

# HOUSE . . . . . No. 4036

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Shawn Dooley*

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*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 establishing a charter for the town of Plainville.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>1/17/2019</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>	<i>1/27/2019</i>

# HOUSE . . . . . No. 4036

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By Mr. Dooley of Norfolk, a petition (accompanied by bill, House, No. 4036) of Shawn Dooley and Michael J. Soter (by vote of the town) that the town of Plainville be authorized to establish a charter for said town. Municipalities and Regional Government. [Local Approval Received.]

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court  
(2019-2020)  
\_\_\_\_\_

An Act establishing a charter for the town of Plainville.

*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. The following shall be the charter for the town of Plainville:

2 ARTICLE 1

3 INCORPORATION, POWERS

4 Section 1-1 INCORPORATION

5 The inhabitants of the Town of Plainville within the corporate limits as established by  
6 law shall continue to be a body corporate and politic under the name “Town of Plainville”.

7 Section 1-2 SHORT TITLE

8 This instrument shall be known and may be cited as the Plainville Charter.

9 Section 1-3 POWERS OF THE TOWN

Subject only to express limitation on the exercise of any power or function by a municipality in the constitution or laws of the Commonwealth, it is the intent and purpose of the voters of Plainville to secure through adoption of this charter all powers it is possible to secure for a municipal government under the constitution and the laws of the Commonwealth.

#### Section 1-4 DIVISION OF POWERS

The administration of all of the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by the Board of Selectmen. The legislative powers of the town shall be vested in a town meeting open to all voters.

#### Section 1-5 CONSTRUCTION

The powers of the Town of Plainville under this charter are to be construed liberally in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the Town of Plainville as stated in section 1-3.

#### Section 1-6 INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirement of any provision of the constitution or statutes of the Commonwealth, the Town of Plainville may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States government or any one or more agencies thereof.

#### Section 1-7 PRECEDENCE OF CHARTER PROVISIONS

29 To the extent any existing by-laws, votes, rules or regulations of or pertaining to the  
30 Town of Plainville contravene or otherwise conflict with the provisions of this charter, this  
31 charter shall take precedence.

## 32 ARTICLE 2

### 33 LEGISLATIVE BRANCH

#### 34 Section 2-1 TOWN MEETING

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

#### 37 Section 2-2 PRESIDING OFFICER

38 The moderator, elected as provided in section 3-6, shall preside at all sessions of the town  
39 meeting. At town meetings, the moderator shall regulate the proceedings, decide all questions of  
40 order, make public declaration of all votes and exercise such additional powers and duties as may  
41 be authorized by general law, charter, by-law or vote of town meeting.

#### 42 Section 2-3 FINANCE COMMITTEE

43 There shall be a finance committee appointed by the board of selectmen of such number  
44 of members, and for such term of years in the manner set forth in the town bylaws. No member  
45 of the finance committee shall hold a town office or be employed for compensation by the town.

46 The finance committee shall report, in writing, its recommendations regarding all warrant  
47 articles relative to expenditure of funds together with a statement of the reasons for each such  
48 recommendation.

Section 2-4 TIME OF MEETING

The annual town meeting shall be held in the last quarter of the fiscal year on the date established by by-law.

Section 2-5 SPECIAL MEETINGS

Special town meetings may be held at the call of the board of selectmen at its discretion. Special town meetings shall also be held on the petition of 200 voters, in the manner provided by general law.

Section 2-6 TOWN MEETING WARRANTS

a) Warrants - Every town meeting shall be called by a warrant issued by the board of selectmen, which shall state the time, date and place at which the meeting is to convene and, by separate articles, the subject matter to be acted upon.

b) Initiation of warrant articles – The board of selectmen shall receive at any time all requests for submission to town meeting of an article. The board shall include all articles which are filed by any 10 voters for an annual town meeting; and any 100 voters for a special town meeting. The board of selectmen may establish a deadline by which petitioned articles must be submitted in order to appear on an annual or special town meeting warrant

c) Referral of warrant– Upon execution of any town meeting warrant, the board of selectmen shall forthwith cause a copy of the warrant to be forwarded to the finance committee, town moderator and town clerk. A copy shall also be posted at the location utilized for notices posted under the Open Meeting Law, G.L. c.30A, §§18-25.

Section 2-7 RULES OF PROCEDURE

The town meeting may, by by-law, adopt rules to govern the conduct of all town meetings. Town meeting procedures not otherwise prescribed by bylaw shall be governed by the latest published edition of Town Meeting Time, A Handbook of Parliamentary Law, Johnson, Trustman and Wadsworth, Massachusetts Moderators Association, far as applicable.

