

Westborough Town Charter As Amended 2011

**ARTICLE 1
Incorporation; Short Title; Powers**

Section 1-1 Incorporation

The inhabitants of the Town of Westborough, within the corporate limits as established by law, shall continue to be a body corporate and politic with perpetual succession under the name “Town of Westborough”.

Section 1-2 Short Title

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

Section 1-3 Powers

Subject only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the Commonwealth, it is the intent and the purpose of the voters of Westborough to secure through the adoption of this Charter all of the powers it is possible to secure for a municipal government under the constitution and laws of the Commonwealth.

Section 1-4 Construction

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

Section 1-5 Intergovernmental Relations

Subject to the applicable requirements of any provision of the constitution or statutes of the Commonwealth, the Town of Westborough may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States government or any agency thereof.

**ARTICLE 2
Legislative Branch**

Section 2-1 Town Meeting

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

Section 2-2 Presiding Officer

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The Moderator, as provided in Section 3-3 shall preside at all sessions of the Town Meeting. The Moderator shall at the first session of each annual and special Town Meeting, nominate a deputy moderator to serve in the event of his absence or disability; provided, however, that the Town Meeting shall ratify the nomination.

He shall perform such other duties as may from time to time be assigned to the office of Moderator by Bylaw, or other vote of the Town Meeting.

Section 2-3 Time of Meeting

The regular Annual Town Meeting of the Town of Westborough for the transaction of business relating to the prudential affairs of the Town, shall be held on such date as may from time to time be fixed in the Bylaws of the Town.

Section 2-4 Availability of Town Officials at Town Meeting

Every Town Officer, head of each department and head of each division within the said departments, shall attend all sessions of the Town Meeting for the purpose of providing the Town Meeting with information pertinent to matters appearing in the warrant.

In the event any Town officer, department, or division head is to be absent due to illness or other reasonable cause, he shall designate a deputy to attend in his place.

Section 2-5 Clerk of the Meeting

The Town Clerk or his designee shall serve as clerk of the Town Meeting. The clerk shall give notice of all sessions to the public, keep the journal of its proceedings and perform such other duties as may be assigned by the Charter, by Bylaw or by other vote of the Town Meeting.

Section 2-6 Quorum

The quorum necessary for the conduct of business shall be established through Bylaw.

Section 2-7 General Powers and Duties

All powers of the Town shall be vested in the Town Meeting except as otherwise provided by law or by this Charter. The Town Meeting shall provide for the exercise of all of the powers of the Town and for the performance of all duties and obligations imposed upon the Town for which no other provision is made by Bylaw or by the Charter.

Section 2-8 Warrants

All articles which are to be acted upon by the Annual Town Meeting shall be presented in writing to the Board of Selectmen not less than thirty (30) days prior to the Annual Town

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Meeting. These articles shall then be filed with the Town Clerk three (3) days after the above closing date. The Board of Selectmen shall issue warrants calling into session the Town Meeting at such regular intervals as may be established by Bylaw. The Board of Selectmen shall place on the said warrants all subjects in accordance with the General Laws or Statutes which are requested of them, in writing, by all boards and individuals. A copy of each warrant shall forthwith be posted on the Town bulletin board(s) and a copy mailed to the place of residence of the Town Moderator. Additional copies of all warrants shall be available for distribution in the Office of the Town Clerk before the date on which the town meetings is to convene and that complies with the General Laws. Articles for Special Town Meetings shall follow the procedures in accordance with the General Laws.

**ARTICLE 3
Elected Officials**

Section 3-1 General Provisions

- (a) Elected Offices - The offices to be filled by ballot of the whole town shall be a Board of Selectmen, a Moderator, a School Committee, a Housing Authority, a Planning Board, the Town Clerk, the Trustees of the Public Library and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.
- (b) Eligibility - Any voter shall be eligible to hold an elective town office, but no person shall at the same time serve in more than 1 elected office, as defined in subsection (a).
- (c) Election - The regular elections for town offices shall be held annually on such date as may from time to time be fixed in the bylaws of the town.

Section 3-2 Selectmen: Composition, Term of Office, Compensation, Powers and Duties, etc.

- (a) Composition, Term of Office - There shall be a Board of Selectmen consisting of 5¹ members to be elected by the voters for terms of 3 years so arranged that the terms of office of as nearly an equal number of members as is possible shall expire each year.
- (b) Compensation - The selectmen shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (c) Powers and Duties in General - The executive powers of the town shall be vested in the board of selectmen and may be exercised by them jointly or through the town agencies and offices under their general supervision and control. As chief

¹ Changed from 3 members to 5 members by action of the 1991 Annual Town Meeting and by the Legislature under Chapter 381 of the Acts of 1991.

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executive officers of the town, the Board of Selectmen shall be responsible for all aspects of the town's government that is not otherwise granted to another elected officer, board, commission or committee. 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 and, for that purpose and to aid it in its official duties, there shall be a Town Manager.

