

# HOUSE . . . . . No. 5064

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Text of a further amendment, offered by Mr. Walsh of Peabody, to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2752) of the House Bill approving the Townsend special act charter (House, No. 3728). September 30, 2024.

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## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court  
(2023-2024)

By striking out all after the enacting clause (inserted by amendment by the Senate) and inserting in place thereof the following:–

1           SECTION 1. The charter of the town of Townsend, which is on file in the office of the  
2           archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is  
3           hereby repealed.

4           SECTION 2. The following shall be the charter of the town of Townsend:

5           Article 1

6           Incorporation; Short Title; Powers

7           Section 1-1 Incorporation

8           The inhabitants of the town of Townsend within the corporate limits as established by  
9           law shall continue to be a body corporate and politic with perpetual succession under the name  
10          “Town of Townsend”.

11          Section 1-2 Short Title

12 This instrument shall be known and may be cited as the “Townsend Charter”.

13 Section 1-3 Powers of the Town

14 Subject only to express limitations on the exercise of any power or function by a  
15 municipality in the constitution or laws of the Commonwealth, the voters of the Town shall  
16 secure through the adoption of this Charter all of the powers and authority generally conferred on  
17 a municipal government under the constitution and laws of the Commonwealth.

18 Section 1-4 Division of Powers

19 The administration of all the fiscal, prudential and municipal affairs of the Town shall be  
20 vested in an executive branch headed by a Select Board. The legislative powers of the Town  
21 shall be vested in a Town Meeting that shall be open to all registered voters of the Town.

22 Section 1-5 Construction

23 The powers of the town of Townsend under this Charter shall be liberally construed in  
24 favor of the Town and the specific mention of any particular power shall not limit the general  
25 powers of the town of Townsend as stated in section 1-3.

26 Section 1-6 Intergovernmental Relations

27 Subject to the applicable requirements of the constitution or laws of the Commonwealth,  
28 the town of Townsend may exercise any of its powers or perform any of its functions and may  
29 participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any  
30 other states or civil divisions or agencies thereof or the United States government or any  
31 agencies thereof.

32 Article 2

33 Legislative Branch

34 Section 2-1 Open Town Meeting

35 The legislative powers of the Town shall be vested in a Town Meeting that shall be open  
36 to all registered voters of the Town.

37 Section 2-2 Presiding Officer

38 All sessions of the Town Meeting shall be presided over by a Town Moderator elected  
39 pursuant to Article 3. At the Annual Town Meeting, the Moderator shall appoint a Deputy Town  
40 Moderator, subject to ratification by the Town Meeting. The Deputy Moderator shall serve as  
41 acting Town Moderator in the temporary absence or disability of the Moderator. While presiding  
42 at Town Meeting sessions, the Deputy Moderator shall have all of the powers and duties of the  
43 Moderator but shall have no other powers or duties of the Moderator. In the absence of the  
44 Moderator and the Deputy Moderator, the Town Clerk shall act as acting Town Moderator until  
45 the Town Meeting elects a temporary Town Moderator pursuant to section 3-4.

46 Section 2-3 Committees

47 (a) Finance Committee - There shall be a Finance Committee that shall be appointed by  
48 the Town Moderator in accordance with Town by-laws and the laws of the Commonwealth.

49 (b) Capital Planning Committee - There shall be a Capital Planning Committee that shall  
50 be appointed in accordance with Town by-laws and the laws of the Commonwealth.

51 Section 2-4 Annual Town Meeting

52           The Annual Town Meeting shall be held on such dates as may from time to time be fixed  
53 by Town by-laws.

54           Section 2-5 Special Town Meetings

55           Special Town Meetings shall be held at the call of the Select Board at such times as the  
56 Select Board deems reasonable or necessary to transact the legislative business of the Town in an  
57 orderly manner. Special Town Meetings shall also be held on the petition of not less than 200  
58 registered voters of the Town, in accordance with the procedures prescribed by the laws of the  
59 Commonwealth.

60           Section 2-6 Warrants

61           Each Town Meeting shall be called by a warrant issued by the Select Board. A warrant  
62 shall state the time and place at which the Town Meeting shall convene and, by separate articles,  
63 shall state the subject matters to be acted upon. The publication and posting of the warrant for  
64 each Town Meeting shall be in accordance with the General Laws and Town by-laws.

65           Section 2-7 Initiation and Inclusion of Warrant Articles

66           (a)(1) Initiation - The Select Board shall receive all petitions that request submission of a  
67 matter to the Town Meeting, which may be filed by an elected Town official, a multiple member  
68 body acting by a majority of its members, any 10 registered voters of the Town for the Annual  
69 Town Meeting or any 100 voters for a Special Town Meeting.

70           (2) At a regular meeting of the Select Board, a registered voter may request that a matter  
71 be placed on the Town Meeting warrant in lieu of a written petition. The Select Board may, at its  
72 discretion, accept the request and place the matter on the warrant under its sponsorship or it may

73 request that the matter be submitted by a petition bearing the signatures of the required number  
74 of registered voters of the Town.

75 (b) Inclusion - The Select Board shall include on the Annual Town Meeting warrant all  
76 matters that were submitted, in accordance with Town by-laws, for the submission of articles.

77 When a Special Town Meeting is to be called, the Select Board shall give public notice thereof at  
78 a posted Select Board Meeting. The Select Board may cause additional public notice to be given  
79 pursuant to the laws of the Commonwealth or Town by-laws in any form it deems necessary. All  
80 public notices shall include the date of the close of the warrant. The Select Board shall include  
81 on a Special Town Meeting warrant the subject matter of all petitions that are received in its  
82 office in accordance with the date and time set by the Select Board for the close of the warrant.

