



**TOWN OF WAREHAM 1739 - 1977
CHARTER COMMISSION
FINAL REPORT 1977**

**ORIGINALLY ADOPTED 1977
AMENDMENTS April 22, 2019**

WAREHAM CHARTER COMMISSION

**Town Hall
Wareham Massachusetts, 02571**

January 25, 1977

Claire McWilliams, Chairman
Wareham Board of Selectmen
Town Hall
Wareham MA 02571

Dear Mrs. McWilliams:

The Wareham Charter Commission is pleased to present its final report to the Wareham Board of Selectmen tonight, in accordance with General Laws, Chapter 43B, Section 9.

The preliminary draft of the Proposed Charter has been approved by Francis X. Bellotti, Attorney General of the Commonwealth, except for one paragraph that has not been included in the final report. A copy of this report has also been forwarded to Town Counsel, Joseph Grassia.

It has been ten months since we were elected to this office, and the Commission feels that the Board of Selectmen, as the governing body of this Town, is entitled to know how we arrived at this final product.

The Commission is proud of its performance since its election last March. Meetings were held on the average of at least once a week and overall attendance was excellent. What is generally not known is that the Commission members spent countless hours of their own time, between meetings, speaking to various Town organizations and doing a vast amount of reading and "homework."

All points of view have been presented to the Commission. We have heard from elected Town Meeting members, town administrative officials, part-time Selectmen, full-time Selectmen, educators, various elected officials, and ordinary citizens of the Town. Members of Wareham's Board of Selectmen have appeared before us on at least three separate occasions, during the Spring, Fall and Winter, and all members have expressed their opinions either personally or in writing at one time or another. We want to thank you for your cooperation and advice.

There were honest differences of opinion among the members of the Commission. Each member had different ideas. It is also a fact that the Commission members changed their minds from time to time before adopting this final report.

Reasonable compromises are a part of good government, and although every Commission member had different ideas, they showed a remarkable spirit of cooperation and flexibility in arriving at the final report by a virtually unanimous vote. We are pleased that any preconceived ideas that any Commission member may have had in the beginning gave way to a final report that was the result of reasonable compromise.

Most of these changes were completed by the time of the hearing on our preliminary report in December. It was a source of great satisfaction to the Commission that there were no fundamental criticisms of our performances or our report at the hearing, although we did receive many constructive proposals and helpful advice which we acted upon in making the final revisions.

As I mentioned, at the outset, Attorney General Bellotti approved our preliminary report, except for one paragraph that has been deleted. We feel this is a great tribute to our consultant, Michael Curran, who has advised more Charter Commissions in the Commonwealth than any other single individual. His guidance was indispensable, and we appreciate the Board of Selectmen's support for the town meeting appropriation that made his services possible.

The appropriation for the Charter Commission also included a sum of money for publication, and the Commission is now in the process of obtaining cost estimates for publishing our report. The Commission will then proceed with the publication, which will include this attractive cover designed by Mary Jane Pillsbury, a Wareham artist who donated her services. The printed copies will be delivered to the Selectmen for distribution to every Wareham household. The unencumbered balance in our account, for publication and delivery, is now \$3,237.00.

The final report includes a minority report. Two alternative reports were presented to the Commission by the dissenting member, but the report of her choice was accepted by the Commission.

Every member of the Board of Selectmen and The Charter Commission, both in and out of this room, has worked toward the creation of a Charter to improve our Town government. Although there have been differences of opinion as to the precise contents of the proposed Charter, we have all agreed that the effort should be made and that the voters should have an opportunity either to accept or reject a Town Charter. They will soon have this opportunity, and we thank everyone that has had a role in making this opportunity possible for the Town of Wareham.

Wareham Charter Commission

By:

George C. Decas, Chairman
Edward Tamagini, Vice-Chairman
Robert A. Collins
Charles S. Gleason, M.D.
Helen Palmer Lincoln
Phyllis A. McGraw
Waldo N. Roby
George F. Taber
Dissenting Member:
Elizabeth M. Carmichael

**THE FOLLOWING QUESTION WILL APPEAR
ON THE BALLOT AT
THE 1977 ANNUAL TOWN ELECTION IN WAREHAM
(March 25, 1977)**

Shall this town approve the new charter recommended by the charter commission, summarized below?

Yes	
No	

SUMMARY: The proposed charter retains the open town meeting, requires the school committee to hold a public hearing on its proposed budget before the school committee adopts it, allows ample time for the voters to study all proposed budgets before acting on them, has provisions for a qualified professional administrator with fixed duties and responsibilities, has a capital planning committee for long range financial planning, has an appointed board of health, commissioners of trust funds and planning board, merges the sewer commission with the municipal maintenance department and provides a method for recall elections. All other elected officials, including a five member board of selectmen, will continue to be elected by the voters, for the same terms as at present.

The above summary, which will appear on the ballot, is brief. The charter commission members urge you to read the more detailed summary which follows, and to read the full text of the proposed charter itself, which also follows.

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INTRODUCTION

The final report of the Wareham Charter Commission represents many months of work by nine commission members elected by you on the Town ballot last year. We have met on the average of at least once a week, and have held a number of public hearings. We have heard from our town officials as well as those from other towns in the commonwealth. We have studied other town charters, and we have had the assistance of a professional consultant, Attorney Michael P. Curran, in drafting this report.

It is the Commission's hope that you will read its report from the beginning to end. At the very least, however, we certainly hope that you will read the summary of our report, which follows this introduction.

The question of whether to adopt or to reject the proposed charter will appear on the town ballot at this coming town election. The full text of the proposed charter **will not** appear on the ballot, nor will the summary included in this report. It is therefore important that you read the full text of the charter or the detailed summary of it which follows.

The commission members believe that changes in our town government are urgently needed in order to get our town government working more efficiently. We are no longer a town of a few thousand voters, and many of our citizens have been left out of our town government. This charter is an attempt to modernize town government, give it professional guidance with a qualified town administrator, and bring the people back into our government process.

Statement of Major Differences

The most significant difference between the charter which is proposed to you in this report and our "existing charter" is in the structure of the document itself. Our present "existing charter" consists of a hodge-podge of laws enacted by the state government and which apply to Wareham because they are general laws, or because they are so-called acceptance statutes (which the Town has accepted) or because they are special laws which were enacted particularly for Wareham. The proposed charter, without changing the basic structure of the town, will provide a single, simple to read document.

The open town meeting as the legislative body of the town is retained. The board of selectmen, as the pivot around which general government administration revolves, is retained but in a more positive role. Most officers now chosen by election will continue to be elected, with a few exceptions which will be discussed below. A new and more comprehensive system for budget development and review is to be substituted for the present informal system which lacks cohesiveness and direction. A flexible system for administrative organization and re-organization is provided, to permit the administrative structure to respond to changing times and changing needs. The position of executive secretary has been modified in such a way as to make the new office of town administrator more valuable as a device to improve the level of services delivered to our citizens and to reduce the cost at which they are delivered. A more detailed summary of each article follows.

SUMMARY OF ARTICLES

ARTICLE 1

This article is designed to assure that the Town of Wareham will be allowed to exercise every power it is possible for a town to have, without being required to go to the state legislature to seek special legislation.

ARTICLE 2

This article continues the open town meeting as the legislative arm of the town government. In almost every respect the town meeting will continue as it has always functioned, but certain new features are added, as follows:

- a) Recognizing that the holding of a special fall town meeting has become a regular event, the charter provides that a regular town meeting shall be held each fall. This provision will enable proper planning to be done and should serve to give a better balance to the legislative workload of the town meeting.
- b) The finance committee and personnel board are continued as committees of the town meeting and to them has been added a new committee on capital planning. Because the planning board has many duties with regard to the town meeting it has also been placed in this article and the same type of selection process for its members as is used for the finance and personnel committees.
- c) A new procedure is detailed regarding the time for submitting proposed warrant articles, the opening and closing of warrants, and the publication of town meeting warrants.

ARTICLE 3

The selectmen, school committee, assessors and housing authority will continue to consist of the same number of members serving terms of the same length as at present. The town moderator, clerk treasurer and collector will continue to be elected for terms of the same length as at present. The sewer commission will be phased out and their work will be performed through the board of selectmen by the municipal maintenance department. The board of health and the commissioners of trust funds will continue to serve but their members will be appointed by the board of selectmen.

