

# HOUSE . . . . . No.

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Patrick Joseph Kearney*

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

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

An Act amending the charter of the town of Scituate.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>4/16/2025</i>

# HOUSE . . . . . No.

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[Pin Slip]

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4559 OF 2023-2024.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-Fourth General Court  
(2025-2026)  
\_\_\_\_\_

An Act amending the charter of the town of Scituate.

*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 of the town of Scituate:

2           ARTICLE 1: INCORPORATION; SHORT TITLE; POWERS

3           Section 1-1 - Incorporation

4           The residents of the Town of Scituate, within the corporate limits as established by law,  
5 shall continue to be a body corporate and politic with perpetual succession under the name  
6 "Town Scituate."

7           Section 1-2 - Short Title

8           This instrument shall be known and may be cited as the Scituate Home Rule Charter.

9           Section 1-3 - Powers

Subject only to express limitation on the exercise of any power or function by a municipality the constitution or the General Laws, it is the intent and the purpose of the voters of the Town of Scituate to secure through the adoption of the Charter all of the powers it is possible to secure for a Town government under the constitution and the General Laws as fully and as completely as though each such power were specifically and individually enumerated herein.

#### Section 1-4 - Interpretation of Powers

The powers of the Town of Scituate under the Charter are to be construed liberally in favor of the Town and the specific mention of a particular power is not intended to limit in any way the general powers of the Town of Scituate as stated in Section 1-3.

#### Section 1-5 - Continuation of Existing Laws

All special laws, Town By-Laws, Town Meeting votes, and rules and regulations of or pertaining to the Town in force shall continue in full force and effect until they expire by their own limitation.

#### Section 1-6 - Intergovernmental Relations

Subject to the applicable requirements of any provision of the constitution or the General Laws of the Commonwealth, the Town of Scituate 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 agency thereof.

### ARTICLE 2: LEGISLATIVE BRANCH

Section 2-1 - Town Meeting

The legislative powers of the Town shall continue to be exercised by a Town Meeting open to all voters.

Section 2-2 - Presiding Officer

(a) The Moderator chosen as provided in Section 3-3 shall preside at all sessions of the Town Meeting. The Moderator shall regulate the proceedings, decide all questions of order, make public declaration of all votes, and may exercise such additional powers and duties as may be given to moderators under the constitution and the General Laws, by By-Law, or other vote of the Town Meeting. The Moderator shall, at the first session of the Town Meeting held following the election, appoint a deputy Moderator who shall preside at the sessions of the Town Meeting in the event of the absence or disability of the Moderator provided that the said appointment is ratified by the Town Meeting.

(b) Subject to the provisions of the Charter and such By-Laws regarding committees as may be adopted, the Moderator shall appoint the members of the Advisory Committee and the members of such other committees of the Town Meeting, special or standing, as may from time-to-time be established.

(c) The Moderator shall perform such other duties as may from time-to-time be assign to the office of the Moderator by By-Law, or other vote of the Town Meeting.

Section 2-3 - Time of Meeting

50           The regular annual Town Meeting of the Town of Scituate for the transaction of business  
51 relating to the prudential affairs of the Town shall be held on such date as may from time-to-time  
52 be fixed in the By-Laws of the Town.

53           Section 2-4 - Availability of Town Officials at Town Meetings

54           (a) Every Town officer, or in the case of a Multiple Member Body a designated  
55 representative of such Multiple Member Body, the head of each department and the head of each  
56 division within the said departments shall attend all sessions of the Town Meeting for the  
57 purpose of providing the Town Meeting with information pertinent to matters appearing in the  
58 warrant.

59           (b) Any Town officer, department head or division head who is to be absent due to illness  
60 or other reasonable cause, shall designate a deputy to attend to represent the office, department  
61 or division.

62           (c) If any person required to attend the sessions of Town Meeting under the preceding  
63 provisions of this section is not a voter such person shall, notwithstanding such fact, be entitled  
64 to speak to provide the Town Meeting with information on pertinent warrant articles.

65           Section 2-5 - Procedures

66           (a) Clerk of the Meeting - The regular Town Clerk shall serve as clerk of the meeting,  
67 give notice of all meetings, record the proceedings of all meetings and perform such other duties  
68 as may from time-to-time be assigned to the clerk of the meeting by By-Law or other vote of the  
69 Town Meeting.

(b) Rules of Procedure - The Town Meeting shall by By-Law adopt and may from time-to-time amend, revise, or repeal such rules governing the conduct of the Town Meeting as it may deem necessary or advisable.

(c) Warrant Articles - The Select Board shall insert in the warrant for each Town Meeting all articles the subjects of which are requested of them in the manner provided by law. In preparation of the warrant the Select Board shall, insofar as it is practical to do so, join into one (1) article all requests which deal with the same subject matter.

### ARTICLE 3: ELECTED OFFICIALS

#### Section 3-1 - General Provisions

(a) Elective Offices - The offices to be filled by the voters shall be a Select Board, a Moderator, a School Committee, a Planning Board, a Board of Assessors, a Board of Library Trustees, a Town Clerk, a Housing Authority and such members of regional authorities or districts as may be established by the General Laws, interlocal agreement or otherwise.

(b) Eligibility - Only individuals registered to vote in the Town of Scituate shall be eligible to hold elective Town office; but no elected Town official shall simultaneously hold any other elected Town office or be appointed to any office other than as a member of a Multiple Member Body.

(c) Election - The regular elections for Town office shall be held annually on such date as may from time-to-time be fixed in the By-Laws of the Town.

(d) Compensation - Elected Town officials shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(e) Coordination of Officials - Notwithstanding the election by the voters of the officers named in this article, the said officers shall be subject to the call of the Select Board or of the Town Administrator for consultation, conference and discussion of any matter relating to their respective offices.

Section 3-2 - Select Board: Composition, Term of Office; Powers, Duties, Etc.

