

# **PREFACE: NOTES TO READERS**

## **MARBLEHEAD TOWN CHARTER**

*Preface compiled by Amy Drinker, Chair, Marblehead Town Charter Committee/January 25, 2025*

### **1. History of the Town Charter Committee (TCC)**

Established by the Select Board on April 24, 2024, the eleven-member TCC (now ten members) was asked to study the Town's existing government structure and solicit input from town officials, boards, and residents, and draft and present a recommended charter to the Select Board (currently scheduled for the spring of 2026). The Select Board will submit the proposed Charter to Annual Town Meeting (May 2026). If approved by Town Meeting, the proposed charter will be submitted as a special act to the Massachusetts Legislature. If approved by the Legislature, the Charter will proceed to a Town election for ratification, possibly in June 2027.

### **2. TCC mission statement**

In crafting the Town of Marblehead's first Charter for our fellow citizens, we endeavor to comprehensively examine how effectively, efficiently, and fairly our local government's structure, authorities, and processes are organized and operate. In the process, we will be mindful of which current features merit changing and which should remain unchanged.

- We pledge to prepare and present a product built on the values of thoughtful deliberation and community involvement, guided by what is in the town's best interests.

### **3. Charter DRAFT A, January 25, 2025**

**DRAFT A primarily reflects how Marblehead's town government is currently organized and operates. It is a starting point for TCC discussion and community input, not the finished product.**

- Many thanks to the TCC volunteer language drafters: Sean Casey, assisted by Victor Wild and Jim Zisson.
- In the coming weeks, the TCC will discuss the DRAFT A articles and schedule public forums to gather community input. DRAFT A will be posted on the <https://www.marblehead.org/town-charter-committee> website. All updated versions will be posted on the TCC website, using consecutive capital letters and dates for designation (Draft A, January 2025; DRAFT B, [month/year]; Draft C [month/year] etc.).

### **4. Charter DRAFT structure: Articles, sections, and sentence numbers**

- Following organizing principles from other charters in the Commonwealth, the TCC charter DRAFT is comprised of *Articles*, and the *Articles* are made up of *Sections*.
- Each DRAFT article or section includes annotations, footnotes, and notes that are included to assist the committee in its discussions.

- The articles and sections in DRAFT A each have their own version number. At the top of each article or section, a version number and date are listed to reflect the current version (for example [date] v1.0) of that article or section. This information will be updated for each revised article and section.
- Each sentence in each DRAFT article or section is numbered to facilitate discussion. At a later date, this numbering will be updated and sentences will be organized into paragraphs.

## **5. TCC DRAFT Review Process**

Beginning at the end of January 2025, the TCC will begin reviewing DRAFT A. The plan is to work through the draft in the order it is presented, although there may be variations in that along the way. Because many of the pieces of the DRAFT charter are interrelated, this will be an iterative process, and the TCC may go through multiple revisions in its discussions.

## **6. The TCC's nine overarching questions**

In reviewing the DRAFT language, the TCC's discussions will be guided by nine overarching questions the charter will ultimately need to address.

1. *Town Meeting: open or representative?*
2. *Should any elected positions/bodies be changed to being appointed?*
3. *Are there any potential appointed bodies or town functions that should have elected representation that currently do not?*
4. *Should any current responsibilities and resources associated with elected bodies or appointed bodies and positions be shifted?*
5. *Should there be any other changes (additions or subtractions) that should be made to any appointed or elected body or position?*
6. *How should we document the role of the Town Administrator?*
7. *Are there any town processes that need to be changed or better defined?*
8. *Are there any overlapping areas of responsibility that need clarification?*
9. *Are there things we need to put in the charter that are not covered above?*

## **7. Public forums**

Public forums are an essential part of the DRAFT Charter process. Public forums will be held on a regular basis to elicit community feedback. The forums may be focused on particular articles or topics, but all feedback will be respected and heard.

# MARBLEHEAD TOWN CHARTER

## *Index – Draft A*

January 25, 2025

Draft Charter A is composed of a number of articles and sections that are version controlled as individual documents. These individual components have their own version numbering framework. This was done for purposes of version control so that edits and revisions can be made simultaneously on separate components of the Charter.

Draft A is composed of the following version-controlled elements:

Charter Component	Version Number
<b>PREAMBLE</b>	2.1
<b>ARTICLE 1: EXISTENCE AND AUTHORITY</b>	1.0
Definitions	1.0
<b>ARTICLE 2: ADMINISTRATIVE ORGANIZATION OF THE TOWN OF MARBLEHEAD</b>	2.1
<b>ARTICLE 3: TOWN MEETING (LEGISLATIVE)</b>	
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<b>ARTICLE 4: SELECT BOARD (EXECUTIVE)</b>	
Section 4.1: Select Board	1.5
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<b>ARTICLE 5 ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS</b>	
Section 5.1: Abbot Library Board of Trustees	1.1
Section 5.2: Board of Assessors	1.3
Section 5.3: Board of Health	1.3
Section 5.4: Cemetery Commission	1.0
Section 5.5: Housing Authority Board of Commissioners	1.2
Section 5.6: Municipal Light Commission	1.0
Section 5.7: Recreation and Park Commission	1.3
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Section 5.9: Town Clerk	1.3
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<b>ARTICLE 6: APPOINTED BOARDS, COMMISSIONS, AND COMMITTEES</b>	
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Section 6.3: Capital Planning Committee	1.1
Section 6.4: Conservation Commission	1.1
Section 6.5: Council on Aging Board	1.1
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<b>ARTICLE 7 APPOINTMENTS, VACANCIES, RESIGNATIONS, REMOVALS, AND RECALLS</b>	
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Section 7.4: Removals	1.1
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<b>ARTICLE 8 ESTABLISHMENT AND OPERATION OF TOWN BOARDS, COMMITTEES, AND COMMISSIONS</b>	
Section 8.1: Establishment of Boards, Committees, and Commissions	1.2
Section 8.2: Operation of Boards, Committees, and Commissions	1.2
Section 8.3: Ad Hoc Boards, Committees, and Commissions	1.0
<b>ARTICLE 9: FINANCES AND FISCAL PROCEDURES</b>	1.2
<b>ARTICLE 10: ELECTIONS</b>	1.2
<b>ARTICLE 11: GENERAL PROVISIONS</b>	1.0

Annotation comments in Draft A are often color-coded, as follows:

Light peach color coding provides the source of proposed text.

Light blue color coding provides more detailed explanation behind proposed text, and often asks questions regarding the text.

Light green color coding provides a broad contextual overview or caveats about proposed text.

Light purple color coding indicates that text is unchanged from previous versions reviewed by the Town Charter Committee

Bright green color coding indicates that the text is changed from previous versions reviewed by the Town Charter Committee

# MARBLEHEAD TOWN CHARTER

*Draft A*

January 25, 2025

Drafted by the Town Charter Committee

## **PREAMBLE**

Version 2.1/ January 22, 2025

1. We, the people of the Town of Marblehead, taking pride in our extraordinary history, maritime traditions, service to country, cultural pursuits, and engaged civic culture, and in order to affirm our customary and traditional liberties with respect to the conduct of our local government, so that we may take the fullest advantage inherent in the Home Rule amendment of the constitution of the Commonwealth, do hereby adopt and establish this Charter of the Town of Marblehead.
2. By this action, we affirm our commitment to the efficient and responsive delivery of Town services, the advancement of the arts, education, and shared community experience, and the principle that each individual has an equal opportunity to participate fully in the economic, cultural, and political life of the Town.

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### **Change Log**

#### **Changes from Draft 2.0 to Draft 2.1**

1. Capitalized the word “Town” throughout to align with styles and formats used throughout the draft Charter.

## ARTICLE 1: EXISTENCE AND AUTHORITY

### *Annotated Version*

Version 1.0/January 20, 2025

#### **Incorporation**

1. The inhabitants of the Town of Marblehead, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Marblehead."

This is taken from the charter of Harvard, which is identical to the charter of Groton. Longmeadow has slightly language. See footnote below.<sup>1</sup>

#### **Short Title**

2. This instrument shall be known and cited as the Marblehead Town Charter.

Groton and Harvard have identical language matching this sentence, although the end of the sentence is just the town name followed by the word "charter." Longmeadow is similar except its short title is "the Longmeadow Home Rule Charter." I am suggesting we use the term "Marblehead Town Charter," as "Marblehead Charter" strikes me as too vague.

#### **Powers of the Town**

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

This sentence is almost verbatim from the Longmeadow charter. Groton and Harvard have very similar language. I have used the term "citizens" while the Longmeadow charter uses the term "voters."

#### **Interpretation of Power**

4. The powers of the Town under this 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 1-3.

This is almost verbatim from the Longmeadow charter. Groton and Harvard have similar language. See footnote.<sup>2</sup>

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<sup>1</sup> Longmeadow sentence on Incorporation: *The inhabitants of the Town of Longmeadow, within the territorial limits established by law, shall continue to be a body corporate and politic under the name "Town of Longmeadow."*

<sup>2</sup> From Groton: *The powers reserved or granted to the town under this charter shall be construed liberally and interpreted broadly in the town's favor and the specific mention of any particular power shall not limit the general powers of the town under section 1.3.*

## Intergovernmental Relations

5. 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 function.

The town charters of Longmeadow, Groton and Harvard have this identical sentence (although Harvard's says "units" – in the plural)

## Continuation of Existing Laws

6. All general laws, special laws, Town By-Laws, votes, rules, and regulations of or pertaining to the Town which are in force when this Charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

This is verbatim from Harvard's charter. It is almost identical to Groton's (which uses "that" instead of "which." Seriously!) Longmeadow's is much more straightforward. See footnote.<sup>3</sup> We should probably re-visit this sentence after we finish the rest of the charter to see how the sentence fits with any changes we may have made in existing by laws, etc.

## Definitions

7. The following definitions apply to this Charter:

The definitions section is managed as a separate document with its own version number.