ARTICLE 4

This article continues the existing position of executive secretary, but greatly improves the position to make it workable. The board of selectmen will be directed to appoint a professionally qualified full-time town administrator. Unlike the present system the powers, duties and responsibilities of the administrator are detailed by the charter. Under the existing system the selectmen could appoint without regard to qualifications and could interfere in the day

to day operations of the office. Language has been inserted in article 3 concerning the selectmen (see section 3-2b), which makes it clear the role of the selectmen is to establish policy which is to be carried out for them by full-time personnel. The selectmen are authorized to remove a town administrator from office at any time, as presently, but under the charter an open public hearing would be required on the removal. Some of the significant powers of the position are as follows:

- a) To appoint all persons for whom no other method is provided by the charter, but all of his appointments are subject to a right by the selectmen to veto such appointments.
- b) To submit an annual operating budget as a consolidated whole to the finance committee.
- c) To operate a centralized purchasing system for the town.
- d) To coordinate and oversee a comprehensive town personnel system so that all town employees are treated fairly and in a uniform way.

ARTICLE 5

It might be said that the heart of the new charter is an improved, consolidated system for the development, submission, review and adoption of an annual town budget. All of us, as taxpayers, are concerned with the ever rising cost of local government. One way in which those costs can be better monitored and controlled is through the budget process. We believe the new provisions will have a significant impact on identifying those areas in which costs are rising. In brief the budget system is as follows:

- a) The school committee is directed to hold a public hearing on a proposed budget before it takes a final vote on a proposed budget. It is expected the committee will hold its hearing in mid-January and will take its final vote on the proposed budget before the end of that month.
- b) The town administrator is required to submit to the finance committee by the middle of February a proposed budget and simultaneously provide for publishing in a newspaper a general summary of the proposed budget and a budget message that will explain the proposed budget in layman's terms that all of us can understand.
- c) The finance committee will hold public hearings on the budget, may call before it any town officer or employee to provide information and assistance, and as presently, will submit a written report at town meeting detailing its recommendations concerning the budget.

ARTICLE 6

This article provides a flexible method by which the town may, through the town meeting, vote to modify the administrative structure in order to provide services and programs in a more efficient or effective manner.

ARTICLE 7

This article contains a number of technical provisions, but it also contains a number of substantive ones which should be noted, as follows:

- a) A notice of every vacancy which occurs in a town office or town employment is to be posted so that qualified town residents may submit their names for consideration.
- b) A standard procedure governing removals is provided which is designed to be fair and equitable, and uniform.
- c) A system by which an elected official may be recalled from office before the term for which he is elected has expired will, for the first time in our history, be available. It is not intended to be a simple procedure or one which will be frequently used. However, it will be available in extreme situations. The signatures of 10 percent of the voters would need to be gathered within fourteen days in order to call a special election at which it would be determined if the elected official should be removed from office. At the present time this represents almost 1,000 names.

ARTICLE 8

This article provides the bridge between our existing system of government and that which would prevail under the charter. All town officers and employees would continue to serve. No town employee is going to lose his or her job because of the charter. The sewer commission will cease to operate as a separate entity and its functions will be placed in the municipal maintenance department.

Respectfully submitted,

WAREHAM CHARTER COMMISSION

George C. Decas, Chairman

Edward Tamagini, Vice-Chairman

Robert A. Collins

Phyllis A. McGraw

Charles S. Gleason, M.D.

Waldo N. Roby

Helen Palmer Lincoln

George F. Taber

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ARTICLE 1
INCORPORATION: DIVISION OF POWERS:
POWERS OF THE TOWN

Section 1 - 1 Incorporation

The inhabitants of the Town of Wareham, within the territorial limits established by law, shall continue to be a body corporate and politic under the same "Town of Wareham."

Section 1 - 2 Short Title

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

Section 1 - 3 Division of Powers

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a board of selectmen. The legislative powers of the town shall be exercised by an open town meeting.

Section 1 - 4 Powers of the Town: Intent of the Voters

It is the intent and the purpose of the voters of the Town of Wareham, through the adoption of this charter, to secure for the town all of the powers possible to secure under the constitution and statutes of the Commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1 - 5 Interpretation of Powers

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

Section 1 - 6 Intergovernmental Relations

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

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 town moderator, chosen as provided in section 3-4, shall preside at all town meetings, regulate the proceedings, decide all questions of order and make public declaration of all votes. In the event of the absence or the disability of the town moderator and deputy town moderator, the town clerk shall call the meeting to order and shall preside until a temporary town moderator is chosen, as prescribed in MGL Ch 39, sect. 14.

Note: Section 2-2 was amended by town meeting vote at the annual town meeting held on April 23, 2001 under Article 41 authorizing the addition of a deputy town moderator. Approved by the Attorney General on June, 1, 2001.

Section 2 - 3 Time of Meeting

The town meeting shall meet at least twice in each calendar year. The first such meeting, which shall be construed to be the annual town meeting, shall be held during the month of April, at a time fixed by by-law, and shall primarily be concerned with the determination of all matters that have a fiscal effect on the town, including, but not limited to, the adoption of an annual operating budget covering all town agencies. The second such meeting, which shall be the annual fall town meeting, shall be held during the last 4 calendar months, at a time fixed by by-law.

The board of selectmen may call additional town meetings, at other times to act on the legislative business of the town in an orderly and expeditious manner by the issuance of warrants.

Note: Section 2-3 was amended by Legislative approval on November 22, 2016, Chapter 319 of the Acts of 2016.

Section 2 - 4 Town Meeting Warrants

- (a) In General - Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the time and place of the meeting and, by separate articles, the subjects which are to be acted upon.
- (b) Initiation of Warrant Articles – Warrant articles shall be initiated as provided for by state law, including but not limited to G.L. c. 39, s. 10.
- (c) Warrants- After voting to open any spring or fall Annual Town Meeting warrant the Board of Selectmen within the ensuing 24 hours shall post notice of such vote on the Town's principle bulletin board and on the Town's website. The notice shall identify the opening and closing dates of the warrant, and shall identify the place or places where citizen petitioned articles may be submitted. No spring or fall an Annual Town Meeting warrant may close until such notice has been posted for at least 10 calendar days. Subsequent to the posted warrant opening and closing dates, the Board of Selectmen may vote to reopen and close the warrant in

order to receive additional warrant articles. (Annual Town Meeting Art 15, April 22, 2019 Signed by Gov. Jan 29, 2020)

- (d) Circulation of Warrant- Annual and Special Town Meeting warrants shall be posted on the principle bulletin Town bulletin board, posted on the Town's municipal website and posted as may be further set out in the by-laws. No later than the second Monday in March for the spring Annual Town Meeting and the final Monday in September for the fall Annual Town Meeting, the Board of Selectmen shall deliver the warrant to the Finance Committee and Moderator. Copies of the warrant for any Special Town Meeting shall be delivered to the Finance Committee and Moderator at least 21 calendar days before the commencement date of such meeting. (Annual Town Meeting Art 15, April 22, 2019 Signed by Gov. Jan 29, 2020)

Section 2 - 5 Committees

- (a) Appointment - Whenever a committee or other multiple member body is established, the primary purpose of which is to perform a legislative function, notwithstanding the provisions of any vote to the contrary and except as otherwise provided by the charter, the members of such committee or other multiple member body shall be appointed by the town moderator, provided, however, the town may direct, by vote in such cases, that certain members of particular committees shall serve by virtue of another office which they hold, provided that such authority is not used as a device to defeat the clear intent of this provision.
- (b) Finance Committee - There shall be a finance committee which shall be appointed by an appointing Authority which shall consist of the town moderator, who shall act as chairman, and the chairman of the board of selectmen and the chairman of the finance committee. The number of members, the term of office and further conditions of appointment and service shall be provided by by-law. All articles which are contained in the warrant for a town meeting shall be referred to the finance committee for its study, review and report. The finance committee shall prior to each town meeting, at a time fixed by by-law, report its recommendations on each article contained in the warrant in such manner as may be determined by by-law. Whenever an article appears in the warrant for a town meeting which would require raising of funds by borrowing, (except in the case of tax anticipation notes as provided in Chapter 44, Section 4), a public hearing shall be held by the finance committee on each such warrant article. The finance committee may, in its discretion, hold public hearings concerning other articles which appear in the warrant for town meetings.
- (c) Planning Board - There shall be a planning board which shall consist of five members. The term of office of members of the planning board shall be for three years each, so arranged that the term of as nearly an equal number of members as is possible shall expire each year. The members of the planning board shall be appointed by an appointing authority consisting of the town

moderator, who shall serve as chairman, the chairman of the board of selectmen and the chairman of the planning board. The town may, by by-law, provide other conditions regarding such appointments. All articles which are contained in the warrant for a town meeting which relate to land use, land regulation, land development, planning, zoning, subdivision control and similar and related matters shall be referred to the planning board for its study, review and report. The planning board shall, prior to each town meeting and at a time fixed by by-law, report its recommendations on each article which has been referred to it, in such manner as may be determined by by-law. The planning board shall have such other powers, duties and responsibilities as are provided by general laws, by charter, by by-law or by other town meeting vote.

