

SENATE NO. 1177

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF BOURNE

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

1 SECTION 1. Article 3 of the home rule charter of the town of Bourne, which is on file in the
2 office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the
3 General Laws, is hereby amended by striking out section 3-3 and inserting in place thereof the
4 following section:-

5 The Board of Selectmen shall serve as the chief goal-setting and policy-making agency of the
6 town, keeping in mind the requirements of the Local Comprehensive Plan (LCP), and shall
7 appoint a Town Administrator to carry out these policies. Policies and goals specific to each
8 policy shall be filed with the Town Administrator no later than 45 days after the regular spring
9 town election. Individual selectmen shall have no independent authority unless specifically
10 voted by the Board of Selectmen. Selectmen shall deal with administrative agencies and
11 departments only through the Town Administrator.

12 Nothing in this section shall be construed to authorize any member of the board of selectmen,
13 nor a majority of its members, to become involved in the day-to-day administration of any town

14 agency. It is the intention of this provision that the Board of Selectmen shall act only through
15 the adoption of broad policy goals, policies and action items which are to be implemented by
16 the Town Administrator.

17 SECTION 2. Section 3-6 of said article 3 is hereby amended by inserting after the word “by-
18 law” the following words:- Town Meeting or the Board of Selectmen.

19 SECTION 3. Said article 3 is hereby further amended by adding the following section:-

20 Section 3-8: Rules of Procedure

21 The Board of Selectmen shall adopt, make public, and abide by its own rules of procedure to
22 govern the conduct of its meetings. An agenda shall be posted with each notice of public
23 meeting. A period of public comment shall be scheduled before the beginning of agenda items.
24 In addition, a public comment period must be provided before any vote on a policy issue. The
25 Board of Selectmen may deviate from its agenda only for sudden, generally unexpected
26 occurrences or for circumstances demanding immediate action.

27 SECTION 4. Section 4-1 of article 4 of said charter is hereby amended by striking out the first
28 paragraph and inserting in place thereof the following 2 paragraphs:-

29 The Board of Selectmen shall appoint a Town Administrator Search Committee of not fewer
30 than 5 and not more than 9 residents of the community to assist the Board of Selectmen in the
31 recruitment and selection of the Town Administrator. If the Board of Selectmen does not select
32 one of the candidates presented by the search committee within 30 days, then the search
33 committee shall resume its search and submit an additional list of candidates to the Board of
34 Selectmen within 60 days after it resumes the search.

35 The Board of Selectmen, by an affirmative vote of 4 members, shall appoint the Town
36 Administrator for an indefinite term and fix the Town Administrator’s compensation within the

37 amount annually appropriated for this purpose. The office of the Town Administrator shall not
38 be subject to the Personnel by-law. The Town Administrator shall be appointed solely on the
39 basis of executive and administrative qualifications.

40 SECTION 5. Said article 4 is hereby further amended by striking out section 4-2 and inserting
41 in place thereof the following section:-

42 The Town Administrator shall be the primary officer responsible for the implementation of the
43 broad policy directives of the Board of Selectmen and for the attainment of yearly goals. The
44 daily administration of the affairs of the town shall be the responsibility of the Town
45 Administrator only. The Town Administrator may create advisory ad-hoc committees to assist
46 in the execution of the Town Administrator's duties.

47 The Town Administrator shall be evaluated by the Board of Selectmen annually for the Town
48 Administrator's ability to effectuate policy, to accomplish goals established by the Board of
49 Selectmen, to effectively administer town government, and to properly supervise all municipal
50 employees except school employees.

51 SECTION 6. Said article 4 is hereby further amended by striking out section 4-4 and inserting
52 in place thereof the following section:-

53 The Town Administrator may, by letter filed with the Town Clerk and Board of Selectmen,
54 designate as Acting Town Administrator a qualified officer or employee of the town to perform
55 the duties of the Town Administrator during a temporary absence or disability. If this absence
56 or disability exceeds 30 days, any designation made by the Administrator shall be subject to the
57 approval of the Board of Selectmen. If the Town Administrator fails to make a designation, or
58 if the person so designated is unable to serve, the Board of Selectmen may designate some other

59 qualified employee of the town to perform the duties of the Town Administrator until the Town
60 Administrator shall return.

61 SECTION 7. Section 4-6 of said article 4 is hereby amended by striking out clause (b) and
62 inserting in place thereof the following clause:-

63 appoint and, in appropriate circumstances, remove, subject to civil service laws and collective
64 bargaining agreements where applicable, all department heads and employees as well as
65 members of the Board of Assessors and other employees for whom no other appointment
66 provision is made in this charter. Appointments made by the Town Administrator shall be
67 effective immediately except that appointments of department heads and members of the Board
68 of Assessors shall become effective on the fifteenth day after the day on which notice of the
69 proposed appointment is filed with the Board of Selectmen, unless a majority of the Board of
70 Selectmen votes to reject the appointment within this period;.