- (d) Appointments - The Board of Selectmen shall appoint the following: key personnel pursuant to subsection (a) of section 5-2; other personnel of the town, as defined in section 5-2; members of the town boards, commissions or committees for which the boards has explicitly designated as the appointing authority in said section 5-2; and any other members of any other town boards, commissions, or committees, special or standing, permanent or ad hoc as may from time to time be established by the board or by town meeting unless another appointing authority is designated in the town meeting or this charter.
- (e) Investigations - 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 department, office or agency, including any doubtful claims against the town. A report of the results of any such investigation shall be placed on file in the office of the board of selectmen and a report summarizing the results of such investigation shall be printed in the next annual town report.
- (f) Eligibility - Notwithstanding any general or special law to the contrary, a person employed by the Town of Westborough shall not be eligible to hold the office of Selectman in the Town of Westborough while so employed. An employee holding the office of Selectman in the Town of Westborough on the effective date of this act may serve the remaining period of his term, but shall be ineligible for re-election while so employed.

Section 3-3 Moderator: Term of Office, Compensation Powers and Duties, etc.

- (a) Term of Office - At each town election at which the term of office expires, a Moderator shall be chosen by the voters for a term of 3 years.
- (b) Compensation - The Moderator shall receive for his services such compensation as may annually be provided for that purpose by appropriation.
- (c) Powers and Duties - The Moderator shall have all the powers and duties provided for that office by statute, charter by bylaw and town meeting.
- (d) Appointments - The Moderator shall appoint for fixed overlapping terms: all members of the Advisory Finance Committee, two members of the Capital Expenditure Planning Committee and such all members of any other special or standing committees as may from time to time be established by Town Meeting and designating the Moderator as the appointing authority. These appointments

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shall be made such that the terms of office of as nearly an equal number of members shall expire each year.

Section 3-4 School Committee: Composition, Term of Office, Powers and Duties, etc.

- (a) Composition, Term of Office - There shall be a School Committee consisting of 5 members elected by the voters for 3-year terms so arranged that the terms of office of as nearly an equal number of members expire each year.
- (b) Compensation - School committee members shall serve without salary.
- (c) Powers and Duties - The School Committee shall have all of the powers and duties school committees may have under the General Laws and it shall have such additional powers and duties as may be authorized by charter or bylaw.

Section 3-5 Housing Authority: Composition, Term of Office, Powers and Duties, etc.

- (a) Composition, Term of Office - There shall be a Housing Authority consisting of 5 members, 4 of whom shall be elected by the voters and 1 of whom shall be appointed by the Director of Housing and Community Development or his designee for 5 year overlapping terms such that the term of office of 1 member shall expire each year.
- (b) Powers and Duties - The Housing Authority shall have all of the powers and duties which such authorities may have under the General Laws.

Section 3-6 Planning Board: Composition, Term of Office, Powers and Duties, etc.

- (a) Composition, Term of Office - There shall be a Planning Board consisting of 5 members elected by the voters for 5 year terms so arranged that the terms of office of as nearly an equal number of members shall expire each year.
- (b) Powers and Duties - The Planning Board shall have all of the powers and duties Planning Boards may have under the General Laws. The Board may also exercise such additional powers and duties as may from time to time be assigned to them by the charter, by bylaw or vote of the town meeting.
- (c) Appointments - The Planning Board shall appoint the following: Planning Board personnel, as defined in section 5-2 of this charter and town boards, commissions, or committees for which section 5-2 of this charter has explicitly designated the Planning Board as the appointing authority.

Section 3-7 Town Clerk: Term of Office, Powers and Duties, etc.

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- (a) Term of Office - There shall be a Town Clerk elected by the voters for a term of 3 years.
- (b) Powers and Duties - The Town Clerk shall have all the powers and duties Town Clerks may have under the General Laws. The Clerk may also exercise such additional powers and duties as may from time to time be assigned to the clerk by the charter, by bylaw or by vote of the town meeting.

Section 3-8 Treasurer/Collector – deleted in 1999 by Town Meeting and the Legislature. 7/8/99

Section 3-9 Board of Library Trustees: Composition, Term of Office, Powers and Duties, etc.

- (a) Composition, Term of Office - There shall be a Board of Library Trustees to consist of 9 members elected by the voters for 3 year terms so arranged that the terms of 3 members shall expire each year.
- (b) Powers and Duties - The Board of Library Trustees shall have custody and management of the public library and all property of the town relating thereto.
- (c) Appointments - The Board of Library Trustees shall appoint library personnel, as provided in subsection (b) of section 5-2.

**ARTICLE 4
Town Manager²**

Section 4-1 Appointment, Qualifications, Term.

The Board of Selectmen shall appoint a Town Manager for a term not to exceed 3 years and shall fix his compensation within the amount appropriated by the town. The Town Manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be especially fitted by education, training and experience to perform the duties of the office.

The Town Manager need not be a resident of the Town or the Commonwealth at the time of his appointment but shall establish residence in the Town of Westborough or in a town contiguous to the Town of Westborough within 1 year following the date of appointment. Failure to establish such residence shall be deemed to be a resignation from the office of the Town Manager.³

The Town Manager shall not have served as a member of the Board of Selectmen for the 18 months prior to his appointment. He shall be bonded by a surety company and the cost

² Town Manager changed from Town Coordinator by Article 28 of the 2008 Annual Town Meeting, approved by the Legislature under Chapter 385 of the Acts of 2008.

³ Approved by the 1989 Annual Town Meeting and confirmed by the Legislature July 19, 1989.