- (d) Capital Planning Committee - There shall be a capital planning committee which shall consist of seven members, chosen in the following manner: the town accountant and the town administrator shall serve by virtue of their offices, one member of the finance committee appointed by and from it, one member of the planning board appointed by and from it, and three additional members appointed by an appointing authority which shall consist of the town moderator, who shall serve as chairman, the chairman of the Board of Selectmen and the chairman of the finance committee. The members from the finance committee and the planning board shall each serve for a term of one year, the other members shall be appointed for terms of three years, so arranged that the term of as nearly an equal number of members as is possible shall expire each year. The town may, by by-law, provide for other conditions regarding such appointments. All articles which are contained in the warrant for a town meeting which relate to capital expenditures, as that term may be defined by by-law from time to time, shall be referred to the capital planning committee for its study, review and report. The capital planning committee shall, prior to each town meeting and at a time fixed by by-law, report its recommendations on each article which has been referred to it, in such manner as may be determined by by-law. The capital planning committee shall be responsible for the development of a capital outlay program as provided in section 5-7.

Note: Section 2-5 (e) Personnel Board was deleted by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 42. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

Section 2 - 6 Availability of Town Officials

All department heads shall attend the sessions of each town meeting for the purpose of providing the town meeting with information pertinent to warrant articles. If any such person is deterred by illness or other reasonable cause, he shall designate a deputy to attend in his place. If

any person required to attend the town meeting sessions under this section is not a resident of the town he shall, notwithstanding, be entitled to speak in order to provide the town meeting with information on matters pertinent to his responsibilities. The town moderator shall call for a roll call at each town meeting session.

Note: Section 2-6 was amended by town meeting vote at the Annual town meeting held on April 23, 2001 under Article 43, authorizing department heads attend town meeting. Approved by the Attorney General on June, 1, 2001.

Section 2 - 7 Clerk of the Meeting

The town clerk shall be the clerk of the town meeting. The clerk shall give notice of all adjourned sessions of any town meeting, in the manner determined by by-law, keep the journal of its proceedings and perform such other duties as may be provided by general law, by charter, by by-law or by other town meeting vote.

Section 2 - 8 Rules of Procedure

The town meeting shall, by by-law, adopt and may from time to time, amend and revise rules to govern the conduct of town meeting sessions.

ARTICLE 3 ELECTED OFFICERS

Section 3 - 1 General Provisions

- (a) Elective Offices - The offices to be filled by voters shall be a board of selectmen, a school committee, a town moderator, a deputy moderator, a board of assessors, a town clerk, a housing authority and such other members of regional authorities, or districts, as may be established by statute, intergovernmental agreement, or otherwise.

Note: This graph in the original charter included town treasurer as an elected position. A vote of the town meeting of April 22, 1996 amended this and deleted the position of treasurer which was made appointed by the town administrator. The Legislature approved by Chapter 403 of the Acts of 1996, as approved on October 16, 1996.

Note: This graph in the original charter included town collector as an elected position. A vote of the special town meeting of April 23, 2001, Article 5, amended this and making the position appointed by the town administrator. Approved at the April 2, 2002 annual election.

- (b) Eligibility - Any voter shall be eligible to hold any elective town office.
- (c) Town Election - The annual election for town officers and for determination of other questions by ballot, shall be held on such date as may be fixed by by-law.
- (d) Nomination Procedure - The number of signatures of voters required to place the name of a candidate for any town office on the official ballot for use at any town election shall be not less than fifty.
- (e) Compensation - Elected town officers shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (f) Appointments to Certain Positions – No elected official shall be eligible for appointment to any municipal position of employment while holding office. No former elected official shall be so eligible for appointment to a municipal position of employment until the expiration of thirty days from the termination of his elected service. This section shall not apply if such appointment has first been approved by an annual meeting of the town.

Note: Section 3-1 (f) was amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 45. Approved by the Attorney General's Office on January 10, 2011. Approved at the April 5, 2011 annual election.

Section 3 – 2 Board of Selectmen

- (a) Composition, Term of Office - There shall be a board of selectmen consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year. The office of selectmen shall be construed to be a part-time office and the compensation payable to selectmen shall be established accordingly.
- (b) Powers and Duties - The executive powers of the town shall be vested in the board of selectmen. The board of selectmen shall have all of the executive powers given to boards of selectmen by general law, or otherwise. The board of selectmen shall serve as the chief policy making agency of the town, responsible for the establishment of policy directives and guidelines to be followed by all town agencies serving under it, provided, however, no individual member of the Board of Selectmen, nor a majority of it, shall, at any time, attempt to issue orders, instructions, commands, or mandates to town employees involved in the administration of the affairs of the town, but shall at all times act by majority through the Town Administrator or the established policy directives and guidelines.
- (c) Appointing Powers - The board of selectmen shall appoint the town administrator, the registrars of voters (but not the town clerk and other elected officers), the board of health, and the members of all other multiple-member bodies for whom no other method of selection is provided by the charter.

Note: Section 3-2 (c) was amended by town meeting vote at a special town meeting held on August 2, 1993 under Article 6 by authorizing the striking of the term town accountant from the list of positions appointed by the Board of Selectmen. The article did not specify anyone to whom this appointing authority fell. Act was to take effect immediately on passage. Sent to state on August 3, 1993; approved by the Legislature on November 1, 1993 as Chapter 211 of the Acts of 1993.

Note: Section 3-2 (b) was amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 46. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

- (d) Licensing Authority - The board of selectmen shall be the license board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and impose restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issue licenses.

Section 3 - 3 School Committee

- (a) Composition, Term of Office - There shall be a school committee consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.
- (b) The school committee shall have all of the powers and duties school committees are given under general laws and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote. The powers of the school committee shall include but need not be limited to the following:
 - 1) The school committee shall appoint a superintendent of the schools and all other officers and employees as prescribed by law. The school committee shall fix the compensation of school department employees, define their duties and make rules concerning their employment status. The school committee has the power to discharge the superintendent.
 - 2) The school committee shall make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town.

Note: Section 3-3 was amended and approved by town

meeting vote at the Annual Town meeting held on April 23, 2001 under Article 47. Approved by the Attorney General on June 1, 2001.

Section 3 - 4 Town Moderator

- (a) Term of Office - There shall be a town moderator and a deputy town moderator, each elected for a concurrent three year term.
- (b) Powers and Duties - The town moderator, as provided in section 2-2 shall preside and regulate the proceedings at all town meetings and shall have all of the powers and duties given to town moderators by general laws and such additional powers and duties as may be provided by charter, by by-law or by other town meeting vote. In the town moderator=s absence, the deputy town moderator shall have the powers and perform the duties of the town moderator.

Note: Section 3-4 (a) was amended and approved by town meeting vote at the Annual Town meeting held on April 23, 2001 under Article 41. Approved by the Attorney General on June 1, 2001.

Section 3 - 5 Board of Assessors

- (a) Composition, Term of Office - There shall be a board of assessors consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.
- (b) Powers and Duties - The board of assessors shall act as the policy making board for the assessing department. The board of assessors shall annually make a fair cash valuation of all of the estate, both real and personal, subject to taxation within the town. The assessors shall determine the annual tax rate and shall hear and decide all applications for the abatement of such taxes. The board of assessors shall have all of the other powers and duties which are given to boards of assessors by general laws and such other powers, duties and responsibilities as may be provided by charter, by by-law or by other town meeting vote.
- (c) Director of assessment - The town administrator shall appoint a director of assessment for a term of three years and fix the director's compensation within the amount annually appropriated for that purpose. An appointment by the town administrator shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of assessors, unless the board of assessors shall, within said period, by a majority vote of the full board, vote to reject any such appointment, or has sooner voted to affirm it. Notwithstanding any other provision of the charter, the town administrator shall appoint all other employees of the assessing department. The director of assessment shall be a person of proven professional ability, especially fitted by

education, training, and previous experience in municipal assessment and taxation to perform the duties of the office. The director of assessment shall be responsible to the town administrator for the day to day operations of the assessing department, and shall be responsible for the efficient administration of all functions of that department, and shall perform such other duties as the board of assessors should require from time to time. The director of assessment shall keep the board of assessors fully informed as to the condition of the assessing department and matters relating to assessment, valuation, taxation, and abatement. The director of assessment shall implement votes of the board of assessors which require action.