## ARTICLE 3

### ELECTED OFFICERS

#### Section 3-1 IN GENERAL

a) Elective Offices – The offices to be filled by the voters shall be a board of selectmen, a board of health, a board of assessors, a town moderator, a town school committee, a planning board, a board of trustees of the library, a board of park commissioners, a housing authority and a redevelopment authority. In addition, members of boards of, or representatives to, regional authorities or districts as may be established by law or by interlocal agreement may be filled by ballot at town elections.

b) Town Election – The date for the annual town election shall be established by by-law.

c) Compensation – Elected town officials shall receive such compensation as may be appropriated annually; provided, however, that such officials shall not be considered “eligible employees” for purposes of G.L. c.32B, §2(d) unless otherwise meeting the requirements of such statute.

d) Coordination – Notwithstanding their election by the voters, the town officers elected under section 3-1 shall be subject to the call of the board of selectmen or of the town administrator, at reasonable times, for discussion of any matter relating to their respective offices or to the town generally.

e) Filling of Vacancies: Elected Officials

1. ) Multiple Member Boards – A vacancy in any multiple member board, other than the board of selectmen, shall be filled by a majority of those present and voting at a joint meeting of the board of selectmen and the remaining members or member of such board, provided that a quorum of the board of selectmen is present. Such meeting shall be held no earlier than 1 week following the posting of notice at the location utilized for notices posted under the Open Meeting Law, G.L. c.30A, §§18-25. The person chosen to fill any such vacancy shall be a registered voter of the town and shall serve in such office until the next regular town election at which the balance of the unexpired term, if any, shall be filled.

2.) Board of Selectmen –If there is a failure to elect a member of the board of selectmen, or if a vacancy occurs on the board of selectmen, the remaining members or member of the board of selectmen may call a special election to fill the vacancy or shall call the special election upon the written request of 200 or more voters filed with the board of selectmen not less than 100 days prior to the date of the next annual election.

3.) Town Moderator – If there is a failure to elect a town moderator or a vacancy occurs in the office, the vacancy shall be filled in accordance with the general laws.

4.) Town Clerk – if there is a failure to elect a town clerk or a vacancy occurs in the office, the assistant town clerk shall serve as town clerk until the clerk’s successor is elected and sworn at a special or annual town election, whichever occurs sooner.

f.) Recall of Elected Officials

1.) Any holder of an elective office in the Town of Plainville may be recalled as herein provided.

2.) Any 30 registered voters of the Town of Plainville may file with the town clerk an affidavit, identifying a “lead petitioner”, and containing the name of the officer sought to be recalled and a statement of the grounds of recall, which affidavit shall be sworn under the pains and penalties of perjury. Said town clerk shall thereupon notify the lead petitioner that petition blanks demanding such recall are available, printed forms of which the clerk shall keep on hand. The blanks shall be issued by the town clerk with the clerk’s signature and official seal attached thereto; they shall be dated and addressed to the selectmen of said town; shall contain the names of the first ten registered voters listed on the affidavit, the name of and office held by the person sought to be recalled, the grounds of recall as stated in said affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with said town clerk on or before the first business day following twenty days after the notice to the lead petitioner that petition blanks are available. Said petition shall be signed by 15% per cent of the registered voters in said town as of the immediately preceding annual town election and to every signature shall be added the place of residence of the signer, giving the street and number. The



registrars of voters shall within 5 business days certify thereon the number of signatures which are names of voters of said town.

3.) If the petition shall be found and certified by the board of registrars to be sufficient, the town clerk shall within 5 business days of certification submit the same to the board of selectmen with the town clerk's certificate. The board of selectmen shall within 5 business days give written notice to the officer against whom the recall is sought of the receipt of said certificate and shall, if the officer does not resign within 5 business days thereafter, thereupon order an election to be held on a Tuesday fixed by the board, not less than 64 nor more than 90 days after the date the election is called; provided, however, that if any other town election is to occur within 90 days after the date of the town clerk's certificate, the board of selectmen may, in its discretion, postpone the holding of said recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided herein.

4.) Any officer sought to be recalled may be a candidate to succeed himself and, unless the officer requests otherwise in writing, said town clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

5.) The incumbent shall continue to perform the duties of the office until the recall election. If then recalled and reelected, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in section seven. If recalled but not reelected in the recall election, the incumbent shall be deemed removed upon the

153 qualification of the incumbent's successor, who shall hold office during the unexpired term. If  
154 the successor fails to qualify within 15 days after receiving written, certified notification of his  
155 election, the office shall be deemed vacant.