(a) Composition, Term of Office - There shall be a Select Board consisting of five (5) members elected by the voters. The term of office of Select Board members shall be for three

(3) years. The terms of office of Select Board members shall be so arranged that two (2) Select Board members shall be elected one (1) year, two (2) Select Board members shall be elected the next year, and one (1) Select Board member shall be elected the third year. The election ballots for each year in which more than one (1) Select Board member is to be elected shall set forth each position to be filled as a separate position, called position one and position two. A candidate for the office of Select Board shall be listed as a candidate for either position one or a candidate for position two, but not as a candidate for both. The candidate receiving the highest number of votes for each position shall be declared elected to that position.

(b) (1) General Powers and Duties -The executive powers of the Town shall be vested in the Select Board. The Select Board shall have the powers and duties given to the Select Board under the constitution and the General Laws, except those powers and duties assigned by this Charter to the Town Administrator, and shall have additional powers and duties as may be authorized by the Charter, by By-Law, or by other Town Meeting vote. The Select Board shall be the water and sewer commissioners of the Town. The Select Board shall cause the laws and orders for the government of the Town to be enforced and shall cause a record of all its official

113 acts to be kept. To aid the Select Board, in its official duties, the board shall appoint a Town  
114 Administrator, as provided in Article 4.

115 (2) The Select Board shall serve as the chief policy making agency of the Town and shall  
116 exercise its general supervisory powers through the adoption of policy directives and guidelines.  
117 Such policies shall include, but shall not be limited to: policies by which the legislative directives  
118 and intent of the Town Meeting may be implemented; policies governing a general  
119 oversight and evaluation of the administration of the Town government; policies for the  
120 coordination and development of both short and long range planning for the future of the Town;  
121 policies to support appropriate emergency response plans; and policies governing the  
122 development of an  
123 annual operating budget sufficient to perform all functions required by law and by  
124 legislative actions of the Town Meeting. All such policies shall be reviewed by the Select Board  
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137 annual operating budget sufficient to perform all functions required by law and by  
138 legislative actions of the Town Meeting. All such policies shall be reviewed by the Select Board  
139 at least  
140 every three (3) years.

141 (4) The Select Board shall be responsible for the efficient and orderly operation of the  
142 Town government through its policies except for those under the direction of another  
143 separately  
144 elected Town agency.

145 (5) The Select Board shall be the license board of the Town and shall have the power to  
146 issue licenses, except those licenses issued by the Town Clerk in accordance with the  
147 General  
148 Laws, to make all necessary rules and regulations regarding the issuance of such licenses  
149 and to  
150 attach such conditions and restrictions thereto as it deems to be in the public interest, and  
151 to enforce the laws relating to all business for which it issues licenses.

152 (6) The Select Board shall perform a review of the job performance of a new Town

153 Administrator after the first six (6) months of the effective date of the initial contract. The  
154 job  
155 performance of the Town Administrator shall then be reviewed annually thereafter by the  
156 Select  
157 Board. The Select Board shall be required to publicly acknowledge that the performance  
158 reviews  
159 required under this subsection have occurred.

160 (c) Appointments - The Select Board shall appoint a Town Administrator and a Town  
161 counsel to serve indefinite terms, as allowed under the General Laws. It shall appoint, for  
162 fixed terms, a Town accountant, a treasurer-collector, election officers, the veteran officers,  
163 constables  
164 and all individuals who are to serve as representatives or delegates of the Town to  
165 governing or  
166 advisory bodies of other units of government. It shall also appoint for fixed terms, fence  
167 viewers,  
168 field drivers, and a measurer of wood and bark. It shall appoint, for fixed overlapping  
169 terms, the  
170 members of the board of appeals, registrars of voters, board of health and all other  
171 Multiple

172 Member Bodies that are established for other than a temporary purpose, except those for  
173 which

174 the Charter provides another appointing authority. Any person appointed to an office  
175 under this

176 section may be removed in accordance with the procedures governing removal in Section  
177 7-12.

178 (d) Investigations - The Select Board may investigate or authorize the Town  
179 Administrator, another officer of the Town, or any agency, public or private, to investigate the  
180 conduct of any Town department, office, or agency. The report of any such investigation shall be  
181 filed in the Town Administrator's office, and a summary of that report shall be printed in the next  
182 annual Town report.

183 (e) Responsibility to Assure Charter Provisions are Met - It shall be the duty of the Select  
184 Board to see that the provisions of the Charter are faithfully followed and complied with  
185 by all

186 Town agencies and Town employees. Whenever it appears to the Select Board that any  
187 Town

188 agency or Town employee is failing to follow any provision of this Charter, the Select  
189 Board

190 shall, in writing, cause notice to be given to such agency or employee directing  
191 compliance with the Charter. If ten (10) or more voters for an annual Town Meeting or one  
192 hundred (100) or more

193 voters for a special Town Meeting believe the Select Board itself is not following the  
194 procedures

195 established in the Charter, a warrant article may be submitted to a Town Meeting  
196 suggesting that

197 the Select Board is not following the provisions of the Charter. The Town Meeting, if it  
198 shall

199 agree with the petitioners, shall, by resolution, direct the attention of the Select Board to  
200 those

201 areas in which the voters at the Town Meeting believe there is a failure to comply with  
202 Charter

203 provisions.

204 (f) The procedures made available in chapter 231A of the General Laws may be used to  
205 determine the rights, duties, status or other legal relations arising under this Charter,  
206 including

207 any question of construction or validity which may be involved in such determination.

208 Section 3-3 - Moderator: Term of Office; Powers and Duties

209 (a) Term of Office - At each Town election a Moderator shall be nominated and elected  
210 by the voters for a term of one (1) year.

211 (b) Powers and Duties - The Moderator shall have the powers and duties provided for that

office by the General Laws, by this Charter, as defined in Section 2-2, by By-Law and by other vote of the Town Meeting.