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of the bond shall be borne by the town. He shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his term, unless such action is approved in advance in writing by the board of selectmen. The town may from time to time establish by bylaw such additional qualifications as it deems necessary and appropriate.

Section 4-2 Powers and Duties.

The Town Manager shall be the chief administrative officer of the Town and shall be responsible to the Board of Selectmen for the administration of all town affairs placed in his charge pursuant to the charter.

- (a) The Town Manager shall appoint the following:-
 - (i) Town boards, commissions and committees and other town personnel for which section 5-2 of this charter has explicitly designated the Town Manager as the appointing authority;
 - (ii) Members of other town boards, commissions and committees and other personnel for which the Board of Selectmen, bylaws and Town Meeting have the Town Manager to act as appointing authority as long as that appointing authority does not conflict with this charter; and
 - (iii) Members of any advisory committee formed by the Town Manager as allowed in the town's organization plan, as described in section 5-2.

These appointments shall take effect 15 days after the day that notice of the appointment was filed with the Board of Selectmen unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject the appointment.

- (b) The Town Manager:
 - (1) Shall participate fully in the duties and obligations of the Town Manager as described in the town's organization plan described in section 5-2 of this charter;
 - (2) Shall direct and supervise the administration of all functions under his control;
 - (3) Shall administer the compensation and benefits of all town officers and employees appointed by him, within the limits established by appropriation and by bylaws as set by the salary administration plan;
 - (4) Shall attend all regular and special meetings of the Board of Selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its discussions;
 - (5) Shall attend all sessions of the open Town Meeting and answer all questions directed to him by the voters of the town which relate to his office;
 - (6) Shall see that all provisions of the General Laws, the charter vote of the Town Meeting and vote of the Board of Selectmen which require

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- enforcement by him or officers subject to his direction and supervision, are faithfully carried out;
- (7) Shall prepare and submit both the annual budget and the capital improvement program as provided in article 6;
 - (8) Shall be responsible for the keeping complete records of the finances and administrative activities of the town and shall render a full report to the Board of Selectmen at the end of each fiscal year and otherwise as the board may require;
 - (9) Shall keep the Board of Selectmen informed as to the financial condition and needs of the town and shall make such recommendations to the Board of Selectmen as he deems necessary or expedient;
 - (10) Shall have full jurisdiction over the rental and use of all town facilities, except schools and libraries and lands held for conservation purposes and shall be responsible for the maintenance and repair of all town property, excluding school and library buildings, placed under his control by this charter or bylaws or statutes;
 - (11) Shall be responsible for the appointment, subject to the approval of the Board of Selectmen, of any necessary building and facilities committees relative to the preparation of plans and supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the town, except schools and libraries;
 - (12) May inquire at any time into the conduct of office of any officer, employee, department, board or commission under his control;
 - (13) Shall keep a complete inventory of all property of the town, both real and personal, within his jurisdiction;
 - (14) Shall negotiate, purchase and service contracts involving any subject within his jurisdiction, but the proposed contracts shall be subject to final approval and execution by the Board of Selectmen;
 - (15) Shall purchase or acquire all equipment, supplies and services required by town agencies under his control and may make such purchases for agencies not under his control upon receipt of a proper requisition; and
 - (16) Shall perform any other duties required by the bylaws, votes of the Town Meeting or votes of the Board of Selectmen.
 - (17) The Town Manager shall have the authority to sign payroll and accounts payable warrants concerning the everyday operation of the Town in accordance with the provisions of Section 56 of Chapter 41 of the General Laws.

Section 4-3 Acting Town Manager (Temporary Absence).

By letter filed with the Town Clerk, the Town Manager shall designate a qualified town administrative officer or employee to perform the routine duties of the Town Manager during his temporary absence who shall have no appointive powers. During the Town Manager's absence, the Board of Selectmen shall not revoke such designation until at least 15 days have elapsed, whereupon the board may appoint another qualified town administrative officer or employee to serve until the Town Manager return. If a letter has

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not been filed with the Town Clerk, the Board of Selectmen, by a majority vote, may appoint an Acting Town Manager to serve in the absence of the Town Manager for a period of 60 days with not more than 1 extension.

Section 4-4 Removal.

The Board of Selectmen may remove the Town Manager from office in accordance with the procedures described in this section.

The Board of Selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all of its members, which shall state the reasons for removal. This preliminary resolution may suspend the Town Manager for a period not to exceed 45 days. A copy of the resolution shall be delivered to the Town Manager forthwith.

Within 5 days following delivery of the preliminary resolution, the Town Manager may request a public hearing by filing a written request therefor with the Board of Selectmen. The hearing shall be held at a meeting of the Board of Selectmen not later than 30 days after the request is filed nor earlier than 20 days. The Town Manager may file a written statement in justification of his time in office with the Board of Selectmen, provided that the statement is received in the Selectmen's office more than 48 hours in advance of the public hearing.

The Board of Selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members at any time after 10 days following the date of delivery of a copy of the preliminary resolution to the Town Manager if he has not requested a public hearing, or any time after the public hearing if he has requested one. Within 10 days following the board's vote to make its resolution final but not later than 45 days after the date of adoption of the first resolution, the board shall, by majority vote of the full membership, either affirm or dismiss the final resolution of removal. Failure to affirm a final resolution of removal shall nullify the vote to dismiss the Town Manager. The Town Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Board of Selectmen in suspending or removing the Town Manager shall be final.