At the first annual town election after passage of this special act, two new assessors shall be elected, one for a term of two years, and one for a term of three years. At each annual town election thereafter, the voters shall elect in place of those assessors whose term is about to expire a like number of assessors to serve for terms of three years.

Note: The above section 3 - 5 was not part of the original charter. Assessors, under the original charter were elected. The change was approved at a Special Town Meeting on April 25, 1994, and subsequently approved by the Legislature on July 8, 1994 as Chapter 57 of the Acts of 1994. Technically, if the charter had a section headed "appointed officials", this section 3 - 5 should be included there.

Section 3 - 6 Town Clerk

- (a) Term of Office - A town clerk shall be elected for the term of three years.
- (b) Powers and Duties - The town clerk shall be the keeper of vital statistics for the town, the custodian of the town seal and all records of the town, shall administer the oath of the office to all town officers, elected or appointed, shall issue such licenses and permits as are required by law to be issued by town clerks, supervise and manage the conduct of all elections, and matters relating thereto, be the clerk of the town meeting, keep its records and in the absence of the town moderator serve as temporary presiding officer. The town clerk shall have all of the other powers and duties which are given to town clerks by general laws and such other powers, duties and responsibilities as may be provided by charter, by by-law or by other town meeting vote.

Section 3 - 7 Board of Sewer Commissioners

- (a) Composition, Term of Office - There shall be a board of sewer commissioners consisting of 5 uncompensated members, with no group health or insurance

benefits, who shall be elected to 3-year terms, so arranged that the terms of as nearly an equal number of members as possible shall expire each year. At least 3 commissioners shall be sewer users and at least 1 commissioner shall be a non-sewer user.

- (b) Powers and Duties - The board of sewer commissioners shall make careful studies of the resources, possibilities and needs of the town related to the availability of sanitary sewers and for the maintenance of a sanitary sewer system. The board shall develop a comprehensive or master plan for a town-wide system of sanitary sewers, which shall include, in graphic and textual form, policies to govern the future growth and development of the entire town. The board in conjunction with other land use bodies shall assist in developing a long-range strategic plan for guiding town growth and development. The powers and authority of the board shall include: (1) oversight of the Sewer Enterprise Fund; (2) setting rates and charges for the use of the sanitary sewer system; (3) responsibility for the appointment of the sewer superintendent established in subsection (d); and (4) providing advice to the board of selectmen relating to the intergovernmental agreements concerning sanitary sewers. The day-to-day operation, care and maintenance of the sewer department shall be under the supervision of the sewer superintendent. Except as expressly provided by this Charter, the board of sewer commissioners' authority and the sewer superintendent's responsibilities shall pertain only to the technical operation of the sewer system and facilities. The Town Administrator shall maintain and exercise administrative control over personnel as provided by this Charter, and the Board of Selectmen shall be the town of Wareham's sole collective bargaining agent as provided for by Chapter 150E of the General Laws.
- (c) Appointments – Upon an opening on the board for which there is no candidate, that position shall be filled by the board of selectmen and the existing members of the board of sewer commissioners. The person appointed to the opening shall serve in that position until the next election.
- (d) Sewer Superintendent – The appointment of a sewer superintendent shall be made by the sewer commission and shall become effective 15 days after notice of the appointment has been filed with the board of selectmen, unless the board of selectmen shall, within that period and by a majority vote of all its members, reject the appointment or if the board of selectmen has earlier voted to affirm.

(1) The sewer superintendent shall be responsible for the efficient technical administration of the sewer system and facilities, and for implementing votes of the sewer commissioners that are within that commission's jurisdiction. Except as expressly provided in this Charter, the board of sewer commissioners shall not have control over personnel matters.

(2) The Town Administrator shall appoint and remove, subject to the

civil service law, if applicable, all sewer department subordinates and employees. Within 15 days following the day on which notice of the appointment is filed with the board of sewer commissioners, the board shall have the opportunity, by a majority vote of the full board, to affirm any appointment, in which case the appointment becomes effective immediately, or to reject the appointment. If the board of sewer commissioners does not affirm or reject an appointment within those 15 days, the appointment made by the Town Administrator shall become effective.

- (e) The board of sewer commissioners shall provide a detailed and balanced budget for the sewer system and the Sewer Enterprise Fund to the Town Administrator by January 5.
- (f) The removal of the sewer superintendent shall be governed by section 7-9.

Note: The above section 3 – 7, Board of Sewer Commissioners was not part of the original charter. The change was approved at a Town Meeting on October 28, 2013, and subsequently approved by the Legislature on May 22, 2014 as Chapter 114 of the Acts of 2014.

Note: The above section 3 – 7, Board of Sewer Commissioners' change was approved at a Town Meeting on October 27, 2014, and subsequently approved by the Legislature on May 1, 2015 as Chapter 17 of the Acts of 2015.

Section 3 - 8 Wareham Housing Authority

- (e) Composition, Term of Office - There shall be a housing authority consisting of five members. Four of these members shall be chosen by ballot; the fifth member shall be a town resident appointed in the manner provided by law. Housing authority members shall serve for terms of five years, so arranged that one term of office shall expire each year.
- (f) Powers and Duties - The housing authority shall have all of the powers and duties given to housing authorities by general laws and such additional powers and duties as may be authorized by charter, by by-law or by other town meeting vote.

Section 3 – 9 Board of Road Commissioners

- (a) Composition, Term of Office – There shall be a Board of Road Commissioners

consisting of 7 voting members: 3 ex officio members, the Chief of Police, the Town Planner, and the Director of Public Maintenance, and 4 members appointed by the Board of Selectmen according to the merit principle, whose terms shall be 2 years each, with 2 of the appointee positions expiring each year.

- (b) Powers and Duties – The Board of Road Commissioners shall act in accordance with the powers enumerated in Chapter 40, Massachusetts General Laws, Section 22 and, as such, shall conduct a periodic review of public ways and shall make rules and orders for all traffic policies, including: speed limits, traffic control signs, regulation of heavy commercial vehicles, traffic and parking regulations, penalties and repeals. Insofar as these rules and orders are the same as the regulations, rules and orders now in force in the Wareham Municipal Traffic Code, they shall be deemed to be a continuation thereof. The board shall, furthermore, assume the responsibility of street marking, and house numbering as determined by the revised 10-26-2009 By-Laws of the Town of Wareham, Division III, Article I.

Note: Section 3-9 was added and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 41. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

ARTICLE 4 TOWN ADMINISTRATOR

Section 4 – 1 Appointment, Qualifications, Term of Office

The board of selectmen with the agreement of 75 percent of its members shall hire a town administrator and negotiate a contract for a term not to exceed three years. Said contract to be re-negotiated six months prior to the termination of the existing contract with the agreement of the majority of the members of the board of selectmen. The office of town administrator shall not be subject to the consolidated personnel by-law, if any. The town administrator shall be hired solely on the basis of his executive and administrative qualifications. He shall be a person of proven professional ability, especially fitted by education, training and previous experience in municipal administration to perform the duties of the office. He shall not have served in any elective office in the town of Wareham for at least twelve months prior to his appointment. He shall devote his full time to the office and shall not hold any other public office, elective or appointive, nor shall he engage in any other business, occupation or profession during his term, unless such action is approved in advance in writing by the Board of Selectmen. The town may, from time to time, by law, establish such additional qualifications as seem necessary and appropriate.

Note: The above section 4 - 1 of Article 4 is, in part, new to

The charter and replaced the original version approved in 1977. This new section was approved as part of the town meeting warrant of October 16, 1989. It was approved by the Massachusetts Legislature as Chapter 48 of the Acts of 1990.

Note: Section 4-1 was amended by town meeting vote at the Fall Annual Town meeting held on October 15, 2001 under Article 20 authorizing the majority of the members of the board of selectmen to renegotiate six months prior to termination of town administrator's contract. Approved by the Attorney General on November 27, 2001. Voted and approved at the Annual Town Election on April 2, 2002.