#### Section 3-4 - School Committee: Composition, Term; Powers and Duties

(a) Composition, Term of Office - There shall be a School Committee consisting of five (5) members elected by the voters. The term of office of a School Committee member shall be for three (3) years. The terms of office of School Committee members shall be so arranged that two (2) School Committee members shall be elected one (1) year, two (2) School Committee members shall be elected the next year, and one (1) School Committee member shall be elected the third year. The election ballots for each year in which more than one (1) School Committee member is to be elected shall set forth each position to be filled as a separate position, called position one and position two. A candidate for School Committee member shall be listed as a candidate for either position one or a candidate for position two, but not as a candidate for both. The candidate receiving the highest number of votes for each position shall be declared elected to that position.

(b) Powers and Duties - The School Committee shall have all of the powers and duties school committees may have under the constitution and the General Laws, and it shall have such additional powers and duties as may be authorized by the Charter or by By-Law.

#### Section 3-5 - Planning Board: Composition, Terms of Office; Powers and Duties

(a) (1) Composition, Term of Office - There shall be a Planning Board consisting of five (5) members elected by the voters. The voters shall also elect one (1) person as an alternate

member of the Planning Board. The terms of office for Planning Board members, including the alternate member, shall be for three (3) years. The terms of office of the Planning Board members shall be so arranged that two (2) Planning Board members shall be elected one (1) year, two (2) Planning Board members shall be elected the next year, and one (1) Planning Board member and the alternate member shall be elected the third year. The election ballots for each year in which two (2) Planning Board members are to be elected shall set forth each position to be filled as a separate position called position one and position two. A candidate for Planning Board member shall be listed as a candidate for either position one, or as a candidate for position two, or as a candidate for alternate member (but not both positions appearing on the ballot). The candidate receiving the highest number of votes for each position shall be declared elected to that position.

(2) Whenever a member of the Planning Board is absent, or because of a conflict of interest or other disability is unable to sit on a particular matter the chair shall designate the alternate member to sit as a member of the Planning Board during such absence or disability.

(b) Powers and Duties - The Planning Board shall have all of the powers and duties planning boards may have under the constitution and the General Laws. The Planning Board may also exercise such additional powers and duties as may from time-to-time be assigned to them by the Charter, by By-Law or by other vote of the Town Meeting.

Section 3-6 - Board of Library Trustees: Composition, Term of Office; Powers and Duties

(a) Composition, Term of Office - There shall be a Board of Library Trustees consisting of six (6) members nominated and elected by the voters. Two (2) of these members shall be elected each year for terms of three (3) years.

(b) Powers and Duties - The Board of Library Trustees shall have general charge of the management of Town libraries, and of all non-facility property of the Town relating thereto.

#### Section 3-7 - Town Clerk: Term of Office; Powers and Duties

(a) Term of Office - There shall be a Town Clerk nominated and elected by the voters for the term of three (3) years.

(b) Powers and Duties - The Town Clerk shall have all of the powers and duties town clerks may have under the constitution and the General Laws. The Town Clerk may also exercise such additional powers and duties as may from time-to-time be assigned to that office by the Charter, by By-Law or by other vote of the Town Meeting.

#### Section 3-8 - Board of Assessors: Composition, Term of Office; Powers and Duties

(a) Composition, Term of Office - There shall be a Board of Assessors consisting of three (3) members who shall be nominated and elected by the voters. One (1) of these members shall be elected each year to serve for the term of three (3) years.

(b) Powers and Duties - The Board of Assessors shall have all of the powers and duties which boards of assessors may have under the constitution and the General Laws. The Board of Assessors may also exercise such additional powers and duties as may from time-to-time be assigned to that office by the Charter, by By-Law or by other vote of the Town Meeting.

#### Section 3-9 - Housing Authority: Composition, Term of Office; Powers and Duties

(a) Composition, Team of Office - There shall be a Housing Authority to consist of five (5) members serving five (5) year overlapping terms such that the term of one (1) member term expires each year. Such members shall be appointed or elected in accordance with the General Laws.

(b) Powers and Duties - The Housing Authority shall have all of the powers and duties housing authorities may have under the constitution and the General Laws.

#### ARTICLE 4: TOWN ADMINISTRATOR

##### Section 4-1 - Qualifications

The Town Administrator shall be appointed solely on the basis of executive and administrative qualifications and experience. The Town Administrator shall be a person especially fitted by education, training and professional experience in full-time service in public administration to perform the duties of the office. The Town Administrator need not be a resident of the Town. The Town Administrator shall not have served in elective office in the Town's government for at least two (2) years prior to appointment. The Town Administrator shall devote full-time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during the term, unless such other service is approved in advance by vote of the Select Board. The Select Board shall fix compensation for the Town Administrator within the amount appropriated by the Town, provided for in the Town Administrator's contract along with all other requirements for the Town Administrator, including performance, benefits, and other items relating thereto.

##### Section 4-2 - Powers and Duties



The Town Administrator, the chief administrative officer of the Town, shall be responsible to the Select Board, and shall be accountable to the said board, for the efficient and orderly conduct of the departments, offices, and functions placed in the charge of the Town Administrator by the Charter and for the proper execution of the powers and duties that follow:

(a) The Town Administrator shall be the personnel director of the Town responsible for the administration of all personnel matters, including personnel By-Laws and all personnel policies and regulations that the Select Board may adopt.

(b) The Town Administrator shall appoint and may remove, subject to the civil service law where applicable, all department heads, all officers and all subordinates and employees of the Town except those appointments for which another method of appointment is provided in the Charter, appointments of the School Committee, and appointments made by representatives of the Commonwealth. Appointments made by the Town Administrator shall become effective on the fifteenth (15th) day following the day notice of the appointment is filed with the Select Board unless the said board shall within that period by a majority of all of its members vote to reject the said appointment. Within said fifteen (15) day period the Select Board may, by a majority of all of its members vote to waive its power to reject the appointment, whereupon the appointment shall become effective forthwith.

