



EDWARD J. COLLINS, JR. CENTER FOR PUBLIC MANAGEMENT
JOHN W. MCCORMACK GRADUATE SCHOOL OF POLICY AND GLOBAL STUDIES
UNIVERSITY OF MASSACHUSETTS BOSTON

100 Morrissey Boulevard
Boston, MA 02125-3393
P: 617.287.4824
F: 617.287.5566
mccormack.umb.edu/centers/cpm
collins.center@umb.edu

DRAFT MEMORANDUM

TO: Members of the Town Council Study Committee
FROM: Project Team, Collins Center for Public Management
DATE: January 6, 2025
RE: Memo and Draft of Article 6, Financial and Fiscal Procedures

The next section of the charter being considered by the Committee is Article 6: Financial and Fiscal Procedures.

The annual operating and capital budgets are among the most important policy decisions the town makes each year. As a result, the annual budget process and related financial requirements are key elements in a charter. In general, the Collins Center recommends that important deadlines and steps in the budget process be written in the charter, with details left for the by-laws or other administrative procedures.

It is important for the Committee to understand that the budget process for a council form of government differs in significant ways from the town meeting form. The budget would be adopted by a smaller body (the town council) that meets continuously throughout the year. This eliminates the lengthy notice requirements and the separate finance committee process that exist under a town meeting form of government. In their place are opportunities to generate public input and review of the budget before its official adoption by the council.

While the budget must still be adopted prior to the commencement of the next fiscal year on July 1, the budget schedule for a council manager form of government commences later in the fiscal year. The Division of Local Services in the Department of Revenue suggests a budget process commencing in early December, but the Collins Center recommends an earlier process, especially for communities who want to encourage collaboration between municipal agencies and provide opportunities for public input.

Below, we have prepared a preliminary draft of Article 6: Financial and Fiscal Procedures. This article includes eleven sections, including: 1) Definition of the Fiscal Year; 2) The Town Manager's Authority to Organize the Annual Budget Process; 3) An Initial Public Budget Forum; 4) The Council's Adoption of Formal Budget Priorities; 5) Deadline for School Committee's Budget

Proposal; 6) Requirements and Deadline for the Town Manager's Budget Submission; 7) Requirements and Deadline for the Town Council's Budget Adoption; 8) The Process for Preparation, Submission, and Adoption of the Capital Budget; 9) Prohibition on Expenditures in Excess of Appropriations; 10) Financial Management Standards; and 11) Requirement for an Annual Independent Financial Audit.

The discussion of issues for consideration by the Committee, along with other commentary, is in red italics within each section.

Finally for your reference, the budget calendar incorporated within this draft article is as follows;

Initial Budget Forum -- November 15
Town Council Budget Priorities -- January 15
School Committee Budget Proposal -- March 15
Town Manager Budget and CIP Submission -- May 1
Town Council CIP Adoption -- June 1
Town Council Budget Adoption -- June 15

ARTICLE 6: FINANCIAL AND FISCAL PROCEDURES

Section 1: Fiscal Year The fiscal year of the Town shall begin on the first day of July and shall end on the last day of the following June.

The determination of a municipality's fiscal year is a requirement of state law, but it is worth mentioning in the Charter.

Section 2. Annual Budget Process

The Town Manager shall set policy and procedures for the preparation of the town's budget. The Town Manager will determine the schedule for budget preparation within the parameters set by the Massachusetts General Laws, the Charter and the Ordinances. All departments of the town shall follow the schedule and procedures for budget preparation as determined by the Town Manager. The Town Manager shall prepare and submit the budget to the Town Council for adoption in accordance with Massachusetts General Laws, the Charter and Ordinances.

This section makes it clear that all departments, even those that are independently elected, must follow the budget preparation policies and procedures of the Town Manager.

Section 3: Initial Public Forum Not later than November 15, the Town Council shall convene a public forum on the topic of the proposed budget. This forum is intended for the Town Council, School Committee and the Town Manager to review the financial condition of the town, examine revenue and expenditure forecasts and other relevant information necessary to develop a

coordinated budget for the ensuing fiscal year. The Town Council shall solicit feedback from the public at this forum.

This process involves the major stakeholders early in the budget process and creates a preliminary opportunity to educate and hear from the public.

Section 4: Town Council Budget Priorities Not later than January 1, but following the Initial Public Forum in Section 3, the Town Manager and the Town Council shall meet to discuss the Town Council's priorities for the upcoming fiscal year and discuss the budget format. The council shall develop its budgetary priorities, taking into consideration input from the community.

While not required, this process encourages the elected town council to adopt budget priorities for the Town Manager's consideration when preparing the budget.

Section 5: School Committee Proposed Budget Not later than March 15, the proposed budget adopted by the School Committee shall be submitted to the Town Manager.

This section acknowledges the separate and independent budget preparation authority of the School Committee established in state law notwithstanding the Town Manager's budget authority in Section 2.

Section 6: Town Manager Budget Submission Not later than May 1, the Town Manager will submit a proposed operating budget for all town agencies, including the school department, to the Town Council, for the ensuing fiscal year with accompanying budget message and support documentation. The budget message submitted by the Town Manager shall explain the budget in fiscal terms and in terms of work programs for all town agencies. It shall outline the proposed fiscal priorities of the town for the ensuing fiscal year, describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reason for such changes. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the Town Manager deems desirable.

This section establishes a deadline and makes clear the scope and details required in the budget submission by the Town Manager.

Section 7: Town Council Budget Adoption The Town Council shall adopt the budget with or without amendments by June 15. Prior to its adoption, the Town Council shall hold at least one public hearing. In amending the budget, the town council may delete or decrease any programs or amounts, except expenditures required by the laws of the commonwealth or for debt service. The Town Council shall publish, on the town bulletin board, on the town's website or other official online repository of municipal information, whether on the internet or accessed through another

comparable technology, and in any additional locations as required by law or ordinance, a summary of the Town Manager's proposed budget and a notice stating: (1) the times and places where entire copies of the proposed budget are available for inspection by the public; and (2) the date, time and place not less than 14 days after such publication, when a public hearing on said budget will be held by the Town Council.

This section establishes a deadline for budget approval by the Town Council and requires certain public notice and public hearing requirements.

Section 8. Capital Improvement Program

(a) Preparation – Not later than May 1, the Town Manager shall annually submit a capital improvement program to the Town Council in conjunction with the annual operating budget.

(b) Contents - The capital improvement program shall include: (1) a clear summary of its contents; (2) an itemization and justification of all capital improvements, including those of the school department, proposed to be undertaken during the next 5 fiscal years with supporting data; (3) cost estimates, recommended method of financing, and recommended time schedules; and (4) the estimated annual cost of operating and maintaining the facilities included in the program.

(c) Public Hearing - The Town Council shall publish, on the town bulletin board, on the town's website or other official online repository of municipal information, whether on the internet or accessed through another comparable technology, and in any additional locations as required by law or bylaw, a summary of the capital improvement plan and a notice stating: (1) the times and places where entire copies of the capital improvement plan are available for inspection by the public; and (2) the date, time and place not less than 14 days after such publication, when a public hearing on said plan will be held by the Town Council.

(d) Adoption - At any time after the public hearing but not later than June 1, the Town Council shall by resolution adopt the capital improvement plan, with or without amendment, provided that each amendment must be voted separately and that any increase in the capital improvement plan as submitted must clearly identify the method of financing proposed to accomplish this increase.

This section establishes deadlines and other requirements for preparing the Capital Improvement Plan, creates a process for public review and input including a public hearing and defines the deadline and process for Town Council adoption.

The existing Town of Nantucket By-Laws establishes a Capital Program Committee to advise the Select Board. If the Town wishes to retain the committee, it should be adjusted to reflect the new form of government. This can be accomplished in either the Charter or in the by-laws (ordinances).

Section 9. Expenditures in Excess of Appropriations

No official of the town, except in the case of a declared emergency as stated in Section 31 of Chapter 44 of the General Laws involving the health and safety of the people or their property, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the town in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that the provisions of Section 31 of Chapter 44 of the General Laws shall be strictly enforced.

This section explicitly states the prohibition included in Massachusetts law that a town may not intentionally expend or commit funds in excess of legal appropriations.

Section 10. Financial Management Standards

The Town Council may by ordinance establish reasonable standards relating to the management of financial systems and practices. Any standards adopted shall conform to modern concepts of financial management.