ARTICLE 5
Administration Organization

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

The organization or reorganization of the town into operating departments, divisions, offices and agencies shall be accomplished in the following manner subject to the express prohibitions in the General Laws or this charter.

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- (a) Bylaws - The Town Meeting may, by bylaw, reorganize, consolidate or abolish any town agency, in whole or in part, establish new town agencies as it deems necessary or advisable and prescribe the functions of all such agencies.
- (b) Organization Plan - The Board of Selectmen, after consultations with the Town Manager, may from time to time prepare and submit to the Town Meeting, plans of organization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the Town.
- (c) Whenever the Board of Selectmen prepares such a plan, it shall hold 1 or more public hearings on the proposal giving notice by publication in a newspaper of general circulation in the town at least 7 days prior to the hearing. This notice shall describe the scope of the proposal and the time and place at which the hearing will be held. Following such public hearing, the Board of Selectmen shall submit to the Town Meeting by a warrant article, its proposal which may have been amended subsequent to the public hearing. To the extent any such plan contains features that conflict with this charter, the warrant articles shall include proposed charter amendments to accurately reflect and allow the proposed changes.
- (d) An organization or reorganization plan shall take effect 30 days after the action of the town meeting.

Section 5-2 Organization Plan: Appointing Authorities.

Elected officials shall be responsible for determining and evaluating the policies, priorities and programs of their respective departments and for the effective administration, management and operation of their respective departments; provided, however, that such elected officials may rely on the work of other commissions, committees, groups and employees to carry out their responsibilities.

Section 5-2(a) Elected Officials: Appointing Boards, Commissions and Committees.

An elected official or board, as designated in Article 3 may appoint committees to gather, provide or otherwise report on information of interest to the official or board unless a different appointing authority is specified in this charter or in the town bylaws.

As chief executive officers of the town, the Board of Selectmen shall be the appointing authority for and shall appoint, for fixed overlapping terms, the members of the following boards, commissions and committees:-

Zoning Board of Appeals;
Conservation Commission;
Recreation Commission;
Country Club Operating Committee;
Representative to the Capital Expenditure Planning Committee;
Council on Aging;

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Chapter 61A Study Committee;
Emergency Planning Committee;
Historical Commission;
Housing Partnership Committee;
Massachusetts Bay Transportation Authority Advisory Board;
Open Space Preservation Committee;
Central Massachusetts Regional Planning Commission - Westborough members;
Westborough members of the Westborough/Shrewsbury Wastewater Treatment Plant Board;
Water Resources Management Committee;
Trustees of Soldiers' Memorials;
Veterans Advisory Board;
Walkup-Robinson Fund Committee;
Sandra Pond/Conservation Area Wardens;
Youth Commission, known as Westborough Youth and Family Service;
Westborough Cultural Council;
Industrial Development Commission; and
Westborough TV, Inc, independent nonprofit town representatives.

Those members of the Insurance Advisory Committee to be appointed by the town shall be appointed by the Board of Selectmen, in accordance with section 3 of chapter 32B of the General Laws.

In accordance with its planning functions, the Planning Board shall be the appointing authority for the Design Review Board.

Section 5-2(b) Elected Officials: Appointing Town Employees.

The elected officials and boards shall appoint employees to manage and perform duties for their respective departments in the following manner:

Board of Selectmen. The Board of Selectmen shall appoint the following department heads, known as "key personnel" for terms not to exceed 3 years, except for the Fire Chief who shall be appointed for an indefinite term:-

Town Manager, as defined in section 4-1;
Town Counsel;
Police Chief;
Fire Chief; and
Department of Public Works, to be known as the DPW Manager.

For the purposes of this section, the term key personnel shall be used to determine the appointing authority and the appointment process and shall have no effect on compensation, benefits, privileges, term, renewals of term, job description, responsibilities, authority, duties or performance.

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The Board of Selectmen shall also appoint the following:

Police Officers upon nomination by the Police Chief;
Police Dispatchers upon nomination by the Police Chief;
Election Officials for fixed terms, upon nomination by the Town Clerk; and
Registrars of Voters for fixed overlapping terms, upon nomination by the Town Clerk.

The Board of Selectmen, in consultation with the Town Manager, shall appoint the Animal Control Officer for a fixed term and shall nominate for appointment, in accordance with section 151 of chapter 140 of the General Laws, the Animal Inspector.

Housing Authority. The Housing Authority shall appoint its department head who shall be the Director of the Housing Authority. The Housing Authority may appoint other employees of the Housing Authority or may, in writing, delegate such appointments to the Director of the Housing Authority.

Planning Board. The Planning Board shall appoint its department head who shall be the Town Planner. The Planning Board may, in writing, appoint other employees of the Planning Department or, with express written consent, may delegate such appointments to the Town Planner.

Town Clerk. The Town Clerk shall act as a department head and shall appoint all employees in the Town Clerk's department. The town clerk shall nominate candidates for election officials and Registrars of Voters to the Board of Selectmen.

Board of Library Trustees. The Board of Library Trustees shall appoint its department head who shall be the Library Director. The Board of Library Trustees may appoint other employees of the town's library department or may, in writing, delegate such appointments to the Library Director.