(c) The Town Administrator shall exercise a general supervision over all Town agencies for which the Town Administrator is the appointing or employing authority.

(d) The Town Administrator shall fix the compensation of all Town officers and employees appointed by the Town Administrator, within the limits established by existing appropriations and the By-Laws.

(e) The Town Administrator shall see that all provisions of the General Laws, the Charter, and the By-Laws, and all votes of the Town Meeting and the Select Board, that require enforcement by the Town Administrator or officers subject to the supervision of the Town Administrator, are faithfully carried out.

(f) The Town Administrator shall prepare and submit the annual budget as provided in Article 6.

(g) The Town Administrator shall be responsible for keeping full and complete records of the financial and administrative activities of the Town, and shall render a full report to the Select Board at the end of each fiscal year and otherwise as said board may require.

(h) The Town Administrator shall keep the Select Board informed as to the financial condition and needs of the Town and shall make such recommendations to the Select Board as is deemed to be necessary or expedient.

(i) The Town Administrator shall have full jurisdiction over the rental and use of all Town facilities except schools and properties designated by By-Laws or other vote of the Town as Scituate Historical Sites. The Town Administrator, as directed by the Select Board, shall be responsible for the maintenance and repair of all Town property, including school buildings, placed under the control of the Town Administrator by the Charter, by By-Laws or otherwise; provided; however, that the approval of the School Committee shall be obtained for all school maintenance and repair plans.

(j) The Town Administrator may, without notice, examine the activities of any agency under the control of the Town Administrator or the conduct of any officer or employee

338       thereof. The Town Administrator shall have access to all Town books and records necessary for  
339       the performance of the duties of the office.

340               (k) The Town Administrator shall keep a full and complete inventory of all property of  
341       the Town, both real and personal.

342               (l) The Town Administrator shall be responsible for the negotiation or bidding of all  
343       contracts involving any matter within the responsibility of the Town Administrator. All contracts  
344       for purchases or services exceeding an amount fixed by the Select Board shall be subject to final  
345       approval and execution by the Select Board.

346               (m) The Town Administrator shall be responsible for purchasing all supplies, materials  
347       and equipment for all departments and activities of the Town, excluding all operational  
348       expenditures of the school department and Town library books and related materials, unless  
349       specifically requested to do so by the School Committee or the Board of Library Trustees, as  
350       applicable.

351               (n) The Town Administrator shall perform any other duties required by the By-Laws or  
352       votes of the Town Meetings, the Select Board, or the General Laws.

353               (o) The Town Administrator shall be the Town's risk administrator and be responsible for  
354       ensuring that all pertinent insurance policies are in effect, that adequate insurance coverage is  
355       provided, and that claims are properly processed.

356               (p) Powers and duties shall include, in addition to those set forth in the Charter, any  
357       reasonable assignment by the Select Board or Town Meeting that does not conflict with the  
358       powers and duties of other Town officials or Multiple Member Bodies, or the Charter.

359           Section 4-3 - Acting Town Administrator

360           During a temporary absence, the Town Administrator shall designate by letter filed with  
361   the Select Board, a qualified administrative employee or officer to exercise the powers and  
362   perform the duties of Town Administrator. If the Town Administrator fails to do so, or the  
363   person appointed fails to serve to the satisfaction of the Select Board, the Select Board may  
364   appoint a qualified administrative employee or officer to so serve. In the event of suspension of  
365   the Town Administrator or a vacancy in the office, the Select Board shall appoint an acting  
366   Town Administrator within fourteen (14) days. Appointment of a new Town Administrator must  
367   be made within five (5) months of the effective date of a vacancy in that office, except that such  
368   period may be extended by a period not to exceed two (2) months by vote of the Select Board.

369           Section 4-4 - Hiring Procedures for Town Administrator

370           The Select Board is responsible for recruiting, interviewing, and hiring of the Town  
371   Administrator. They will be assisted in this duty by appointing a search committee comprised of  
372   qualified Town officials and residents. The composition of this committee is determined by the  
373   Select Board or, if defined, by Town By-Law. Finalists for the position of Town Administrator  
374   shall be interviewed in a public meeting posted in accordance with the Town By-Laws. Selection  
375   of the Town Administrator shall require a majority affirmative vote by the Select Board.

376           Section 4-5 - Removal of the Town Administrator

377           The Select Board may remove the Town Administrator from office after first applying  
378   the  
379   following procedures:

(a) Notice: The Select Board, by a super majority affirmative vote consisting of not less than four (4) of its members, shall adopt a preliminary resolution of removal setting forth in reasonable detail the reason(s) for the proposed removal. This resolution may suspend the Town Administrator for a period not to exceed forty-five (45) days. Notice of this resolution will immediately be delivered to the Town Administrator and filed with the Town Clerk.

(b) Public Hearing: Within five (5) days of delivery of said resolution, the Town Administrator may request a public hearing. Such a hearing must take place not more than thirty (30) days from receipt of the request. Notice of the hearing date must be publicly posted and directly provided to the Town Administrator at least five (5) days prior to the hearing. The Town Administrator shall be entitled to present evidence, have counsel, call witnesses, or question any witnesses during the hearing.

(c) Removal: If the Town Administrator does not request a hearing, the Select Board may vote by super majority to affirm the resolution and permanently remove the Town Administrator. If the Town Administrator requests a hearing, the Select Board must wait at least five (5) days after the conclusion of the hearing to vote by super majority to affirm the resolution and permanently remove the Town Administrator. Failure to adopt a final resolution within forty-five (45) days of the preliminary resolution shall nullify the resolution.

(d) The Town Administrator shall continue to receive salary and benefits included in a valid contract until a final resolution of removal becomes effective.