This section authorizes the Town Council to adopt financial management standards through ordinances. (While we have used the term ordinances in this draft, some council-manager communities use the term by-law to retain the familiar terminology of the town meeting form of government. The Committee should discuss which term it prefers.)

Section 11. Independent Audit

The Town Council shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest, direct or indirect, in fiscal affairs of the town government or any of its offices.

This section requires the town to have an independent audit of its books and accounts performed by a certified public accountant on an annual basis. The existing Town of Nantucket Charter (see Article 3.6) establishes an Audit Committee to advise the Select Board. If the Town wishes to retain an Audit Committee, it should be adjusted to reflect the new form of government.

Town of Nantucket Draft Council Manager Charter

This Draft Nantucket Charter represents the consensus of the Nantucket Town Council Committee, as of January 6, 2025, with additional potential language highlighted in red. The language in red is a starting point for additional discussion.

PREAMBLE

We, the people of the town of Nantucket, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government; to ensure its efficiency, transparency, and accountability; to preserve, protect and conserve our land and natural resources; and to reflect the fullest advantages inherent in the home rule amendment to the Constitution of the Commonwealth, do hereby adopt the following home rule charter for the Town of Nantucket.

ARTICLE 1

INCORPORATION; SHORT TITLE; DEFINITIONS

Section 1-1. Incorporation

The inhabitants of the town of Nantucket, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Nantucket."

Section 1-2. Short Title

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

Section 1-3. Division of Powers

All legislative powers of the town shall be exercised by a town council hereafter established by this charter. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the town manager.

Section 1-4. Powers of the Town

Subject only to express limitations on the exercise of any power or function by a municipal government in the Constitution or in the General Laws, it is the intention and the purpose of the voters of Nantucket through the adoption of this charter to secure for themselves and for their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1-5. Construction

The powers of the town of Nantucket under this charter are to be construed liberally in favor of the town, and the specific mention of any particular power is not intended to limit the general powers of the town as stated in Article 1, Section 4.

Section 1-6. Intergovernmental Relations

Subject only to express limitations in the Constitution or the General Laws, Nantucket may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the Commonwealth or any agency or political sub-division thereof, or with the United States government or any agency thereof.

ARTICLE 2

TOWN COUNCIL

Section 2-1. Composition and Membership

The legislative body of the town shall be a town council consisting of 9 members who shall be elected to meet, deliberate, act, and vote in the exercise of the corporate business of the town. Town council members shall be nominated and elected at large. After completion of the transitional terms outlined in Article 10, the term of office of council members shall be staggered terms of 3 years each, beginning on the next business day following election and continuing until their successors are qualified.

Section 2-2. Eligibility

(a) Any registered voter of the town shall be eligible for election to the council. However, no person holding any other town office, position, or employment shall take the oath or affirmation of office as a council member. If a successful candidate is unable to or does not take the oath or affirmation of office within thirty business days of the election, their council position shall be deemed vacant.

(b) No former member of the town council shall hold any compensated appointed office, position, or employment for which a salary or stipend is payable from the town until one year following the date on which such former member's service on the town council has terminated, unless the one-year period is waived by town council.

Section 2-3. President, Vice President, and Clerk

(a) After the councilors-elect have been sworn, the town council shall be called together by the town clerk for the purpose of conducting an election among town council members for the office of town council president and vice-president, each to serve for a 1-year term of office.

(b) The council may reorganize itself at any time during the year by a supermajority vote of its membership.

(c) The council president shall prepare the agenda for council meetings consistent with any rules adopted by the council. The council president shall preside at all meetings of the council, regulate its proceedings, and decide all questions of order.

(d) The council president shall have the same powers to vote upon measures coming before the council as any other member of the council.

(e) The council president shall perform any other duties consistent with the office that are established by charter, ordinance, or other vote of the council.

(f) The vice president shall perform the duties and responsibilities of the president during the president's absence.

(g) The town council shall appoint a council clerk. The council clerk shall give notice of all council meetings to its members and to the public, maintain minutes and supporting documentation of all council proceedings, and perform such other duties as may be assigned by this charter, ordinance, or other rules of the council.

(h) Vacancies that occur in the offices of president or vice president shall be filled at the next regular council meeting following the vacancy. All appointments to fill vacancies shall be for the remainder of the original 1-year term of office.

Section 2-4. Compensation

(a) The council president and members of the town council shall, subject to appropriation, receive compensation for their services as may from time to time be set by ordinance. No measure increasing or reducing the compensation of the members of the town council shall be effective unless it is adopted by a majority vote of the full town council at least 90 days before the next regular town election and provides that the increase or reduction in compensation is to take effect upon the reorganization of the town government following the next regular town election.

(b) The council president and the council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties and be provided with necessary equipment and technology, subject to appropriation.

Section 2-5. Council Procedures

(a) Regular meetings of the council shall be held at a time and place fixed by ordinance. The council shall meet regularly at least once in each month.

(b) Special meetings may be held at any time if called by the president or by 3 members of the council, provided that at least 48 hours personal notice is given, containing a list of the item or items to be acted upon, except in case of emergency as defined by the "open meeting law" of the Commonwealth. Further, all council meetings, including any subcommittee thereof, shall be conducted in accordance with General Law.

(c) All meetings of the council and any subcommittees thereof shall be open to the public. All residents shall have a reasonable opportunity to speak at any such meeting, except as otherwise provided by General Law, including but not limited to measures regarding executive session. Other interested parties may be allowed to speak at the discretion of the council. Any rules and regulations that are adopted by the council may include time limitations on public comments.

(d) A majority of the full council shall constitute a quorum for the purpose of conducting business. The council shall, from time to time, establish written rules for its proceedings.

(e) A full, accurate, up-to-date account of the proceedings of the council shall be maintained by the council clerk, which shall include a record of each vote taken and which shall be made available with reasonable promptness following each meeting, but not later than the next business day following the next regularly scheduled meeting; provided, however, that unless otherwise provided by law, the minutes of an executive session shall be made available as soon as publication of the minutes would not defeat the purpose of the executive session.

Section 2-6. General Powers and Duties

- (a) Except as otherwise may be provided by this charter, all general, corporate, legislative, and appropriation powers of the town shall be vested in the council.
- (b) The council may enact ordinances, rules, regulations, and other orders, not inconsistent with this charter, governing its own proceedings, town functions, and all matters bearing on the exercise of its powers and duties.
- (c) The council shall have the power to appoint the following: a town manager, as provided in Article 3, individuals who are to serve as representatives or delegates of the town to the governing or advisory boards of regional or district authorities, and any other ad hoc committees as it deems necessary for the orderly conducting of town business and policy, except as authorized by this charter or as provided by General Law. (Appointment versus election of members of boards and committees will be discussed in another article.)
- (d) The council shall be the licensing authority of the town and shall, as authorized by the General Laws, have all the power to issue licenses, to make all necessary rules and regulations regarding issuance of such licenses, to attach conditions and restrictions to such licenses as it deems to be in the public interest, and to enforce all laws relating to such licensed businesses.
- (e) The council shall conduct an annual review of the town manager's job performance in accordance with Article 3. A summary of the review shall be made available to the public.
- (f) After each election, after the councilors-elect have been sworn, the town council shall appoint from among its members one liaison to the school committee to attend the school committee meetings, to report regularly to town council, and to facilitate coordination and communications between the school committee and town council for a 1-year term of office.

Section 2-7. Town Ordinances

- (a) Proposed ordinances shall address one subject only and shall be introduced in writing and in the form necessary for final adoption. Any proposed ordinance shall be published on the town bulletin board and on the town's website or other official online repository of municipal information, whether on the internet or accessed through another comparable technology, or as otherwise required by General Law, ordinance, or this charter, not less than 7 days prior to its second reading, except for emergency ordinances.
- (b) Any ordinance that amends or repeals a portion of any town ordinance shall set out in full the portion to be amended or repealed by the use of strikethrough type, brackets or underscoring.
- (c) Prior to final passage, each introduced ordinance shall be read at 2 separate council meetings, except in case of an emergency involving the health or safety of the people or their property. No ordinance shall be declared an emergency unless such emergency is defined and declared in a preamble thereto, separately voted on and receiving the affirmative vote of a supermajority.
- (d) Emergency ordinances shall stand repealed at the expiration of 90 days following their adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted in conformity with this section is passed extending it, or unless a measure passed in conformity with the procedures for measures generally has been passed extending it.
- (e) The affirmative vote of a majority of the full council membership, except as otherwise provided by the General Laws or this charter, shall be necessary for the final passage of any ordinance.
- (f) Notwithstanding the above, a supermajority of the council may be necessary for the final passage of certain zoning ordinances or amendments to the zoning map.