156 6.) Ballots used in a recall election in said town shall submit the following propositions  
157 in the order indicated:

158 For the recall of (name of officer and office)

159 Against the recall of (name of officer and office)

160 Under the propositions shall appear the word "Candidates", the directions to voters  
161 required by section 42 of chapter 54 of the General Laws, and the names of candidates for the  
162 office.

163 If a majority of the votes cast upon the question of recall is in the affirmative, the  
164 candidate receiving the highest number of votes shall be declared elected. If a majority of votes  
165 on the question is in the negative, the ballots for the candidates need not be counted.

166 7.) No recall petition shall be filed against an officer of the town within three months  
167 after he takes office or less than three months prior to the end of the term for which said officer  
168 was elected, nor in the case of an officer subjected to a recall election and not recalled thereby,  
169 until at least six months after that election.

170 8.) No person who has been recalled from a town office, or who has resigned from  
171 office following the filing of a recall petition, shall be appointed to any town office within two  
172 years after such recall or resignation. This section, however, shall not preclude any person from  
173 running for elected office within said town.

Section 3-2 BOARD OF SELECTMAN

a.) There shall be a board of selectmen consisting of 3 members elected at-large for terms of 3 years, so arranged that the term of office of one member shall expire each year. No person shall serve on the board of selectmen while at the same time serving as a town employee.

b.) Powers and Duties. The executive powers of the town shall be vested in the board of selectmen, who shall have all the powers given to boards of selectmen by general laws or otherwise. The board of selectmen shall serve as the chief goal-setting, planning and policy-making agency of the town and as such shall not administer the day-to-day affairs of the town. The board of selectmen shall act through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority. Individual selectmen shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board to do so. The selectmen shall appoint a town administrator and a temporary town administrator under sections 4-1 and 4-2, constables, tree warden, fence viewer, town counsel, and members of multiple-member bodies and associate or alternate members thereof.

Members of the board of selectmen shall be ineligible to serve on multiple member bodies established by this charter or by by-law to which the board of selectmen is the appointing authority, except where such appointment contemplates that the board member will represent the board of selectmen on such multiple member body.

c.) The selectmen may remove any person appointed or hired by the board, whether for a fixed or indefinite term.

d.) Licensing Authority. The board of selectmen shall be a licensing board for the town and shall have the power to issue licenses as authorized by General Law, this charter or by-law, make all necessary rules and regulations regarding the issuance of such licenses, attach conditions and impose restrictions on any such license as it deems to be in the public interest, and enforce all laws relating to the issuance of such licenses.

### Section 3-3 PLAINVILLE SCHOOL COMMITTEE

a) There shall be a Plainville school committee consisting of 5 members, each elected for a 3 year term so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

b) Powers and Duties – The Plainville school committee shall have all the powers and duties given to school committees by the General Laws, including, but not limited to, collective bargaining, and it shall have such additional powers and duties as may be authorized by this charter, by-law, or town meeting vote.

### Section 3-4 BOARD OF ASSESSORS

a) There shall be a board of assessors which shall consist of 3 members, each elected for a term of 3 years, so arranged that 1 term shall expire each year.

b) Powers and Duties – The board of assessors shall annually make a fair cash valuation of all property, both real and personal, within the town and, subject to the terms or limitations of this charter, shall have all the powers and duties which are given to boards of assessors under the constitution and laws of the Commonwealth and such additional powers and duties as may be authorized by charter, by-law or other vote of town meeting.

216           Section 3-5    TOWN CLERK

217           a)   There shall be a town clerk elected for a term of 3 years.

218           b)   Powers and Duties – The town clerk shall be the keeper of vital statistics for the  
219 town; the custodian of the town seal; shall administer the oath of office to all persons, elected or  
220 appointed, to any town office; shall issue such licenses and permits as are required by law to be  
221 issued by town clerks; supervise and manage the conduct of all elections and all other matters  
222 relating to elections; be the clerk of the town meeting, keep its records and in the absence of the  
223 town moderator or deputy town moderator to preside pending the election of a temporary town  
224 moderator. The town clerk shall have such other powers and duties as are given to town clerks by  
225 general law, by this charter, by by-law or by other vote of the town meeting.

226           Section 3-6    TOWN MODERATOR

227           a)   Term of office – There shall be a town moderator elected for a term of 3 years.

228           b)   Powers and Duties – The town moderator shall be the presiding officer of the town  
229 meeting, as provided in section 2-2, regulate its proceedings and perform such other duties as  
230 may be provided by general law, by charter, by by-law or by other town meeting vote.