## ARTICLE 5: ADMINISTRATIVE ORGANIZATION

### Section 5-1 - Creation of Departments, Divisions, Agencies, and Offices

The organization of the Town into operating agencies may be accomplished through either of the following methods provided in this section:

(a) By-Laws - Subject only to express prohibitions in the constitution and the General Laws, and provisions of the Charter, the Town Meeting may, by By-Law, reorganize, consolidate, or abolish any Town agency, in whole or in part; establish such new Town agencies as it deems necessary or advisable and may prescribe the functions of any such Town agency; provided, however, that no function assigned by the Charter to a particular Town agency may be discontinued or, unless the Charter specifically so provides, assigned to any other.

(b) (1) Administrative Code - The Select Board, after consultation with the Town Administrator, shall from time-to-time prepare and submit to the Town Meeting plans of organization or reorganization, which establish Town agencies for the orderly, efficient or convenient conduct of the business of the Town. Whenever the Select Board prepares such a plan it shall hold one (1) or more public hearings on the proposal giving notice as required by the General Laws or special mandate of the Commonwealth not less than five (5) days in advance, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held. Following such public hearing, the Select Board shall submit to the Town Meeting by warrant article their proposal which may have been amended subsequent to the public hearing.

(2) An organization or reorganization plan shall become effective at the expiration of ninety (90) days following the date of the Town Meeting at which the proposal is submitted unless the Town Meeting shall, by a majority vote within that time, vote to disapprove the plan.

422 The Town Meeting may vote only to approve or disapprove the plan and may not vote to amend  
423 or alter it.

424 (3) The Select Board may through the administrative code, and subject only to express  
425 prohibitions in the constitution, the General Laws and the Charter, reorganize, consolidate or  
426 abolish all Town agencies in whole or in part; establish such new Town agencies as they deem  
427 necessary; and for such purpose may transfer the duties and powers and, so far as is consistent  
428 with the use for which the funds were voted by the Town, transfer the appropriation of one Town  
429 agency to another; provided, however, that no function assigned by this Charter to a particular  
430 Town agency may be discontinued, or, unless this Charter specifically so provides, assigned to  
431 any other.

#### 432 Section 5-2 - Personnel Plan

433 The Town Administrator shall be responsible for preparing and maintaining a personnel  
434 policy manual to support the professional management of the Town and its employees. Such  
435 requirements included in the personnel plan shall be consistent with the Charter, By-Laws, and  
436 the General Laws; and shall be approved by the Select Board.

#### 437 Section 5-3 - Merit Principle

438 All appointments and promotions of Town officers and employees shall be made solely  
439 on the basis of merit and fitness demonstrated by examination or by other evidence of  
440 competence and suitability.

#### 441 Section 5-4 - Department of Public Works

(a) The Department of Public Works shall be headed by a director, who shall be appointed by the Town Administrator. The director of the Department of Public Works shall be a person especially fitted by education, training, and previous experience to perform the duties of the office.

(b) The director of the Department of Public Works shall be responsible to the Town Administrator for the efficient and orderly operation of the department. The director of the Department of Public Works shall be responsible for the supervision of all public works operations of the Town placed under the control of the director of public works by the Charter, the By-Laws, administrative codes, the General Laws or otherwise including, but not limited to, the department's principal functions, as well as refuse disposal, forestry service, protection of natural resources, and maintenance of physical plant.

(c) The Town Administrator shall be responsible to the Select Board for the planning and coordination of Department of Public Works projects. To assist in the planning and coordinating functions, the Town Administrator may appoint a public works advisory board of three (3) members for indefinite terms, whose training, occupation or experience indicate qualification for service on such a board. This board shall serve in an advisory capacity to the Town Administrator and director and shall not become involved in the day-to-day operations of the department.

(d) Other functions and duties, the nature of which are related to a Department of Public Works, may be assigned to the department from time-to-time by By-Law or administrative code as provided in Section 5-1.

Section 5-5 - Public Building Maintenance



(a) The responsibility for the maintenance and repair of all Town owned buildings and grounds shall be consolidated under the Select Board, who shall oversee maintenance of all Town buildings as set forth in Section 4-2(i). The Select Board, after consultation with the School Committee where appropriate, shall determine the manner in which such responsibility shall be assumed and the services delivered. The Select Board and the School Committee may from time-to-time, but no less than annually, meet or otherwise communicate to assure the proper maintenance of all school buildings.

(b) Nothing in this section shall be construed so as to interfere in any way with the appointment by the School Committee, or by other school department personnel serving under it, of the maintenance personnel in school buildings who perform, so-called, ordinary maintenance. It is the intention of this provision however, that standards for the work to be performed will be established jointly by the School Committee and the Select Board.

## ARTICLE 6: FINANCES AND FISCAL PROCEDURES

### Section 6-1 - Fiscal Year

The fiscal year of the Town shall be as required by the General Laws.

### Section 6-2 - Submission of Budget and Budget Message

On or before a date determined by the Select Board, the Town Administrator shall submit to the Select Board a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

### Section 6-3 - Budget Message

(a) The message of the Town Administrator shall explain the budget for all departments and agencies both in fiscal terms and in terms of work programs, point out all major deviations from the current year and the reasons therefore, provide an outline of general problems, summarize the Town's debt position, and include such other material as the Town Administrator may deem desirable or the Select Board may instruct.

(b) The budget message shall include all the expected revenues and expenses of the Town (including the schools) projected over, at least, a five (5) year period, and this message is to be included in the report of the Advisory Committee.

(c) When the budget is subject to an amendment at Town Meeting which adjusts a line item upward, said amendment must identify the funding source as either: (i) from available revenue, (ii) a decrease in another line item, or (iii) a combination of available revenue and a decrease in another line item.

