34 moderator shall have all the powers and duties given to moderators under the constitution
35 and the laws of the commonwealth and such additional powers and duties as may be authorized
36 by the charter, by bylaw or by other town meeting vote.

37 Section 2-3. Annual Town Meeting.

38 The annual town meeting shall be held on such date or dates as may from time to time be
39 fixed by bylaw.

40 Section 2-4. Special Town Meetings.

41 Special town meetings shall be held at the call of the board of selectmen at such times as
42 it may deem appropriate and whenever a special meeting is requested by the voters in accordance
43 with procedures made available by the laws of the

44 commonwealth.

45 Section 2-5. Clerk of the Meeting.

46 The town clerk shall serve as the clerk to the town meeting. In the event of unavoidable
47 absence, the town clerk shall designate a substitute; otherwise, the town moderator shall appoint
48 a clerk pro tempore. The town clerk shall keep a

49 journal of the proceedings and perform such other functions as may be provided by the
50 laws of the commonwealth, by the charter, by bylaw or by other town meeting vote.

51 PART III. Elected Town Officers.

52 Section 3-1. Elected Town Officers, in General.

53 (a) The offices to be filled by the voters shall be a board of selectmen, a school
54 committee, a town moderator, a board of assessors, a board of health, a planning board, a board
55 of trustees of the public library and a housing authority. Regional authorities, districts,
56 committees or such other entities as may be established by law or intergovernmental agreement
57 may also be filled by the voters.

58 (b) The elected bodies referred to in subsection (a) of section 3-1 may, by law, the
59 charter, bylaw or vote of the town appoint any temporary or ad hoc multiple member bodies as in
60 their judgment shall from time to time be necessary or desirable specifically for assisting said
61 elected boards in the exercise and fulfillment of their powers and duties referred to in the charter.

62 (c) Any registered voter shall be eligible to hold any elective town office except that:

63 i. no employee of the town reporting to the board of selectmen, either directly or
64 through the town manager, may simultaneously hold the position of selectman; and

65 ii. no employee of the school district may simultaneously hold the position of school
66 committee member.

67 Section 3-2. Board of Selectmen.

68 (a) There shall be a board of selectmen composed of five (5) members elected for
69 terms of three (3) years each, so arranged that the terms of as nearly an equal number of
70 members as is possible shall expire each year.

71 (b) The executive powers of the town shall be vested in the board of selectmen which
72 shall serve as the chief policymaking body of the town. The board of selectmen shall have and
73 exercise all the powers and duties vested in boards.

74 of selectmen by the laws of the commonwealth and such additional powers and duties
75 authorized by the charter, by bylaw or by vote of the town. The board of selectmen shall cause
76 the laws and orders for the government of the town to be enforced and shall cause a record of all
77 its official acts to be kept. To administer its policies and aid the board in its official duties, the
78 board of selectmen shall appoint a town manager, as provided in part V.

79 (c) The board of selectmen shall appoint a town manager, town counsel, an external
80 auditor to perform the town's annual financial audit, and registrars of voters as well as all other
81 such town officers and multiple member bodies except as otherwise provided by the charter. The
82 board of selectmen shall also appoint such officers and multiple member bodies that the board of
83 selectmen may hereafter be directed to appoint by law, bylaw or vote of the town.

84 (d) The board of selectmen may investigate or may authorize the town manager to
85 investigate the affairs of the town and the conduct of any town agency.

86 (e) The board of selectmen, unless otherwise provided by law or the charter, shall be
87 the licensing board of the town and shall have the power to issue licenses, to make all necessary
88 rules and regulations regarding the issuance of such licenses and to attach such conditions and

89 restrictions thereto as it deems to be in the public interest. The board of selectmen shall enforce
90 the laws relating to all businesses for which it issues any licenses.

91 (f) No member of the board of selectmen shall concurrently hold any other elected
92 town position.

93 Section 3-3. School Committee.

94 (a) There shall be a school committee composed of five (5) members elected for
95 terms of three (3) years each, so arranged that the terms of as nearly an equal number of
96 members as is possible expire each year.

97 (b) The school committee shall have all the powers, duties and responsibilities given
98 to school committees by the laws of the commonwealth, the charter, bylaws or town meeting
99 vote. Nothing in the charter shall be construed to affect the powers and duties of the school
100 committee as provided by law.

101 Section 3-4. Town Moderator.

102 (a) A town moderator shall be nominated and elected by the voters for a term of three
103 (3) years. In the event of absence of the town moderator, the town meeting shall elect a
104 temporary town moderator for the purpose of presiding during the town moderator's absence.
105 The town moderator shall not hold any other town office, elected or appointed.

106 (b) The town moderator shall appoint the finance committee and have other powers
107 and duties provided that office by the constitution and the laws of the commonwealth, bylaws or
108 by town meeting vote.

109 (c) In making appointments to the finance committee, the town moderator shall
110 follow the appointment process in section 8-1.

111 Section 3-5. Board of Health.

112 (a) There shall be a board of health composed of 5 members elected for terms of 3 years
113 each, so arranged that the terms of as nearly an equal number of members as is possible expire
114 each year.

115 (b) The board of health shall be responsible for the formulation and enforcement of rules
116 and regulations concerning public health. The board shall have all the powers and duties given
117 to boards of health by the laws of the commonwealth, the charter, by-laws or town meeting vote.