231           Section 3-7    BOARD OF HEALTH

232           a)   There shall be a board of health which shall consist of 3 members, each elected for a  
233 term of 3 years, so arranged that one term shall expire each year.

234           b)   Powers and Duties – The board of health shall be responsible for the formulation and  
235 enforcement of rules and regulations affecting the environment and the public health and, subject  
236 to the terms or limitations of this charter, shall have all of the powers and duties which are given

to boards of health under the constitution and laws of the Commonwealth and such additional powers and duties as may be authorized by charter, by-law or by other vote of the town meeting.

#### Section 3-8 PLANNING BOARD

a) There shall be a planning board consisting of five (5) members who shall be elected for terms of 5 years, so arranged that one term shall expire each year.

b) Powers and Duties – The planning board shall make careful studies of the resources, possibilities and needs of the town and shall make a comprehensive or master plan, setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The planning board shall have the power to regulate the sub-division of land within the town by the adoption of rules and regulations governing such development and the administration of such rules and regulations. The planning board shall make recommendations to the town meeting on all matters affecting land use and development, including the zoning by-law of the town.

The planning board shall make an annual report, giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs. The planning board shall have all of the other powers and duties planning boards are given by general law, by this charter, by by-law or by other vote of the town meeting.

#### Section 3-9 BOARD OF LIBRARY TRUSTEES

a) There shall be a board of library trustees consisting of 3 members, each elected for a term of 3 years, so arranged that one term shall expire each year.

b) Powers and Duties – The board of library trustees shall have custody of and manage the public library and all property of the town related to the library. All funds and property that the town may receive by gift or bequest for the purpose of library support or maintenance shall be administered by the board in accordance with the gift or bequest. The board of library trustees, subject to the terms or limitations of this charter, shall have all the other powers and duties which are given to boards of library trustees under the constitution and laws and such additional powers and duties as may be authorized by this charter, by by-law or other town meeting vote.

#### Section 3-10 BOARD OF PARKS AND RECREATION COMMISSIONERS

a) There shall be a board of parks and recreation commissioners consisting of 3 members, each elected for a term of 3 years, so arranged that one term shall expire each year.

b) Powers and Duties—The board of park and recreation commissioners shall conduct and promote recreation, play, sport, physical education and other programs to meet the leisure time needs of the community. The board of park and recreation commissioners shall have general charge and management of the town playing fields, parks, public lawns and landscaped areas, and the town pool and of all property of the town relating thereto, in coordination with the town administrator. The board of park and recreation commissioners shall have all of the powers and duties which are given to boards of park and recreation commissioners under the constitution and laws of the Commonwealth of Massachusetts, and shall have such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

#### Section 3-11 HOUSING AUTHORITY

a) There shall be a Housing Authority which shall consist of 5 commissioners, each serving for a term of 5 years, so arranged that the term of one commissioner shall expire each year, with the manner of selection for such commissioners to be consistent with that set forth in section 5 of chapter 121B of the General Laws.

b) Powers and Duties – The Housing Authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly and disabled persons of low income. The Plainville Housing Authority shall have such other powers and duties as are assigned to housing authorities by the General Laws.

#### ARTICLE 4

#### TOWN ADMINISTRATOR

##### Section 4-1 TOWN ADMINISTRATOR

a) There shall be a town administrator appointed by the board of selectmen with the powers and duties set forth in this charter. The town administrator shall have the appropriate education, training and administrative experience and shall have at least 3 years of experience in public administration: (i) as a city or town administrator; (ii) as an assistant city or town administrator; or (iii) in a position with substantially similar functions as a city or town administrator or an assistant city or town administrator. The town administrator shall receive compensation for services as determined by the board of selectmen within the amount appropriated for such purposes.



b) The town administrator shall, subject to appropriation, be a full-time position, and the town administrator shall not hold any other elective or appointive office and shall not engage in any other business unless it is approved in advance in writing by the board of selectmen, hereinafter referred to in this act as the board.

c) The board of selectmen shall at least annually evaluate the performance of the town administrator and shall designate 1 member of the board to prepare a fair and concise summary of the evaluation process and results. The summary shall be a public record.