#### Section 6-4 - The Budget

The budget shall provide a complete financial plan of all Town funds and activities, including the budget adopted by the School Committee, for the ensuing year. Except for the school budget, or as may be required by the General Laws or by the Charter, it shall be in the form which the Town Administrator deems desirable or the Select Board may require. In the presentation of the budget, the Town Administrator shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service for the following year. The budget shall be

arranged to show the actual and estimated income and expenditures for the previous, current and at least the next five (5) fiscal years and shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by agency and position in terms of work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by Town agency, and the proposed method of financing each such capital expenditure; and,

(c) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

#### Section 6-5 - Action on the Budget

(a) The Select Board shall review the proposed budget and make such changes as it considers necessary to reflect its stated policies. It shall return the proposed budget to the Town Administrator for revision and arranging for the delivery of the document to the Advisory Committee on or before a date agreed upon by the Advisory Committee, which shall in no event be less than seventy-five (75) days prior to the annual Town Meeting. At least fourteen (14) days before Town Meeting, the Select Board and the Advisory Committee shall jointly hold one (1) or more public hearings on the proposed budget.

(b) The proposed budget shall include the budget adopted by the School Committee, insofar as permitted by law, to fund the operations and equipment of the schools.

#### Section 6-6 - Capital Improvement Program

(a) The Select Board shall be responsible for preparation and annual revision of the capital improvement program. To assist it in doing so and to advise the voters at Town Meeting on capital planning matters, there shall be a Capital Planning Committee consisting of five (5) voting members who shall be residents of the Town appointed by the Moderator for overlapping three (3) year terms. The Capital Planning Committee shall also consist four (4) non-voting advisory members, including the Town Administrator, one (1) member of the Select Board, one (1) member of the Advisory Committee, and one (1) member of the School Committee, in each case designated annually by their respective Multiple Member Body.

(b) The capital improvement program shall include: (i) a clear, concise, summary of it contents; (ii) a list of all capital improvement projects and needs to be undertaken during the ensuing five (5) years with supporting documentation, in such form as the Town Administrator shall prescribe, describing the need for each project; (iii) cost estimates, methods of financing and recommended time schedule for each project; and (iv) the estimated annual cost of operating and maintaining each facility and major piece of equipment involved.

(c) The Town Administrator shall submit annually to the Select Board and Capital Planning Committee recommendations for the capital improvement program not less than five (5) months prior to the annual Town Meeting.

(d) The Capital Planning Committee shall submit annually to the Select Board a report summarizing their recommendations not less than three (3) months prior to the annual Town Meeting. The Select Board shall base its final capital improvement program on the Capital Planning Committee's report with such changes as it considers necessary. The Select Board shall deliver this plan to the Advisory Committee not less than sixty (60) days prior to the annual

547 Town Meeting. The Advisory Committee shall forthwith proceed to consider the program and  
548 shall, in its report to the annual Town Meeting, make such recommendations as it deems to be in  
549 the best interests of the Town, both with respect to the capital budget for the next fiscal year and  
550 the schedule for the ensuing years.

551 Section 6- 7 - Financial Forecasting Committee

552 (a) Composition - There shall be a Financial Forecasting Committee which shall consist  
553 of nine (9) members, as follows: the Town Administrator, the treasurer/collector, the Town  
554 accountant, the director of assessing, the business manager of the school department, a member  
555 of the Advisory Committee, a member of the Capital Planning Committee, a member of the  
556 Select Board and a member of the School Committee.

557 (b) Powers and Duties - The Financial Forecasting Committee shall, annually, prepare a  
558 five (5) year, non-binding financial forecasting plan which projects revenues, revenue sources  
559 and expenditures for the five (5) years next ensuing. The forecast shall include all elements of  
560 revenue, operating expense and debt service.

561 (c) The Financial Forecasting Committee shall prepare quarterly updates of its  
562 projections to the Select Board. The quarterly update for the last quarter of the calendar year  
563 shall be delivered to the Advisory Committee not later than the last Friday in January.

564 (d) The report of the Financial Forecasting Committee shall be shared not only with the  
565 Select Board and the School Committee but it is also to be shared with the voters of the Town of  
566 Scituate. The report shall be included in the report of the Advisory Committee published for  
567 Town Meetings, in the annual Town report, on the Town's internet site and in any other media as  
568 the Financial Forecasting Committee may from time-to-time designate.

Section 6-8 - Approval of Warrants

The Town Administrator shall be the chief fiscal officer of the Town. Warrants for the payment of Town funds prepared by the Town accountant in accordance with the provisions of the General Laws shall be submitted to the Town Administrator or the Town Administrator's designee. The approval of any such warrant by the Town Administrator shall be sufficient authority to authorize payment by the Town treasurer. If the Town Administrator is absent, or for other cause cannot sign the warrant, the acting Town Administrator shall have the authority to do so.

ARTICLE 7: GENERAL PROVISIONS

Section 7-1 - Nominations and Elections

(a) Nominations - The number of signatures of voters required to place the name of a candidate on the official ballot for use at a Town election shall be not less than one hundred (100) signatures. Nomination papers shall not contain the name of more than one (1) candidate.

(b) Elections - The articles in the warrant for every Town Meeting, as far as they relate to the election of the Select Board, School Committee, Moderator, Planning Board and Housing Authority, other Town officers, to referenda and all other matters to be acted upon and determined by ballot shall be acted upon and determined by the voters.

(c) The regular Town elections shall be taken on official ballots without party or political designation on the date fixed in the By-Laws of the Town.

Section 7-2 - Charter Changes

The Charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX of the amendments to the constitution and as provided for in chapter 43B, the Home Rule Procedures Act, of the General Laws.

#### Section 7-3 - Severability

The provisions of the Charter are severable, if any provision of the Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons and circumstances shall not be affected thereby.

#### Section 7-4 - Specific Provisions Shall Prevail

To the extent that any specific provision of the Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

#### Section 7-5 - References to General Laws

All references to the General Laws contained in the Charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the Charter.

#### Section 7-6 - Computation of Time

In computing time under the Charter, if seven (7) days or less, "days" shall refer to business days and shall not include Saturdays, Sundays or legal holidays. If more than seven (7) days is noted every day shall be counted.