(g) All votes on regular and emergency ordinances shall be taken by roll call and shall be recorded in the minutes.

(h) In addition to other acts required by statute or this charter to be accomplished through ordinance, those acts of the town council which: (i) adopt or amend administrative ordinances or establish, alter or abolish any town department, office or agency; (ii) provide for a fine or other penalty, or establish a rule or regulation for the violation of which a fine or other penalty is imposed; and (iii) establish all fees which are not set by General Law, will require passage of a ordinance.

Section 2-8. Vacancy

Whenever a vacancy occurs on the town council, the president of the town council, within 30 days following the date of the vacancy, shall call a special meeting of the town council to fill the vacancy. The town council shall choose a person to fill the vacancy from among the voters by a majority vote of the full council. Persons elected to fill a vacancy by the town council shall serve only until the next regular town election, when the office shall be filled by the voters. The candidate elected to an office filled by appointment prior to the election shall be sworn to the office immediately to complete the then unexpired term in addition to the term for which elected. No vacancy shall be filled under this section if a regular town election is to be held within 120 days following the date the vacancy is declared to exist. Persons appointed as town council members under this section shall not be entitled to have the words "candidate for reelection" printed with that person's name on the election ballot.

Section 2-9. Access to Information

(a) *In General.* The town council may make inquiries into the affairs of the town and into the conduct and performance of any town department.

(b) *Town officials, Members of Town Agencies, Employees.* The town council may require any town official, member of a town agency, or town employee to appear before it to give such information as the town council may require in relation to the municipal services, functions, powers, or duties that are within the scope of responsibility of such person and within the jurisdiction of the town council.

(c) *Town Manager.* The town council may require the town manager to provide specific information on any matter within the town council's jurisdiction. The town council may require the town manager to appear before it at any time to provide specific information on the conduct of any aspect of the business of the town. The town manager may bring to such meeting any assistant, department head, or other town official or employee or other resources to assist the town manager in responding to questions which may be posed by the town council.

(d) *Notice.* Except in case of emergency, the town council shall give not less than 5 days' notice in writing to any person it may require to appear before it under the provisions of this section. Notice shall also be given to the town manager. The notice shall include specific questions on which the town council seeks information, and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those presented to the person in advance and in writing. Notice shall be by delivery in hand, or by electronic mail (with notification of receipt requested), or by registered or certified mail to the last known place of residence of any such person.

Section 2-10. Prohibitions

No town council or any member of the town council shall give orders or directions either publicly or privately to any employee of the town who is not appointed by the town council.

ARTICLE 3

EXECUTIVE BRANCH

Section 3-1. Role of the Town Manager

(a) The administration of the Town shall be vested in a Town Manager who shall, with the assistance of the various Town Department heads, cause this Charter, the Town's legislative actions and applicable General Laws to be enforced.

(b) It is the intent of this Charter to confer upon the Town Manager full control over Town Administration, as defined in Section 3.x of this Charter, and of the administration of Town services provided for in this Article 3.

Section 3-2. Appointment and Qualifications

(a) The town council shall appoint a Town Manager for an initial term of 2 years. Any successive terms shall not exceed 3 years each. The Town Manager so appointed shall, by education, experience and ability, be qualified to perform the duties established for the position with prior experience as a city or town manager, or an assistant city or town manager or the equivalent public or private sector level experience. The town council may establish such additional qualifications as deemed necessary and appropriate.

(b) The town manager shall devote full time to the duties of the office and shall not hold any other elective or appointive office, nor shall the town manager engage in any other business, unless such action is approved in advance in writing by the town council.

(c) The town manager need not be a resident of the Town at the time of appointment but shall be a resident during the term of office starting not later than six months following appointment.

(d) The town manager shall receive compensation for services as the town council shall determine, but such compensation shall be within the limits of available appropriations.

(e) There shall be an annual review of the town manager's job performance conducted by the town council. The town council shall prepare and deliver to the town manager a written review of the town manager's performance in a manner provided by ordinance or employment agreement. This review shall include specific metrics related to goals and objectives developed collaboratively by the town manager and town council.

Section 3-3. Executive and Administrative Powers and Duties

The town manager shall be the chief executive officer of the town and be directly responsible to the town council for the administration of all town affairs placed in his or her charge by or under this charter.

The town manager shall have the following powers and duties. The town manager:

- (a) shall, with the assistance of the department heads, prepare and submit to the town council all annual operating budgets and capital budgets in accordance with Article ____.
- (b) shall appoint, and may suspend or remove, subject to the provisions of the civil service law where applicable and except as otherwise authorized by the charter, all department heads. Members of boards, committees, and commissions. The town manager shall refer to the town council, and simultaneously file with the town clerk, the name of each person the town manager desires to appoint as a department head, member of a board, committee, or commission. Appointment of a department head made by the town manager shall become effective on the 14th day after the date on which notice of the proposed appointment was filed with the town clerk unless approved or rejected by a majority of the full town council within the 14 days. Appointment of a member of board, committee, or commission made by the town manager shall become effective on the 30th day after the date on which notice of the proposed appointment was filed with the town clerk unless approved or rejected by a majority of the full town council within the 30 days.
- (c) With authorization of the Town Manager, and subject to availability of budgeted funds and compliance with the personnel management plan under 3-2(q), the heads of Town Administration departments shall appoint and hire the personnel of their respective departments. With authorization of the Town Manager, the department heads may remove, suspend or otherwise discipline such personnel, subject, however, to any grievance procedures as may be established by ordinance, rule or regulation or any applicable union contract provisions.
- (d) shall supervise and direct the administration of all departments, agencies and offices, unless otherwise provided for in this charter.
- (e) shall prepare or update in conjunction with department heads, boards of the town, the town council and residents a town wide long-range strategic plan at least every 5 years.
- (f) shall fix the compensation of all town employees appointed by the town manager within the limits established by appropriation and the applicable personnel management plan.
- (g) shall attend all meetings of the town council unless excused, except meetings at which the town manager's performance is being considered, and shall have a voice but no vote in all of its deliberations. See
- (h) shall keep full and complete records of the town manager's office and shall render as often as may be required by the town council, but not less than once in each year, a full report of all operations during the period reported on, which report shall be made available to the public.
- (i) shall keep the town council fully advised as to the needs of the town and shall recommend to the town council for adoption such measures requiring action by them as the town manager may deem necessary or expedient.
- (j) shall have full jurisdiction over the rental and use of all town facilities that are not under the jurisdiction of the school committee. The town manager shall be responsible for the

maintenance and repair of the facilities placed under the town manager's control by this charter, by ordinance, by vote of the town council or otherwise.

- (k) shall keep a full and complete inventory of all property of the town, both real and personal.
- (l) may authorize any subordinate officer or employee to exercise any power or perform any function that the town manager is authorized to exercise or perform with the exception of discharge of employees; provided, however, all acts performed under any such delegation shall be deemed to be the acts of the town manager, unless otherwise limited by this charter.
- (m) shall execute contracts, unless otherwise prescribed by ordinance. Appropriations required by such contracts shall be subject to a vote of the town council.
- (n) shall be responsible for the negotiation of all contracts with town employees over wages and other terms and conditions of employment. The town manager may employ special counsel to assist in the performance of these duties. Appropriations required by such contracts shall be subject to a vote of the town council.
- (o) shall be responsible for purchasing all supplies, materials, services and equipment, for all departments and activities of the town, and for executing procurement contracts, except for the school department, unless otherwise specifically requested by the school committee.
- (p) shall assure that all of the provisions of the General Laws, of the charter and votes of the Town Council that require enforcement or action by the town manager or employees subject to the town manager's direction and supervision are faithfully carried out.
- (q) shall prepare and revise as necessary, subject to civil service requirements where applicable, a personnel management plan, which shall include recruitment procedures, job descriptions, wage and salary schedules, benefits administration, workplace safety requirements, and such other features as the town manager shall determine, for all departments established by this charter, administrative code or ordinance, except school department employees unless requested by the school committee. After submission to the town council, such plan shall become effective unless rejected by a majority of town council members within 45 days or at the next regular town council meeting, whichever is later. The town council may vote only to approve or disapprove the plan, and no vote to amend or alter it shall be deemed in order.
- (r) may at any time inquire into the conduct of any employee or department, board, committee or commission under the town manager's control.
- (s) shall perform such other functions as may from time to time be assigned to the office of town manager by the town council, ordinance or as stipulated in any employment agreement.
- (t) shall advertise all vacancies on town boards and committees on the town bulletin board, on the town's website or on other official online repository of municipal information, whether on the internet or accessed through another comparable technology, and shall actively recruit candidates for all appointments to be made by either the town manager or the town council.
- (u) may, with the approval of the town council, establish, reorganize, consolidate or dissolve any department, board, committee, commission or office, as provided in Article 5.