#### Section 4-2. VACANCY; INTERIM; TEMPORARY

a) Vacancy - Upon a vacancy in the office of town administrator because of resignation, removal or otherwise, the board of selectmen may fill the office in the manner it deems to be in the best interests of the town, whether by making a direct appointment of a town administrator or by appointing a screening committee to recommend no less than three candidates for appointment. Candidates for appointment as town administrator shall be required to satisfy the minimum qualifications required by town by-laws or as set forth in the job description for town administrator as it may exist from time to time, or have equivalent experience. If the board appoints a screening committee, it need not appoint a town administrator from amongst the candidates recommended by the screening committee, and may, at the board's sole discretion, request the screening committee to provide additional candidates, disband the screening committee and appoint a new screening committee, or make a direct appointment.

b) Interim Town Administrator - Pending appointment of the town administrator pursuant to subsection (a), the board shall within a reasonable period of time appoint an interim town administrator to perform the duties of the town administrator. The interim town

320 administrator may serve for no more than 6 months; provided, however, that the board may  
321 extend the appointment for not more than an additional 6 months if a permanent town  
322 administrator has not yet assumed the duties of the town administrator or, if the search for a  
323 permanent town administrator is actively ongoing.

324           c) Temporary Town Administrator - The town administrator shall, by a letter filed with  
325 both the board of selectmen and the town clerk, designate a qualified officer or employee of the  
326 town to serve as the temporary town administrator during a temporary absence or disability not  
327 in excess of 14 days. If the temporary absence or disability exceeds 14 days, the board of  
328 selectmen may designate any qualified town officer or employee to serve as the interim town  
329 administrator until the return of the town administrator.

#### 330           Section 4-3.   COMPENSATION

331           a.) The town administrator shall receive compensation for services as determined by the  
332 board; provided, however, that the compensation shall be within the limits of available  
333 appropriations. The board may enter into a contract with the town administrator pursuant to  
334 section 108N of chapter 41 of the General Laws for a period of time to provide for the salary,  
335 fringe benefits and other conditions of employment including, but not limited to, severance pay,  
336 relocation expenses, reimbursement for expenses incurred in the performances of duties or  
337 office, liability insurance and leave.

#### 338           Section 4-4.   APPOINTING AUTHORITY

339           a) Notwithstanding any general or special law to the contrary, the town administrator  
340 shall, based upon merit and qualifications, appoint all town employees except employees of the  
341 school department. The appointments of department heads or agents of appointed or elected

multiple-member bodies shall become effective not later than 15 days following appointment; provided, however, that the board may vote to sooner approve or reject any such appointment.

The town administrator shall consider appointment of departmental employees after seeking, where appropriate, the input or recommendation of the respective department head. When appointing a department head, or agent of appointed or elected multiple member body, that receives policy direction from a multiple-member body, the town administrator shall, prior to making such appointment, consult with the body as to the body's qualifications for the position and the intended process for identifying qualified candidates.

b) Notwithstanding section 108A of chapter 41 of the General Laws and subject to any applicable collective bargaining agreements, individual employment contracts or town personnel by-laws, the town administrator or the town administrator's designee shall be responsible for the classification, assignment, promotion, discipline, discharge or layoff of all town employees except employees of the school department.

c) Subject to any applicable collective bargaining agreements, individual employment contracts or town personnel by-laws, policies established by each multiple-member body derived directly from and adopted to carry out their respective statutory authority shall be applicable to employees appointed by the town administrator; provided, however, that the employees shall be subject to administrative policies and procedures applicable to all employees.

#### Section 4-5. POWERS AND DUTIES

The town administrator shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town administrator is given responsibility under this charter. The board shall communicate to the town

364 administrator its plans and policies so as to secure their effective implementation. The powers,  
365 duties and responsibilities of the town administrator shall include, but not be limited to:

366 a) supervising, directing and being responsible for the efficient administration of all  
367 employees appointed by the town administrator and their respective departments and of all  
368 functions for which the town administrator is given responsibility, authority or control;

369 b) administering, either directly or through persons supervised by the town  
370 administrator, general and special laws applicable to the town, town by-laws and all regulations  
371 established by the board;

372 c) coordinating all activities of town departments under the direction of the board of  
373 selectmen and the town administrator with the activities of departments under the control of  
374 officers, town boards or commissions elected directly by the voters of the town;

375 d) keeping the board of selectmen fully informed as to the needs of the town and  
376 recommending to the board for adoption any measures requiring action by the board or by the  
377 town as the town administrator considers necessary or expedient;

378 e) ensuring that complete and full records of the financial and administrative activity of  
379 the town are maintained and rendering reports to the board as may be required;