71 SECTION 8. Said section 4-6 is hereby amended by striking out clause (c).

72 SECTION 9. Article 5 of said charter is hereby amended by striking out section 5-2 and
73 inserting in place thereof the following section:-

74 Subject only to the express prohibitions in the constitution, general laws or the charter, the
75 Town Administrator may prepare a plan to organize, reorganize, consolidate or abolish any
76 town agency as it considers necessary or advisable. The Town Administrator may prescribe the
77 functions of any town agency and, for this purpose, transfer the powers and duties and, so far as
78 is consistent with the use for which the funds were voted by the town, transfer the
79 appropriations of one town agency to another, but no function assigned by the charter to a
80 particular town agency may be discontinued or, unless the charter specifically so provides,
81 assigned to any other. The Town Administrator shall not be prohibited by this charter from

82 including the Department of Public Works or the Department of Integrated Solid Waste
83 Management in any plan to organize, reorganize, consolidate or abolish any town agency that
84 the Town Administrator may consider necessary or advisable in accordance with this section.
85 Any proposed plan submitted under this section by the Town Administrator must be approved
86 by an affirmative vote of 3 members of the Board of Selectmen.

87 SECTION 10. Said article 5 is hereby amended by striking out section 5-3 and inserting in
88 place thereof the following section:-

89 Whenever the Board of Selectmen approves such a proposed plan, it shall hold 1 or more public
90 hearings on the proposal, giving notice by publication in a local newspaper at least 7 days in
91 advance of the hearing. The notice shall describe the scope of the proposal as well as the date
92 and place where the hearing will be held. The Selectmen have 14 days after the close of the
93 public hearing to propose amendments, if any, and vote on the final plan. The proposed
94 organization shall become effective no sooner than 60 days after the Selectmen's vote on the
95 final plan. Where the reorganization moves function or funding from 1 department to another,
96 voters may petition for a Special Town Meeting to address the changes.

97 SECTION 11. Item number 11 of subsection (a) of section 5-6 of said article 5 is hereby
98 amended by striking out, after the word "Administrator" the words "and Board of Selectmen".

99 SECTION 12. Item number 3 of subsection (b) of said section 5-6 of said article 5 is hereby
100 amended by striking out, after the word "Administrator", the words "and Board of Selectmen".

101 SECTION 13. The first sentence of the first paragraph of section 9-2 of article 9 of said charter
102 is hereby amended by striking out the words "four hundred and fifty (450)" and inserting in
103 place thereof the following number:- 250.

104 SECTION 14. Said section 9-2 of said article 9 is hereby further amended by striking out the
105 third paragraph and inserting in place thereof the following paragraph:-

106 The petition, before being returned and filed with the Town Clerk, shall be signed by not less
107 than 10 per cent of the qualified voters as of the most recent annual town election, and to every
108 signature shall be added the place of residence of the signer, giving the street and number, if
109 any.

110 SECTION 15. Said charter is hereby further amended by adding the following article:-

111 Article 11 - Charter Compliance Committee

112 There shall be a Charter Compliance Committee consisting of 7 members, appointed by the
113 Town Moderator for 3-year overlapping terms so arranged that the term of no more than 3
114 members shall expire each year. At least 1 member of the committee shall reside in each of the
115 town's 6 precincts. No appointee shall be a town employee or a member of any existing board
116 or committee governed by the charter.

117 The committee shall take action only after receiving a written complaint, filed by 1 or more
118 voters of the town, alleging a violation of this charter by reason of an act or of a failure to act of
119 the Town Administrator, the Board of Selectmen, the School Committee, the Finance
120 Committee or members of those committees.

121 The complaint shall state the specific section of this charter that is the subject of the violation,
122 the individual or board responsible for the violation and the act or failure to act resulting in the
123 violation. The complaint shall be filed with the Town Clerk who shall immediately send, via
124 certified mail with return receipt requested, a copy to each member of the committee.

125 Within 3 weeks after receipt of the complaint by the Town Clerk, the committee shall vote
126 whether to dismiss the complaint without further action. If the committee so votes, the

127 chairman shall give written notification to the Town Clerk. If the committee votes not to
128 dismiss the complaint, the chairman shall set a time and date for a hearing, mail notice of the
129 hearing to the Town Clerk, the complainants and the individual or board named in the
130 complaint. The Town Clerk shall post and publish the notice in a newspaper of general
131 circulation at least 7 days before the hearing date. The hearing shall occur within 60 days after
132 the date the complaint was received by the Town Clerk.

133 At the hearing the committee shall allow any person to address the committee on the merits of
134 the complaint.

135 Within 3 weeks after the hearing, the committee shall vote on whether there has been a violation
136 of this charter as alleged in the complaint, shall mail a notice of its decision to the complainant,
137 the individual or board named in the complaint and to the Town Clerk, who shall post a copy of
138 the decision at Town Hall and on the town's web site.

139 If the committee determines that there has been a violation of this charter as alleged by the
140 complaint, and if, following its vote, there continues to be a violation, the committee may
141 contact Town Counsel who may file a complaint on behalf of the town with the Superior Court.

142 This Article shall not limit the right to seek enforcement of this charter as otherwise provided by
143 law.