

HOUSE No. 4790

By Mr. Sannicandro of Ashland, petition of Tom Sannicandro (by vote of the town) for legislation to make certain changes in the charter of the town of Ashland. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ASHLAND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Part I, Incorporation and Authority.

Section 1-1. Incorporation Continued.

The inhabitants of the Town of Ashland, Massachusetts, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the “Town of Ashland.”

Section 1-2. Short Title.

This instrument may be cited and shall be known as the “Ashland Home Rule Charter.”

Section 1-3. Division of Powers.

All legislative powers of the Town shall be exercised by a Town Meeting open to all Voters. The administration of all Town fiscal, prudential and municipal affairs shall be vested in the executive branch comprised of the Board of Selectmen and elected independent boards pursuant to their enabling legislation.

Section 1-4. Powers of the Town.

The intent and purpose of the Charter is to secure for the Voters of the Town of Ashland, through the adoption of the Charter, all the powers possible to secure for their government under Article

LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the Commonwealth, as fully as though each such power were specifically and individually enumerated herein.

Section 1-5. Interpretation of Powers.

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

Section 1-6. Intergovernmental Relations.

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

Part II, Legislative Branch

Section 2-1. Open Town Meeting.

The legislative powers of the Town shall be vested in a Town Meeting open to all Voters.

Section 2-2. Presiding Officer.

All sessions of the Town Meeting shall be presided over by a Town Moderator, elected as provided in Part III. The Town Moderator shall regulate the proceedings, decide questions of order and make public declarations of all votes. The Town Moderator shall have all of the powers and duties given to moderators under the Constitution and the laws of the Commonwealth and such additional powers and duties as may be authorized by the Charter, by bylaw or by other Town Meeting vote.

Section 2-3. Annual Town Meeting.

The Annual Town Meeting shall be held on such date or dates as may from time to time be fixed by bylaw.

Section 2-4. Special Town Meetings.

Special Town Meetings shall be held at the call of the Board of Selectmen at such times as it may deem appropriate and whenever a special meeting is requested by the Voters in accordance with procedures made available by the laws of the Commonwealth.

Section 2-5. Clerk of the Meeting.

The Town Clerk shall serve as the Clerk to the Town Meeting. In the event of unavoidable absence, the Town Clerk shall designate a substitute; otherwise, the Town Moderator shall appoint a Clerk Pro Tempore. The Town Clerk shall keep a journal of the proceedings and perform such other functions as may be provided by the laws of the Commonwealth, by the Charter, by bylaw or by other Town Meeting vote.

Part III, Elected Town Officers**Section 3-1. Elected Town Officers, in General.**

- (a) The offices to be filled by the Voters shall be a Board of Selectmen, a School Committee, a Town Moderator, a Board of Assessors, a Board of Health, a Planning Board, a Board of Trustees of the Public Library and a Housing Authority. Regional authorities, districts, committees or such other entities as may be established by law or intergovernmental agreement may also be filled by the Voters.
- (b) The elected bodies as referenced to in Section 3-1(a) above may, by law, the Charter, bylaw or vote of the Town appoint any temporary or ad hoc committees as in their judgment shall from time to time be necessary or desirable specifically for the purpose of assisting said elected boards in the exercising and fulfillment of their powers and duties referred to in the Charter.

Section 3-2. Board of Selectmen.

- (a) There shall be a Board of Selectmen composed of five (5) members elected for terms of three (3) years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.
- (b) The executive powers of the Town shall be vested in the Board of Selectmen which shall serve as the chief policy-making body of the Town. The Board of Selectmen shall have and exercise all the powers and duties vested in boards of selectmen by the laws of the Commonwealth and such additional powers and duties authorized by the Charter, by bylaw or by vote of the Town. The Board of Selectmen shall

cause the laws and orders for the government of the Town to be enforced and shall cause a record of all its official acts to be kept. To administer its policies and aid the Board in its official duties, the Board of Selectmen shall appoint a Town Manager, as provided in Part V of the Charter.