380 f) administering personnel policies, practices or rules and regulations, any  
381 compensation plan and any related matters for all municipal employees and administering all  
382 collective bargaining agreements entered into by the town except for school department  
383 agreements;

g) fixing the compensation of all town employees appointed by the town administrator within the limits established by appropriation and any applicable compensation plan;

h) serve as the chief procurement officer of the town for purposes of General Law, chapter 30B, responsible for the procurement of all supplies, materials, services and equipment, and shall award and execute contracts up to a particular dollar amount established by the board of selectmen for supplies, materials and equipment for all departments and activities of the Town, except books and other instructional materials and supplies for school or library use, and except in case of emergency;

i) negotiating all contracts with town employees over wages and other terms and conditions of employment, except employees of the school department, consistent with direction from the board of selectmen; provided, however, that the town administrator may, subject to the approval of the board, employ special counsel to assist in the performance of these duties; and provided further, that all collective bargaining agreements negotiated under this section shall be subject to the ratification of the board;

j) executing warrants for payment of bills and payrolls prepared by the town accountant in accordance with the provisions of section 56 of chapter 41 of the General Laws, and further the town administrator shall report the same to the board of selectmen at the first meeting following such action; provided, however, in the event of a temporary or permanent vacancy in the office of the town administrator, the board of selectmen shall have sole authority to sign such warrants;

k) preparing and submitting an annual operating budget and capital improvement program;

l) keeping the board of selectmen and the finance committee fully informed as to the financial condition of the town and making recommendations to the board and other elected and appointed officials as the town administrator considers necessary or expedient;

m) investigating or inquiring into the affairs of any town department or office under the supervision of the town administrator or the job related conduct of any officer or employee of the town administrator or delegating the authority to another person;

n) performing other duties as necessary or as may be assigned by charter, by-law, town meeting vote or the board;

o) developing, implementing and overseeing an annual performance review procedure for department heads; provided, however, that performance evaluations for all other employees shall be developed and implemented with assistance where appropriate from the respective department head or multi-member town board or committee;

p) appointing, in the event that a particular town office is changed from elected to appointed whether under section 1B or 21 of chapter 41 of the General Laws or any other general law, any such newly created appointed position; provided, however, that the elected incumbent holding office on the effective date of a change in the manner of selection from elected to appointed shall be considered the first appointee to the position and shall hold office for an indefinite term or the incumbent's sooner resignation, retirement or removal.

## ARTICLE 5

### ADMINISTRATIVE ORGANIZATION

#### Section 5-1 ORGANIZATION OF TOWN AGENCIES

427           The organization of the town into operating agencies for the provision of services and the  
428   administration of the government may, unless inconsistent with this charter, be accomplished by  
429   bylaw, subject only to express prohibitions in a general law or the provisions of this charter,  
430   including action to: reorganize, consolidate, create, merge, divide or abolish any town agency, in  
431   whole or in part; establish such new town agencies as it deems necessary or advisable, determine  
432   the manner of selection, the term of office and prescribe the functions of all such entities.

433           Section 5-2    ALTERNATE OR ASSOCIATE MEMBERS

434           a)       Notwithstanding any general or special law to the contrary, the board of  
435   selectmen shall be authorized to appoint no more than two associate or alternate members to  
436   each multi-member body elected under this charter, other than the school committee and the  
437   housing authority, or otherwise authorized by the general laws, which alternate or associate  
438   members may participate in any and all matters pending before such body.

439           b)       The chairman of each multiple member body may designate an associate or  
440   alternate member(s) to sit on the multi-member body in the event of absence, inability to act or  
441   conflict of interest on the part of any member of the body or in the event of a vacancy on the  
442   body. The alternate or associate members shall be appointed for one year terms.

443           Section 5-3    PUBLIC SAFETY DEPARTMENTS

444           a)       Fire Department. There shall be a fire department under the direction of a fire  
445   chief, as established by vote of the town meeting accepting section 42A of chapter 48 of the  
446   General Laws, with the powers, duties and responsibilities under sections 42A, 43 and 44 of said  
447   chapter 48.

b) Police Department. There shall be a police department under the direction of a police chief appointed in accordance with the provisions of chapter 31 of the General Laws, with such powers and duties as established by vote of the town meeting accepting section 97 of chapter 41 of the General Laws.

Section 5-4 Department of Public Works

(a) There shall be a department of public works responsible for the management of public works operations not assigned to other departments including, but not limited to, the highway department, the water department and the sewer department and all other related construction and operations as the town administrator may assign from time to time when necessary and desirable. The board of selectmen shall make all policy decisions relating to the department of public works.

(b) The town administrator shall appoint the director of public works, which director shall provide to the town a bond with a surety company authorized to transact business in the commonwealth as surety for the faithful performance of the director's duties in such sum and upon such conditions as the town administrator shall require.