### 83 Section 2-8 Availability of Town Officials

84 Each Town Agency shall designate at least 1 representative to attend all sessions of Town  
85 Meeting in which warrant articles pertinent to that Town Agency are or may be taken up. Each  
86 representative shall attend relevant Town Meetings to provide information relative to the articles.  
87 If a person designated as a representative is not a Town resident, such person may,  
88 notwithstanding lack of residency, be authorized to speak to provide the Town Meeting with  
89 pertinent information.

### 90 Section 2-9 Clerk of the Meeting

91 The Town Clerk shall: (i) serve as clerk of the Town Meeting; (ii) record all votes and  
92 (iii) preserve as public records all proceedings of the Town Meeting sessions. The Town Clerk  
93 shall give notice of all adjourned Town Meeting sessions and perform such duties in connection

94 therewith, as may be provided by Town by-laws, this Charter and the laws of the  
95 Commonwealth.

96 If, at a Town Meeting, the office of Town Clerk is vacant, the Town Moderator shall  
97 appoint a clerk pro tempore. If there is an unavoidable absence of the Town Clerk, the Town  
98 Clerk shall designate a substitute; provided, however, that if the Town Clerk fails to designate a  
99 substitute, then the Moderator may appoint a clerk pro tempore.

#### 100 Section 2-10 Rules of Procedure

101 The Town Meeting shall be run in accordance with the accepted edition of the book  
102 “Town Meeting Time”. The Town Meeting may, by Town by-law, establish and from time to  
103 time amend, revise or repeal rules governing Town Meetings. A procedural change shall become  
104 effective for all Annual and Special Town Meetings conducted after the procedural change.

#### 105 Article 3

#### 106 Elected Officials

107

#### 108 Section 3-1 In General

109 (a) Elective Offices - The offices to be filled by the ballot vote shall be the Select Board,  
110 Town Moderator, Town Clerk, Board of Assessors, Board of Health, Planning Board, Board of  
111 Water Commissioners, Board of Library Trustees, North Middlesex Regional School District  
112 School Committee members, Cemetery and Parks Commissioners, Recreation Commissioners,  
113 Trustees of Soldiers’ Memorials, Amanda E. Dwight Entertainment Fund members, Townsend  
114 Housing Authority, James H. Tucker Fund Committee members who are elected at Town

115 Meeting and such other regional authorities, districts or committees as may be required by the  
116 laws of the Commonwealth or by local, inter-local or regional agreements.

117 (b) Eligibility - Any registered voter shall be eligible to hold any elective Town office.

118 (c) Town Election - The Annual Town Election shall be held according to Town by-laws.

119

120 (d) Compensation - Elected Town officials shall receive such compensation as may be  
121 appropriated annually for their services.

122 (e) Coordination - Notwithstanding their election by the registered voters of the Town,  
123 Town officers named in this section shall be subject to the call of the Select Board at reasonable  
124 times for consultation, conference and discussion on any matter relating to their respective  
125 offices.

126 (f) Filling of Vacancies

127 (1) Multiple Member Bodies - If there is a vacancy in a multiple member body, other  
128 than the Select Board, the remaining members shall immediately give written notice of the  
129 vacancy to the Select Board and post notice of the vacancy and a description of the position on  
130 the Town bulletin board utilizing the official notice posting method under the Open Meeting Law  
131 and such notice shall be posted for not less than 10 days. A vacancy on a multiple member body  
132 shall be filled at a joint meeting of the Select Board and of the remaining members of the  
133 multiple member body on which the vacancy exists and shall require a simple majority. Notice  
134 of the joint meeting shall be posted for not less than 5 days. A person appointed to fill a vacancy  
135 under this section shall hold office until the next Town election. If notice of a vacancy is not

136 given within 30 days following the date of the vacancy then, after a notice of 5 business days, the  
137 Select Board shall fill the vacancy without participation of the remaining members of the  
138 multiple member body. This paragraph shall not apply to vacancies where the terms of a will or  
139 trust instrument provide for the filling of vacancies.

140 (2) Select Board - If there is a failure to elect or if a vacancy otherwise occurs on the  
141 Select Board and the next Annual Town Election is not to be held for not less than 6 months  
142 following the date of the vacancy, the remaining members of the Select Board shall, forthwith,  
143 call a special election to fill the vacancy. If a vacancy occurs and more than 3 months but less  
144 than 6 months would elapse before the next Annual Town Election, the Select Board may call a  
145 special election; provided, however, that upon receipt of a petition signed by not less than 200  
146 registered voters of the Town, the remaining members of the Select Board will forthwith call a  
147 special election.

148 (g) Recall Election Procedures - Notwithstanding any general or special law to the  
149 contrary, recall elections shall be conducted pursuant to chapter 27 of the acts of 1995 and the  
150 laws of the Commonwealth.

### 151 Section 3-2 Select Board

#### 152 (a) Composition and Term of Office

153 There shall be a Select Board consisting of 3 members, each elected for a 3-year term, so  
154 arranged that the term of 1 member shall expire each year.

155 The composition of the Select Board may change from 3 to 5 members as determined by  
156 a 2/3 vote of an Annual Town Meeting; provided, however, that any such vote shall be ratified

157 by the voters of the Town at the next Annual Town Election. Members of a 5 member Select  
158 Board shall be each elected for 3-year overlapping terms, so arranged that the terms of as nearly  
159 an equal number of members as possible shall expire each year.