- (c) The Board of Selectmen shall appoint a Town Manager, Town Counsel, an external auditor to perform the Town's annual financial audit and Registrars of Voters as well as all other such Town officers, boards, commissions and committees except as otherwise provided by the Charter. The Board of Selectmen shall also appoint such officers, boards, commissions and committees that the Board of Selectmen may hereafter be directed to appoint by law, bylaw or vote of the Town.
- (d) The Board of Selectmen may investigate or may authorize the Town Manager to investigate the affairs of the Town and the conduct of any Town Agency.
- (e) The Board of Selectmen, unless otherwise provided by law or the Charter, shall be the licensing board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest. The Board of Selectmen shall enforce the laws relating to all businesses for which it issues any licenses.

Section 3-3. School Committee.

- (a) There shall be a School Committee composed of five (5) members elected for terms of three (3) years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year.
- (b) The School Committee shall have all the powers, duties and responsibilities given to school committees by the laws of the Commonwealth, the Charter, bylaws or Town Meeting vote. Nothing in the Charter shall be construed to affect the powers and duties of the School Committee as provided by law.

Section 3-4. Town Moderator.

- (a) At each Town election a Town Moderator shall be nominated and elected by the Voters for a term of one (1) year. In the event of absence of the Town Moderator, the Town Meeting shall elect a temporary Town Moderator for the purpose of presiding during the Town Moderator's absence.
- (b) The Town Moderator shall appoint the Finance Committee and have other said powers and duties provided that office by the Constitution and the laws of the Commonwealth, bylaws or by Town Meeting vote.

Section 3-5. Board of Health.

- (a) There shall be a Board of Health composed of five (5) members elected for terms of three (3) years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year.
- (b) The Board of Health shall be responsible for the formulation and enforcement of rules and regulations concerning public health. The Board shall have all the powers and duties given to boards of health by the laws of the Commonwealth, the Charter, bylaws or Town Meeting vote.

Section 3-6. Board of Assessors.

- (a) There shall be a Board of Assessors composed of three (3) members elected for terms of three (3) years each, so arranged that the term of one (1) member expires each year.
- (b) The Board of Assessors shall have all the powers and duties given to boards of assessors by the laws of the Commonwealth, the Charter, bylaws or Town Meeting vote.

Section 3-7. Planning Board.

- (a) There shall be a Planning Board composed of five (5) members elected for terms of five (5) years each, so arranged that the term of one (1) member expires each year.
- (b) The Planning Board shall have all the powers and duties given to planning boards by the laws of the Commonwealth, the Charter, bylaws or Town Meeting vote.

Section 3-8. Board of Library Trustees.

- (a) There shall be a Board of Library Trustees composed of five (5) members elected for terms of three (3) years, so arranged that the terms of as nearly an equal number of members as is possible expire each year.
- (b) The Board of Library Trustees shall have all the powers and duties given to boards of library trustees by the laws of the Commonwealth, the Charter, bylaws or Town Meeting vote. The Board shall have control over the selection of library materials and have custody and management of such. All money and property that the Town may receive for library purposes by gift or bequest shall be administered by the Board in accordance with the provisions of the gift or bequest.

Section 3-9. Housing Authority.

- (a) There shall be a Housing Authority composed of five (5) members serving terms of five (5) years each, so arranged that the term of one (1) member expires each year. Four (4) members shall be elected by the Voters, and the fifth member shall be appointed as the laws of the Commonwealth provide.
- (b) The Housing Authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth, the Charter, bylaws or Town Meeting vote. The Authority shall also make studies of the housing needs of the Town and shall provide programs for housing.

Part IV, Recall of Elected Officers**Section 4-1. Application.**

Any holder of an elected office in the Town may be recalled therefrom by the Voters of the Town as herein provided, except the maximum number of members of a multiple-member body that may be recalled is a majority.

Section 4-2. Recall Affidavit and Petition.

A recall petition may be initiated by filing with the Town Clerk an affidavit containing at least five hundred (500) signatures of persons representing to be Voters, the name of the officer sought to be

recalled and a statement of the grounds for recall. The Town Clerk shall, within one (1) Business Day of receipt, submit the affidavit to the Registrars of Voters of the Town, and the Registrars shall, within five (5) Business Days, certify thereon the number of signatures which are names of Voters. If the Registrars certify that the affidavit contains the signatures of at least five hundred (500) Voters, the Town Clerk shall, within one (1) Business Day, deliver to any one or more of the Voters making the affidavit copies of petition blanks demanding such recall. Said blanks shall be issued by the Town Clerk, with signature and official Town Seal affixed thereto. The blanks shall be dated, addressed to the Board of Selectmen, contain the name of the person whose recall is sought, the office from which removal is sought, the grounds of recall as stated in the affidavit and a demand for the election of a successor in the said office.