(c) The director shall supervise and direct the operations and employees of the department pursuant to the general laws, any special laws applicable to the town, the town personnel by-law and any applicable collective bargaining agreements. The director shall be qualified by education, training and experience to perform the duties of the office and shall have such other qualifications as the town may require. The office of director shall be a full-time position. During the director's tenure, the director shall not hold an elective office and shall not engage in a business or occupation relating to public works unless approved in advance by the



board of selectmen. Nothing in this section shall prevent the director from serving on special ad hoc committees in order to represent the town and the department.

## Article 6

### FINANCE AND FISCAL PROCEDURES

#### SECTION 6-1 FISCAL YEAR

The fiscal year of the town of Plainville shall begin on the first day of July and shall end on the last day of June.

#### SECTION 6-2 LONG TERM FINANCIAL PROJECTION

The town administrator shall develop, and submit to the board of selectmen, an overall financial projection of the town and provide an analysis of how the projection relates to the current and upcoming budget of the town. The projection shall provide a guideline as each department formulates its budget for the next fiscal year.

#### SECTION 6-3 ANNUAL BUDGET DEVELOPMENT PROCESS

a) Annually, the town administrator shall establish and issue a budget development schedule for preparing the proposed budget, which shall set forth the calendar dates, requested information and analysis relating to the development of the annual operating budget for the ensuing fiscal year. The town administrator shall issue the budget development schedule at least 150 days prior to the date for the annual town meeting.

b) Pursuant to the annual budget development schedule established in subsection (a), the town administrator shall request and receive from the appointed treasurer-collector, who shall

490 have all the powers and duties of town treasurers and tax collectors under the general laws, and  
491 the board of assessors the estimated revenue for the ensuing fiscal year. Upon receipt of any  
492 additional specific fiscal data provided by the commonwealth or any other source, the above  
493 officials shall revise, update and submit the data to the town administrator.

494 c) The board of selectmen, after consultation with the town administrator, shall issue a  
495 policy statement that shall establish the general guidelines for the next town budget.

496 d) All department heads and all multiple member bodies shall submit detailed budget  
497 requests to the town administrator as the budget calendar shall require.

498 e) The town administrator shall submit to the board of selectmen and the finance  
499 committee, at least 70 days prior to the date for the annual town meeting, an initial proposed  
500 budget for all town functions for the ensuing fiscal year.

501 f) The proposed budget shall provide a complete financial plan for all town funds and  
502 activities and shall be in such form as the town administrator, in consultation with the treasurer-  
503 collector and the finance committee, may establish. The proposed budget shall indicate proposed  
504 expenditures for the current operations and for capital projects during the ensuing year, detailed  
505 by each town agency and by specific purposes and projects.

506 g) The board of selectmen shall present the proposed budget to town meeting by  
507 making the main motion under the annual operating budget article; provided, however, that the  
508 finance committee shall be recognized before any other person or committee for: (1) the finance  
509 committee's recommendations on the budget; and (2) any amendments that the finance  
510 committee deems appropriate.

511           SECTION 6-5 CAPITAL IMPROVEMENTS PLAN

512           The town administrator shall prepare a capital improvement plan for the ensuing five  
513 years, which plan shall be updated annually. The finance committee shall present the proposed  
514 capital expenditures for the current fiscal year's capital improvements to the town meeting.

515           Article 7

516           GENERAL PROVISIONS GOVERNING THE CHARTER

517           SECTION 7-1 PERIODIC CHARTER REVIEW, BY-LAW REVIEW

518           At least once every 10 years, in each year ending in a 5, a special committee to consist of  
519 seven members shall be established for the purpose of reviewing this charter and to make a  
520 report, with recommendations, to the town meeting concerning any proposed amendments which  
521 said committee may determine to be necessary or desirable. The committee shall be appointed as  
522 follows: board of selectmen shall appoint 3 persons, the finance committee shall appoint two 2  
523 persons and the town moderator shall appoint 2 persons. The persons appointed by the town  
524 moderator shall be voters not otherwise involved in town government as a member of any  
525 appointed or elected town agency. The committee shall meet to organize within 30 days of the  
526 call of the board of selectmen to establish the committee, notwithstanding the failure of any  
527 agency to make its designated appointment.

528           SECTION 7-2 REMOVALS AND SUSPENSIONS

529           Any appointed town officer or member of a multiple member body, whether appointed  
530 for a fixed or indefinite term, may be suspended, or removed from office after the opportunity for  
531 a hearing, by the appointing authority. Nothing in this section shall be construed as granting a

532 right to a hearing when a person who has been appointed for a fixed term is not reappointed  
533 when the original term expires.