609                   Section 7-7 - Definitions

610                   Unless another meaning is clearly apparent from the manner in which the word is used,  
611 the following words as used in the Charter shall have the following meanings:

612                   (a) Advisory Committee - shall mean the Multiple Member Body appointed by the  
613 Moderator as described in Section 2-2.

614                   (b) By-Laws - shall mean the By-Laws of the Town.

615                   (c) Capital Planning Committee - shall mean the Multiple Member Body described in  
616 Section 6-6.

617                   (d) Charter - shall mean this Charter and any amendments to it made through any of the  
618 methods provided under article LXXXIX of the amendments to the state constitution.

619                   (e) Commonwealth - shall mean the Commonwealth of Massachusetts.

620                   (f) Financial Forecasting Committee - shall mean the Multiple Member Body described  
621 in Section 6-7.

622                   (g) General Laws - shall mean the General Laws of the Commonwealth of Massachusetts.

623                   (h) Majority Vote - shall mean a majority of those present and voting; provided that a  
624 quorum of the body is present.

625                   (i) Moderator - shall mean the person elected to serve as the Moderator of the Town as  
626 described in Section 3-3.



627 (j) Multiple Member Body - shall mean any board, commission or committee  
628 consisting of two or more persons whether elected or appointed.

629 (k) Policy - shall mean a statement of general purpose or a goal, from which specific  
630 administrative procedures or regulations may be developed.

631 (l) School Committee - shall mean the persons elected to serve on the Multiple Member  
632 Body as described in Section 3-4.

633 (m) Select Board - shall mean the persons elected to serve on the Multiple Member Body  
634 as described in Section 3-2.

635 (n) Town - shall mean the Town of Scituate.

636 (o) Town Administrator - shall mean the person hired in accordance with the provisions  
637 of Article 4 responsible for the administration of the Town.

638 (p) Town Agency - shall mean any board, commission, committee, department or office  
639 of the Town government.

640 (q) Town Clerk - shall mean the person elected to serve as the clerk of the Town as  
641 described in Section 3-7.

642 (r) Town Meeting - shall mean any annual or special Town Meeting held by the voters to  
643 conduct Town business.

644 (s) Voters - shall mean registered voters of the Town of Scituate.

645 Section 7-8 - Rules and Regulations

A copy of all rules and regulations adopted by any Town agency shall be filed in the office of the Town Clerk and made available for review by any person who requests such information. Such rules and regulations shall become effective when filed or as otherwise provided by law.

#### Section 7-9 - Re-Enactment and Publication of By-Laws

(a) At intervals of not more than five (5) years, proposed revisions or re-codification of the By-Laws shall be presented to the Town Meeting for re-enactment. Immediately following the annual Town Meeting preceding the year in which such presentation is to be made, the Select Board shall appoint a special By-Law review committee to prepare such revisions or re-codifications. In reviewing the By-Laws, the committee shall have the assistance of Town Counsel or a special counsel appointed for that purpose.

(b) Within eight (8) months following appointment, the committee shall prepare preliminary report and cause its report to be published as required by the General Laws or special mandate of the Commonwealth and posted to the Town website.

(c) The report shall include (i) a summary of its recommendations; (ii) the places where the complete report is available for inspection; and (iii) the date (not less than two (2) weeks following such publication), time, and place of a public hearing to be held on the report.

(d) Copies of revised By-Laws enacted by the Town Meeting shall be made available for public distribution at the office of the Town Clerk.

#### Section 7-10 - Recall Petitions

666 (a) Who can be Recalled - Any holder of an elective office, as defined in section 3-1(a),  
667 may be recalled there from by the voters as herein provided.

668 (b) (1) Recall Petition - Any twenty-five (25) voters, of the Town may file with the Town  
669 Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the  
670 grounds of recall. The Town Clerk shall thereupon deliver to said voters making the affidavit  
671 copies of petition blanks demanding such recall, printed forms of which shall be kept available.  
672 The blanks shall be issued with the signature and official seal of the Town Clerk attached  
673 thereto. They shall be dated, shall be addressed to the Select Board and shall contain the names  
674 of all persons to whom they are issued, the name of the person whose recall is sought, the  
675 grounds for recall as stated in the affidavit, and shall demand the election of a successor in the  
676 said office. A copy of the petition shall be entered in a record book to be kept in the office of the  
677 Town Clerk. The recall petitions shall be returned and filed with the Town Clerk within twenty  
678 (20) days following the date of the filing of the affidavit, and shall have been signed by at least  
679 fifteen per cent (15%) of the voters of the Town. Each voter who signs the petition shall also add  
680 the street and number, if any, of their residence.

681 (2) The Town Clerk shall, within twenty-four (24) hours of receipt, submit the petition to  
682 the registrars of voters, and the registrars shall forthwith certify thereon the number of signatures  
683 which are names of voters.

684 (c) Select Board's Action on Receiving Petition - If the petition shall be found and  
685 certified by the Town Clerk to be sufficient, it shall be submitted, with the certificate, to the  
686 Select Board without delay. Upon its receipt of the petition and certificate the Select Board shall  
687 forthwith give written notice of such petition and certificate to the officer sought to be recalled.

If the officer sought to be recalled does not resign from office within five (5) days after delivery of the notice by the Select Board, the Select Board shall order an election of the Town to be held on a date fixed by them not less than sixty-four (64) nor more than seventy-four (74) days after the date of the Town Clerk's certificate that a sufficient petition is filed; provided, however, that if any other Town election is to occur within ninety (90) days after the date of the certificate, the Select Board shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(d) Nomination of Candidates - Any officer sought to be removed may be a candidate to be re-elected to the office, and unless the person being recalled requests otherwise in writing, the Town Clerk shall place the name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

(e) Incumbent Holds Office Until Election - The incumbent shall continue to perform the duties of the office until the recall election. If then re-elected, such person shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this section. If not re-elected in the recall election, such person shall be deemed removed upon the qualification of the successor, who shall hold office during the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

709 (f) Propositions on Ballot - Ballots used in a recall election shall submit the following  
710 propositions in the order indicated:

711 For the recall of (name of officer)

712 Against the recall of (name of officer)

713 Under the proposition shall appear the word "candidates", and beneath this the names of  
714 candidates nominated as herein before provided. If a majority of the votes cast upon the question  
715 of recall is in the affirmative, the candidate receiving the highest number of votes shall be  
716 declared elected. If a majority of votes on the question is in the negative the ballots for  
717 candidates need not be counted.