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 during regular business hours no later than the close of business twenty (20) days after the certification of the affidavit. Before being returned and filed with the Town Clerk, said petition shall have been signed by no less than twenty-five percent (25%) of the Voters as of the date such affidavit was filed with the Town Clerk.

The Town Clerk shall, within one (1) Business Day of receipt, submit the petition to the Registrars of Voters of the Town, and the Registrars shall, within fifteen (15) Business Days, certify thereon the number of signatures which are names of Voters.

Section 4-3. Recall Election.

If the petition shall be found by the Registrars of Voters to contain signatures of at least twenty-five percent (25%) of the Voters, it shall be certified by the Town Clerk to be sufficient and the Town Clerk shall submit the same with such certificate to the Board of Selectmen within five (5) Business Days. The Board of Selectmen shall, within five (5) Business Days, 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 (5) Business Days thereafter, order an election to be held on a date fixed by them not

more than ninety (90) days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided that if any other Town election is to occur within one hundred (100) days after the date of the certificate, the Board of Selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if the term of office of such person expires within one hundred eighty (180) days of the filing of an affidavit with the Town Clerk. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

Section 4-4. Nomination of Candidates.

Any officer sought to be removed may be a candidate to succeed to the same office, and, unless the officer requests otherwise in writing, the Town Clerk shall place the name of the officer on the ballot as a candidate. The nomination of other candidates, the publication of the warrant for the removal election and the conduct of the same shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

Section 4-5. Office Holder.

The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not removed, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If not reelected in the recall election, the officer shall be deemed removed upon the qualification of the successor who shall hold office during the unexpired term. If the successor fails to qualify within five (5) Business Days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 4-6. Ballot Proposition.

Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer).

Under the propositions shall appear the word “Candidates,” the directions to the Voters required by M.G.L. C. 54, § 42, and beneath this the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds (2/3) of the votes cast upon the question of recall are in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If more than one-third (1/3) of the votes on the question is in the negative, the ballots for candidates need not be counted.

Section 4-7. Repeat of Recall.

No recall affidavit shall be filed against an officer within one hundred eighty (180) days after taking office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least one hundred eighty (180) days after the election at which the officer's recall was submitted to the Voters.

Section 4-8. 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 subsequently become an employee of the Town within one (1) year after such recall election or such resignation.

Part V, Town Manager

Section 5-1. Appointment; Qualifications; Term of Office.

The Board of Selectmen shall appoint, for a term of up to three years, a Town Manager and shall, at least annually, evaluate the performance of the Town Manager. The Town Manager shall be a person of proven administrative ability, especially qualified by education and training with at least three (3) years previous experience in public administration as a city or town manager, a city or town administrator, an assistant city or town manager or a position with substantially similar functions. 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 Board of Selectmen.

Section 5-2. Vacancy in Office.

Any permanent vacancy in the office of Town Manager shall be filled as soon as possible by the Board of Selectmen. Pending appointment of the Town Manager, the Board of Selectmen shall, within a reasonable period of time, appoint some other qualified person to perform the duties of the Town Manager.

Section 5-3. Temporary Absence.

The Town Manager may designate by letter filed with the Board of Selectmen and Town Clerk a qualified officer of the Town to perform the duties of the Town Manager during a temporary absence or disability. If such temporary absence or disability shall exceed fourteen (14) days, any designation made by the Town Manager shall be subject to the approval of the Board of Selectmen. 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 or is deemed not qualified by the Board of Selectmen, the Board of Selectmen may designate some other qualified person to perform the duties of the Town Manager until the Town Manager shall return.

Section 5-4. Compensation.

The Town Manager shall receive such compensation for services as the Board of Selectmen shall determine, but such compensation shall be within the limits of available appropriations.

Section 5-5. Powers of Appointment.