#### 534 SECTION 7-3 DEFINITIONS

535 The following words shall have the following meanings:

536 Charter This charter as it may from time to time be amended.

537 Days Working days or business days, not including Saturday, Sunday and legal  
538 holidays when the time set is less than seven (7) days. When the time set is seven (7) days or  
539 more, every calendar day shall be counted, unless otherwise specified as “working days” or  
540 “business days”, in which case Saturdays, Sundays and legal holidays will not be counted.

541 Emergency A sudden, unexpected, unforeseen happening, occurrence, event or  
542 condition which necessitates immediate action.

543 general laws Laws that apply to all cities and town, to all towns, or to a class of  
544 municipalities of which Plainville is a member.

545 General Laws The Massachusetts General Laws, a codification and revision of statutes  
546 enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

547 Majority vote Unless otherwise required by law or this charter, a majority of those  
548 members of a multiple member body present and voting, provided a quorum is present. Those  
549 abstaining or voting “present” shall not be counted as voting, although they shall be counted for  
550 purposes of determining a quorum.

551 Minutes The written report of a meeting created by a public body required by the  
552 Open Meeting Law, G.L. c.30A, §§18-25.

553 Multiple Member Body

554 Any town body consisting of 2 or more persons whether styled as a board, commission,  
555 committee, sub-committee, or otherwise, and whether appointed, elected or otherwise  
556 constituted.

557 Quorum Unless otherwise addressed by general or special law or state regulation, a  
558 majority of the full compliment of members of a multiple member body.

559 Town Agency Any board, commission, committee, department, division or office of  
560 town government.

561 Town meeting The open town meeting established in Article 2, whether annual or special.

562 Town Bulletin Boards

563 The posting location for notices under the Open Meeting Law, G.L. c.30A, §§18-25, and  
564 any other location that may be authorized by by-law or vote of the board of selectmen.

565 Town Officer or Town Official

566 When used without further qualification or description, a person having charge of an  
567 office or department of the town who in the exercise of the powers or duties of that position  
568 exercises some portion of the sovereign power of the Town.

569 Warrant The notice provided to voters in association with a town meeting or town  
570 election as required by G.L. c.39, §10.

571           Voters Registered voters of the Town of Plainville.

572           SECTION 2. All general or special laws, town by-laws, votes, rules and regulations of or  
573   pertaining to the town which are in force when this charter takes effect and which are not  
574   specifically or by clear implication repealed hereby, shall continue in full force and effect until  
575   amended or rescinded by due course of law or until they expire by their own limitation. If any  
576   provision of this charter is found to be inconsistent with any general or special law, the provision  
577   of this charter shall be deemed to prevail. Every inconsistency between the prior law and this  
578   charter shall be decided in favor of this charter.

579           SECTION 3. All town agencies shall continue to perform their duties until reappointed,  
580   reelected or until successors to their respective positions are duly appointed or elected, or their  
581   duties have been transferred and assumed by another town agency in accordance with the  
582   provisions of this charter.

583           SECTION 4. Any person holding a town office or employment under the town shall  
584   retain such office or employment and shall continue to perform such duties until provisions shall  
585   have been made in accordance with the charter under section 1 for the performance of those  
586   duties by another person or agency; provided, however, no person in the permanent full time  
587   service of the town shall forfeit pay grade or time in the service of the town as a result of the  
588   adoption of this charter.

589           SECTION 5. Transfer of Records and Property. All records, property and equipment  
590   whatsoever of any office, department or agency or part thereof, the powers and duties of which  
591   are assigned in whole or in part to another office or agency shall be transferred forthwith to the  
592   office, department or agency to which such powers and duties are assigned.

593           SECTION 6. The incumbent elected constables holding office on the effective date of  
594 the charter provided for under section 1 of this act shall continue to serve in said offices for the  
595 balance of the terms for which they were elected; upon the expiration of said terms of office or if  
596 a vacancy shall sooner occur, the position of elected constable shall be abolished and constables  
597 shall thereafter be appointed in accordance with section 3-2(b) of said charter.

598           SECTION 7. Chapter 51 of the acts of 1988 is hereby repealed.

599           SECTION 8. Chapters 125 and 127 of the acts of 2015 are hereby repealed.

600           SECTION 9. Sections 6 and 7 of chapter 3 of the acts of 2016 are repealed.

601           SECTION 10. This act shall take effect upon its passage.