Section 4 - 2 Powers and Duties

The town administrator shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the proper discharge of all duties of the office and for the proper administration of all town affairs placed under his charge by or under the charter. His powers and duties shall include, but need not be limited to the following:

- (a) He shall supervise, direct and be responsible for the efficient administration of all functions under his control, as may be authorized by the charter, by by-law, by other town meeting vote or by vote of the board of selectmen, including all officers appointed by him and their respective departments.
- (b) He shall appoint and remove, subject to the civil service law where applicable, all department heads, all officers and subordinates and employees for whom no other method of selection has been provided by said charter, except persons serving under other elected officers or multiple member bodies or under any office or multiple - member body appointed by the board of selectmen and appointments made by representatives of the Commonwealth. Within fifteen days following the day on which notice of the appointment is filed with the Board of Selectmen, the Board of Selectmen shall have the opportunity, by a majority vote of the full board, to affirm any such appointment, in which case the appointment becomes effective immediately, or to reject it. Should the Board of Selectmen choose neither to affirm or reject, on the fifteenth day, the appointment made by the Town Administrator shall become effective.

Note: Section 4 - 2 (b) was approved by voters at town meeting of October 20, 1980 under Article 36 by striking out the first sentence and replacing it with the sentence above which starts "He shall appoint and remove... It was approved by the State Legislature on June 18, 1981 as Chapter 248 of the Acts of 1981.

- (c) He shall be entrusted with the administration of the Town Personnel system, including but not limited to personnel policy and practices, rules and regulations, and all collective bargaining agreements entered into on behalf of the town and to maintain an up-to-date employee handbook.
- (d) He shall fix the compensation of all town officers and employees appointed by the town administrator within the limits established by appropriation and the provisions of town by-laws.
- (e) He shall attend all regular and special meetings of the board of selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its discussions.
- (f) He shall attend all sessions of the town meeting and shall answer all questions concerning warrant articles which are directed to him and which relate to matters under his general supervision.
- (g) He shall see that all provisions of general laws, the charter, the by-laws and other votes of the town meeting and votes of the board of selectmen which require enforcement by him, or officers and employees subject to his direction and supervision, are faithfully carried out and performed.
- (h) He shall prepare and submit, in the manner provided in article 5, a proposed annual operating budget and a proposed capital outlay program.
- (i) He shall keep the board of selectmen fully informed as to the financial condition and needs of the town, and shall make such recommendations to the board of selectmen, for actions to be taken by it as he deems to be necessary, advisable or expedient.
- (j) He shall assure that full and complete records of the financial and administrative activities of the town are kept and shall render full reports to the board of selectmen at the end of each fiscal year and at such other times as it may reasonably require.
- (k) He shall have full jurisdiction over the rental and use of all town facilities, except schools. He shall be responsible for the preparation of all plans for capital improvement work on any existing town facility, or new facility, except schools. He shall be responsible for the supervision of all capital improvement work on existing facilities, and new facilities, except school buildings.
- (l) He may at any time inquire into the conduct of office of any town officer, employee, department or other agency under his control.
- (m) He shall assure that a full and complete inventory of all property of the town, both real and personal, is kept, including all property under the jurisdiction of the school committee.
- (n) He shall be responsible for the negotiation of all contracts involving any subject within his jurisdiction, including the negotiation with town employees over wages, hours and other terms and conditions of employment. All such contracts as may be proposed by him shall be subject to final approval and execution by the board of selectmen.
- (o) He shall be responsible for the purchase of all supplies, materials and equipment,

and shall award all contracts for supplies, material and equipment for all departments and activities of the town, except in case of emergency. He shall examine and inspect, or cause to be examined and inspected, the quantity and condition of all supplies, materials and equipment delivered to or received by any town agency.

- (p) He shall perform any other duties required of him by the charter, by by-law, by other town meeting vote, or by vote of the board of selectmen.

Note: Section 4-2 (b) Article 49 and 4-2 (c) Article 42 were amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

Section 4 -3 Acting Town Administrator

- (a) Temporary Absence - By a letter filed with the town clerk and the board of selectmen, the town administrator shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of his office during this temporary absence. During the temporary absence of the town administrator the board of selectmen may not revoke such designation until at least ten working days have elapsed whereupon it may appoint another qualified town administrative officer or employee to serve as acting town administrator until the town administrator shall return.
- (b) Vacancy - When the office of the town administrator is vacant, as a result of death, resignation or otherwise, or during the time a town administrator is under suspension, as provided in section 4-4, the board of selectmen shall appoint a qualified town administrative officer or employee to serve as acting town administrator until the vacancy is filled or the suspension has been terminated.

Section 4 - 4 Removal and Suspension

The board of selectmen may remove or suspend the town administrator from office after first applying the following procedures:

- (a) **Notice** - The board of selectmen may, at a regularly scheduled meeting, adopt, by the affirmative votes of three members, a preliminary resolution of removal or suspension setting forth in reasonable detail the reason or reasons for removal or suspension. The resolution may suspend the town administrator from his duties for a period not to exceed forty-five days. A copy of the preliminary resolution shall be delivered to the town administrator forthwith following its adoption. Failure to adopt such a resolution shall prevent the suspension or removal of the town administrator.

- (b) **Public Hearing** - Within five days following the adoption of a preliminary resolution of removal or suspension, the town administrator may request a public hearing on the reasons given for his removal or suspension, by filing a written request for such hearing with the board of selectmen. The hearing shall be convened by the board of selectmen, not less than twenty nor more than thirty days after such request is filed. Not less than five days' written notice of the date on which the hearing will begin shall be given to the town administrator. The time limitations contained herein may be waived by the town administrator. The town administrator shall be entitled to file a written statement with the board of selectmen responding to the reasons cited for his removal or suspension, provided the same is received by the board of selectmen not less than forty-eight hours in advance of the time set for the public hearing to begin. The town administrator may be represented by counsel, shall be entitled to present evidence, call witnesses and, personally, or through counsel, question any witness appearing at the hearing.
- (c) **Removal** - If the town administrator does not request a public hearing, then upon the expiration of ten days following the date of delivery to him of the preliminary resolution, or, if the town administrator has requested a public hearing, then five days following the date of the adjournment of the public hearing, the board of selectmen may, at a regularly scheduled meeting, adopt, by the affirmative votes of three members, a final resolution of removal or suspension, such resolution shall be effective upon adoption. Failure to adopt a final resolution within the time limitations imposed by this section shall nullify the preliminary resolution of removal or suspension. The action of the board in removing or suspending the town administrator shall be final, it being the intention of this provision to vest all authority and fix all responsibility for the suspension or removal of a town administrator in the Board of Selectmen. The town administrator shall continue to receive his salary until at least one month, but not more than three months after the date of the final resolution of removal, as the board of selectmen shall deem proper.

Section 4 - 5 Additional town administrator appointments

- (a) **Town Treasurer/Collector** - The Town Administrator shall appoint a town treasurer/collector for an indefinite term. The treasurer/collector shall receive and take charge of all money belonging to the town. He shall pay out and account for all town funds according to the order of the town and its authorized officers. No other person shall have authority to pay any bill of any municipal department. The treasurer/collector shall collect all accounts which are due the town. The treasurer/collector shall, upon receipt of a tax list and warrant from the assessors, collect the taxes and any interest thereon and shall make a written return of his doings with the assessors. The treasurer/collector shall give an account of all his receipts and shall pay over to the treasurer all funds received. The treasurer/collector shall have

all of the other powers and duties which are given to treasurers and collectors by general law and such other powers, duties and responsibilities which may be provided by charter, by by-law or by other town meeting vote.

- (b) No person shall be appointed or removed as town treasurer/collector except as provided in subsections (1), (2) and (3) following:
- (1) Appointment and removal shall be in a manner consistent with Section 4-2(b).
 - (2) No person shall be appointed town treasurer/collector, who on the effective date of his appointment, does not possess as least an earned baccalaureate degree from an accredited institution of higher learning in either accounting, financial management or treasury management or has earned sufficient course work credits in any combination of the aforementioned which otherwise would be equal to the requisite earned degree in any one of the individual disciplines set forth herein.
 - (3) No person shall be appointed to the position of town treasurer/collector, who, on the effective date of such appointment does not possess at least five (5) years of full-time professional experience, with the ten (10) years immediately preceding the date of such an appointment in the practice of accounting, treasury management, financial administration or financial management, at least three years of which shall have been as a full-time official of a municipality, county government, regional authority or agency, or federal government agency.