- (a) The Town Manager shall appoint, based upon merit and qualifications, a Police Chief, a Fire Chief, a Treasurer/Collector, a Town Accountant, a Town Clerk and all other department heads, officers, subordinates and employees for whom no other method of selection is provided in the Charter, except employees of the School Department and employees identified in section 5-5 (c).
- (b) Appointments proposed by the Town Manager, except as noted in section 5-5 (e), shall become effective on the 15th day following the day on which notice of the proposed appointment is filed at a Board of Selectmen meeting, unless the Board of Selectmen shall within such period, by a

Majority Vote of the Board of Selectmen, vote to reject such proposed appointment.

- (c) The Town Manager shall appoint, based upon merit and qualifications:
- i. a health agent with the consent of the Board of Health;
 - ii an assistant assessor with the consent of the Board of Assessors;
 - iii. a planner with the consent of the Planning Board; and
 - iv a library director and all other library employees with the consent of the Board of Library Trustees.

For the purpose of this section consent shall mean that each multiple member body cited herein shall have the responsibility and authority to interview job candidates and make an appointment recommendation to the Town Manager. In no case shall the Town Manager make an appointment under this section without the consent of the multiple member body cited herein. In the case of employees appointed under this section, the Town Manager shall inform the chair of the appropriate multiple member body cited herein prior to the commencement of any disciplinary action or termination process, except in cases of an emergency, and provide an opportunity to said chair to confidentially comment on the proposed action directly to the Town Manager.

- (d) Relative to appointments made by the Town Manager under section 5-5(c), the policies established by each multiple member body cited therein derived directly from their statutory authority shall be the non-administrative policy adhered to by the Town Manager and his/her staff.
- (e) Appointments made by the Town Manager under section 5-5(c) are effective immediately and are not subject to rejection by vote of the Board of Selectmen.

Section 5-6. Administrative Powers and Duties.

The Town Manager shall be the administrative officer of the Town and shall be responsible to the Board of Selectmen for the proper operation of Town affairs for which the Town Manager is given responsibility under the Charter. The powers, duties and responsibilities of the Town Manager shall include, but are not limited to, the following:

- (a) To supervise, direct and be responsible for the efficient administration of all employees appointed by the Town Manager and their respective departments and of all functions for which the Town Manager is given responsibility, authority or control by the Charter, by bylaw, by Town Meeting vote or by the Board of Selectmen.
- (b) To administer, either directly or through a person or persons supervised by the Town Manager, all provisions of general or special laws applicable to the Town, all bylaws and all regulations established by the Board of Selectmen.
- (c) To coordinate all activities of Town departments under the direction of the Board of Selectmen and the Town Manager with the activities of departments under the control of officers, boards or commissions elected directly by the Voters of the Town.
- (d) To keep the Board of Selectmen fully informed as to the needs of the Town and to recommend to the Selectmen, for adoption, such measures requiring action by them or by the Town as the Town Manager deems necessary or expedient.
- (e) To ensure that complete and full records of the financial and administrative activity of the Town are maintained and to render reports to the Board of Selectmen as may be required.
- (f) To administer personnel policies, practices or rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements entered into by the Town, except for School Department agreements.
- (g) To fix the compensation of all Town employees appointed by the Town Manager within the limits established by appropriation and any applicable compensation plan.
- (h) To be responsible for the negotiation of all contracts with Town employees over wages and other terms and conditions of employment, except employees of the School Department. Subject to the approval of the Board of Selectmen, the Town Manager may employ special counsel to assist in the perfor-

mance of these duties. All collective bargaining agreements negotiated under this section shall be subject to the approval of the Board of Selectmen.

- (i) To prepare and submit an annual operating budget and capital improvement program as provided in Sections 7-1 and 7-3 of the Charter.
- (j) To keep the Board of Selectmen and the Finance Committee fully informed as to the financial condition of the Town and to make recommendations to the Board of Selectmen and to other elected and appointed officials as the Town Manager deems necessary or expedient.
- (k) To investigate or inquire into the affairs of any town department or office under the supervision of the Town Manager or the job related conduct of any officer or employee thereof.
- (l) To perform such other duties as necessary or as may be assigned by the Charter, by bylaw, by Town Meeting vote or by the Board of Selectmen.

Section 5-7. Removal of Town Manager.