Section 3-4. Temporary Absence or Vacancy in the Office of Town Manager

(a) *Temporary Absence.* The town manager shall, within the first 90 days of the town manager's appointment and at any time thereafter, by letter filed with the Town Council and a copy filed with the town clerk, designate a town employee or official to exercise the powers and perform the duties of the office during a temporary absence. Upon the town manager's temporary absence, the town council may not revoke such designation until at least 30 days of the temporary absence have elapsed, whereupon it may appoint another town employee or official as temporary town manager to perform the duties of the town manager until the town manager returns. In the event of failure of the town manager to make such designation, or if the person so designated is for any reason unable to serve, the town council may designate some other town employee or official temporary town manager to perform the duties of the town manager until the town manager returns. The powers of a temporary town manager shall be limited to matters not admitting of delay. No temporary town manager shall have authority to make any permanent appointment to, or removal from, any office or position unless approved by the town council.

(b) *Vacancy.* Any vacancy in the office of town manager shall be filled as soon as possible by the town council, but pending such appointment, the town council shall designate a qualified individual to exercise the powers and perform the duties of the town manager on an acting basis. The appointment of an acting town manager shall be for a term not to exceed 4 months; provided, however, two renewals, not to exceed an additional 4 months per renewal, may be permitted.

Section 3.5. Suspension or Removal of Town Manager

The town council, by affirmative vote of a majority of the full town council, may vote to suspend or remove the town manager from office in accordance with the following procedure:

Before suspension or removal, the town council shall adopt a preliminary resolution by the affirmative vote of a majority of the full town council, including a written statement setting forth the reasons for the suspension or removal. A copy of the resolution shall be delivered to the town manager immediately. Within 5 days after the receipt of the preliminary resolution, the town manager may file a written request for a public meeting with the town council. If such a meeting is requested, the meeting shall be held not later than 20 days from the date of request. At such meeting, the town manager shall be entitled to address the town council and make comments related to the preliminary resolution. If a public meeting has not been requested by the town manager, the town council may adopt a final resolution of suspension or removal by the affirmative vote of a majority of the full town council, which may be effective immediately. If the town manager requests a public meeting, the town council may, at the conclusion of the meeting or within 5 days of the conclusion of the meeting, adopt a final resolution of suspension or removal by an affirmative vote of a majority of the full town council.

ARTICLE 4

OTHER ELECTED OFFICIALS

Section 4-1. Elected Offices in General

(a) Offices to be filled by election: In addition to a town council as provided in Article 2, the offices to be filled by ballot of the town's voters shall be a school committee, a town clerk, a historic district commission, a housing authority, a Nantucket land bank commission, a planning board, a community preservation committee, a board of water commissioners, and members of regional authorities or districts requiring election as may be established by general law, inter-local agreements, or otherwise.

(b) Eligibility: Any voter shall be eligible for election to the town offices listed in Section 4.1(a). Eligibility for election as a member of a regional authority or district will be in accordance with applicable general laws or inter-local agreements. Notwithstanding any other provision of this section to the contrary, no officer elected to a town office listed under Article 4 shall simultaneously hold any other elected town office. If an officer elected to a town office listed under Section 4 removes from the town during the term for which the officer is elected, the office shall immediately be declared vacant and filled in the manner provided in Section 4.1(c).

(c) Whenever a vacancy occurs in the offices elected pursuant to this article, the vacancy shall be filled from eligible applicants by a roll call vote of the town council and the remaining members of the board, committee, or authority, if any. Within 45 days of said vacancy occurring, the president of the town council shall call a special meeting of the town council and the remaining members of the relevant board, committee, or authority, if any, to fill the vacancy. Notice of said vacancy shall be published for a minimum of 21 days prior to the meeting at which the vacancy shall be filled. Vacancies shall be filled by a town registered voter. No person appointed under this section shall be entitled to be listed on the ballot as a "candidate for re-election" at the next regular town election. The process for filling vacancies in a regional authority or district membership will be in accordance with the applicable general laws or the inter-local agreements, or, if none are applicable, in accordance with this Section.

(d) Compensation for elected offices, if any, shall be set by town council and in the annual town budget.

Section 4.2. School Committee

(a) *Composition.* There shall be a school committee composed of five members elected by and from the voters at large.

(b) *Term of Office.* The terms of school committee members shall be three years, beginning on the first business day following their election, and shall continue until their successors have been qualified. Terms of office shall be arranged so that no more than two members are elected at each regular election.

(c) *Powers and Duties.* The school committee shall have general charge and superintendence of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the charter, ordinance or other council vote. The powers of the school committee shall include, but need not be limited to:

(i) appointing a superintendent of schools and all other officers and employees associated with the school, fixing their compensation, defining their duties and discharging them.

(ii) making all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town.

(iii) adopting and overseeing the administration of an annual operating budget for the school department, subject to appropriation by the town council.

(d) *School Committee Officers*

(i) *Election and Term*: As soon as practicable after the school committee members-elect have been qualified following each regular municipal election, the school committee shall organize by electing a chair, vice-chair and secretary from their members for the present term of office.

(ii) *Powers and Duties of School Committee Chair*: The school committee chair shall preside at all meetings of the school committee, regulate its proceedings and shall decide all questions of order. The school committee chair shall appoint all members of all subcommittees of the school committee, whether special or standing. The school committee chair shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee chair shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the school committee.

Section 4.2 Town Clerk

(a) *Election*. A town clerk shall be elected by and from the voters at large.

(b) *Term of Office*. The town clerk shall serve for a term of three (3) years beginning on the first business day following the town clerk's election and continuing until a successor is qualified.

(c) *Powers and Duties*. The town clerk shall be the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

(d) *Clerk of the Council*. Unless otherwise provided by the town council, the town clerk shall be the clerk of the council and shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform such duties as may be assigned by the charter, by ordinance, or by other council vote.

Section 4.3 Historic District Commission

(a) *Composition*. There is hereby established in the town of Nantucket an historic district commission consisting of five unpaid members who shall be resident taxpayers of the town of Nantucket and elected by the voters at large. The historic district commission shall elect, from among its members, a chairperson and secretary.

(i) *Associate Members*: There shall be 3 associate members of the historic district commission appointed by the town manager, with confirmation by the Town Council, to a 3-year term of office.

(b) *Term of Office*. The terms of historic district commission members shall be 3 years, beginning on the first business day following the member's election, and shall continue until their successors have been qualified. Terms of office shall be arranged so that no more than two members are elected at each regular election.

(c) *Powers and Duties*. The historic district commission shall have the powers and authority and perform all the duties as hereinafter enumerated and provided in Chapter 395 of the Acts of 1970 of Massachusetts General Court, this charter, town by-laws, or by applicable General Law.

Section 4.4. Nantucket Housing Authority

(a) *Composition.* There shall be a housing authority consisting of 5 members, with 3 members nominated from and elected by the voters, 1 member appointed by the Commonwealth, and 1 member elected by the housing authority tenants.

(b) *Term of office.* The term of office for the town-elected members shall be 2 years, beginning on the first business day following the member's election. Members shall serve until successors have been sworn. The term of office for the appointed member and the tenant member shall be as provided by the general laws.

(c) *Officers:* As soon as practicable after the members-elect have been sworn following each regular town election, and annually, the members of the housing authority shall elect from among its members a chair and vice chair who shall serve for 1-year terms.

(d) *Powers and Duties:* The Housing Authority shall have all powers which are conferred on housing authorities by the general laws and any additional powers and duties that may be provided by the charter, ordinance, or otherwise and that are not inconsistent with the grant of powers conferred by the general laws.