160 (b) Power and Duties

161 The executive powers of the Town shall be vested in a Select Board, which shall be the  
162 chief executive officer of the Town. The Select Board shall have all of the executive power  
163 generally conferred on select boards under the constitution, the laws of the Commonwealth, this  
164 Charter and Town by-laws. These powers shall be extended to any trusts granted to the Select  
165 Board. The Select Board shall formulate and promulgate policy directives and guidelines to be  
166 followed by Town Agencies serving under its jurisdiction and, in conjunction with other elected  
167 multiple member bodies, develop and promulgate policy guidelines designed to bring the  
168 operation of all Town Agencies into harmony. Nothing in this section shall authorize the Select  
169 Board or any individual member thereof, to become involved in the day-to-day administration of  
170 any Town Agency, including direction or supervision of department heads and staff. The Select  
171 Board shall act through the adoption of policy guidelines that shall be implemented by officers  
172 and employees appointed by or under its authority. The Select Board shall assign a liaison to  
173 each multiple member body.

174 (c) Licensing Authority

175 The Select Board shall be the licensing authority of the Town and may issue licenses as  
176 otherwise provided by law. The Select Board shall make all necessary rules and regulations  
177 regarding the issuance of such licenses and may attach conditions and impose restrictions on any

178 such license as it deems to be in the public interest. The Select Board shall enforce all laws, rules  
179 and regulations relating to all businesses to which it issues a license.

180 (d) Appointment Authority

181 (1) Town Employees - Except as otherwise provided in this Charter, the Select Board  
182 shall appoint Town employees.

183 (2) Multiple Member Bodies - Except as otherwise hereinafter provided, the Select Board  
184 shall appoint members of multiple member bodies consistent with the laws of the  
185 Commonwealth and this Charter.

186 (3) Other Appointments - The Select Board shall appoint the members of other multiple  
187 member bodies the functions of which shall not involve direct operating responsibilities but that  
188 are primarily policymaking or advisory in nature. Unless otherwise provided by law, the Select  
189 Board shall also appoint other individuals to the governing or advisory bodies of local, regional  
190 or district authorities who shall serve as representatives of the Town. Personal contracts  
191 hereunder shall be limited to 3 years; provided, however, that all such contracts shall be subject  
192 to the applicable provisions of the General Laws, which shall control.

193 (e) Investigations

194 The Select Board may make investigations and may authorize the Town Administrator to  
195 investigate the affairs of the Town and the conduct of any Town Agency, including any doubtful  
196 claims against the Town. A report of the results of any such investigation shall: (i) be placed on  
197 file in the office of the Select Board; (ii) summarize the results of such investigation; and (iii) be  
198 printed in the next annual Town Report.

199 (f) Screening Committee

200 Unless otherwise specified by Town by-law, there shall be a Screening Committee to  
201 support the transparent selection of candidates for the following positions:

202 (i) Town Administrator;

203 (ii) Police Chief; and

204 (iii) Fire Chief .

205 The Screening Committee shall be appointed by the Select Board and shall include any  
206 number and combination of qualified professionals, Town residents and Town employees as the  
207 Select Board deems appropriate.

208 Section 3-3 Town Moderator

209 (a) Composition and Term of Office

210 A Town Moderator shall be elected for a 3-year term.

211 (b) Power and Duties

212 The Town Moderator shall have all of the powers and duties of a Town Moderator as  
213 provided by the laws of the Commonwealth, this Charter, Town by-laws, regional agreements or  
214 by any other Town Meeting vote.

215 Section 3-4 Town Clerk

216 (a) Composition and Term of Office

217 A Town Clerk shall be elected for a 3-year term.

218 (b) Powers and Duties

219 The Town Clerk shall be the keeper of vital statistics for the Town. The Town Clerk shall  
220 be the custodian of the Town Seal, shall administer the oath of office to all persons elected or  
221 appointed to any Town office and shall issue such licenses and permits as are required bylaw to  
222 be issued by the Town Clerk. The Town Clerk shall supervise and manage the conduct of all  
223 elections and all other matters relating to elections. The Town Clerk shall be the clerk of the  
224 Town Meeting, keep its records and in the absence of the Town Moderator and the Deputy Town  
225 Moderator shall preside pending the election of a temporary Moderator by a Town Meeting vote.  
226 The Town Clerk shall have such other powers and duties as provided by the laws of the  
227 Commonwealth, this Charter, Town by-laws or by any other Town Meeting vote.

228 Section 3-5 Assessors

229 (a) Composition and Term of Office

230 There shall be a Board of Assessors that shall consist of 3 members, each elected for a 3-  
231 year term, so arranged that the term of 1 member shall expire each year.

232 (b) Powers and Duties

233 The Board of Assessors shall have all of the powers and duties of boards of assessors as  
234 provided by the laws of the Commonwealth, this Charter, Town by-laws or by any other Town  
235 Meeting vote.

236 Section 3-6 Board of Health

237 (a) Composition and Term of Office

238           There shall be a Board of Health that shall consist of 3 members, each elected for a 3-  
239 year term, so arranged that the term of 1 member shall expire each year.

240           (b) Powers and Duties

241           The Board of Health shall be responsible for the formulation and enforcement of all rules  
242 and regulations concerning public health. The Board of Health shall have all powers and duties  
243 given to boards of health under the laws of Commonwealth, this Charter, Town by-laws or by  
244 any other Town Meeting Vote.

245           Section 3-7 Planning Board

246           (a) Composition and Term of Office

247           There shall be a Planning Board that shall consist of 5 members, each elected for a 5-year  
248 term, so arranged that the term of 1 member shall expire each year.

249           (b) Powers and Duties

250           The Planning Board shall have all powers and duties given to planning boards by the  
251 laws of the Commonwealth, this Charter, Town by-laws or by any other Town Meeting vote.

252           Section 3-8 Water Commissioners

253           (a) Composition and Term of Office

254           There shall be a Board of Water Commissioners that shall consist of 3 members, each  
255 elected for a 3-year term, so arranged that the term of 1 member shall expire each year.