Note: This graph in the original charter included town Collector as an elected position. A vote of the special town meeting of April 23, 2001, Article 5, amended this and deleted the position of collector which was made appointed by the town administrator. Approved at the April 2, 2002 annual election.

Note: Article 19 added and approved on April 29, 2003; Approved by the Attorney General on May 12, 2003. Approved at the April 6, 2004 annual election.

ARTICLE 5 FISCAL PROCEDURES

Section 5 – 1 Fiscal Year

The fiscal year of the town shall begin on the first day of July and shall end on the thirtieth day of June, unless another provision is made by general law.

Section 5 - 2 School Committee Budget

- (a) Submission to the town administrator - The budget adopted by the school committee shall be submitted to the town administrator no later than 20 days before the required date of submission per section 5-3 in order to prepare a total town budget.
- (b) Public hearing by School Committee - At least fourteen days prior to the meeting at which the school committee is to vote on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget and a notice stating (1) the times and places where complete copies of the proposed budget shall be available for public examination, and (2) the School Committee shall conduct a public hearing at which the proposed budget shall be discussed. Participants shall include the Superintendent of Schools and the School Department Business Manager, the Board of Selectmen, the Finance Committee, and the Town Administrator and Town Accountant.
- (c) Adoption - The action of the school committee in adopting the budget following the public hearing shall be summarized and the vote of each member on any amendments offered to the proposed budget shall be recorded.

Section 5 - 3 Submission of proposed town budget

Within a time fixed by by-law before the date on which the town meeting is to meet in the spring of each year, no later than January 25th, the town administrator, under the direction of the board of selectmen, shall submit to the finance committee a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. He shall simultaneously provide for the publication in a local newspaper of a general summary of the proposed budget and of a notice stating the times and places where complete copies of the proposed budget are available for public examination.

**Note: Sections 5-2 & 5-3 were amended and approved by town meeting vote at the Annual Spring town meeting held on April 28, 2014 under Article 18. Approved by the Attorney General on May 20, 2014.
Approved at the Annual Town Election on April 7, 2015.**

Section 5 - 4 Budget Message

The budget message submitted by the town administrator shall explain the proposed budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year; describe important features of the proposed budget; indicate any major variations from the current budget in financial policies, expenditures and revenues together with the reasons for such changes;

summarize the town's debt position; and include such other material as the town administrator deems desirable.

Section 5 – 5 The Proposed Budget

The proposed budget shall provide a complete financial plan of all town funds and activities, including the budget as requested by the school committee. Except as may otherwise be required by general law or by the charter, it shall be in the form the town administrator deems desirable or the board of selectmen may require. In his presentation of the proposed budget the town administrator shall make use of modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial control. The budget shall be arranged as to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years, and shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency, function and work programs and the proposed methods 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.
- (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 5 – 6 Action of the Proposed Budget

- (a) Public Hearing - The finance committee shall, forthwith upon receipt of the proposed budget, provide for publication in a local newspaper of a notice stating the date, time and place, not less than seven nor more than fifteen days following such publication, when a public hearing shall be held by the finance committee on the proposed budget.
- (b) Finance Committee Meetings - The finance committee shall consider in public meetings the detailed expenditures for each town agency as proposed by the town administrator, and may confer with representatives of any such agency in connection with its considerations. The finance committee may require the town administrator or any other town agency to furnish to it such additional information as it deems to be necessary in furtherance of its responsibility.
- (c) Presentation to Town Meeting - The finance committee shall file a report containing its recommendations for action on the proposed budget which shall be available not less than seven days prior to the date on which the town meeting is to act on the proposed budget. When the proposed budget is before the town meeting for action it shall first be subject to amendments, if any, as may be

proposed to it by the finance committee.

Section 5 – 7 Capital Improvement Program

The town administrator shall submit a capital improvement program to the board of selectmen and the finance committee at least thirty days before the date fixed for the submission of his proposed budget. It shall be based on material prepared by the capital planning committee as provided in section 2-5 (d). The capital improvement program shall include, (a) a clear, concise general summary of its contents; (b) a list of all capital expenditures to be made during the five fiscal years next ensuing, with supporting information as to the need for each such expenditure; (c) cost estimates, methods of financing and recommended time scheduling; and (d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised with regard to each item still pending or in the process of being acquired, improved or constructed.

Section 5 - 8 Financial Public Records

Statements summarizing the budget, the capital improvement program and related warrant articles, as adopted by the town meeting, shall be made available in the office of the town administrator for public examination within twenty days following their adoption.

Section 5 - 9 Approval of Financial Warrants

A copy of each warrant for the payment of town funds prepared by the town accountant shall be submitted promptly to the town administrator who shall make recommendation to the selectmen with respect to the approval or disapproval by them of each such warrant or any item or items in any such warrants.

ARTICLE 6 ADMINISTRATIVE ORGANIZATION

Section 6 - 1 Creation of Departments, Divisions, Agencies, offices, etc.

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

Section 6 - 2 By-Laws

Subject only to express prohibition in a general law, or this charter, the town meeting may, by by-law, reorganize, consolidate, abolish, create, merge, divide, alter the term of office, the manner of selection, or, if a multiple member body, the number of members, of any town agency, in whole or in part; establish such new town agencies as it deems necessary or advisable, and may prescribe the functions, powers, duties and responsibilities of any such town agency, but

excluding from this section any town agency described in article 2 or 3 of the charter.

Section 6 - 3 Administrative Code

The Town Administrator, after consultation with the Board of Selectmen, may prepare and submit to the town meeting plans for organization or reorganization, which establish town agencies for the orderly or convenient conduct of the business of the town. Whenever the town administrator prepares such a plan he shall, in conjunction with the board of selectmen, hold one or more public hearings on the proposal, giving notice by publication in a local newspaper, not less than seven nor more than fourteen days before the date the hearing is scheduled, which notice shall describe the scope of the proposal and the time and place of the public hearing. A reorganization proposal may be amended or altered prior to its submission, by the Board of Selectmen, to the next town meeting held following the public hearing. The town meeting at which the reorganization plan is submitted may vote only to approve or to disapprove of it, and shall not vote to amend or to alter it in any way. A re-organization plan shall become effective at the expiration of sixty days following the date of the town meeting at which it is submitted unless the town meeting has, within that period, voted to disapprove of it. Subject only to express prohibition in a general law, or this charter, a re-organization proposal submitted under this provision may re-organize, consolidate, abolish, create, merge, divide, alter the term of office or the manner of selection of officers, and, if a multiple member body, the number of members thereof, of any town agency, in whole or in part; establish new town agencies and may prescribe the functions, powers, duties and responsibilities of any town agency, but excluding from this section any town agency described in article 2 or 3 of the charter.

Note: Section 6-3 was amended by town meeting vote at The Annual Fall town meeting held on October 25, 2010 under Article 57. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

Section 6 - 4 Personnel Organization Plan

The town administrator shall prepare, maintain and keep current a plan establishing the personnel staffing requirements of each town agency, except those under the jurisdiction of the school committee.

Section 6 - 5 Merit Principle

All appointments and promotions in the town service shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability to perform the duties of the office or of the employment.

ARTICLE 7

GENERAL PROVISIONS

Section 7 - 1 Charter Changes

- (a) In General - This charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX (eighty-nine) of the amendments to the state constitution and any legislation enacted to implement said amendment.
- (b) Periodic Review - The board of selectmen shall, in every year which ends in nine, appoint a committee to review the charter, said committee shall submit a report, with recommendations, to the first annual town meeting that ends in zero, concerning any proposed amendments or revisions to the charter which it believes to be necessary or desirable. This article shall become effective in year 1999.

Note: Section 7-1 (b) was amended by town meeting vote at the April 26, 1999 Annual Town meeting. Approved by the Attorney General on June 15, 1999. Approved at the April 4, 2000 Annual Town Election.

Section 7 - 2 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 - 3 Specific Provisions to 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 - 4 Rules and Regulations

A copy of all rules and regulations adopted by town agencies shall be placed on file in the office of the town clerk and made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall be effective until ten days following the date it has been published, in full, in a local newspaper and placed on file in the office of the town clerk, or the later of the two.