The Board of Selectmen by affirmative vote of three (3) of its members may vote to terminate, remove or suspend the Town Manager from office in accordance with the following procedure:

- (a) Prior to removal or termination, the Board of Selectmen shall adopt a preliminary resolution of removal by the affirmative vote of three (3) of its members. The preliminary resolution may suspend the Town Manager for a period not to exceed thirty (30) days. A copy of the resolution shall be delivered to the Town Manager forthwith.
- (b) If so requested by the Town Manager, the Board of Selectmen shall provide a written statement setting forth the reasons for the proposed removal or termination.
- (c) Within five (5) days after the receipt of the preliminary resolution, the Town Manager may request a public hearing by filing a written request for such hearing with the Board of Selectmen. If such a hearing is requested, the hearing shall be held at a meeting of the Board of Selectmen not later than twenty (20) days from the date of request.

- (d) If a public hearing has not been requested by the Town Manager, the Board of Selectmen may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of three (3) of its members at any time after ten (10) days following the date of delivery of a copy of the preliminary resolution to the Town Manager. If the Town Manager requests a public hearing, the Board of Selectmen may, at the conclusion of the hearing or within five (5) days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of three (3) of its members.
- (e) The Board of Selectmen may suspend, by an affirmative vote of three (3) of its members, the Town Manager pending and during any public hearing as requested by the Town Manager. The Town Manager shall continue to receive a salary until the final date of removal unless otherwise provided. The action of the Board of Selectmen in terminating, removing or suspending the Town Manager shall be final.

Part VI, Administrative Organization

Section 6-1. Organization of Town Departments.

The Town Manager may, from time to time, prepare and submit to the Board of Selectmen for their consent plans of organization or reorganization of Town departments, boards, commissions and offices for which the Town Manager is the appointing authority. In the case of departments, boards, commissions and offices which have responsibilities to independently elected boards or committees, the Town Manager shall consult with the appropriate independently elected board or committee prior to submitting any plans of organization or reorganization to the Board of Selectmen. Whenever the Town Manager prepares such a plan the Board of Selectmen shall hold at least one (1) public hearing on the plan, after posting of the time, date, location and subject matter of the hearing not less than seven (7) days prior to the date of the public hearing. A plan prepared by the Town Manager shall become effective only after a majority vote in favor of the plan by the Board of Selectmen.

Except as otherwise provided in the Charter, the Town Meeting may, by bylaw, reorganize, create, consolidate or abolish departments, boards, commissions and offices, in whole or in part; may

establish new departments, boards and commissions or offices as deemed necessary; and may transfer powers, duties and responsibilities of one department, board, commission or office to another.

Section 6-2. Human Resource Management System.

Subject to the approval of the Board of Selectmen, the Town Manager shall adopt rules and regulations establishing a human resource management system. The human resource management system shall make use of modern concepts of personnel management and shall include, but is not limited to, the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; setting probationary periods; a method of recruiting and selecting employees based on merit and adherence to the principles of equal employment opportunity; a centralized record keeping system; disciplinary and grievance procedures; a professional development and training program and any other elements that are from time to time deemed necessary. All Town employees shall be subject to the rules and regulations adopted under this section except employees of the School Department. If there is a conflict between the rules and regulations adopted under this section and an existing collective bargaining or employment agreement, the collective bargaining or employment agreement shall prevail over the rules and regulations adopted under this section.

Part VII, Financial Provisions

Section 7-1. Budget Process.

- (a) Annually, prior to the first day of October, the Town Manager, with the approval of the Board of Selectmen and after consultation with the Finance Committee, shall establish and issue a budget schedule which shall set forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year. The budget schedule shall include:
 - i. a date for the Finance Committee to receive the budget which shall be at least one hundred five (105) days in advance of the Annual Town Meeting and

- ii. a date by which the Board of Selectmen shall adopt a budget for capital and a balanced budget for operations which should normally be fifty-five (55) days in advance of the Annual Town Meeting.

The Town Manager shall notify the Finance Committee of material changes to the budget then under consideration by the Finance Committee as soon as reasonably possible after the identification of any such a change.