718 (g) Appointment of Person Recalled - No person who has been recalled from an office, or  
719 who has resigned from office while recall proceedings were pending against them, shall be  
720 appointed to any Town office within two (2) years after such recall or such resignation.

#### 721 Section 7-11 - Procedures

722 (a) In General - All Multiple Member Bodies, whether elected or appointed, shall conduct  
723 their meetings as provided by the General Laws, with respect to prior posted notices, quorums,  
724 use of executive sessions, maintenance of records, and the public availability of those records.  
725 Upon being sworn in, each person elected or appointed to such a body shall be given a copy of  
726 the applicable laws by the Town Clerk.

727 (b) Agendas - At least forty-eight (48) hours, or as required by the General Laws or  
728 special mandate of the Commonwealth, before each meeting of a Multiple Member Body, such  
729 committee shall post an agenda of all matters on which it will act at that meeting on the Town

bulletin board(s). No action taken on a matter not on the posted agenda shall be valid, unless such body first adopts, by a separate vote, a resolution declaring that an emergency exists and that action must be taken for the immediate preservation of peace, health, safety or convenience of the Town.

(c) Rules - Each Multiple Member Body shall determine its own rules and order of business unless otherwise provided in the By-Laws.

(d) Voting - Except on procedural matters, all votes of Multiple Member Bodies shall be taken by calling the roll and recording the ayes and nays in the minutes. If, however, a vote is unanimous, only that fact need be recorded.

(e) Petitions for Meetings - Should a Multiple Member Body fail to hold a meeting within a reasonable time, based on its normal schedule, or persist in refusing to consider a matter requested of it by a citizen, any fifty (50) voters or one-third (1/3) of the members of that body may deliver a petition, calling for a special meeting and stating the purpose for which it is to be held, to the Town Clerk who shall promptly post notice of the meeting, to be held within seven (7) days, and so notify the members of that body in writing. In the case of an appointed body, if such meeting then fails to take place for lack of a quorum, any fifty (50) voters or one-third (1/3) of its members may petition its appointing authority to declare vacant the offices of the absent members.

#### Section 7-12 - Removals and Suspensions

(a) Any appointed officer or full-time salaried employee of the Town, not subject to the provisions of the Commonwealth's civil service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for cause.

The term cause shall include, but not be limited to, the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

(b) Any appointed officer or full-time salaried employee of the Town may be suspended from office by the appointing authority if such action is deemed by them to be necessary to protect the interests of the Town. Suspension may be conterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

(c) The appointing authority when removing any such officer or employee shall act in accordance with the following procedures:

(i) A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered by registered mail to the last known address of the person sought to be removed.

(ii) Within five (5) days of delivery of such notice the officer or employee may request a public hearing at which they may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

(iii) Between one (1) and ten (10) days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six (6) and fifteen (15) days after delivery of the notice of the intent to remove. The appointing authority shall take final action either removing the officer or employee or notifying them that the notice is rescinded.

(d) Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when their original term

772 expires. The action of the appointing authority in suspending or removing an officer or employee  
773 under this section shall be final.

#### 774 Section 7-13 - Vacancies

775 A vacancy occurring in any office shall be filled in the manner provided by the General  
776 Laws, except as provided elsewhere in the Charter or by By-Law.

### 777 ARTICLE 8: TRANSITIONAL PROVISIONS

#### 778 Section 8-1 - Continuation of Existing Laws

779 (a) All General Laws, special laws, Town By-Laws, and rules and regulations of or  
780 pertaining to the Town of Scituate that are in force when this revised Charter takes effect, and  
781 not specifically or by implication repealed hereby, shall continue in full force and effect until  
782 amended or repealed, or rescinded by due course of law, or until they expire by their own  
783 limitation.

784 (b) In any case in which the provisions of this Charter are found to be inconsistent with  
785 the provisions of any general or special law which would otherwise be applicable, the provisions  
786 of this Charter shall be deemed to prevail. Every inconsistency between the prior law and this  
787 Charter shall be decided in favor of this Charter.

#### 788 Section 8-2 - Continuation of Government and Administration

789 All Town agencies shall continue to perform their duties until re-elected, re-appointed, or  
790 until successors to their respective positions are duly appointed or elected, or until their duties  
791 have been transferred and assumed by another Town agency.



792           Section 8-3 - Effect on Obligations, Taxes, Etc.

793           All official bonds, recognizances, obligations, contracts, and other instruments entered  
794 into or executed by or to the Town before the adoption of this Charter, and all taxes, assessments,  
795 fines, penalties, forfeitures, incurred or imposed, due or owing to the Town, shall be enforced  
796 and collected, and all writs, prosecutions, actions and causes of action, except as herein  
797 otherwise provided, shall continue without abatement and remain unaffected by the Charter; and  
798 no legal act done by or in favor of the Town shall be rendered invalid by reason of the adoption  
799 of this Charter.

800           Section 8-4 - Time of Taking Effect

801           This Charter shall take effect upon its ratification by the voters and in accordance with  
802 the following schedule:

803           (a) Time of Meetings - The Town By-Laws control when the annual Town Meeting shall  
804 convene. Special Town Meetings shall be convened at such times as may be called by the Select  
805 Board, or by petition of registered voters as provided by law, or at such other time or times as  
806 may be provided by By-Law of the Town.

807           Section 8-5 - Town Meeting Quorum

808           Town By-Laws shall define quorum requirements for annual and special Town Meetings.

809           SECTION 2. This act shall take effect upon its passage.