Section 4.5 Nantucket Land Bank Commission

(a) *Composition.* The Nantucket housing authority shall consist of a 5-member board elected by the voters at large pursuant to Chapter 669 of the Acts of 1983 of the Massachusetts General Court.

(b) *Term of office.* The term of office for members shall be 5 years, beginning on the first business day following the members' election. Members shall serve until successors have been sworn. Terms of office shall be arranged so that at least one member is elected at each regular election.

(c) *Powers and duties.* The Nantucket Land Bank Commission shall have the powers and authority and perform all the duties as enumerated and provided under Chapter 669 of the Acts of 1983 of the Massachusetts General Court.

Section 4.6. Planning Board

(a) *Composition.* There shall be a planning board consisting of 5 members elected by and from the voters at large.

(b) *Term of office.* The term of office for members shall be 5 years, beginning on the first business day following the members' election. Members shall serve until successors have been sworn. Terms of office shall be arranged so that at least one member is elected at each regular election.

(c) *Associate members.* There shall be 3 associate members of the planning board appointed by the town manager with the approval of the town council for a term of 5 years.

(d) *Powers and duties.* The planning board shall have all powers that are conferred on planning boards by general laws and such additional powers and duties as may be provided by the charter, by by-law, or otherwise and not inconsistent with said grant of powers conferred by general laws.

Section 4.7. Community Preservation Committee

(a) *Composition.* There shall be a community preservation committee consisting of 9 members, including an appointed designee from each of the following: the conservation commission, the historic district commission, the land bank, the planning board, the park and recreation

commission, the Nantucket housing authority, and the town council. Two members shall be elected by and from the voters at large.

(b) *Terms of office.* The term of office for members shall be 3 years, beginning on the first business day following the member's election. Members shall serve until successors have been sworn. Terms of office for elected members shall be arranged so that no more than one member is elected at each regular election.

(c) *Powers and duties.* The committee shall have all the powers that are conferred upon it by general law, by-law, this charter, or otherwise and not inconsistent with said grant of powers conferred by general laws.

Section 4.8 Board of Water Commissioners

(a) *Composition.* There shall be a board of water commissioners consisting of 5 members elected by and from the voters at large.

(b) *Terms of office.* The terms of office for members shall be 3 years, beginning on the first business day following the member's election. Members shall serve until successors have been sworn. Terms of office for elected members shall be arranged so that no more than two members are elected at each regular election.

(c) *Powers and duties.* The board shall have all of the powers that are conferred upon it by general law, by-law, this charter, or otherwise and not inconsistent with said grant of powers conferred by general laws.

ARTICLE 5 ADMINISTRATIVE ORGANIZATION

Section 5-1. Organization of Town Agencies

(a) The organization of the town into operating agencies and divisions for the provision of services and the orderly, efficient and convenient conduct of business of the town government may be accomplished only through an organization or reorganization plan filed with the town council by the town manager. No organization or reorganization plan may originate from the town council. The town manager may, subject only to express prohibitions in the General Laws, or this charter, propose to reorganize, consolidate or abolish any town agency, in whole or in part; the town manager may establish such new town agencies as is deemed necessary or expedient, provided, however, that no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless this charter specifically so provides.

(b) Every organization or reorganization plan submitted by the Town Manager pursuant to this provision shall contain a proposed ordinance that sets out, in detail, such amendments, insertions, revisions, repeals or otherwise of existing ordinances as may be necessary to accomplish the desired reorganization. Such organization or reorganization plan and proposed ordinances shall be accompanied by a message from the town manager that explains the costs and benefits expected to ensue.

(c) Whenever the town manager proposes such a plan, the town council shall hold 1 or more public hearings on the proposal, giving notice by publication on the town bulletin board and on the town's website or other official online repository of municipal information, or as otherwise required by General Law, ordinance, or this charter. This notice shall describe the scope of the proposal and the time and place at which any public hearing will be held, not less than 7 or more than 14 days following said publication. An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the town council, unless the town council shall, by a majority vote, within such period vote to disapprove the plan.

Section 5-2. Merit Principles in Appointing and Promotions

All appointments and promotions of town officers and employees shall be made on the basis of merit demonstrated by examination, past performance, or by other evidence of competence. All appointments and promotions of personnel shall be subject to applicable provisions of state and federal law, collective bargaining agreements, and the personnel management plan established in Article 3 of this charter.

Section 5-3. Powers, Duties, and Compensation of Boards and Commissions

(a) Boards and commissions established under this charter shall perform their functions and duties in accordance with the Constitution, General Laws, ordinances and this charter.

(b) Members of boards and commissions established under this charter may receive actual and necessary expenses incurred in the performance of their duties and may receive such compensation as may be authorized and established by the town council within limits of an appropriation made for that purpose.

Section 5-4. Town Attorney

(a) Appointment. There shall be a legal officer of the town appointed by the town manager subject to confirmation by majority vote of the town council.

(b) Role. The legal officer shall serve as chief legal adviser to the town council, the town manager and all town departments, offices and agencies; shall represent the town in all legal proceedings; and shall perform other duties prescribed by any general or special law, by this charter or ordinance.

ARTICLE 6

FINANCIAL AND FISCAL PROCEDURES

[Reserved]

ARTICLE 7 ELECTIONS

[Reserved]

ARTICLE 8 RESIDENT PARTICIPATION MEASURES

Section 8.1. Open Meeting of the Voters

Upon the request in writing of 200 voters, including names and addresses, submitted to the town council stating one or more specific issues or concerns related to matters upon which the requested body may act, the council president shall call an open meeting of the residents of the town setting forth the specific purpose or purposes thereof. The council president or designee shall preside and regulate the proceedings of such meetings. The presiding officer shall allow the opportunity to speak to those in attendance wishing to address the town council. The town council may also call meetings of the residents of the town upon its own initiative. No open meeting shall be held upon any 1 subject more than once in any given 12-month period, as determined by the council president.

Section 8.2. Free Petition

(a) *Resident Petitions, Action Discretionary:* The town council shall receive all petitions signed by 1 or more residents and addressed to any of them concerning a matter upon which they could act and may, in their respective discretion, take such action in regard to such petitions as they deem necessary and advisable.

(b) *Group Petitions, Action Required:* The town council shall hold a public hearing and act with respect to every petition which is addressed to it that is signed by at least 100 voters as certified by the board of registrars. The hearing shall be held by the town council or by a committee or subcommittee thereof, and the town council shall act not later than 3 months after the petition is filed with the clerk of the town council. Hearings on 2 or more petitions filed under this section may be held at the same time and place. The clerk of the town council shall mail notice of the hearing to the 10 petitioners whose names first appear on each such petition at least 14 days before the hearing. The town council shall publish a general summary of the subject matter of the petition and a notice stating: (i) the times and places where copies of the group petition are available for inspection by the public, and (ii) the date, place, and time not less than 2 weeks after such publication, when a public hearing on the petition will be held by the town council. No hearing shall be heard upon any 1 subject more than once in any given 12-month period, as determined by the town council president.

Section 8.3: Resident Initiative Measures

(a) *Commencement:* Initiative procedures shall be started by the filing with the clerk of the town council of a proposed initiative petition on a form prepared by the town. The petition shall be addressed to the town council, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be physically signed by at least 200 voters

as certified by the board of registrars. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential addresses stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form. Signatures to an initiative petition need not all be on 1 paper but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, containing on the petition the number and street of the residence of each signer accompanied by the endorsement of the name and residence address of the person designated as filing the petition. The board of registrars shall attach to the petition a certificate showing the results of the board of registrars' examination and shall return the petition to the clerk of the town council. A copy of the board of registrars' certificate shall also be mailed to the petitioners committee.

b) *Referral to Attorney*: Immediately following certification of 200 signatures, the clerk of the town council shall deliver a copy of the petition to the town attorney. Within 21 days after receipt of a copy of the petition, the town attorney shall advise the town council in writing whether the measure as proposed may lawfully utilize the initiative process and whether, in its present form, it may be lawfully adopted by the town council. If the opinion of the town attorney is that the measure is not in proper form, the reply shall state the reasons for this opinion in full, and a copy of the opinion of the town attorney shall be mailed to the petitioners committee.