- (b) Annually, prior to the first day of November, the Finance Committee, after consultation with the Board of Selectmen, the School Committee, and the Town Manager, shall issue a policy statement that shall establish the general guidelines for developing the next Town budget.
- (c) All department heads, boards and committees, including the School Committee, that have expense budgets shall submit detailed budgets to the Town Manager in accordance with the budget schedule established in Section 7-1(a).
- (d) Upon receipt of the budgets referenced in Section 7-1(c), the Town Manager shall prepare a budget in accordance with the schedule established in Section 7-1(a). This budget shall provide a complete financial plan for all Town funds and activities and shall be in such form as the Town Manager, in consultation with the Finance Committee and Board of Selectmen, may establish. The Town Manager's budget shall indicate proposed expenditures for current operations and for capital projects and expenditures during the ensuing fiscal year, detailed by each Town department and by specific purposes and projects.
- (e) Annually, in accordance with the budget schedule established in Section 7-1(a), the Town Manager shall also issue a budget report. This budget report shall explain the Town Manager's budget both in fiscal terms and in terms of what specific projects are contemplated for addition or deletion in the fiscal year ahead. It shall also include:
 - i. a description of the important features of the budget;
 - ii. an indication of any major changes from the current fiscal year in financial policy, expenditures and revenues, together with the reasons for such changes;

- iii. a summary of the Town's debt position;
 - iv. a report showing an estimate of revenues from all significant sources for the ensuing fiscal year, along with the probable amount required to be levied and raised by taxation;
 - v. a budget including revenue, expenses and general subsidies for each enterprise fund; and
 - vi. other such material as the Town Manager may deem appropriate.
- (f) In addition to any notice required by the laws of the Commonwealth, the Board of Selectmen shall cause the Report and Recommendations of the Finance Committee to be made available to all Voters at least seven (7) days prior to the Annual Town Meeting.

Section 7-2. Finance Committee Action.

The Finance Committee shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for Town departments proposed by the Town Manager. The Finance Committee may confer with representatives from any Town department in connection with its deliberations. The Finance Committee may request the Town Manager or any Town department to provide additional information. The Finance Committee shall file a proposed budget and report of its recommendations for action fourteen (14) days prior to the scheduled date of the Annual Town Meeting. The budget to be acted upon by Town Meeting shall be the budget proposed by the Town Manager with the accompanying recommendations of the Finance Committee.

Section 7-3. Capital Improvements Program.

The Town Manager shall submit a capital improvements program to the Board of Selectmen and Finance Committee in accordance with the budget schedule established in Section 7-1(a). Such program shall include a list of any improvements proposed to be undertaken during the next five (5) fiscal years and their estimated cost including: non-routine repairs and major maintenance; renovations or additions to existing facilities; construction of new facilities; land acquisition; equipment and vehicle purchases; and public works projects. The list shall include items relating to all Town departments,

including the school department, and the enterprise funds and shall include items in excess of a dollar limit to be set annually by the Board of Selectmen. The Town Manager shall also submit to the Board of Selectmen a status report of any capital improvements that were approved as part of the budget process for the then current year's budget, but which have not yet been substantially completed. Both the capital improvements program and the status report shall be included in what is presented to Town Meeting.

Section 7-4. Approval of Warrants.

Warrants for payments of Town funds prepared by the Town Accountant shall be submitted to the Town Manager for approval. The approval of any such warrant by the Town Manager shall be sufficient authority to authorize payment by the Town. The Town Manager shall have the authority to designate in writing, filed with the Town Clerk and the Board of Selectmen, an individual who, in the Town Manager's absence, shall have the authority to approve the warrants which shall be sufficient to authorize payment by the Town.

Part VIII, General Provisions

Section 8-1. Charter Revision or Amendment.

The Charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth and any laws of the Commonwealth enacted to implement said constitutional amendment.

Section 8-2. Periodic Charter Review.

Commencing in the year 2010 and at least every five (5) years thereafter, a Charter Review Committee shall be appointed by the Board of Selectmen for the purpose of reviewing the provisions of the Charter and to make a report concerning any proposed amendments or revisions which such committee deems necessary. Said report is to be presented to the Board of Selectmen within nine (9) months of the Charter Review Committee's first meeting. The Board of Selectmen shall hold a public hearing on the report's recommendations within sixty (60) days of when the report is presented to the Board.

Section 8-3. Notification of Resignation of Office.

Any person holding an appointive or elected office may resign that office by filing a notice of resignation with the Town Clerk.

Section 8-4. Notification of Appointed Vacancy to Appointing Authority.

In the event of a vacancy on an appointed board, commission or committee, the Town Clerk, upon notification of such vacancy shall, within ten (10) Business Days of notification of such vacancy, notify in writing the designated appointing authority of the vacancy.