256           (b) Powers and Duties

257 Notwithstanding any general or special law to the contrary, the Board of Water  
258 Commissioners shall have all powers and duties as provided in a special agreement voted on  
259 September 16, 1933, pursuant to chapter 391 of the acts of 1920 and the laws of the  
260 Commonwealth, including section 69B of chapter 41 of the General Laws, which was accepted  
261 by a vote of the Town Meeting on May 9, 2017, that are not in conflict with the special  
262 agreement.

263 Section 3-9 Library Trustees

264 (a) Composition and Term of Office

265 There shall be a Board of Library Trustees that shall consist of 5 members, each elected  
266 for 3-year overlapping terms, so arranged that the terms of as nearly an equal number of  
267 members as possible shall expire each year.

268 (b) Powers and Duties

269 The Board of Library Trustees shall be responsible for the governance of the free public  
270 library. The Board of Library Trustees shall administer all money and property that the Town  
271 receives, by gift or bequest, for library purposes in a manner consistent with the terms of the gift  
272 or bequest. The Board of Library Trustees shall have all powers and duties given to Library  
273 Trustees under the laws of the Commonwealth, this Charter, trust agreements, Town by-laws or  
274 by other Town Meeting vote.

275 Section 3-10 North Middlesex Regional School District School Committee

276 (a) Composition and Term of Office

277           The composition and terms of office of the members of the North Middlesex Regional  
278 School District School Committee shall be defined in accordance with the North Middlesex  
279 Regional School District agreement, as amended.

280           (b) Powers and Duties

281           The North Middlesex Regional School District School Committee members shall have all  
282 the powers and duties provided by the North Middlesex Regional School District agreement, as  
283 amended.

284           Section 3-11 Cemetery and Parks Commission

285           (a) Composition and Term of Office

286           There shall be a Cemetery and Parks Commission that shall consist of 3 members, each  
287 elected for a 3-year term, so arranged that the term of 1 member shall expire each year.

288           (b) Powers and Duties

289           (1) Cemetery Commissioners shall have general charge and superintendence of all public  
290 burial grounds in the Town and of any lands set aside by the Town for cemetery purposes. The  
291 Cemetery Commissioners shall have all the powers and duties given to Cemetery Commissioners  
292 by the laws of the Commonwealth, this Charter, trust agreements, Town by-laws or by other  
293 Town Meeting vote.

294           (2) Park Commissioners shall have general charge and superintendence of all public  
295 parks. They may improve and make rules and regulations for public parks. The Parks  
296 Commissioners shall have all of the powers and duties given to parks commissioners by the laws

297 of the Commonwealth, this Charter, trust agreements, Town by-laws or by other Town Meeting  
298 vote.

299 Section 3-12 Recreation Commission

300 (a) Composition and Term of Office

301 There shall be a Recreation Commission that shall consist of 5 members, each elected for  
302 3-year terms, each arranged so that the terms of as nearly an equal number of members as  
303 possible shall expire each year.

304 (b) Powers and Duties

305 The Recreation Commission shall develop, operate, schedule and coordinate all  
306 recreation programs for the Town. The Commission shall have all the powers and duties as may  
307 be provided by the laws of the Commonwealth, this Charter, Town by-laws or by other Town  
308 Meeting vote.

309 Section 3-13 Trustees of Soldiers' Memorials

310 (a) Composition and Term of Office

311 There shall be a committee, which shall consist of 5 members, 3 of whom shall be  
312 veterans and 2 of whom shall be non-veterans, elected for 3-year overlapping terms, so arranged  
313 that the terms of as nearly an equal number of members as possible shall expire each year.

314 (b) Powers and Duties

315 The Trustees of Soldiers' Memorials shall have all the powers and duties as may be  
316 provided by the laws of the Commonwealth.

317 Section 3-14 Amanda E. Dwight Entertainment Fund

318 (a) Composition and Term of Office

319 There shall be 3 Trustees of the Amanda E. Dwight Entertainment Fund who shall be  
320 elected for 3-year terms, so arranged that the term of 1 member shall expire each year.

321 (b) Powers and Duties

322 The Trustees of the Amanda E. Dwight Trust shall have all the powers and duties as  
323 defined by the Amanda E. Dwight Trust Agreement established by the Town on September 28,  
324 1928.

325 Section 3-15 Townsend Housing Authority

326 (a) Composition and Term of Office

327 There shall be a Townsend Housing Authority, the composition of which shall be in  
328 accordance with the General Laws.

329 (b) Powers and Duties

330 The Housing Authority shall study the housing needs of the Town and shall provide  
331 programs to make low-income housing available for qualified families and the elderly of low-  
332 income. The Housing Authority shall have all the powers and duties given to housing authorities  
333 by the laws of the Commonwealth.

334 Section 3-16 James H. Tucker Trust Fund Committee

335 (a) Composition and Term of Office

336           There shall be a James H. Tucker Trust Fund Committee that shall consist of 3 West  
337 Townsend Village residents who shall be elected at the Annual Town Meeting.

338           (b) Powers and Duties

339           The James H. Tucker Trust Fund Committee shall act in accordance with the bequest for  
340 the sole purpose of keeping the curbing, gravestones and monuments in good order, including the  
341 installation and maintenance of fencing, as necessary.

342           Article 4

343           Town Administrator

344           Section 4-1 Appointment; Qualification; Terms

345           The Select Board shall appoint a Town Administrator for a term of not more than 3 years,  
346 which term or portion thereof may be renewed. With the exception of the limit on the  
347 aforementioned term or any other requirements of local, state or federal law to the contrary, the  
348 terms affecting the appointment, termination of appointment, renewal or non-renewal of such  
349 appointment shall be set forth and subject to a mutually agreed upon contract. Nothing in this  
350 section shall grant tenure to the Town Administrator. Annually, the Select Board shall fix the  
351 compensation of the Town Administrator within the amount appropriated therefor by the Town.  
352 The Town Administrator shall be appointed based solely on demonstrated executive and  
353 administrative qualifications. The Town Administrator shall be a person especially fitted by  
354 education, training and experience in public administration to perform the duties of the office as  
355 outlined in the job description. Education requirements shall include, at a minimum, a Bachelor's

356 degree but there shall be a preference for a candidate holding a Master’s degree with sufficient  
357 experience administering similarly sized communities, preferably within the commonwealth.