(c) *Action on Petitions*: If the opinion of the town attorney is that the petition is in a proper form, within 60 days and after compliance with Section 2.10, the town council shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered to be a rejection of the initiative measure. If the town council fails to act with respect to any initiative measure that is presented to it within 60 days after the date it has been notified by the town attorney that it is in proper form, the initiative measure shall be considered to have been accepted on the 61st day. If an initiative measure is rejected, the clerk of the town council shall promptly give notice to the petitioners committee, by certified mail.

(d) *Supplementary Petitions*: Thirty days (30) after the date an initiative petition has been rejected by the town council, a supplemental initiative petition may be filed with the clerk of the town council, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be physically signed by a number of additional voters which is equal to 10 percent of the total number of registered voters as of the date of the most recent town election. If the number of signatures to the supplemental petition is found to be sufficient by the board of registrars, the town council shall call a special election to be held on a date fixed by it, not less than 35 nor more than 90 days after the date the town council votes to call for the special election, and shall submit the proposed measure, without alteration, to the voters for determination. But if any other town election is to be held within 120 days after the date of the certification, the town council may omit the calling of the special election and cause the question to appear on the election ballot at the next town election for determination by the voters.

(e) *Publication*: The full text of any initiative measure which is submitted to the voters shall be published not less than 7 nor more than 21 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the Town Clerk and shall be published on the Town bulletin board.

(f) *Form of Question*: The ballots used when voting on a measure proposed by the voters under this Section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by an initiative petition as described in the town charter, take effect?

(Here, insert a fair, concise summary prepared by the Town Attorney.) YES _____

NO _____

(g) *Required Voter Participation*: For any measure to be effective under initiative petition, at least 20 percent of the registered voters as of the date of the most recent Town election shall vote at the election upon which an initiative is submitted to the voters.

(h) *Time of Taking Effect*: If a majority of the votes cast on the question, or other affirmative percent as required by general laws or this Charter, is in the affirmative and if the 20 percent voter participation requirement is met, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

Section 8.4: Voter Veto Procedures/Referendums

(a) *Petition, Effect on Final Vote*: If, within 14 days following the date on which the town council has voted finally to approve any measure, a petition on a form prepared by the town, physically signed by a minimum of 5 percent of the registered voters as of the date of the most recent town election, and addressed to the town council protesting against the measure or any part thereof is filed with the clerk of the town council, the effective date of that measure shall be temporarily suspended. The town council shall, at the next regular town council meeting, reconsider its vote on the measure or part thereof protested against.

If the measure is not repealed, the number of signatures is found sufficient by the board of registrars, and the town attorney finds that the measure or part thereof may be lawfully protested against, the town council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its sole discretion or at the next regular town election. Pending this submission and determination, the effect of the measure shall continue to be suspended.

(b) *Submission to Board of Registrars*: Within 10 days following the filing of the petition, the board of registrars shall ascertain the number of voters that signed the petition. The board of registrars shall cause a certificate showing the results of its examination to be attached to the petition and shall return the petition to the clerk of the town council. A copy of the board of registrars' certificate shall also be mailed to the first 10 voters who signed the petition.

(c) *Referral to the Town Attorney*: Immediately following receipt of the board of registrars' certificate finding sufficient signatures, the clerk of the town council shall deliver a copy of the petition to the town attorney. The town attorney shall, within 21 days following receipt of a copy of the petition, advise the town council and the town clerk in writing whether the measure or part thereof may lawfully be protested by the voter veto process. If the opinion of the town attorney is that the protest of the measure or part thereof is not in proper form, the reply shall state the reasons for this opinion in full, the suspension on the measure shall be immediately lifted, and a copy of the opinion of the town attorney shall be mailed to the first 10 voters who signed the petition.

(d) *Publication*: The full text of a measure or part thereof protested by voter veto which is submitted to the voters shall be published not less than 7 nor more than 21 days preceding the

date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the Town Clerk and shall be published on the Town bulletin board. Publication shall be at the Town's expense.

(e) *Form of Question*: The ballots used when voting to repeal a measure under this Section shall contain a question in substantially the following form:

Shall the following measure or part thereof protested against by voters through the voter veto procedure described in the Town Charter take effect?

(Here, insert the text of the measure or part thereof protested against as originally voted by the town council.)

YES _____

NO _____

(f) *Required Voter Participation*: For any measure to be declared repealed under a voter veto procedure, at least 20 percent of the registered voters as of the date of the most recent Town election shall vote at the election upon which the voter veto question is submitted to the voters.

(g) *Time of Taking Effect*: If a majority of the votes cast on the question is in the affirmative or if the 20 percent voter participation requirement is not met, the measure as originally approved by the town council, shall be effective immediately following the election at which voters considered the measure.

Section 8.5: Ineligible Measures

None of the following shall be subject to the initiative or the voter veto procedures outlined in Section 8.3 and Section 8.4:

- (a) Proceedings relating to the internal organization or operation of any elected body;
- (b) An emergency measure adopted in conformity with the charter;
- (c) The town budget as a whole;
- (d) Votes for the temporary borrowing of money in anticipation of revenue;
- (e) An appropriation of any sum of money, for any purpose, amounting to less than 1 percent of the total annual budget of the town;
- (f) Any appropriation for the payment of the town's debt or debt service;
- (g) An appropriation of funds to implement a contract or collective bargaining agreement;
- (h) Proceedings relating to election, appointment, removal, discharge, employment, promotion, transfer, or demotion of employees or appointed or elected officials or members of multiple-member bodies or any other personnel action;
- (i) Any proceedings repealing or rescinding a measure or part thereof which is protested by voter veto procedures;
- (j) Any proceedings providing for the submission or referral of a matter to the voters at an election; and
- (k) Memorial resolutions.

Section 8.6: Submission of other matters to voters

(a) The town council may of its own motion submit to the voters for adoption or rejection at any regular town election any measure with the same force and effect as is hereby provided for submission by petitions of voters. Such measures must originate within the town council and pertain to affairs under said bodies' jurisdiction.

(b) Pursuant to the provisions of Massachusetts General Laws Chapter 53, Section 18A, non-binding public opinion advisory questions may be placed on the ballot at a regular Town election.

Section 8.7: Conflicting Provisions

If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

Section 8-8. Recall of Elected Office Holders

(a) *Application.* Any holder of an elected office in the town, with more than six months remaining in the term of office for which the officer was elected, may be recalled therefrom by the voters of the town in the manner provided in this section. No recall petition shall be filed against an officer within six months after taking office.

(b) *Recall Petition.* A recall petition may be initiated by the filing of an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall, provided that, the affidavit is signed by at least one hundred voters.

The town clerk shall thereupon deliver to said voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms the town clerk shall keep available. Such blanks shall be issued by the town clerk, with signature and official seal attached thereto. They shall be dated, shall be addressed to the town council and shall contain the names of all the persons to whom they are issued, the number of blanks so issued, the name of the person whose recall is sought, the office from which removal is sought and the grounds of recall as stated in the affidavit. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within ten days after the filing of the affidavit and shall have been signed by at least 10 percent of the registered voters of the town for any officer elected at large.

The town clerk shall forthwith submit the petition to the board of registrars of voters in the town, and the registrars shall, within five working days, certify thereon the number of signatures which are names of registered voters of the town.

(c) *Recall Election.* If the petition shall be found and certified by the town clerk to be sufficient, the town clerk shall submit the same with such certificate to the town council within five working days, and the town council shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than forty- five and not more than sixty days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within sixty days after the date of the certificate the town council shall postpone the holding of the recall election to the date of such other election.

If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section.

(e) *Office Holder.* The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with this charter.

Any person appointed to fill the vacancy caused by such recall shall hold office for the unexpired term of the officer recalled.

(f) Ballot Proposition. The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?"

If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

No recall election shall be effective unless at least 20 percent of those entitled to vote shall have voted.

(g) Repeat of Recall. In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least 120 days after the election at which the officer's recall was submitted to the voters of the town.

(h) Office Holder Recalled. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any town office within one year after such recall or such resignation.

ARTICLE 9

GENERAL PROVISIONS

Section 9-1. Charter Changes

This charter may be replaced, revised, or amended under any procedure made available under the Massachusetts constitution or general laws.

Section 9-2. Severability

The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions shall not be affected thereby. If the application of this 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 9-3. Specific Provision to Prevail

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

Section 9-4. References to General Laws

All references to Massachusetts General Laws contained in the charter refer to the General Laws of Massachusetts and are intended to refer to and to include any amendments or revisions to those chapters or sections or to the corresponding chapters and sections of any rearrangement, revision, or recodification of such General Laws enacted or adopted subsequent to the adoption of this charter.