Section 8-5. Failure to Fill Appointed Vacancies — Town Boards, Commissions or Committees.

- (a) Should an appointing authority other than the Board of Selectmen fail to fill a vacancy on a board, commission or committee within forty-five (45) days of having been notified in writing by the Town Clerk of said vacancy, the Town Clerk shall immediately notify in writing the Board of Selectmen, who shall then become the appointing authority and shall make such appointment(s) within thirty (30) days thereafter.
- (b) Upon the failure of the Board of Selectmen to appoint within thirty (30) days as set forth in section 8-5 above, the majority of remaining members of the board, commission or committee shall then become the appointing authority and shall make such appointment(s) within thirty (30) days thereafter.

Section 8-6. Loss of Office, Excessive Absenteeism.

If any person appointed as a member of a board, commission or committee shall fail to attend four (4) or more consecutive meetings, or one-half or more of all the meetings of such body held over a twelve (12) consecutive month period, the remaining members of the board, commission or committee may by Majority Vote of the remaining members of such body declare the office vacant, provided, however, that not less than ten (10) Business Days prior to the date said vote is scheduled to be taken, the body has given in hand or mailed by registered or certified mail, return receipt requested, notice of such proposed or pending vote to the last known address of such person. Upon the occurrence of a vacancy pursuant to this section, the board, commission or committee shall notify the Town

Clerk in writing of said vacancy in accordance with Section 8-4 of the Charter.

Section 8-7. Severability.

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

Section 8-8. Rules of Interpretation.

The following rules shall apply when interpreting the Charter:

- (a) To the extent that any specific provision of the Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.
- (b) Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; and words imparting the masculine gender shall include the feminine gender.
- (c) All references to the general laws or the laws of the Commonwealth contained in the Charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the Charter.
- (d) In computing time under the Charter, if seven (7) days or less, only Business Days shall be counted; if more than seven (7) days, every day shall be counted except that if the last day counted in a computation does not fall on a Business Day, the last day of computation shall be extended to the next Business Day thereafter.

Section 8-9. Definitions.

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

- (a) BUSINESS DAY — The words “Business Day” shall mean any day on which Town Hall is open to the public to conduct business.
- (b) CHARTER — The word “Charter” shall mean the Charter and any amendments to it made through any methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.
- (c) COMMONWEALTH — The word “Commonwealth” shall mean the Commonwealth of Massachusetts.
- (d) MAJORITY VOTE — The words “Majority Vote” shall mean a majority of those present and voting, provided that a quorum is present when a vote is taken, unless a higher number is required by law or the Charter.
- (e) TOWN — The word “Town” shall mean the Town of Ashland.
- (f) TOWN AGENCY or AGENCY — The words “Town Agency” or the word “Agency” shall mean any board, commission, committee, department or office of Town government, whether elected, appointed or otherwise constituted.
- (g) VOTERS — The word “Voters” shall mean registered voters of the Town.

Part IX, Miscellaneous Provisions

Section 9-1. Continuation of Existing Laws.

All bylaws, resolutions, rules, regulations and votes of Town Meeting which are in force at the time the Charter is amended, not inconsistent with the provisions of the Charter, shall continue in force until further amended or repealed.

Section 9-2. Precedence of Charter.

Where provisions of the Charter conflict with provisions of Town bylaws, rules, regulations, orders, Town Meeting votes and acceptances of General Law, the Charter provisions shall govern.

Part X, Transitional Provisions

Section 10-1. Completion of Term.

The incumbents serving as members of the Recreation Commission, if any, at the time this charter revision becomes effective shall continue to serve for the balance of the terms for which they were elected. Upon the expiration of the terms of office of the members of the Recreation Commission, or a sooner vacating of office by one or more members, said members shall be appointed by the Board of Selectmen as section 3-2(c) of the Charter provides.

Section 10-2. Time of Taking Effect.

At the first annual Town election held more than one-hundred twenty (120) days following the date on which this charter revision becomes effective the Board of Health shall be increased in size from three (3) members to five (5) members as provided in Section 3-5 of this Charter. At that election one (1) new member shall be elected for a three-year term and one (1) new member shall be elected for a two-year term. Subsequently, all members are to be elected for three (3) year terms.