358 The Town Administrator shall not be required to be a resident of the Town at the time of  
359 appointment or at any other time during the period of such service. The Town Administrator  
360 shall not have served in an elective position in Town government for at least 12 months prior to  
361 appointment. The Town may from time to time establish, by Town by-laws, such additional  
362 qualifications as it deems necessary and appropriate. The Town Administrator shall not hold any  
363 other public office in the Town, except as authorized by the General Laws.

364 The Select Board shall provide for an annual review of the job performance of the Town  
365 Administrator that shall, at least in summary form, be a public record. The review shall reflect  
366 the Town Administrator’s performance of the duties of the office as listed in the job description  
367 and any goals and objectives developed by the Select Board.

368 Section 4-2 Powers and Duties

369 The Town Administrator shall be the chief administrative officer of the Town and shall  
370 be directly responsible to the Select Board for the administration of all Town affairs for which  
371 the office of Town Administrator has responsibility under this Charter. For the purposes of this  
372 section, “chief administrative officer” shall mean the person responsible for administrative  
373 management of governmental operations. The powers and responsibilities of the Town  
374 Administrator shall include, but not be limited to, the following:

375 (i) to supervise, direct and provide for the efficient administration of all functions and  
376 activities for which the office of Town Administrator is responsible by this Charter, the laws of

377 the Commonwealth, Town by-laws, by Town Meeting or by a vote of the Select Board as may be  
378 consistent with the General Laws;

379 (ii) to enforce all personnel policies, practices and rules and regulations so that they are  
380 equally administered for all Town employees; provided, however, that if a collective bargaining  
381 agreement or other employment contract is inconsistent with the Town's general policies, the  
382 Town Administrator shall assure that they are administered according to the collective  
383 bargaining agreement or contract, as the case may be; and provided further, that the Town  
384 Administrator's contract shall be overseen and administered by the Select Board;

385 (iii) to attend all regular and special meetings of the Select Board unless unavailable for  
386 reasonable cause; provided, however, that the Town Administrator shall have a voice, but no  
387 vote, in the proceedings;

388 (iv) to keep the Select Board fully advised at a public meeting or in writing as to the  
389 needs of the Town and all applicable local, state and federal agencies and to make  
390 recommendations as may be appropriate to the Select Board of any action required to address  
391 matters of concern;

392 (v) to prepare budgets that fall directly under the Select Board and to oversee the budgets  
393 for any Town Agencies that fall directly under the Select Board; provided, however, that the  
394 Town Administrator shall present to the Select Board the budgets of elected Town Agencies and  
395 the Capital Plan in such a manner that the Select Board shall have an understanding of the total  
396 budget; and provided further, that the Town Administrator shall work with other Town Agencies  
397 including, but not limited to, the Finance Committee, the Accountant, the Assessor and the  
398 Treasurer, to develop a plan for the funding of appropriations;

399 (vi) to serve as the chief procurement officer for the Town in accordance with the  
400 General Laws and to appoint such assistant procurement officers as provided in the General  
401 Laws;

402 (vii) to see that all laws of the Commonwealth, this Charter, Town by-laws and any Town  
403 Meeting votes and votes of the Select Board that require enforcement by the Town Administrator  
404 or other officers subject to the direction and supervision of the Town Administrator, are  
405 faithfully executed, performed or otherwise carried out;

406 (viii) to inquire, at any time, into the conduct and operations of any office or the  
407 performance of any officers and employees of Town Agencies under the jurisdiction of the  
408 Select Board;

409 (ix) to attend all sessions of Town Meeting and to answer all questions raised by voters  
410 that relate to the warrant articles and to matters over which the Town Administrator exercises  
411 any supervision;

412 (x) to coordinate the activities of all Town departments serving under the Town  
413 Administrator and the Select Board with all Town departments under the control of other officers  
414 and multiple member bodies elected by the voters; provided, however, that the Town  
415 Administrator may require the person so elected, or that person's representative, to meet with the  
416 Town Administrator at reasonable times to effect the coordination and cooperation among all  
417 Town Agencies;

418 (xi) to perform any other duties that are required to be performed by the Town  
419 Administrator under the laws of the Commonwealth, this Charter, Town by-laws, the  
420 Administrative Code or by Town Meeting vote or votes of the Select Board; and

421 (xii) to consult with the Select Board in developing long-range goals and objectives for  
422 the Town, including keeping the Select Board informed on the long-range needs of the Town and  
423 proactively suggesting best practices for the Town; provided, however, that for the purposes of  
424 this clause, “best practices” shall mean procedures that have been shown by research or  
425 experience to produce optimal results and that are generally established as standards suitable for  
426 widespread adoption.

427 Section 4-3: Delegation of Authority

428 The Town Administrator may authorize any subordinate officer or employee to exercise  
429 any power or perform any function or duty that is assigned to the office of Town Administrator;  
430 provided, however, that all acts performed under any such delegation shall be deemed to be the  
431 acts of the Town Administrator.

432 Section 4-4: Interim Town Administrator

433 A vacancy in the office of Town Administrator shall be filled as soon as possible by the  
434 Select Board pending a permanent appointment to that office by the Select Board. Upon any such  
435 vacancy, the Select Board shall appoint a qualified person to perform the duties of the Town  
436 Administrator on a temporary basis. The Interim Town Administrator shall have all duties and  
437 responsibilities of the Town Administrator; provided, however, that in selecting an Interim Town  
438 Administrator, the qualifications and educational requirements under section 4-1 shall be  
439 maintained unless waived by the Select Board; and provided further, that compensation for the  
440 Interim Town Administrator shall be set by the Select Board.