Section 5-2(c) Boards, Commissions or Committees Appointed by the Board of Selectmen: Appointing Town Employees.

Any board, commission, or committee appointed by the Board of Selectmen that has a department head shall appoint the department head and any assistants to the department head with the concurrence of the Town Manager.

Other employees of such departments shall be appointed by the respective department heads.

Section 5-2(d) Appointed Key Personnel: Appointing Town Employees.

The town's key personnel shall be responsible for the management and operation of their respective departments. The key personnel shall appoint the employees in their respective departments in a manner consistent with this section.

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The Town Manager, with the concurrence of the Board of Selectmen, shall appoint, for fixed terms, the following positions:-

1. Assistant Town Managers;
2. Chief Assessor;
3. Town Accountant;
4. Treasurer Collector;
5. Commissioners of Trust Funds; and
6. Veterans' Agent, Director of Veterans' Services, Burial Agent and Graves Officer.
7. Personnel Board

The Town Manager shall appoint, for fixed terms, the following positions:

1. Building Commissioner;
2. Zoning Enforcement Officer;
3. Building Inspectors;
4. MIS/GIS Director;
5. Wiring Inspectors;
6. Plumbing and Gas Inspectors;
7. Affirmative Action Officer;
8. Sexual Harassment Officer;
9. Constables;
10. Fence Viewer;
11. Insect and Pest Control Officer;
12. Measurer of Wood;
13. Municipal Hearings Officer;
14. Sealer of Weights and Measures; and
15. Weight Masters at Tate & Lyle.

The Police Chief shall nominate candidates for the positions of Police Officers and Police Dispatchers to the Board of Selectmen. The Police Chief shall appoint all other employees of the Police Department.

The Fire Chief shall appoint all employees of the Fire Department.

The Department of Public Works Manager shall appoint all employees of the Department of Public Works.

The Town Counsel shall appoint the employees of the town's legal department.

Section 5-2(e) Town Manager: Appointing Administrative Boards, Commissions and Committees.

As the chief administrative officer of the town, the Town Manager shall appoint, for fixed overlapping terms, the members of the following boards, commissions and committees:-

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1. Board of Assessors;
2. Board of Health;
3. Municipal Building Committee; and
4. Disability Affairs Committee.

The determination of whether a particular board, commission or committee not specifically listed in this subsection is primarily related to the administration of the town shall be determined by the Board of Selectmen.

Section 5-3 Organization Plan: Processes.

The processes described in this section shall be used to implement the town's organization plan.

Section 5-3(a) Determination of Key Personnel.

The addition or deletion of positions from the list of key personnel specified in subsection (b) of section 5-2 may be enacted by the town meeting adoption of a warrant article that modifies said subsection (b).

Section 5-3(b) Use of Search Committees.

The process of appointing key personnel shall incorporate the use of a search committee except in the case of a reappointment.

The town manager shall be a member of any search committee established to fill the position of Town Counsel, Police Chief, Fire Chief, or Department of Public Works Manager.

Appointing authorities may specify the use of a search committee for other town employees in their respective departments. Where no specific search committee process is prescribed by the general or special laws, this charter, the town's bylaws or action of the Town Meeting, the search committee process shall be determined by the appointing authority.

Section 5-3(c) Town-Wide Management Team.

As chief administrative officer of the town, the Town Manager shall lead the town-wide management team consisting of the town's key personnel and the head of each town department.

Notwithstanding the manner of their appointment, the head of each town department shall be considered a member of the Town Manager's management team for the purpose of assuring common town personnel, financial, administrative and technology use practices, and for the purpose of fostering effective communications among town departments.

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The Town Manager shall participate in the performance review process of the town's key personnel and shall provide evaluative comments to the Chairman of the Board of Selectmen during this process. The Town Manager shall provide evaluative comments to the appointing authority of each department head for use in the respective performance review process.

Section 5-3(d) Town Appointment Processes.

Precedence of Appointing Authority. Notwithstanding any appointment process provided for in this charter, if a state statute prescribes an appointing authority or appointing process or if the town has accepted a statute covering any appointments or positions mentioned in this charter and that statute prescribes an appointment process for that appointment or position, the state appointing process shall control.

Filling vacancies: Key Personnel and Department Heads. A vacancy in a key personnel or department head position shall be filled in the manner prescribed for its initial appointment, but the appointing authority may appoint an acting key personnel or department head for not more than 4 three-month periods for a maximum of 1 year. In the event the appointment of the permanent position requires the concurrence of another body or officer, that body or officer shall concur with the appointment of any acting key personnel or department head. Any such temporary appointment by the appointing authority shall cease upon the filling of the vacancy by the prescribed method.

Section 5-3(e) Processes Related to Boards, Commissions and Committees.

Appointing Authority for new Boards, Commissions and Committees. Boards, commissions and committees created by the Board of Selectmen shall be appointed in one of two ways, depending on the primary nature of the board, commission, or committee. Members of bodies that are primarily of a policymaking nature shall be appointed by the board of selectmen. Members of bodies that are primarily of an administrative nature shall be appointed by the Town Manager.

With regard to a board, commission or committee newly created by the Board of Selectmen, the determination of the appointing authority shall be made by the Board of Selectmen unless Town Meeting action indicates a specific appointing authority.