118 Section 3-6. Board of Assessors.

119 (a) There shall be a board of assessors composed of three (3) members elected for
120 terms of three (3) years each, so arranged that the term of one (1) member expires each year.

121 (b) The board of assessors shall have all the powers and duties given to boards of
122 assessors by the laws of the commonwealth, the charter, bylaws or town meeting vote.

123 Section 3-7. Planning Board.

124 (a) There shall be a planning board composed of five (5) members elected for terms
125 of five (5) years each, so arranged that the term of one (1) member expires each year.

126 (b) The planning board shall have all the powers and duties given to planning boards
127 by the laws of the commonwealth, the charter, bylaws or town meeting vote.

128 Section 3-8. Board of Library Trustees.

129 (a) There shall be a board of library trustees composed of five (5) members elected
130 for terms of three (3) years, so arranged that the terms of as nearly an equal number of members
131 as is possible expire each year.

132 (b) The board of library trustees shall have all the powers and duties given to boards
133 of library trustees by the laws of the commonwealth, the charter, bylaws or town meeting vote.
134 The board shall have control over the selection of library materials and have custody and
135 management of such. All money and property that the town may receive for library purposes by
136 gift or bequest shall be administered by the board in accordance with the provisions of the gift or
137 bequest.

138 Section 3-9. Housing Authority.

139 (a) There shall be a housing authority composed of five (5) members serving terms of
140 five (5) years each, so arranged that the term of one (1) member expires each year. Four (4)
141 members shall be elected by the voters, and the fifth (5th) member shall be appointed as the laws
142 of the commonwealth provide.

143 (b) The housing authority shall have all the powers and duties given to housing
144 authorities under the laws of the commonwealth, the charter, bylaws or town meeting vote. The
145 authority shall also make studies of the housing needs of the town and shall provide programs for
146 housing.

147 Section 3-10. Holding Multiple Offices

148 (a) A member of the finance committee, shall during the term for which they were
149 appointed, be ineligible to hold any other elective or appointive town office or position except as
150 otherwise provided herein.

151 (b) Whenever the town shall undertake to construct or improve a municipal building
152 or property, one member of the finance committee may be appointed to serve as a voting
153 member on the building committee to which the planning and construction or acquisition of such
154 building or property is delegated.

155 (c) A member of the finance committee can serve as a full voting member of any sub-
156 committee of the finance committee authorized by the finance committee.

157

158 PART IV. Recall of Elected Officers.

159 Section 4-1. Application.

160 Any holder of an elected office in the town may be recalled therefrom by the voters of the
161 town as herein provided, except the maximum number of members of a multiple-member body
162 that may be recalled is a majority.

163 Section 4-2. Recall Affidavit and Petition.

164 (a) A recall may be initiated by filing with the town clerk an affidavit containing at
165 least one hundred and fifty (150) signatures of persons representing to be voters, the name of the
166 officer sought to be recalled and a statement of the grounds for recall.

167 (b) The town clerk shall, within one (1) business day of receipt, submit the affidavit
168 to the registrars of voters of the town and the registrars shall, within five (5) business days,
169 certify thereon the number of signatures which are names of voters.

170 (c) If the registrars certify that the affidavit contains the signatures of at least one
171 hundred and fifty (150) voters, the town clerk shall, within one (1) business day, deliver to any
172 one or more of the voters making the affidavit copies of petition blanks demanding such recall.
173 Said blanks shall be issued by the town clerk, with the town clerk's signature and the official
174 town seal affixed thereto. The blanks shall be dated, addressed to the board of selectmen, contain
175 the name of the person whose recall is sought, the office from which removal is sought and the
176 grounds of recall as stated in the affidavit.

177 (d) A copy of the petition shall be entered in a record book to be kept in the office of
178 the town clerk.

179 (e) Said recall petition shall be returned and filed with the town clerk during regular
180 business hours no later than the close of twenty-eight (28) days after the certification of the
181 affidavit. Before being returned and filed with the town clerk, said petition shall have been
182 signed by no less than fifteen (15) percent of the voters as of the date such affidavit was filed
183 with the town clerk.

184 (f) The town clerk shall, within one (1) business day of receipt, submit the petition to
185 the registrars of voters of the town and the registrars shall, within fifteen (15) business days,
186 certify thereon the number of signatures which are names of voters.

187 Section 4-3. Recall Election.

188 (a) If the petition shall be found by the registrars of voters to contain signatures of at
189 least fifteen (15) percent of the voters, it shall be certified by the town clerk to be sufficient and
190 the town clerk shall submit the same with such certificate to the board of selectmen within five
191 (5) business days.

192 (b) The board of selectmen shall, within five (5) business days, give written notice of
193 the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not
194 resign within five (5) business days thereafter, order an election to be held on a date fixed by
195 them not more than sixty-five (65) days after the date of the town clerk's certificate that a
196 sufficient petition has been filed; provided, however, that if any other town election is to occur
197 within one hundred (100) days after the date of the certificate, the board of selectmen shall
198 postpone the holding of the recall election to the date of such other election.

199 (c) No person shall be subject to recall if the term of office of such person expires
200 within one hundred and eighty (180) days of the filing of an affidavit with the town clerk. If a
201 vacancy occurs in said office after a recall election has been ordered, the election shall
202 nevertheless proceed as provided in this section.