Section 7 - 5 Uniform Procedures

Governing Multiple Member Bodies

- (a) Meetings - All multiple member bodies of the town, whether elected, appointed, or otherwise constituted, shall meet regularly at such times and places within the town as they may prescribe. Special meetings of any multiple member body shall be held on the call of the respective chairman or by one-third of the members thereof by written notice delivered in hand or to the place of business or residence of each member at least forty-eight hours before the time set and which contains notice of the subjects which are to be acted upon, and no other business shall be in order. A copy of the said notice shall be posted on the town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and to the press.
- (b) Rules and Journal - Each multiple member body shall determine its own rules and order of business, unless otherwise provided by law or by the charter, and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record, kept available in the office of the Town Clerk, and a certified copy shall be kept available in the Wareham Free Library.

Note: Section 7-5 (b) was amended by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 59. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

Section 7 - 6 Definitions

- (a) Charter - The word "charter" shall mean this charter and any amendments to it made through any of the methods provided under article LXXXIX (eighty-nine) of the amendments to the state constitution.
- (b) Days - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays, when the time set is less than seven days; when the time set is seven days or more every day shall be counted.
- (c) Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.
- (d) general laws - The words "general laws" (all lower case letters) shall mean laws which apply alike to all cities and towns, to all towns, or to a class of municipalities of which Wareham is a member.
- (e) General Laws - The words "General Laws" (used with initial capital letters) shall refer to the general Laws of the Commonwealth of Massachusetts as they exist at the time this charter is adopted and are intended to include all applicable amendments and revisions or to the corresponding chapters and sections of any recodification or rearrangement of statutes adopted subsequent to the adoption of this charter.

- (f) Local newspaper - The words "local newspaper" shall mean a newspaper of general circulation in the town of Wareham.
- (g) Majority vote - The words "majority vote" shall mean a majority of those present and voting, providing a quorum of the body is present.
- (h) Multiple Member Body - The words "multiple member body" shall mean any body consisting of two or more persons, whether elected, appointed or otherwise constituted.
- (i) Town - The word "town" shall mean the Town of Wareham.
- (j) Policy – The general principles by which a government is guided in its management of public affairs. This term, as applied to law, ordinance, by-law, Town Charter, or rule of law, denotes a general purpose or tendency considered as directed to the welfare or prosperity of the state or community.
- (k) Qualify - To take oath of office.

Note: Section 7-6 (j) and (k) was amended and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 61. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

- (l) Voters - The word "voters" shall mean persons registered to vote in the town of Wareham.

Section 7 – 7 Number and Gender

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender shall include the feminine gender.

Section 7 - 8 Notice of vacancies

Whenever a vacancy occurs, or is about to occur, in any town office, including membership on any multiple member body, or town employment, except for positions covered under the state civil service law or otherwise provided for under a collective bargaining agreement, the appointing authority shall, forthwith, cause public notice of such vacancy, or impending vacancy, to be posted on the town bulletin board and shall give such further public notice as may be provided by by-law. Any person who desires to be considered for appointment to the said office or employment may, within ten days following the date notice was posted, file with the appointing authority, a statement setting forth in clear and specific terms his

qualifications for the office or the employment. No permanent appointment to fill a vacancy in a town office or in town employment shall be effective until at least fourteen days have elapsed following such a posting, and until all persons who have filed statements shall have been considered.

Note: Section 7-8 was amended and approved by town meeting vote at the Fall annual town meeting held on October 15, 2001 under Article 19. Approved by the Attorney General on November 27, 2001. Approved at the Annual Town Election on April 2, 2002.

Section 7 - 9 Removals and Suspensions

Any appointed officer or full time employee of the town, not subject to the provisions of the civil service law, whether appointed for a fixed or for an indefinite term, may be removed or suspended from his duties by the appointing authority. The appointing authority when acting to remove or suspend any appointed officer or full time town employee shall act in accordance with the following procedure:

- a) A written notice of the intent to remove or to suspend and a statement of the cause or causes therefore shall be delivered in hand, or by registered or certified mail, to the officer or employee.
- b) Within five days following the delivery of the notice, the officer or employee may request a public hearing by submission of a request, therefore, in writing, to the appointing authority, and by filing a copy of such request in the office of the town clerk.
- c) The appointing authority shall hold a public hearing not less than seven nor more than fourteen days following the date of receipt of a request therefore, and shall give not less than five days notice of such public hearing to the officer or employee affected. The officer or employee shall have a right to be represented by counsel at such hearing, to call witnesses and to introduce evidence and to examine any witnesses who might appear at the public hearing.
- d) Not more than fourteen days following the public hearing, or if the officer or employee has failed to request a public hearing then not more than fourteen days following delivery of the original statement of intent, the appointing authority shall take final action concerning the removal or suspension and shall forthwith notify the officer or employee that the removal or suspension is to be effective or, that the notice is

rescinded.

Nothing in this section shall be construed to grant a right to such a hearing to any person who has been appointed to a fixed term, who, upon the expiration of that term of office, is not reappointed, nor shall it apply to the town administrator whose suspension and removal shall be governed by section 4-4. The action of the appointing authority in suspending or removing an officer or employee shall be final, it being the intention of this section to vest all authority and to fix all responsibility for appointment, suspension and removal of officers and employees in the appointing authority.

Section 7 – 10 Recall of Elected Officials

- (a) Application - Any person who holds an elected town office, with more than six months remaining of the term of office, may be recalled from the office, by the voters, in the manner provided in this section.
- (b) Recall Petitions - Twenty-five or more voters may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The town clerk shall deliver to the said voters petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by writing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the persons who filed the affidavit and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; and they shall be dated and signed by the town clerk. A copy of the petition shall be kept on file in the office of the town clerk in a record book maintained for that purpose. Notwithstanding, any general or special law or charter provision or by-law of the town of Wareham, recall petitions shall be returned and filed in the office of the town clerk within fourteen days following the date the petitions were issued, signed by at least ten percent of the total number of registered voters duly recorded on the registration list of the town clerk as of the preceding town election. The town clerk shall, within twenty-five hours following such filing, submit said petitions to the registrars of voters who shall forthwith certify thereon the number of signatures which are names of voters.

Note: The last sentence of the first paragraph in 7-10 (b) was changed to what appears above by a vote of the Fall town meeting of October 20, 1980 under Article 37. It was approved as Chapter 234 of the Acts of 1981 on June 4, 1981 by the State Legislature.

- (c) Recall Election - If the petition shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same to the board of

selectmen. Upon its receipt of the certified petition, the board of selectmen shall forthwith give written notice of said petition and certificate to the person whose recall is sought. If said officer does not resign his office within five days following delivery of the said notice, the board of selectmen shall order an election to be held not less than thirty-five nor more than sixty days after the date of the registrars' certificate of the sufficiency of the petition. If, however, another town election is to occur within sixty days after the date of the said certificate, the board of selectmen shall hold the recall election on the date of said other town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

- (d) Nomination of Candidates - An officer whose recall is sought may not be a candidate to succeed himself at the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same shall all be in accordance with the provisions of other laws relating to elections, unless otherwise provided in this section.
- (e) Propositions on ballot - Ballots used at a recall election shall state the following propositions in the order indicated:

For the recall of (name of officer) / /
Against the recall of (name of officer) / /

Adjacent to each proposition, there shall be a place to vote for either of the said propositions. After the propositions shall appear the word "candidates" and the direction to "vote for one", and beneath this the names of the candidates listed alphabetically by surname. If a majority of the votes cast upon the question of a recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question are in the negative, the recall fails.

There shall be a separate proposition for each incumbent being recalled. Candidates must declare one, and only one, officer they choose to replace.

Note: Section 7-10 (e) was amended and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 63. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

- (f) Officeholder - The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled in the election he shall continue in

office for the remainder of his unexpired term, subject to recall as before, except as provided in this section. If the officer is recalled in the election, he shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

- (g) Repeat of Recall Petition - No recall petition shall be filed against an officer within three months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

ARTICLE 8

TRANSITIONAL PROVISIONS

Section 8 - 1 Continuation of Existing Laws

All general laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended, repealed, or rescinded by due course of law or expire by their own limitation.

Section 8 - 2 Continuation of Government

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

Section 8 - 3 Continuation of Personnel

Any person holding a town office or employment under the town, shall retain such office or employment and shall continue to perform his duties until provision shall have been made, in accordance with the charter, for the performance of the said duties by another person or agency; provided, however, that no person in the permanent, full-time service of the town shall, as a result of the adoption of the charter, forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.