Appointing Authority for Administrative Advisory Boards. The Town Manager may create and appoint ad hoc committees that are solely advisory to the Town Manager.

Filling Vacancies on Boards, Commissions or Committees. Notwithstanding any contrary special or general or special law to the contrary, a vacancy, on a board, commission or committee for a permanent temporary position shall be filled in the same manner as prescribed for the initial appointment.

Section 5-4 Staffing Plan.

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The Town Manager shall cause to be prepared a plan establishing staffing requirements within the town agencies created by administrative reorganization or by bylaw, and it shall become effective within 30 days after the date of town meeting action. To the extent any such staffing plan conflicts with this charter, the warrant articles shall include proposed charter amendments so that plan will conform to the charter as so amended.

Section 5-5 Publication of Administrative Organization and Staffing Plan.

For the convenience of the public, the administrative organization and any amendment thereto shall be printed as an appendix to, but not an integral part of, the salary administration plan of the Town of Westborough.

Section 5-6 Merit Principle.

All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability including, but not limited to, past performance or seniority.

ARTICLE 6 Finance and Fiscal Procedures

Section 6-1 Fiscal Year

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

Section 6-2 Submission of Budget and Budget Message

No less than ten (10) days before the end of the calendar year, or not less than ninety (90) days prior to the date of the start of the Annual Town Meeting, whichever is later, the Town Manager⁴ shall submit to the Board of Selectmen and file with the Advisory Finance Committee and Capital Expenditures Planning Committee a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

Section 6-3 Budget Message

The message of the Town Manager shall explain the budget for all Town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the Town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position, and include other material as the Town Manager deems desirable, or the Board of Selectmen may require.

Section 6-4 The Budget

⁴ Changed to "Manager from "Coordinator" throughout 2008ATM

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The budget shall provide a complete financial plan of all Town funds and activities, including the budget adopted by the School Committee for the ensuing year. Except for the school budget or as may be required by Statute or by the Charter, it shall be in the form which the Town Manager deems desirable or the Board of Selectmen may require.

In his presentation of the budget, the Town Manager shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The Budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by agency and position in terms of work programs, and the method of financing such expenditures.
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital expenditure: and
- (c) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

Section 6-5 Action on the Budget

The Board of Selectmen, the Advisory Finance Committee, and the Capital Expenditures Planning Committee shall jointly hold one or more public hearings on the proposed budget not less than fourteen (14) days prior to the Town Meeting session at which it is to be submitted for adoption. Copies of the proposed budget, the current capital improvement program provided for in Section 6-6, and the recommendations of the Advisory Finance Committee, if any, shall be made available for distribution to the public at or prior to the public hearing.

Section 6-6 Capital Improvement Program

The Town Manager shall submit a capital improvement program to the Board of Selectmen, the Advisory Finance Committee, and the Capital Expenditures Planning Committee at least one hundred twenty (120) days before the start of each fiscal year. It shall be based on material prepared by the Capital Expenditures Planning Committee, including:

- (a) A clear, concise general summary of its contents;

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- (b) A list of all capital improvements proposed to be undertaken during the next ensuing five (5) years, with supporting information as to the need for each such capital improvement;
- (c) The cost estimates, methods of financing, and recommended time schedules for each improvement; and
- (d) The estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised by the Capital Expenditures Planning Committee with regard to the capital improvements still pending or in the process of being acquired, improved, or constructed

The Capital Expenditures Planning Committee shall be composed of the Treasurer/Collector⁵; one member of the Advisory Finance Committee, appointed by the Advisory Finance Committee; one member of the Planning Board, appointed by the Planning Board; one member of the Board of Selectmen, appointed by the Board; one member of the School Committee, appointed by the School Committee; and two (2) additional members appointed by the Moderator for staggered 3-year terms. Vacancies shall be filled for the unexpired terms in the manner of the original appointments.

Section 6-7 Financial Public Records

Statements summarizing the budget and the capital improvements program and related warrant articles as adopted by the Town Meetings shall be made available at the Office of the Town Manager for examination by the public not more than twenty (20) days following their adoption.

**ARTICLE 7
General Provision**

Section 7-1 Elections

The articles in the warrant for every Town Meeting, as far as they relate to the election of the Board of Selectmen, School Committee, Moderator, other Town officers, to referenda and all other matters to be acted upon and determined by ballot shall be acted upon and determined by the voters in their respective precincts.

The regular Town elections shall be taken on official ballots without party or political designation on the date fixed in the Bylaws of the Town.

Section 7-2 Charter Changes

⁵ Changed to "Treasurer Collector" from "Treasurer" 99ATM

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The Charter may be replaced, revised, or amended in accordance with the procedures made available by Article LXXXIX of the amendments to the State Constitution and any legislation enacted to implement the said amendment.

Section 7-3 Severability

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

Section 7-4 Specific Provisions Shall Prevail

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

Section 7-5 Rules and Regulations

A copy of all rules and regulations adopted by a Town agency shall be filed in the Office of the Town Clerk and made available for review by any person who requests such information. Such rules and regulations shall not become effective until ten (10) days following the date they are so filed.