441 Article 5

442 Administrative Organization

443 Section 5-1 Administration of Government

444 (a)(1) Bylaws - Unless specifically prohibited by the General Laws or this Charter, the  
445 Town Meeting may, by Town by-law, reorganize, consolidate, create, merge, divide or abolish  
446 any Town Agency, in whole or in part, and establish any new Town Agencies as it deems  
447 necessary or advisable. In furtherance thereof, the Town Meeting may determine the manner of  
448 selection and the terms of office and prescribe the functions of any such agency; provided,  
449 however, that no function assigned by this Charter to a particular Town Agency shall be  
450 discontinued or assigned to any other agency unless this Charter authorizes such discontinuation  
451 or assignment.

452 (2) The Town Administrator, after consultation with the Select Board, may from time to  
453 time prepare and submit to the Town Meeting its plans for organization or reorganization which  
454 shall establish operating divisions for the orderly, efficient or convenient conduct of the business  
455 of the Town. If the Town Administrator prepares such a plan, the Select Board shall hold at least  
456 1 public hearing on the proposal giving notice thereof by publication in a local newspaper, which  
457 notice shall describe the scope of the proposal and the time and place at which the hearing shall  
458 be held that shall be not less than 7 or more than 14 days after publication. Following the public  
459 hearing, the proposal, which may have been amended subsequent to the public hearing, shall be  
460 submitted to the Town Meeting by an appropriate warrant article.

461 (3) An organization or reorganization plan shall become effective at the expiration of 60  
462 days following the date of adjournment of the Town Meeting at which the proposal was

463 approved. The Town Meeting shall vote only to approve or disapprove the plan and shall not  
464 vote to amend or to alter the plan.

465 (b) Administrative Code - Unless specifically prohibited by the General Laws or this  
466 Charter, the Select Board may, through the administrative code, reorganize, consolidate or  
467 abolish any Town Agency, in whole or in part, and establish any new Town Agencies it deems  
468 necessary to the same extent as provided in subsection (a) for Town by-laws. For such purpose,  
469 the Select Board may transfer the powers and duties and, so far as is consistent with the use for  
470 which the funds were made available, transfer the appropriation of 1 Town Agency to another;  
471 provided, however that no function assigned by this Charter to a particular Town Agency shall  
472 be discontinued or assigned to any other agency unless this Charter authorizes such transfer or  
473 assignment.

#### 474 Section 5-2 Publication of Administrative Code and Personnel Plan

475 For public convenience, the administrative code and any amendments thereto shall be  
476 printed as an appendix to, and not as an integral part of, Town by-laws. The personnel and  
477 staffing plan prepared by the Select Board shall be published annually in the Town Report.

#### 478 Section 5-3 Removals and Suspensions

479 (a) Any appointed officer, member of a multiple member body or employee of the Town  
480 who is not subject to civil service law or covered by the terms of a collective bargaining  
481 agreement or employment contract that provides a different method for removal or suspension,  
482 whether appointed for a fixed or an indefinite term, may be suspended or removed from office,  
483 without compensation, by the appointing authority for cause. For the purposes of this section,  
484 “cause” shall include, but not be limited to: (i) incapacity or inability to complete assignments in

485 a timely manner on a routine basis in accordance with principles of reasonable care; (ii) neglect,  
486 meaning failure to perform the duties of the position in a reasonably competent manner or failure  
487 to satisfy performance standards; (iii) chronic absenteeism; and (iv) insubordination, conduct  
488 unbecoming of the office, gross negligence, willful misconduct, willful dereliction of duty,  
489 embezzlement, fraud against the Town or conviction of a felonious act in office. An appointed  
490 officer, member of a multiple member body or employee of the Town may be suspended from  
491 office by the appointing authority if the appointing authority deems the suspension is necessary  
492 to protect the interests of the Town; provided, however, that no suspension shall be for more than  
493 15 days. A suspension may occur concurrently with a removal process and shall not interfere  
494 with the rights of the individual under the removal procedure as provided in subsection (b).

495 (b) When removal under this section is deemed necessary, the appointing authority shall  
496 act in accordance with the following procedure:

497 (i) written notice of the intent to remove and a statement of any cause therefor shall be  
498 delivered by hand or by registered or certified mail, return receipt requested, to the last known  
499 address of the person sought to be removed;

500 (ii) within 5 days following the delivery of notice to the person sought to be removed,  
501 such person may request a public hearing to be convened within 30 days after making the request  
502 unless such time is extended by agreement; provided, however, that any such person may be  
503 represented by counsel, shall be entitled to present evidence, to call witnesses and to question  
504 any witnesses appearing at the hearing; and

505 (iii) between 1 and 10 days after the public hearing has adjourned or, if no public hearing  
506 has been requested, between 6 and 15 days after delivery of the notice of intent to remove, the

507 appointing authority shall take final action by either: (A) removing the officer, member of a  
508 multiple member body or employee; or (B) notifying such person that the notice has been  
509 rescinded; provided, however, that a failure of the appointing authority to take any such action  
510 within the time required by this clause shall be deemed a rescission of the original notice and the  
511 officer, member of a multiple member body or employee shall forthwith be reinstated.

512 (c) Notwithstanding any general or special law or any provision of this Charter to the  
513 contrary, a decision not to renew an employment contract of appointment for a fixed term shall  
514 not constitute a dismissal and shall not require a hearing or trigger the removal procedures  
515 required by this section.