Section 8 - 4 Time of Taking Effect

The provisions of this charter shall become effective upon the approval of the voters of the town voting hereon, except as is hereinafter provided:

- a) At the time the Charter change is adopted where the Sewer Commissioners are no longer the Board of Selectmen but are now elected, the existing Sewer

Commissioners shall perform the duties of said office until the newly elected Sewer Commissioners are qualified. The election of the Sewer Commissioners shall take place in conjunction with the Town's April election. They shall take office May 1st of the election year.

The Town Administrator with the assistance of the Sewer Plant Manager shall assume responsibilities for the day-to-day operation, care and maintenance of the Sewer Department during this change over to Commissioners.

Note: Section 8-4 (a) was amended and approved by town meeting vote at the Annual Fall town meeting held on October 25, 2010 under Article 65. Approved by the Attorney General on January 10, 2011. Approved at the Annual Town Election on April 5, 2011.

- b) All persons serving in an elected town office which, under the provisions of the charter is to become an appointive office, shall continue to serve and shall continue to perform the duties of the office until the expiration of the term for which they were elected. When such term has expired the appointing authority shall appoint a suitable person to fill the vacancy, giving due consideration to the incumbent whose term has expired.
- c) Not more than 45 days following the election at which the charter is adopted the town moderator shall appoint a special committee to review the existing by-laws of the town, in order to bring them into conformity with the provisions of this charter. Said committees shall file a report, with recommendations, at the spring town meeting in the year following the year in which the charter is adopted.
- d) The board of selectmen shall, forthwith, following the election at which the charter is adopted, initiate procedures to select a town administrator. In addition to the qualifications which are stated in section 4-1, the initial qualifications for the office shall be that the person have served, full-time, in a position as a city or town manager, executive secretary, town administrator or other office having a different title but similar powers and duties, for not less than three years. The first appointment to fill this position shall be made not later than October 15th in the year in which the charter is adopted. There shall be a widespread and diligent search for candidates to fill the position of town administrator.
- e) The position of executive secretary to the board of selectmen is hereby abolished effective not more than two weeks following the appointment of the town administrator, or November 1st, whichever occurs first. The executive secretary may be a candidate for the office of town administrator, but nothing contained in the charter shall be deemed to grant to the incumbent of said office at the time the charter is adopted a right to assume automatically such office.
- f) Until such time as another provision is made, by by-law, in accordance with the requirement of section 2-3, the fall session of the town meeting shall be held on the

- third Tuesday of October, annually.
- g) Until such time as another provision is made, by by-law, the following additional requirements of publication shall apply to the notice of vacancy provisions of section 7-8:

Publication - In addition to the posting on town bulletin boards, required by section 7-8 of the charter, the appointing authority shall cause to be published in a local newspaper a notice of any such vacancy, or impending vacancy, at least two weeks prior to the date on which action is taken to fill the vacancy.

WAREHAM CHARTER COMMISSION
WAREHAM, MASSACHUSETTS
MINORITY REPORT

Submitted by: Elizabeth M. Carmichael
10 JANUARY 1977

I, Elizabeth M. Carmichael, am the minority member of the Wareham Charter Commission, and this is my minority report.

I was elected by you, the voters of Wareham, to serve as a member of your Charter Commission. I

believe that those who voted for me, would have expected me to be Amyself@ at all times and not Ago along with@ or support change just because other members of the Charter Commission were doing so. I can not support what I do not believe to be in the best interest of the Town of Wareham.

My interest and my support of good, effective, efficient, and viable local government is of long standing. I did not come to serve as a member of this commission unacquainted with the structure of our Town=s government and the way in which it has functioned. I have served the Town of Wareham in a number of capacities as a member of various boards, commissions, and committees. I have been involved in discussion, debate, and determination of many issues affecting our Town over a long period of time. I have attended Cape Cod Community College towards my degree in local and state government. I believe my background, experience, and education have given me a frame of reference in which to judge, to evaluate, and to choose among several alternative courses of action which were available but not considered by the Charter Commission, for the future structure of Wareham=s government.

In addition to attending virtually all of the Charter Commission meetings, I spent, on the average, fifteen hours each week in outside research and study.

I wish I could say all of this time and effort was well spent, and that I could recommend you, my fellow citizens, adopt the charter. Regretfully, I cannot. In my judgment adoption of this proposal would be a negative rather than a positive act for the good of the town. It would represent a step backward rather than forward.

I am pleased that I participated in the weekly deliberations of the Charter Commission, because many ideas I fought for are included in the Charter. I would specifically point to much of the material in article 5, regarding town budgets. I believe that giving the Finance Committee more time to consider warrant articles can only be a positive force. The publication of information to voters well in advance before they are to act on them can serve only as another step forward. These same provisions, however, can be gained by a vote at town meeting. We don not have to accept the charter to move forward in this area, to improve our town government.

I am also pleased that a provision to recall our elected officials who have lost the confidence of the voters has been included. But may I say here that this provision can be added without adoption of this charter, through placing a referendum question on the ballot.

My disagreement with the other members of the Charter Commission centers on article 4, the town administrator. In my judgment this article in the form in which it is written, will separate the citizens of Wareham from their government. No longer will the people have a direct say on who runs the town and how it is run. The powers the Charter would give to the administrator are tremendous - he would be a virtual dictator! The only power our elected selectmen would have over him, if they disagree or disapprove of the way he is performing his duties, would be to fire him. This could not only put the town in a state of constant turmoil, but could also be quite costly. If the selectmen saw fit to discharge him, this charter proposal could cost the taxpayers forty-five days pay after his dismissal, and could exceed up to three months. In the meantime, according to this charter proposal, the selectmen would have to either appoint a temporary administrator or hire another one, whichever comes first. This could cost the taxpayers double the amount.

I have spent a considerable amount of my own time examining and evaluating this most important aspect of our town government structure. I have interviewed our own Selectmen, I have looked closely at the governmental structure

of our sister town of Bourne; I listened to many intelligent, knowledgeable guest speakers from many different facets of government, all of whom have been involved in one form or another for a great length of time. After both listening about and studying many different types of government, I feel strongly in favor of primarily a Mayor-Council form, while retaining town meeting. There is no place in the Statute, or the Home Rule Amendment, which states this form is not allowed to be adopted. My second choice would be full time selectmen. Both of these forms of government would be answerable only to the people who elected them.

Daniel Webster, the eminent United States Senator from Massachusetts, said, in 1830, "The people=s government, made for the people, made by the people, and answerable to the people." I ask you: If this proposed charter is adopted will it be the people=s government? I say that it will not. It will be presided over by an outsider brought into Wareham, without any knowledge of our town, its traditions, or its people. This outsider will not be responsible to you, or to me. It will be the same as our Executive Secretary form has been, but with far greater powers. Remember, we tried not once but twice with form of government; both men who have held the position had great credentials, but neither have been able to carry out the duties of the office successfully, regardless of their individual skills.

I am gravely concerned with changes that could be made in our town=s governmental structure by the procedures proposed in article 6. The extensive powers given to the administrator could become even more dictatorial and dangerous with the provisions of this article. An individual who is brought in from another town to serve as administrator could also wind up making appointments to various town boards and committees, as well as hiring and firing of the various town employees. This person, who would most likely not know where East Wareham ends and West Wareham begins, would be without personal knowledge of individual qualifications, or lack of same, of potential appointees. Therefore, I cannot for the life of me understand how members of the Charter Commission could possibly expect this administrator to now who the best people would be to serve on town boards; this could potentially cause serious detrimental appointments for the safety and well-being of all the townspeople.

I would like to say that if you adopt this charter, you cannot change your main structure of government for a least three years, and only through another charter process. This would mean another Charter Commission which would in turn mean you would live with this government for a least four years. That is a long time to live with a nightmare. I know, because the people of Wareham have had this nightmare for the past five years, and will be glad to see it end one day. Be very careful when you vote at the 1977 Annual Town Elections and, for the good of the Town, vote NO on the question of adopting this charter being presented to you.

To all of you who voted for me last year, thank you for your trust. I have tried, in every way within my power and my capabilities, to represent, at all times, the whole town. At no time did I consciously act in the interest of less than what I perceived to be the interest of the majority.

This opportunity to serve my Town has been rewarding; I have learned a great deal. The lesson I learned best, however, is how lonely it can be to stand alone for principles in which you believe. In doing so, however, I can face anyone in Wareham with my head held high, completely free of any guilt or misconduct. I look forward to serving my Town again in future capacities, because I love the Town of Wareham, and the people who live in it.

Respectfully submitted,
Elizabeth M. Carmichael
Wareham Charter Commission
(Minority Member)