

**HOUSE . . . . . No. 4976**

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**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**

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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.]

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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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 Chapter 405 of the Acts of 2008 is hereby repealed.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.