Section 7-6 Publication of Bylaws

Copies of the Bylaws shall be made available for distribution, provided, however, that a charge not exceed the actual cost per copy of reproduction may be charged.

Section 7-7 Procedures

- (a) Meetings - All multiple-member bodies of the Town, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the Town as they may prescribe. Special meetings of any multiple-member body shall be held on the call of the respective chairman or by one-third of the members thereof by suitable written notice delivered to the residence or place of business of each member at least twenty-four (24) hours in advance of the time set. A copy of the said notice shall also be posted on the Town bulletin board(s). Special meetings of any multiple-member body shall also be called within one (1) week after the date of the filing with the Town Clerk of a petition signed by at least fifty (50) voters and which states the purpose or purposes for which the meeting is to be called.

All meetings of all multiple-member bodies shall be open and public; however, the multiple-member body may recess for the purpose of discussing in a closed or executive session limited to its own membership, but including the Town

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Manager or the Superintendent of Schools as appropriate, except when his conduct of office is to be discussed, any matter which would tend to defame or prejudice the character or reputation of any person which would affect the public security, or which might have direct fiscal effect on the Town, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action on the matter is not taken until the multiple-member body has come back into formal session; provided, however, that if the taking of such votes would defeat the lawful purpose of such executive session they may be taken in the said executive session and may remain secret so long as their publication would defeat the lawful purpose of such executive session, but no longer.

- (b) Agenda - Except in a case of a special emergency, at least twenty four (24) hours before any meeting of a multiple-member body is to be held, a rough agenda shall be posted on the Town Hall bulletin board. The multiple-member body may change agenda at free will by majority vote.

Any person may request audience with any Board. The Board is required to hold audience with this person before adjournment.

- (c) Rules and Journal - Each multiple-member body shall determine its own rules and order of business unless otherwise provided by the Charter or Bylaw, and shall provide for keeping a journal of its proceedings. Those rules and journals shall be a public record kept available in a place convenient to the public at all times.
- (d) Voting - Except on procedural matters, all votes of all multiple-member bodies shall be taken by a call of the roll and the ayes and nays shall be recorded in the journal provided, however, that if the vote is unanimous, only that fact need be recorded.
- (e) Quorum - A majority of the members of the multiple-member body shall constitute a quorum, but a small number may adjourn. No other action of the multiple-member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple-member body.

Section 7-8 Removals and Suspensions

Any Town employee, except the Town Manager, involved in administrative or technical operation of the Town, not subject to Chapter 31 of the General Laws, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term "good cause" shall include, but not be limited to, the following: incapacity other than temporary illness; inefficiency; insubordination; and conduct unbecoming the office. In the case of appointed members of town boards, commissions and committees, the term "good cause" shall include, but not be limited to, failure to attend 4 or more consecutive meetings of the member's board, commission or committee.

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Any appointed officer or employee of the Town may be suspended from office by the appointing authority if such action is deemed by them necessary to protect the interests of the Town. However, no suspension shall be for more than fifteen (15) days. Suspension may be coterminous with removal and shall not interfere with the right of the officer or employee under the removal procedure given below.

The appointing authority, when removing any such officer or employee, shall act in accordance with the following procedure:

- (a) A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered by registered mail to the last known address of the person sought to be removed.
- (b) Within five (5) days following delivery of such notice the officer or employee may request a public hearing before the Personnel Board at which he may be represented by counsel, shall be entitled to present evidence, call witness, and to question any witness appearing at the hearing.
- (c) Between one (1) and ten (10) days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six (6) and fifteen (15) days following delivery of the notice of the intent to remove, the appointing authority shall take final action, either removing the officer or employee or notifying him that the notice is rescinded.

Nothing in this Section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when his original term expires.

Section 7-9 References to General Laws

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

Section 7-10 Computation of Time

In computing time under the Charter, of seven (7) days or less, "days" shall refer to secular days and shall not include Sundays or legal holidays, state and federal. If more than seven (7) days, every day shall be counted.

Section 7-11 Definitions

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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) Charter - The word "Charter" shall mean this Charter and any amendments to it made through any of the methods provided under Article LXXXIX of the amendments to the State Constitution.
- (b) Town - The Word "Town" shall mean the Town of Westborough.
- (c) Town Agency - The words "town agency" shall mean any board, commission, committee, department or office of the Town of Westborough.
- (d) Voters - The word "voters" shall mean registered voters of the Town of Westborough.
- (e) Multiple-Member Body - The words "multiple-member body" shall mean every board, commission, committee, subcommittee of the Town government however elected or appointed or otherwise constituted.

Section 7-12 Independent Audit

In the event that the Commonwealth fails in any fiscal year to provide for the independent audit of all records and accounts of the Town, the Board of Selectmen may provide for such audits. The audits may be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the Town government or any of its officers.

ARTICLE 8 Transitional Provisions⁶

ARTICLE 9 Westborough Treatment Plant Board

Section 9-1 Creation and Responsibilities

The Westborough Treatment Plant Board is created by vote of the 1979 Special Town Meeting. Said Board is responsible for the construction, operation, and maintenance of the Westborough-Shrewsbury Treatment Plant as further described in the Articles of the 1979 Special Town Meeting.

These responsibilities are separate and distinct from those assigned to the Department of Public Works defined in Article 8.