203 Section 4-4. Office Holder and Vacancy.

204 The incumbent shall continue to perform the duties of the office until the recall election.
205 If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the
206 unexpired term subject to recall. If recalled, the official shall be deemed immediately removed
207 and the office vacant. The vacancy created thereby shall be filled under part VIII of this charter
208 for filling vacancies in such office. A person chosen to fill the vacancy caused by a recall shall
209 hold office until the next regular town election. Should the person filling the vacancy be a

210 candidate in the subsequent election, that person will not be allowed to have “candidate for re-
211 election” appear on the ballot at such election.

212 Section 4-5. Ballot Proposition.

213 Ballots used in a recall election shall submit the following propositions in the order
214 indicated:

215 For the recall of (name of officer)

216 Against the recall of (name of officer).

217 If the majority of the votes cast upon the question of recall are in the affirmative, and
218 provided at least fifteen percent (15%) of the total number of voters that were registered as of the
219 date of the most recent town election have participated at such recall election, the recall is
220 affirmed.

221 Section 4-6. Repeat of Recall.

222 In the case of an officer subjected to a recall election and not recalled thereby, no recall
223 affidavit shall be filed until at least one hundred and eighty (180) days after the election at which
224 the officer's recall was submitted to the voters.

225 Section 4-7. Office Holder Recalled.

226 (a) No person who has been recalled from an office or who has resigned from office
227 while recall proceedings were pending against such person shall subsequently be appointed to fill
228 the vacancy created by the recall or resignation of the person who was the subject of the recall.

229 (b) No person who has been recalled from an office or who has resigned from office
230 while recall proceedings were pending against such person shall subsequently become a paid
231 employee of the town or an appointed member of a multiple member body within one year (1)
232 year after such recall election or such resignation.

233 (c) In the event that a person who is the subject of a recall is recalled or who has
234 resigned from office while recall proceedings were pending against such person, the vacant
235 position created by the recall or resignation will be filled in accordance with section 8-4 herein.

236 (d) For purposes of this section, recall proceedings begin once the board of selectmen
237 give written notice of the receipt of the certification referred to in section 4-3 to the officer
238 whose recall is being sought.

239

240 PART V. Town Manager.

241 Section 5-1. Appointment; Qualifications; Term of Office.

242 (a) The board of selectmen shall appoint, for a term of up to three (3) years, a town
243 manager and shall, at least annually, evaluate the performance of the town manager. The town
244 manager shall be a person of proven administrative ability, especially qualified by education and
245 training with at least three (3) years previous experience in public administration as a city or
246 town manager, a city or town administrator, an assistant city or town manager or a position with
247 substantially similar functions.

248 (b) The town manager shall devote his/her full time to the duties of the office and
249 shall not hold any other elective or appointive office, nor shall the town manager engage in any

250 other business, occupation or profession during his/her term, unless such action is approved in
251 advance, in writing, by the board of selectmen.

252 Section 5-2. Vacancy in Office.

253 Any permanent vacancy in the office of town manager shall be filled as soon as possible
254 by the board of selectmen. Pending appointment of the town manager, the board of selectmen
255 shall, within a reasonable period of time, appoint some other qualified person to perform the
256 duties of the town manager.

257 Section 5-3. Temporary Absence.

258 (a) The town manager may designate, by letter filed with the board of selectmen and
259 town clerk, a qualified officer of the town to perform the duties of the town manager during a
260 temporary absence or disability.

261 (b) If such temporary absence or disability shall exceed fourteen (14) days, any
262 designation made by the town manager shall be subject to the approval of the board of
263 selectmen.

264 (c) If the town manager fails to make such designation or if the person so designated
265 is for any reason unable to serve or is deemed not qualified by the board of selectmen, the board
266 of selectmen may designate some other qualified person as temporary town manager to perform
267 the duties of the town manager until the town manager shall return.

268 (d) The powers and duties of the temporary town manager shall be limited to matters
269 not admitting of delay and shall include authority to make temporary, emergency appointments

270 or designations to town office or employment, but shall not make permanent appointments or
271 designations, or suspensions or terminations without approval of the board of selectmen.

272

273 Section 5-4. Compensation.

274 The town manager shall receive such compensation for services as the board of selectmen
275 shall determine, but such compensation shall be within the limits of available appropriations.

276 Section 5-5. Powers of Appointment.

277 (a) The town manager shall appoint, based upon merit and qualifications, a police
278 chief, a fire chief, a treasurer collector, a town accountant, a town clerk and all other department
279 heads, officers, subordinates and employees for whom no other method of selection is provided
280 in the charter, except employees of the school department and employees identified in subsection
281 (c) of section 5-5.

282 (b) Appointments proposed by the town manager, except as noted in subsection (e) of
283 section 5-5, shall become effective on the fifteenth (15th) day following the day on which notice
284 of the proposed appointment is filed at a board of selectmen meeting, unless the board of
285 selectmen shall within such period, by a majority vote of the board of selectmen, vote to reject
286 such proposed appointment or vote to waive the fifteen (15) day period.

287 (c) The town manager shall appoint, based upon merit and qualifications:

- 288 i. A health agent with the consent of the board of health;
- 289 ii. An assessor with the consent of the board of assessors;

- 290 iii. A planner with the consent of the planning board; and
- 291 iv. A library director and all other library employees with the consent of the board of
- 292 library trustees.