516 (d) This section shall not apply to any appointed officer, member of a multiple member  
517 body or employee of the Town subject to civil service law, a collective bargaining agreement or  
518 employment contract and, as to such persons, the provisions of the civil service law, collective  
519 bargaining agreement or employment contract shall control and apply to the process and to the  
520 suspension, removal or non-renewal.

#### 521 Section 5-4 Procedures Governing Multiple Member Bodies

##### 522 (a) Meetings

523 All multiple member bodies shall meet regularly at such times and places within the  
524 Town as they may by their own rules prescribe. Except in cases of emergency, special meetings  
525 of any multiple member body shall be held at the call of the respective chair or by 1/3 of the  
526 members thereof by written notice delivered to the residence or place of business of each  
527 member not less than 48 hours in advance of the time set to convene. A copy of the notice shall  
528 be posted on the Town bulletin board. A special meeting of a multiple member body shall be

529 called within 1 week after the date of the filing of a petition with the Town Clerk, signed by not  
530 less than 50 voters and stating the purpose for which the meeting is being called.

531 (b) Agendas

532 Before any meeting of a multiple member body is held, an agenda containing all items  
533 that are scheduled to come before the multiple member body shall be posted as required by law.

534 (c) Rules and Minutes

535 Each multiple member body shall determine its own rules and order of business unless  
536 otherwise provided by this Charter or Town by-laws and shall provide for the keeping of the  
537 minutes of its proceedings. The rules and minutes shall be public records and copies thereof shall  
538 be placed on file in the office of the Town Clerk and shall be available for public inspection.

539 (d) Voting

540 Except on procedural matters, all votes of a multiple member body shall be taken by a  
541 call of the roll and the vote of each member shall be recorded in the minutes; provided, however,  
542 that if the vote is unanimous, only that fact shall be required to be recorded.

543 (e) Quorum

544 Unless otherwise required by law, a majority of the members of a multiple member body  
545 then in office shall constitute a quorum but a smaller number may adjourn from time to time and  
546 compel the attendance of absent members in the manner and subject to the penalties prescribed  
547 by the rules of the multiple member body.

548 (f) Filling of Vacancies

549 Whenever a vacancy shall occur in the membership of an appointed multiple member  
550 body, the remaining members shall forthwith give written notice of such vacancy to the Select  
551 Board or other appointing authority. If, at the expiration of 45 days following the delivery of  
552 such notice, the Select Board or other appointing authority has not appointed a person to fill the  
553 vacancy, the remaining members, by a majority vote of the multiple member body, shall fill the  
554 vacancy for the remainder of the unexpired term. The Town Clerk and the Select Board or other  
555 appointing authority shall be notified in writing once the vacancy is filled.

556 (g) Composition of Multiple Member Bodies

557 When established, all multiple member bodies shall consist of an odd number of  
558 members. If the terms of office of the members of a multiple member body are for more than 1  
559 year, such terms of office shall be so arranged so that the terms of as nearly an equal number of  
560 members as possible shall expire each year.

561 Section 5-5 Notice of Vacancies

562 Whenever a vacancy occurs in any Town office, position or employment or whenever by  
563 reason of a pending retirement or expiration of a fixed term a vacancy may be anticipated, the  
564 appointing authority shall forthwith cause public notice of the vacancy to be posted on the Town  
565 bulletin board for not less than 10 days. Such notice shall contain a description of the duties of  
566 the office, position or employment and a listing of the necessary or preferred qualifications to fill  
567 the office, position or employment. No permanent appointment to fill any such vacancy in any  
568 office, position or employment shall be effective until 14 days following the date the notice of  
569 the vacancy was posted to permit reasonable consideration of all applicants. This section shall  
570 not apply to positions subject to civil service law or a collective bargaining agreement.

571 Section 5-6 Loss of Office, Excessive Absence

572 If a person appointed to serve as a member of a multiple member body shall fail to attend  
573 4 consecutive meetings or 1/2 of all meetings of the body held in 1 calendar year, the remaining  
574 members of the multiple member body may, by majority vote, declare the office vacant. Not less  
575 than 10 days prior to the date on which the vote shall be scheduled to be taken, the body shall  
576 deliver notice of the proposed vote by hand, or by registered or certified mail, return receipt  
577 requested, to the last known address of the person sought to be removed.

578 Section 5-7 Terms of Office

579 Notwithstanding any general or special law or any provision of this Charter to the  
580 contrary, if a person has served for an initial term of years in a full-time appointed Town office  
581 and is reappointed to the same office to succeed themselves, such reappointment shall be for an  
582 indefinite term and shall not be subject to further periodic reappointment; provided, however,  
583 that such person shall be subject to removal and suspension in accordance with the procedures in  
584 section 5-3. This section shall not apply to a person subject to a collective bargaining agreement  
585 or a personal services contract.

586 Article 6

587 Finance and Fiscal Procedures

588 Section 6-1 Fiscal Year

589 The fiscal year of the Town shall begin on July 1 and end on June 30 in the following  
590 year unless otherwise provided by the General Laws.

591 Section 6-2 Submission of Budget and Budget Message

592           Within the time fixed by Town by-law and before the Annual Town Meeting is to  
593 convene, the Town Administrator, with the approval of the Select Board, shall submit to the  
594 Finance Committee a proposed operating budget for the ensuing fiscal year for the Town  
595 Agencies under the responsibility of the Select Board. The proposed operating budget  
596 submission shall be accompanied by a budget message and supporting documents. Elected  
597 officials shall submit to the Town Administrator, the Select Board and the Finance Committee a  
598 proposed operating budget for the ensuing fiscal year which shall be accompanied by a budget  
599 message and supporting documents.