⁶ Article 8 Transitional provisions was deleted as it referred to the first charter adopted in 1974.

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Added by Acts of 1979, Chap. 412; and MGL Chap. 40, Sec. 4A (enables Town to enter into an agreement for the construction and operation of the Westborough Treatment Plant.) **Approved** ATM March 22, 1983. **Effective** April 20, 1983

ARTICLE 10⁷
Recall of Elected Officials

Section 10-1 - Any holder of an elected office in the Town of Westborough may be recalled, and removed therefrom, by the qualified voters of said Town as herein provided.

Section 10-2 - Any two hundred (200) registered voters, of which twenty-five (25) shall be from each precinct, of the Town of Westborough, may initiate a recall petition by filing with the Town Clerk of said Town an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall.

Upon certification by the Town Clerk, said Town Clerk shall thereupon, within two (2) business days, deliver to the voter first named on such affidavit a sufficient number of copies of petition blanks demanding such recall. Said blanks shall be issued by the Town Clerk with the Town Clerk's signature and official seal attached thereto; they shall be dated and addressed to the Selectmen of said Town, shall contain the name of the person to whom issued, the name of the person sought to be recalled, the office from which recall is sought, the grounds of recall as stated in said affidavit, and shall demand the election of a successor to such 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 on or before five (5) o'clock p.m. on the thirtieth (30th) day after the filing of the affidavit. In the event the thirtieth (30th) day is a Saturday, Sunday, or holiday, the petition may be filed on the next business day.

Said petition, before being returned and filed, shall be signed by twenty percent (20%) of the registered voters, said twenty percent (20%) to consist of at least ten percent (10%) of the registered voters from each precinct, and to every signature shall be added the place of residence of the signer, giving the street and number.

The Town Clerk shall, within one (1) business day following the date of such filing with the Town Clerk, submit the recall petition to the Board of Registrars of Voters in the Town, which shall, within five (5) business days after the day of receipt, certify in writing thereon the number of signatures which are those of registered voters in said Town as of the date such affidavit was filed with the Town Clerk. The Board of Registrars of Voters shall, upon completion of its certification, return the petition to the Town Clerk.

Section 10-3 - If the petition shall be found and certified by the Town Clerk to be sufficient, the Town Clerk shall submit the same, with the Town Clerk's certificate

⁷ Approved by ATM87 Added by Chap. 311, Acts of 1987 Special Act approved by Legislature 7/23/87

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thereon, to said Selectmen without delay, and said Selectmen shall immediately give to said elected officer whose recall is sought written notice of the receipt of said certificate and shall, if the officer sought to be removed does not resign within five (5) days thereafter, thereupon order a special election to be held not less than sixty (60) nor more than seventy (70) 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 ninety (90) days after the date of said certificate, the Selectmen may, in their discretion, postpone the holding of the removal election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this Section.

Section 10-4 - Any officer sought to be recalled may be a candidate to succeed himself, and, unless he requests otherwise in writing, said Town Clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided by this Act.

Section 10-5 - The incumbent shall continue to perform the duties of his office until the recall election. If the recall fails, or if the incumbent is re-elected, he shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in this Act. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 10-6 - Ballots used in a recall election in said Town shall submit the following proposition in the order indicated: **For the recall of** (name of officer); **Against the recall of** (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of such propositions. Just above said squares there shall appear the direction "vote for one". Under the proposition shall appear the word "Candidates" and the direction "vote for one" and beneath this the names of candidates nominated as hereinbefore provided. In case of machine voting or punch card balloting, or other forms of balloting, appropriate provision shall be made to allow the same intent of the voter.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate who received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes cast on the recall question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.

Section 10-7 - No recall petition shall be filed against an officer within six (6) months after he takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least six (6) months after the election at which his recall was submitted to the voters.

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Section 10-8 - No person who has been removed from an office or who has resigned from office while recall proceedings were pending against that person, shall be appointed to any Town office within two (2) years after such removal or such resignation.

REFERENCE
Dates of Charter Changes

1987 Annual Town Meeting Charter

Approved by Legislature

Article 10 added by Chapter 311 of the Acts of 1987
Recall of Elected Officials

July 23, 1987

1989 Annual Town Meeting

Article 4, Section 4-1 by Chapter 254 of the Acts of 1989
Town Coordinator Residence change

July 19, 1989

1991 Annual Town Meeting

Article 3, Section 3-2(a) by Chapter 381 of the Acts of 1991
Change to 5 Selectmen

Accepted by Vote of
1992 Annual Town
Election

2001 Annual Town Meeting

Article 3, Section 3-2 (f) by special Act
Employee of Town may not hold office of Selectman

September 21, 2001

2008 Annual Town Meeting

Article 3, Sections 3-1; 3-2; 3-3; 3-4; 3-5; 3-6; 3-7; 3-9;
4-1; 4-2; 4-3; 4-4; 5-1; 5-2; 5-2(a); 5-2 (b); 5-2 (c); 5-2 (d);
5-2 (e); 5-3; 5-3 (a); 5-3 (b); 5-3 (c); 5-3 (d); 5-3 (e); 5-4;
5-5; 5-6 by Chapter 385 of 2008

December 16, 2008

Article 30, Section 7-8 Employees by Chapter 31 of the Acts
of 2009

July 2, 2009