293 For the purpose of this section, consent shall mean that each multiple member body cited

294 herein shall interview job candidates and make

295 appointment recommendations to the town manager. The town manager shall not make

296 an appointment under this section without the consent of the multiple member body cited herein.

297 In the case of employees appointed under this section, the town manager shall inform the chair of

298 the appropriate

299 multiple member body prior to the commencement of any disciplinary action or

300 termination process, except in cases of an emergency, and provide an opportunity for the chair to

301 confidentially comment on the proposed action directly to the town manager.

302 (d) Relative to appointments made by the town manager under subsection (c) of

303 section 5-5, the policies established by each multiple member body derived directly from

304 statutory authority for non-administrative policy shall be adhered to by those appointed in

305 subsection (c) above, the town manager and his/her staff.

306 (e) Appointments made by the town manager under subsection (c) of section 5-5 shall

307 be effective immediately and shall not be subject to rejection by vote of the board of selectmen.

308 Section 5-6. Administrative Powers and Duties.

309 The town manager shall be the administrative officer of the town and shall be responsible

310 to the board of selectmen for the proper operation of town affairs for which the town manager is

311 given responsibility under the charter. The powers, duties and responsibilities of the town
312 manager shall include, but not be limited to, the following:

313 (a) To supervise, direct and be responsible for the efficient administration of all
314 employees appointed by the town manager and their respective departments and of all functions
315 for which the town manager is given responsibility, authority or control by the charter, by bylaw,
316 by town meeting vote or by the board of selectmen;

317 (b) To administer, either directly or through persons supervised by the town manager,
318 general and special laws applicable to the town, all bylaws and all regulations established by the
319 board of selectmen;

320 (c) To coordinate all activities of town departments under the direction of the board
321 of selectmen and the town manager with the activities of departments under the control of
322 officers or multiple member bodies elected directly by the voters of the town;

323 (d) To keep the board of selectmen fully informed as to the needs of the town and to
324 recommend to the selectmen for adoption, such measures requiring action by them or by the
325 town as the town manager deems necessary or expedient;

326 (e) To ensure that complete and full records of the financial and administrative
327 activity of the town are maintained and to render reports to the board of selectmen as may be
328 required;

329 (f) To administer personnel policies, practices or rules and regulations, any
330 compensation plan and any related matters for all municipal employees and to administer all

331 collective bargaining agreements entered into by the town, except for school department
332 agreements;

333 (g) To fix the compensation of all town employees appointed by the town manager
334 within the limits established by appropriation and any applicable compensation plan;

335 (h) To negotiate all contracts with town employees over wages and other terms and
336 conditions of employment, except employees of the school department; provided, however, that
337 the town manager may employ, subject to the approval of the board of selectmen, special counsel
338 to assist in the performance of these duties; and provided further, that all collective bargaining
339 agreements negotiated under this section shall be subject to the approval of the board of
340 selectmen;

341 (i) To prepare and submit an annual operating budget and capital improvement
342 program as provided in sections 7-1 and 7-3;

343 (j) To keep the board of selectmen and the finance committee fully informed as to
344 the financial condition of the town and to make recommendations to the board of selectmen and
345 to other elected and appointed officials as the town manager deems necessary or expedient;

346 (k) To investigate or inquire into the affairs of any town department or office under
347 the supervision of the town manager or the job-related conduct of any officer or employee
348 thereof; and

349 (l) To perform such other duties as necessary or as may be assigned by the charter,
350 by bylaw, by town meeting vote or by the board of selectmen.

351 Section 5-7. Removal of Town Manager.

352 (a) The board of selectmen may, by the affirmative vote of three (3) members, vote to
353 terminate, remove or suspend the town manager from office in accordance with this section.

354 (b) Prior to removal, suspension or termination, the board of selectmen shall adopt a
355 preliminary resolution of removal by the affirmative vote of three (3) members. The preliminary
356 resolution may suspend the town manager for a period not to exceed thirty (30) days. A copy of
357 the resolution shall be delivered to the town manager forthwith.

358 (c) If so requested by the town manager, the board of selectmen shall provide a
359 written statement setting forth the reasons for the proposed removal, suspension or termination.

360 (d) Within five (5) days after the receipt of the preliminary resolution, the town
361 manager may request a public hearing by filing a written request for such hearing with the board
362 of selectmen. If a hearing is requested, the hearing shall be held at a meeting of the board of
363 selectmen not later than twenty (20) days after the date of request.

364 (e) If a public hearing has not been requested by the town manager, the board of
365 selectmen may adopt a final resolution of removal, which may be effective immediately, by the
366 affirmative vote of three (3) of its members at any time after ten (10) days following the date of
367 delivery of a copy of the preliminary resolution to the town manager.

368 (f) If the town manager requests a public hearing, the board of selectmen may, at the
369 conclusion of the hearing, or within five (5) days of the conclusion of the hearing, adopt a final
370 resolution of removal by an affirmative vote of three (3) members.

371 (g) The town manager shall continue to receive a salary until the final date of removal
372 unless otherwise provided.

373 (h) The action of the board of selectmen in terminating, removing or suspending the
374 town manager shall be final.

375 PART VI. Administrative Organization.

376 Section 6-1. Organization of Town Departments.

377 (a) The town manager may, from time to time, prepare and submit to the board of
378 selectmen for its consent plans for the organization or reorganization of town departments,
379 multiple member bodies and offices for which the town manager is the appointing authority.