600           Section 6-3 Budget Message

601           The budget message of the Select Board shall explain the budget for all Town Agencies.

602           Section 6-4 Town Budget

603           The proposed operating budget shall provide a complete financial plan for all Town funds  
604 and activities for the ensuing fiscal year. The presentation of the budget shall utilize modern  
605 concepts of fiscal presentations required by the General Laws and any regulations promulgated  
606 by the Department of Revenue to furnish maximum information and the best financial control.

607           Section 6-5 Approval of Warrants

608           The Select Board shall be the chief fiscal officer of the Town. Warrants for the payment  
609 of Town funds prepared by the Town Accountant in accordance with the General Laws shall be  
610 submitted to the Town Administrator for review.

611           Article 7

612           General Provisions; Definitions; Periodic Review

613 Section 7-1 Charter Changes

614 This Charter may be replaced, revised or amended in accordance with any procedures  
615 made available under the constitution and the laws of the Commonwealth and the General Laws.

616 Section 7-2 Severability

617 The provisions of this Charter shall be severable. If any provision is held to be invalid,  
618 the other provisions shall not be affected by such invalidity. If the application of this Charter to  
619 any person or circumstance is held to be invalid, such application of this Charter to any other  
620 person or circumstance shall not be affected such invalidity.

621 Section 7-3 Specific Provisions to Prevail

622 To the extent that any specific provisions of this Charter shall conflict with any provision  
623 expressed in general terms, the specific provisions of this charter shall prevail.

624 Section 7-4 Number and Gender

625 Words importing the singular number may extend and be applied to several persons or  
626 things. Words importing the plural number may include the singular. Words importing 1 gender  
627 shall apply to the other gender unless the context clearly requires otherwise.

628 Section 7-5 Rules and Regulations

629 A copy of all rules and regulations adopted by a Town Agency shall be filed in the office  
630 of the Town Clerk at least 10 days before any such rules and regulations shall take effect. Copies  
631 of such rules and regulations shall be made available in the Town Clerk's office for public  
632 inspection upon request.

633 Section 7-6 Periodic Review, Charter and Town by-laws

634 (a) Charter Review - Not less than once every 10 years, the Select Board shall establish a  
635 special committee to review this Charter and to file a report, including its recommendations, to  
636 the Town Meeting concerning any proposed amendments that the committee deems necessary or  
637 advisable. The committee shall consist of 9 members who shall be appointed as follows the: (i)  
638 Select Board, Planning board, Council on Aging and the Board of Library Trustees shall each  
639 appoint 1 person; (ii) Finance Committee shall appoint 2 persons; and (iii) Town Moderator shall  
640 appoint 3 persons. A person appointed pursuant to clause (i) or (ii) shall not be required to be a  
641 member of the agency from which they were appointed. The committee shall meet to organize  
642 forthwith following the final adjournment of the Annual Town Meeting.

643 (b) Bylaw Review - In each year ending in 3 and in each year ending in 8, the Select  
644 Board shall cause to be prepared by a special committee appointed for that purpose, a proposed  
645 revision or recodification of all Town by-laws. The proposed revision or recodification shall be  
646 presented to the Town Meeting for subsequent enactment at the Annual Town Meeting in the  
647 year following the year in which the committee was appointed. The committee, in its final report  
648 and any interim reports, shall include recommendations for any substantive changes in Town by-  
649 laws as it deems necessary or advisable. The review of Town by-laws shall be conducted in  
650 cooperation with Town Counsel or by a special counsel retained for that purpose. Subsequent to  
651 enactment by the Town Meeting, copies of the revised Town by-laws shall be forwarded to the  
652 Attorney General of the Commonwealth for approval pursuant to the General Laws and shall be  
653 otherwise published and made available for public distribution as required by law.

654 Section 7-7 Continuation of Government

655 All Town officials shall continue to perform the duties of their office until: (i) they are  
656 reappointed or reelected; (ii) their successors are duly appointed or elected; or (iii) their duties  
657 have been transferred and assumed by another Town Agency in accordance with this charter.

658 Section 7-8 Definitions

659 For the purposes of this Charter, the following words shall, unless the context clearly  
660 requires otherwise, have the following meanings:

661 (a) “Charter”, this Charter and any amendments to it that may hereinafter be adopted.

662 (b) “Days”, business days, which shall not include Saturdays, Sundays and legal holidays  
663 if the time set is for less than 7 days; provided, however, that if the time set is for 7 days or more,  
664 each day shall be counted.

665 (c) “Emergency”, a sudden, unexcepted, unforeseen happening, occurrence, event or  
666 condition that necessitates immediate action.

667 (d) “General laws”, the laws of the commonwealth that apply alike to all cities and towns,  
668 to all towns or to a class of municipalities of which the Town is a member.

669 (e) “Laws of the Commonwealth “, the General Laws of Massachusetts, a codification  
670 and revision of statutes enacted on December 22, 1920, including all amendments thereto  
671 subsequently adopted.

672 (f) “Local newspaper”, a newspaper of general circulation in the Town regardless of  
673 media.

674 (g) "Majority vote", a majority of those present and voting; provided, however, that a  
675 quorum of the body shall be present when the vote is taken unless a higher number is required by  
676 law.

677 (h) "Multiple member body", a Town body consisting of not less than 2 persons  
678 including, but not limited to: a board, commission, committee or subcommittee, however  
679 constituted.

680 (i) "Registered voter", a person registered to vote in the Town.

681 (j) "Town", the town of Townsend.

682 (k) "Town Agency", a board, commission, committee, department, division or office of  
683 town government.

684 (l) "Town bulletin board", the official Town webpage posting and the bulletin board at  
685 the Town Hall on which official Town notices are posted and any other location that may from  
686 time to time be designated as a Town bulletin board by Town by-law or by vote of the Select  
687 Board or as required by the General Laws.

688 (m) "Registered voter" a person registered to vote in the town of Townsend.

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