Section 9-5. Computation of Time

In computing time under the charter, if 7 days or less, only calendar days, not including Saturdays, Sundays or legal holidays, shall be counted; if more than 7 days, every day shall be counted.

Section 9-6. Periodic Review of Charter

The town council shall provide, in every year ending in a 5, for a review of the charter by a special committee to be established by town council. No more than 2 members of the committee may be voters holding elective office when appointed. The committee shall file a report within 1 year recommending any changes to the charter that it deems necessary or desirable, unless an extension is authorized by vote of the town council. The town council shall vote upon the recommendations in the report within 90 days of receipt of the committee's recommendations. Action on all proposed charter changes shall be governed by Section 9.1 of this Charter.

Section 9-7. Periodic Review of Ordinances

The town council shall provide, in every year ending in a 6, for a review of the town's general Ordinances by a special committee to be established by town council. All members of the committee shall be voters not holding elective office when appointed. The committee shall file a report within 1 year recommending any changes to the Ordinances which it deems necessary or desirable, unless an extension is authorized by vote of the town council. The town council shall vote upon the recommendations in the report within 90 days of receipt of the committee's recommendations.

Section 9-8. Limitation on Employment

No person shall simultaneously hold more than 1 full-time town position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

Section 9-9. Certification of Election or Appointment

Every person who is elected to an office or appointed as a member of a multiple-member body shall receive a certificate of that election or appointment from the town clerk. Except as otherwise provided by law, every person who is elected to an office or appointed as a member of a multiple-member body, before performing any act under this election or appointment, shall take and subscribe to an oath or affirmation before entering upon the duties. A record of this oath or affirmation shall be kept by the town clerk. If a successful candidate is unable to or does not take the oath or affirmation of office within 14 business days of the election or appointment, their position shall be deemed vacant.

Section 9.10. Felony Conviction of Elected Officials

An elected official convicted of a state or federal felony while holding office shall be deemed to have vacated the office.

Section 9.11. Uniform Procedures Applicable to Multiple-Member Bodies

(a) Meetings: All multiple-member bodies of the town shall meet regularly at such times and places as they may, by their own rules, prescribe, unless some other provision is made by measure. Special meetings of any multiple-member body may be held if called by the chair or by one-third of the members thereof but not fewer than 2.

(b) Rules: Each multiple-member body shall determine its own rules and order of business unless another provision is made by town council or general laws. All regular meetings of multiple-

member bodies shall provide for a period of public comment. Multiple-member bodies may promulgate rules that regulate the period of public comment.

(c) Voting: If requested by any member, any vote of any multiple-member body shall be taken by roll call vote and the vote of each member shall be recorded in the minutes. If the vote is unanimous, only that fact need be recorded.

(d) Composition of Appointed Multiple-Member Bodies: All appointed multiple-member bodies, when established, shall be composed of an odd number of members, not less than 3. Whenever the terms of office of an appointed multiple-member body are for more than 1 year, such terms of office shall be so arranged that as nearly as possible an equal number of terms will expire each year.

(e) Vacancies: Whenever a vacancy occurs, or is about to occur, on a multiple-member body, the appointing authority shall immediately cause public notice of the vacancy, or impending vacancy, to be published on the town bulletin board for a period of not less than 14 days. Any person who desires to be considered for appointment to the multiple-member body shall file with the appointing authority a statement in clear and specific terms setting forth the person's interest and experience.

Section 9-12. Rules and Regulations Adopted by Multiple-Member Bodies

A copy of all rules and regulations adopted by multiple-member bodies shall be placed on file in the office of the town clerk and published on the Town bulletin board as soon as administratively possible.

Section 9-13. Removal of Member of Multiple-Member Bodies

(a) Any person appointed by the town manager or town council to a multiple-member body may be removed from office by the appointing authority for just cause or if said person fails to attend regularly scheduled meetings for a period of 3 consecutive months without express leave from the chair of such multiple-member body or if such person is absent from such duties for a period of 1 year. (b) Any such appointed person convicted of a state or federal felony while serving shall be automatically removed from office.

Section 9-14. Enforcement of Charter Provisions

It shall be the duty of the town manager to see that the charter is faithfully followed and complied with by all town agencies and town employees. Whenever it appears to the town manager that a town agency or town employee is failing to follow this charter, the town manager shall, in writing, cause notice to be given to that agency or employee directing compliance with the charter. If it shall appear to the town council that the town manager personally is not following the charter, it shall, by resolution, direct the attention of the town manager to those areas in which it believes there is a failure to comply with the charter. This procedure does not restrict the availability of any additional remedies under the General Laws, common law, Ordinances, or this charter.

ARTICLE 10

TRANSITION PROVISIONS

Section 10-1. Continuation of Existing Laws

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to Ludlow that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

Section 10-2. Continuation of Government and Administration

All municipal agencies and municipal officials shall continue to perform their duties until reappointed, or until successors to their respective positions are duly appointed, or until their duties have been transferred and assumed by another municipal agency.

Section 10-3. Transfer of Records and Property

All records, property and equipment whatsoever of any municipal agency, or part thereof, the powers and duties of which are assigned in whole or in part to another municipal agency, shall be transferred forthwith to such agency.

Section 10-4. Continuation of Personnel

Any person holding a municipal office, or a position in the administrative service of the municipality, or any person holding full-time employment under the municipality, shall retain such office, or position, or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in full-time service of the municipality shall forfeit his or her time in service of the municipality.

Section 10-5. Effect on Obligations, Taxes, etc.

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

Section 10-6. Time of Taking Effect

This charter shall become effective upon its ratification by the voters and in accordance with the following schedule.

[Reserved for details surrounding transition]

FY 2025 Budget Action Calendar

DATE	ACTION
Monday, September 18, 2023	Town Manager issues instructions to Municipal Departments for FY25 Operating & Capital budgets
Friday, October 13, 2023	Municipal Departments submit preliminary listing of any proposed FY25 position changes with supporting justification to Human Resources (HR) with copy to Town Manager
Monday, October 16, 2023	Municipal Departments submit Calendar Year fee change requests to Town Manager
Thursday, October 19, 2023	Town Council conducts joint meeting with School Committee in accordance with Town Charter to review financial condition and financial policies of the Town
Monday, October 30, 2023	Town Manager & School Superintendent develop annual policy agreement on allocation of projected FY25 General Fund revenue growth
Monday, November 6, 2023	Departments (including School) submit Capital Improvements Project (CIP) data sheets <i>with supporting photos</i> and review of existing capital projects to Town Manager
Tuesday, November 14, 2023	Town Manager conducts public hearing on any proposed changes to <u>Calendar Year fees</u>
Wednesday, November 15, 2023	Human Resources submits position changes summary including comments to Town Manager
Wednesday November 15, 2023	School Committee Meeting – Strategic Plan and Priorities
Monday, November 27, 2023	CIP Task Force provided copy of CIP submissions
Monday, November 27, 2023	Superintendent issues Operating budget instructions for School Department
Thursday, December 7, 2023	Municipal Department Managers submit Operating Budget <i>Decision Packages</i>
Thursday, December 14, 2023	CIP Task Force conducts workshop on CIP submissions (Date Subject to Change)
Wednesday, December 20, 2023	School site/department submit Operating Budget requests
Thursday, December 21, 2023	Annual Organization of Town Council (TM must submit budget to Town Council within 170 days per M.G.L. 44 § 32) (Friday, June 7, 2024)
Friday, January 5, 2024	Municipal Department Managers submit Operating Budget <i>Narratives</i> including photos
Wednesday, January 24, 2024	School Committee Workshop (FY25 Budget Introduction/ Confirming Strategic Direction of Budget)
Wednesday, January 17, 2024	Municipal Departments submit Fiscal Year fee change requests to Town
Wednesday, February 7, 2024	School Committee Meeting – Initial Presentation of FY25 Budget
Wednesday, February 14, 2024	School Committee Workshop (Round Table Review of Budget)
Monday, March 4, 2024	Town Manager submits recommended FY25 Capital Budget to Town Council per Part VI, Section 6-5 (d) of the Charter (TC must adopt plan BEFORE June 1, 2024)
Wednesday, March 6, 2024	School Committee Meeting – FY25 Budget Review
Tuesday, March 19, 2024	Town Manager conducts public hearing on any proposed changes to <u>Fiscal Year fees</u>
Wednesday, March 20, 2024	FY25 School Operating Budget Public Hearing
Wednesday, April 3, 2024	School Committee meeting to adopt FY25 Operating budget
Thursday, April 4, 2024	School Department submits adopted FY25 School budget to Town Manager
Thursday, April 4, 2024	Town Council conducts first reading of FY25 Capital Budget Orders. Capital Budget presentation made to the Town Council
Monday, April 8, 2024	CFAC submits their review of recommended FY25 Capital Budget to Town Manager & Town Council
Thursday, April 25, 2024	Town Council conducts first public hearing on FY25 Capital Budget
Thursday, May 2, 2024	Town Council conducts second public hearing on FY25 Capital Budget
Wednesday, May 8, 2024	Town Manager submits recommended FY25 Operating Budget to the Town Council. Town Council must adopt budget within 45 days (by June 21, 2024) otherwise it becomes part of FY25 appropriations per Section 6-3 (b) of the Charter)
Monday May 13, 2024	CFAC submits their review of recommended FY25 Operating Budget to Town Manager & Town Council
Thursday, May 16, 2024	Last Town Council meeting to adopt FY25 proposed Capital Budget (Must be adopted by June 1, 2024)
Thursday, May 16, 2024	Town Council conducts first reading of the FY25 Operating Budget Orders. Operating Budget presentation made to Town Council.
Thursday, June 6, 2024	Town Council conducts first public hearing on FY25 Operating Budget
Thursday, June 20, 2024	Town Council conducts second public hearing on FY25 Operating Budget
Friday, June 21, 2024	Special Town Council meeting (if needed) to complete public hearings on FY25 proposed Operating Budget.