380 (b) In the case of departments, multiple member bodies and offices which have
381 responsibilities to independently elected boards or committees, the town manager shall consult
382 with the appropriate independently elected multiple member bodies prior to submitting any plans
383 of organization or reorganization to the board of selectmen.

384 (c) Whenever the town manager prepares such a plan, the board of selectmen shall
385 hold at least one (1) public hearing on the plan, after posting of the time, date, location and
386 subject matter of the hearing not less than fourteen (14) days prior to the date of the public
387 hearing. A plan prepared by the town manager shall become effective after a majority vote in
388 favor of the plan by the board of selectmen.

389 (d) Except as otherwise provided in the charter, the town meeting may, by bylaw,
390 reorganize, create, consolidate or abolish departments, multiple member bodies and offices, in
391 whole or in part, may establish new departments, multiple member bodies or offices as deemed
392 necessary and may transfer powers, duties and responsibilities of one (1) department, board,
393 multiple member body or office to another.

394 PART VII. Financial Provisions.

395 Section 7-1. Budget Process.

396 (a) Annually, not later than October 1, the town manager, with the approval of the
397 board of selectmen and after consultation with the finance committee, shall establish and issue a
398 budget schedule which shall set forth the calendar

399 dates relating to the development of the annual operating budget for the ensuing fiscal
400 year. The budget schedule shall include:

401 i. A date for the finance committee to receive the budget which shall be at least one
402 hundred and five (105) days in advance of the annual town meeting; and

403 ii. A date by which the board of selectmen shall adopt a balanced budget for
404 operations which shall be, as far as practicable, fifty-five (55) days in advance of the annual town
405 meeting.

406 iii. A date by which the board of selectmen shall adopt a budget for capital for
407 presentation at the annual or a special town meeting.

408 (b) The town manager shall notify the finance committee of material changes to the
409 budget then under consideration by the finance committee as soon as reasonably possible after
410 the identification of any such change.

411 (c) Annually, not later than November 1, the finance committee, after consultation
412 with the board of selectmen, the school committee and the town manager, shall issue a policy
413 statement that shall establish the guidelines for developing the next town budget.

414 (d) All department heads, boards and committees, including the school committee,
415 that have expense budgets shall submit detailed budgets to the town manager in accordance with
416 the budget schedule established in subsection 7-1(a).

417 (e) Upon receipt of the budgets referenced in subsection 7-1(d), the town manager
418 shall prepare a budget in accordance with the schedule established in subsection 7-1(a). This
419 budget shall provide a complete financial plan for all town funds and activities and shall be in
420 such form as the town manager, in consultation with the finance committee and board of
421 selectmen, may establish. The town manager's budget shall indicate proposed expenditures for
422 current operations and for capital projects and expenditures during the ensuing fiscal year,
423 detailed by each town department and by specific purposes and projects.

424 (f) Annually, in accordance with the budget schedule established in subsection 7-
425 1(a), the town manager shall also issue a budget report. This budget report shall explain the town
426 manager's budget both in fiscal terms and in terms

427 of what specific projects are contemplated for addition, deletion or deferral in the ensuing
428 fiscal year. It shall also include:

- 429 i. A description of the important features of the budget;
- 430 ii. An indication of any major changes from the current fiscal year in financial
431 policy, expenditures and revenues, together with the reasons for such changes;
- 432 iii. Actuals for the previous fiscal year;
- 433 iv. A summary of the town's debt position;

434 v. A report showing an estimate of revenues from all sources for the ensuing fiscal
435 year, along with the probable amount required to be levied and raised by taxation;

436 vi. A budget, including revenue, expenses and general subsidies for all enterprise
437 funds and revolving accounts for town government and school department; and

438 vii. Such other material as the town manager and school superintendent may deem
439 appropriate.

440 (g) Annually, in accordance with the budget schedule established in subsection 7-
441 1(a), the school committee shall also issue a budget report. This budget report shall explain the
442 school department's budget both in fiscal terms and in terms of what specific projects are
443 contemplated for addition, deletion or deferral in the ensuing fiscal year. It shall also include:

444 i. A description of the important features of the budget;

445 ii. An indication of any major changes from the current fiscal year in financial
446 policy, expenditures and revenues, together with the reasons for such changes;

447 iii. Actuals for the previous fiscal year;

448 iv. A report showing an estimate of revenues from all sources for the ensuing fiscal
449 year, along with the probable amount required to be levied and raised by taxation;

450 v. A budget, including revenue, expenses and general subsidies for any and all
451 enterprise funds and revolving accounts for the school department; and

452 vi. Such other material as the school superintendent and school committee may deem
453 appropriate.

454 (h) In addition to any notice required by the laws of the commonwealth, the board of
455 selectmen shall cause the report and recommendations of the finance committee to be made
456 available to the voters at least seven (7) days prior to the annual town meeting.

457 Section 7-2. Finance Committee Action.

458 (a) The finance committee shall, upon receipt of the budget, including enterprise
459 funds and revolving accounts, and a capital improvement program, consider in public meetings
460 the detailed expenditures for town departments proposed by the town manager. The finance
461 committee may confer with representatives from any town department in connection with its
462 deliberations. The finance committee may request the town manager or any town department to
463 provide additional information.

464 (b) The finance committee shall file a proposed budget and report of its
465 recommendations for action fourteen (14) days prior to the scheduled date of the annual town
466 meeting. The budget to be acted upon by town meeting shall be the budget proposed by the town
467 manager with the accompanying recommendations of the finance committee.

468 Section 7-3. Capital Improvements Program.

469 (a) The town manager shall submit a capital improvements program to the board of
470 selectmen and finance committee in accordance with the budget schedule established in
471 subsection 7-1(a). Such program shall include a list of any improvements proposed to be
472 undertaken during the next five (5) fiscal years and their estimated costs, including: non-routine
473 repairs and major maintenance; renovations or additions to existing facilities; construction of
474 new facilities; land acquisition; equipment and vehicle purchases; and public works projects. The
475 list shall include items relating to all town departments, including the school department and the

476 enterprise funds, and shall include items in excess of a dollar limit to be set annually by the
477 board of selectmen.

478 (b) The town manager shall also submit to the board of selectmen a status report of
479 any capital improvements that were approved as part of the budget process for the current year's
480 budget, but which have not yet been substantially completed.

481 (c) Both the capital improvements program and the status report shall be included in
482 the presentation to the town meeting which is considering the capital budget.

483 Section 7-4. Approval of Warrants for Payments.

484 Warrants for payments of town funds prepared by the town accountant shall be submitted
485 to the town manager for approval. The approval of any such warrant by the town manager shall
486 be sufficient authority to authorize payment by the town. The town manager shall have the
487 authority to designate in writing and filed with the town clerk and the board of selectmen, an
488 individual who, in the town manager's absence, shall have the authority to approve the warrants
489 which shall be sufficient to authorize payment by the town.

490 Section 7-5. Financial Reporting

491 The town manager on behalf of town government, the school superintendent on behalf of
492 the school department and the finance committee shall create consistent, quarterly budget reports
493 to be shared with town government, the school department and the public. Such reports shall
494 include:

495 (a) A description of the important features of the report;

496 (b) An indication of any major changes from the current fiscal year in financial
497 policy, expenditures and revenues, together with the reasons for such changes;

498 (c) Actuals for the current fiscal year;

499 (d) A report showing an estimate of revenues from all sources for the ensuing fiscal
500 year, along with the probable amount required to be levied and raised by taxation;

501 (e) A report, including revenue, expenses and general subsidies for all enterprise
502 funds and revolving accounts for town government and the school department; and

503 (f) Such other material as the town manager, school superintendent and finance
504 committee may deem appropriate.

505 PART VIII. Appointments and Vacancies.

506 Section 8-1. Appointments.

507 (a) The board of selectmen, the school committee, the town moderator and other
508 multiple member bodies may create and appoint members to any multiple member body as
509 permitted under this charter, the bylaws, the commonwealth or vote of the town meeting, in
510 accordance with the provisions herein.

511 (b) Appointments to any multiple member body shall be drawn from a pool of
512 volunteer candidates who have submitted applications and qualifications to the board of
513 selectmen or school committee, if the school committee is the appointing authority, who will
514 maintain a system for identification of residents willing to serve on any standing or ad hoc
515 multiple member body. For each appointment made by each appointing authority, the appointing
516 authority and the multiple member body with the vacancy will obtain the applications and

517 qualifications of candidates who expressed an interest in being appointed to the vacant
518 position(s). The appointing authority shall develop and publish its selection criteria, interview
519 and evaluate prospective candidates at an open meeting and provide for the record its reasons for
520 the selection and appointment of the successful candidate(s). Notwithstanding the foregoing, the
521 moderator, who is not a multiple member body and is not subject to the open meeting law
522 requirements consistent with those for a multiple member body, is not required to hold a public
523 meeting subject to all open meeting law requirements, but shall, in the interest of transparency,
524 conduct his/her interviews in public and provide notice of the interviews in a manner consistent
525 with public meetings. The appointing authority shall give written notice of the new appointment
526 to the town clerk within seven (7) days.

527 (c) The requirements of section 8-1(b) do not preclude the preferential appointment
528 to a regional or state multiple member body of an elected or appointed official or town employee
529 where such elected or appointed official or town employee has traditionally been appointed, or,
530 in the case of a newly constituted regional or state multiple member body is anticipated by virtue
531 of the membership of the multiple member body or the reappointment of an existing member of a
532 multiple member body.

533 (d) Any appointed multiple member body may make a recommendation for a
534 candidate being considered under section 8-1(b) to the appointing authority who shall consider it.

535 (e) Should the board of selectmen's office fail to supply a list of candidates within
536 thirty (30) days of the date of a request, the appointing authority may make an appointment from
537 those candidates that apply directly to the appointing authority in accordance with requirements
538 of section 8-1(a).

539 (f) All appointed multiple member body members shall be residents of the town
540 unless otherwise specifically provided in the charter or the bylaws or required by law.

541 Section 8-2. Resignations and Removals

542 (a) Any person holding an appointive or elective office may resign the office by
543 filing an original letter, not electronic, of resignation with the town clerk with an electronic or
544 written notification to the chair of the respective multiple member body. The effective date of
545 resignation shall be upon receipt by the town clerk unless a time certain is specified therein when
546 it shall take effect. The town clerk shall notify the appointing authority within three (3) days of
547 receipt of a letter of resignation by forwarding a copy of the letter with date received.

548 (b) Members of the multiple member body may, by majority vote, petition the
549 appointing authority to remove a person in accordance with the procedures herein.