Town Council Action

School Committee Action

Town Manager Action

Municipal & School Dept./CFAC Action

Sample City Budget Calendar

DECEMBER 9, 20XX	Budget Kickoff Meeting. City Manager briefs department heads and fiscal staff on FYXX budget guidelines.
JANUARY 20XX THROUGH 10 DAYS BEFORE DEPARTMENT HEARING	Departments review and update budget materials: ▪ Personnel analysis sheets ▪ Current FY revenue and expenditure projections and FYXX requests ▪ Budget presentation templates ▪ FYXX budget narratives ▪ Goals and prior FY actuals, current FY projections, and FYXX targets for performance measures All supporting documentation must be submitted to Budget Analyst for preliminary review.
JANUARY 21, 20XX THROUGH MARCH 6, 20XX	Formal department presentations to the City Manager. Budget presentation templates need to be finished, along with all supporting documentation, in conjunction with Budget Analyst for final review with Budget Director 72 hours prior to the scheduled meeting. This meeting should be a review to make only minor adjustments.
JANUARY 15, 20XX	Deadline for Capital submissions to the Budget Office.
MARCH 9, 20XX	Deadline for submission of Key Initiatives and Benchmarks to Budget Office.
MAY 11, 20XX	City Manager submits Budget to the City Council.
MAY 26, 20XX THROUGH JUNE 3, 20XX	City Council's Committee on Finance Budget Hearings.
JUNE 15, 20XX	Projected budget adoption.
JUNE 25, 20XX	Deadline for City Council adoption of FYXX Budget.
JUNE 17, 20XX	City Manager's transmittal of chart of accounts and allotment plan (based on departmental work plans) to City Auditor for execution.
JULY 1, 20XX	First day of FYXX Begin execution of FYXX allotment plans.

FORMAL BUDGET AND MUNICIPAL CALENDAR

January 2020



Frequently, communities formalize the budget process by city ordinance, town by-law, or written policy. A budget calendar specifies dates for the completion, distribution or receipt of revenue projections, financial forecast, departmental appropriation guidelines and requests, a capital improvement plan, a working budget, a final budget and so forth. It allows for hearings, reviews and approvals at different levels, and accounts for the time needed to print and distribute the warrant. For a town, the process typically begins in the fall and ends on the date of the annual town meeting. The process in a city usually begins later.

A municipal calendar includes important dates and datelines that extend beyond the budget process. It provides dates for the completion of routine and important responsibilities of the treasurer, collector, accountant and assessors. It can include any other tasks carried out by non-finance related managers, such as an annual inventory of computer equipment, or a schedule for employee performance reviews.

We recommend that a city or town begin by reviewing the sample municipal calendar posted on the DLS website. A meeting of department heads can be the starting point for modifying the master calendar to meet the specific needs and circumstances of the community.

A municipal calendar, however, works hand-in-hand with regular department head and finance officer meetings. This, in turn, suggests that a central management structure exists, particularly in towns, to coordinate activities and guide meetings of finance officers. Leadership can come from a town manager, town administrator, executive secretary, finance director or other town officer assigned the task. Depending on the form of government, a mayor, city manager, chief financial officer or auditor would direct the process. In any case, a set calendar allows workloads to be planned, progress to be monitored and, more importantly, problems to be anticipated and corrected in advance of critical deadlines.

NON-BINDING SENSE OF THE MEETING QUESTION

To see if the Town will vote to direct the Town Council Study Committee to propose a Charter Revision in the form of a Home Rule Petition to be voted on at a future Town Meeting which would create a Town Council/Town Manager Form of Government; or to take any other action relative thereto.

Background:

The Town Council Study Committee, appointed by the Select Board in response to a positive vote taken under Article 81 of the 2023 Annual Town Meeting, is proposing consideration of a new charter establishing a Town Council/Town Manager form of government to replace the current Town Manager/Select Board/Town Meeting form of government. Town Council/Town Manager is a representative form of municipal governance. Town Councils operate continuously, as opposed to one or two Town Meetings per year.

The proposed Town Council would:

- *serve as the legislative body of the Town and be composed of 9 members, elected at large, for three-year rotating terms, who would be compensated at a rate to be determined by a local bylaw.*
- *As contemplated, the proposal makes no change to the currently elected multiple member bodies (except that the Select Board would be abolished). It would provide for the Town Manager to appoint all other multiple-member bodies, subject to the disapproval of the Town Council, and appoint most other Town employees within Town Administration as currently defined in the Town Charter.*
- *The proposal would provide several avenues for public access and participation in government, including public comment at Town Council meetings, citizen petitions for proposal of local laws by initiative and referendum for repealing local laws, as well as for recall of Town Councilors.*

Approval of this non-binding sense of the meeting vote would be the first step in moving forward with the process for adoption of a new Charter, provided, however, that the proposal as described above is not final, and that in order to formally revise the Charter there will likely be three additional steps: approval at a Town Meeting, approval by the General Court, and acceptance by the voters of the Town at an election.

A YES vote would indicate interest in converting from Open Town Meeting to a Town Council/Town Manager structure.

A NO vote would indicate opposition to this proposal and a preference for keeping Open Town Meeting.

Nantucket Town Council Study Committee

Non-Binding Public Opinion Advisory Ballot Question

Shall the Town of Nantucket direct the Town Council Study Committee to propose a Charter Revision in the form of a Home Rule Petition to be voted on at a future Town Meeting which would create a Town Council/Town Manager Form of Government, a fair and concise summary of which is set forth below?

The Town Council Study Committee, appointed by the Select Board in response to the vote taken under Article 81 of the 2023 Annual Town Meeting, is proposing consideration of a new charter establishing a Town Council/Town Manager form of government to replace the current Town Manager/Select Board/Town Meeting form of government. The proposed Town Council would serve as the legislative body of the Town and be composed of 9 members, elected at large, for three-year rotating terms, who would be compensated at a rate to be determined by local bylaw. As contemplated, the proposal makes no change to the currently elected multiple member bodies within the Town (except that the Select Board would be abolished.) It would provide for the Town Manager to appoint all other multiple-member bodies, subject to the disapproval of the Town Council, and appoint most other Town employees within Town Administration as currently defined in the Town Charter. The proposal would provide several avenues for public access and participation in government, including public comment at Town Council meetings, citizen petitions for proposal of local laws by initiative and referendum for repealing local laws, as well as for recall of Town Councilors. Approval of this non-binding question would be the first step in moving forward with the process for adoption of a new Charter, provided, however, that the proposal as described above is not final, and that in order to formally revise the Charter there will likely be three additional steps: approval at a Town Meeting, approval by the General Court, and acceptance by the voters of the Town at an election.