550 (c) Any person appointed to an office or multiple member body may be removed by
551 the appointing authority after a hearing for the following reasons: (1) a violation of the town's
552 Code of Conduct for Elected and Appointed Officials or (2) as otherwise set forth in sections 8-
553 3(a)-8-3(c) below. Where the appointing authority is a body consisting of more than one
554 member, a majority vote by a quorum of the originally constituted appointing authority shall be
555 required for removal.

556 (d) Prior to the removal, the appointee shall first have been served with written notice
557 of the appointing authority's intention and reasons for rescinding said appointment and the date
558 of the hearing and vote, such hearing to be held not less than ten (10) days or more than thirty
559 (30) days after the date of the notice. The notice of such proposed or pending vote shall be

560 delivered by hand or by registered or certified mail, return receipt requested, to the last known
561 address of such person.

562 (e) Nothing in this section shall be construed as granting a right to a hearing when a
563 person who has been appointed for a fixed term is not reappointed when his/her term expires.

564 Section 8-3. Loss of Office, Excessive Absenteeism

565 (a) Any person holding an appointive or elective office who has been convicted of a
566 state or federal felony while holding office or an appointment shall be deemed to have vacated
567 the office.

568 (b) Any person holding an appointive position that requires him/her to be a resident
569 of the town who subsequently moves from the town shall cease to hold the appointed position
570 unless the appointing authority reconfirms the appointment after he/she moves from the town in
571 accordance with section 8-1(f).

572 (c) If any person appointed as a member of a multiple member body shall fail to
573 attend six (6) consecutive meetings, or one-half (1/2) of all the meetings of such body held over a
574 twelve (12) consecutive month period, the remaining members of the multiple member body
575 may, by majority vote, petition the appointing authority to remove such person in accordance
576 with the procedures established in section 8-2; provided, however, that not less than ten (10)
577 business days prior to the date said vote is scheduled to be taken, the body shall deliver in hand
578 or by registered or certified mail, return receipt requested, to the last known address of such
579 person notice of such proposed or pending vote.

580 Section 8-4. Filling Vacancies

581 (a) Whenever a vacancy occurs in an appointed or elective multiple member body,
582 the remaining members shall notify the town clerk in writing within thirty (30) days, unless the
583 town clerk has been otherwise notified. The town clerk, upon notification of such vacancy shall,
584 within three (3) business days of notification of such vacancy, notify in writing the designated
585 appointing authority of the vacancy or in the case of a vacancy in an elective office, the board of
586 selectmen. The appointing authority shall cause public notice of the vacancy or impending
587 vacancy to be posted on the town bulletin board for not less than ten (10) days. Such notice shall
588 contain a description of the duties of the office or position and a listing of necessary or desirable
589 qualifications for the position.

590 (b) A vacancy in an appointed multiple member body shall be filled in accordance
591 with section 8-1.

592 (c) If there is a vacancy in an elected office or elected multiple member body or the
593 school committee, other than the office of the board of selectmen or town moderator, it shall be
594 filled by the board of selectmen together with the remaining members of the appropriate board in
595 accordance with the provisions of general law and this section. The board of selectmen and the
596 remaining member or members of such multiple member body shall jointly fill the vacancy by a
597 roll call vote within forty-five (45) days of the vacancy. The board of selectmen shall give notice
598 of the vacancy fourteen (14) days before the planned appointment. The vote of a majority of the
599 officers entitled to vote shall be necessary for this appointment. No vacancy shall be filled under
600 this section if a regular town election is to be held within one hundred days following the date
601 the vacancy is declared to exist, but said vacancy shall be filled at the next regular town election
602 by the voters. Persons appointed under this section shall serve until the next annual town
603 election. Persons appointed under this section who are candidates in the subsequent election

604 shall not be entitled to have the words “candidate for reelection” printed with that person’s name
605 on the election ballot. The selectmen shall give written notice of the new appointment to the
606 town clerk within seven (7) days.

607 (d) When a vacancy or vacancies occur in the membership of the board of selectmen,
608 the board of selectmen shall call a special town election within one hundred and twenty (120)
609 days to fill the vacancy or vacancies for the unexpired term or terms, except that if such vacancy
610 or vacancies occur less than one hundred and eighty (180) days prior to the annual election and
611 not less than three members of the board of selectmen remain in office, the vacancy or vacancies
612 shall remain unfilled until such annual election.

613 (e) If there is a failure to elect or if a vacancy occurs in the office of town moderator,
614 the town meeting members, at the next session of any town meeting following such vacancy, by
615 a majority vote of those present and voting on a motion to elect a particular person as town
616 moderator, shall fill such vacancy until the next town election. Until town meeting fills such
617 vacancy the town clerk shall serve as temporary presiding officer of such body.

618 Section 8-5. Failure to Fill Vacancies

619 (a) Should an appointing authority other than the board of selectmen fail to notify the
620 town clerk that it has filled a vacancy on a multiple member body in accordance with section 8-1
621 within forty-five (45) days of having been notified in writing by the town clerk of said vacancy,
622 the town clerk shall notify the board of selectmen in writing within three (3) days, who shall then
623 become the appointing authority and shall make such appointment within thirty (30) days
624 thereafter in accordance with section 8-1.

625 (b) Upon the failure of the board of selectmen to fill a vacancy in an appointed
626 position within forty-five (45) days as set forth in subsection 8-5 (a), the majority of remaining
627 members of the multiple member body shall then become the appointing authority and shall
628 make such appointments within thirty (30) days thereafter in accordance with section 8-1. The
629 appointment shall be made by majority vote of a quorum of the multiple member body as
630 originally constituted. The multiple member body shall give written notice of the new
631 appointment to the town clerk within seven (7) days.

632 (c) If a vacancy in an elected office or multiple member body consisting of two (2) or
633 more members is not filled within the required timelines under section 8-4, the vacancy or
634 vacancies will be filled at the next session of any regular or special town meeting following such
635 failure to fill the vacancy or vacancies, by a majority vote of those present and voting on a
636 motion to elect a particular person or persons to fill the vacancy or vacancies. Persons appointed
637 to fill a vacancy by town meeting shall serve only until the next regular town election, when the
638 office shall be filled by the voters.

639 PART IX. General Provisions.

640 Section 9-1. Charter Revision or Amendment.

641 The charter may be replaced, revised or amended in accordance with any procedure made
642 available by article LXXXIX of the amendments to the constitution of the commonwealth and
643 any laws of the commonwealth enacted to implement said

644 article LXXXIX.

645 Section 9-2. Periodic Charter Review.

646 Commencing in the year 2010 and at least every five (5) years after submission of the
647 report and the date of the public hearing thereafter, a charter review committee shall be
648 appointed by the board of selectmen for the purpose of reviewing the provisions of the charter
649 and to make reports concerning any proposed amendments or revisions which such committee
650 deems necessary and such report shall be presented to the board of selectmen within twelve (12)
651 months after the charter review committee's first meeting. The board of selectmen shall hold a
652 public hearing on the report's recommendations within sixty (60) days after the report is
653 presented to the board. The twelve (12) month period may be extended by the board of
654 selectmen.

655 Section 9-3. Severability.

656 The provisions of the charter are severable. If any of the provisions of the charter shall be
657 held to be unconstitutional or invalid, the remaining provisions of the charter shall not be
658 affected thereby. If the application of the charter or any of its provisions to any person or
659 circumstances is held to be invalid, the application of said charter and its provisions to other
660 persons or circumstances shall not be affected thereby.

661 Section 9-4. Rules of Interpretation.

662 The following rules shall apply when interpreting the charter:

663 (a) To the extent that any specific provision of the charter shall conflict with any
664 provision expressed in general terms, the specific provision shall prevail.

665 (b) Words imparting the singular number may extend and be applied to several
666 persons or things; words imparting the plural number may include the singular; and words
667 imparting the masculine gender shall include the feminine gender.

668 (c) All references to the general laws or the laws of the commonwealth shall refer to
669 the General Laws and shall include any amendments or revisions thereto or to the corresponding
670 chapters and sections of any rearrangement of the General Laws enacted subsequent to the
671 adoption of the charter.

672 (d) In computing time under the charter, if seven (7) days or less, only business days
673 shall be counted; if more than seven (7) days, every day shall be counted except that if the last
674 day counted in a computation does not fall on a business day, the last day of computation shall
675 be extended to the next business day thereafter.

676 Section 9-5. Definitions.

677 The following words as used in the charter shall have the following meanings unless
678 another meaning is clearly apparent from the manner in which the word is used:

679 “Business day”: Any day on which the town hall is open to the public to conduct
680 business.

681 “Charter”: The charter and any amendments made through any methods provided under
682 article LXXXIX of the amendments to the constitution.

683 “Commonwealth”, the commonwealth of Massachusetts.

684 “Ex-officio”: A member of any multiple member body who serves by virtue of his or her
685 office or position.

686 “Emergency”: A sudden, unexpected, unforeseen happening, occurrence or condition
687 which necessitates immediate action or response.

688 “Law”: Any statute enacted by the General Court of Massachusetts or any statute
689 enacted by the Congress of the United States and whether otherwise called a General Law or a
690 special law or a public law.

691 “Majority vote”: A majority of those present and voting, provided that a quorum is
692 present when a vote is taken, unless a higher number is required by law or the charter.

693 “Multiple Member Body”: Any board, commission, committee, sub-committee or other
694 body consisting of three (3) or more persons whether elected, appointed or otherwise constituted,
695 but not including the board of selectmen or the school committee.

696 “Town”: the town of Ashland.

697 “Town agency”: any board, commission, committee, department or office of town
698 government, whether elected, appointed or otherwise constituted.

699 “Voters”, the registered voters of the town.

700 Section 9-6. Continuation of Existing Laws.

701 All bylaws, resolutions, rules, regulations and votes of town meeting which are in force at
702 the time the charter is amended and that are not inconsistent with the provisions of the charter,
703 shall continue in force until further amended or repealed.

704 Section 9-7. Precedence of Charter.

705 Where provisions of the charter conflict with provisions of town bylaws, rules,
706 regulations, orders, town meeting votes and acceptances of General Laws, the charter provisions
707 shall govern.

708 Section 9-8. Code of Conduct.

709 The board of selectmen shall develop a code of conduct provided it is consistent with the
710 law and applicable to all elected offices and elected and appointed multiple member bodies, the
711 board of selectmen and the school committee. The code of conduct shall be approved by town
712 meeting.

713 SECTION 3. This act shall take effect upon its passage.