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From Harvard: *The powers reserved or granted to the Town under this Charter shall be construed liberally and interpreted broadly in its favor 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 1-3.*

<sup>3</sup> From the Longmeadow charter: *All special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to the town in force shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.*



## NOTES

### **Longmeadow**

Section 1-1 Incorporation

Section 1-2 Short Title

Section 1-3 Division of Powers

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

Section 1-5 Interpretation of Powers

Section 1-6 Intergovernmental Relations

Section 1-7 Continuation of Existing Laws

Groton

### *ARTICLE 1: INCORPORATION, EXISTENCE AND AUTHORITY*

*Section 1.1: Incorporation*

*Section 1.2: Short Title*

*Section 1.3: Powers of the Town*

*Section 1.4: Division of Powers*

*Section 1.5: Interpretation of Powers*

*Section 1.6: Intergovernmental Relations*

*Section 1.7: Precedence of Charter Provisions*

*Section 1.8: Ethical Standards and Conduct*

*Section 1.9: Definitions*

### **Harvard**

### *INCORPORATION, EXISTENCE, AND AUTHORITY*

*Section 1-1. Incorporation.*

*Section 1-2. Short Title.*

*Section 1-3. Powers of the Town.*

*Section 1-4. Division of Powers.*

*Section 1-5. Interpretation of Powers.*

*Section 1-6. Intergovernmental Relations.*

*Section 1-7. Continuation of Existing Laws.*

*Section 1-8. Ethical Standards.*

*Section 1-9. Definitions.*

## Definitions

Version 1.0/January 21, 2025

**Ad Hoc Board, Committee or Commission.** An appointed body established by an authorized elected Town body or Town official, or by vote of Town Meeting, that is created to advise on a specific issue of Town interest. Ad hoc boards, committees, and commissions are created with an expectation that the committee will not be permanent; and will disband upon completion of their intended purpose. Compare to *Standing Committee*.

**Appointing Authority:** A public official, or public body, with legal authority (via the constitution and general laws or special acts of the Commonwealth, this Charter, Town By-Law, or vote of Town Meeting) to make appointments to boards, committees, commissions, or voluntary Town activity positions; or to appoint senior-level employees of the Town, as described in this Charter and Town By-Laws.

**Citizen:** A resident of Marblehead, registered to vote in the Town of Marblehead, and being listed in the list of registered voters maintained by the Town Clerk. The term *Citizen* is synonymous with the terms *Registered Voter*, and *Resident*.

**Day.** A 24-hour period with a single designated calendar date. *Days* include any and all business days, weekdays, weekend days, and holidays.

**Direct Report:** A direct report is an employee whose role is directly below that of another employee. In the sentence *X is the direct report of Y*, X refers to the senior position in the relationship; and Y is the subordinate position in the relationship. In the sentence *X is the direct report to Y*, X is the subordinate position in the relationship; and Y is the senior position in the relationship.

**Ex Officio Member** – (Latin for *from the office*.) An individual appointed to a Town board, committee, or commission solely on the basis of their position as a designated Town official or Town employee. Ex Officio membership on Town boards, committees, and commissions are not subject to term limits but shall nonetheless terminate when the appointed individual ceases to serve in the position of the designated Town official or Town employee. Ex Officio members of Town boards, committees, and commissions shall have full/equal membership unless otherwise specified in the general laws and special acts of the Commonwealth, this Charter, or Town By-Laws.

**Majority of the Full Select Board:** The majority of the total number of Select Board seats, regardless of the number of Select Board members voting on any given action.

**Open Vote.** A vote taken by members of a Town board, committee or commission in a manner such that the vote of individual members may be observed, known and recorded by the public.

**Registered Voter:** A resident of Marblehead, registered to vote in the Town of Marblehead, and being listed in the list of registered voters maintained by the Town Clerk. The term *Registered Voter* is synonymous with the terms *Citizen*, and *Resident*.

**Resident.** A resident of Marblehead, registered to vote in the Town of Marblehead, and being listed in the list of registered voters maintained by the Town Clerk. The term *Resident* is synonymous with the terms *Citizen*, and *Registered Voter*.

**Senior-Level Employee:** An employee of the Town of Marblehead who is compensated and eligible for medical benefits, and who: (A) heads a Town department or division; and/or (B) is identified in Town By-Laws as being an appointed full-time compensated position; and/or (C) is identified in Town By-Laws as requiring specific qualifications for employment. As a condition of their position, a senior-level employee is ineligible to be a member of a union that negotiates a contract with the Town.

**Standing Committee:** An appointed body established as required or allowed by the general laws or special acts of the Commonwealth, and/or by an authorized elected Town body or Town official, and/or by vote of Town Meeting, that is created to carry out specific functions of Town government, or to investigate, advise and make recommendations on a specific issue of Town interest. Standing committees are created with an expectation that their responsibilities will be ongoing over time. Compare to *Ad Hoc Committee*.

**Town Election:** An election where the only components on the ballot are specific to the Town of Marblehead. A Town election can be an annual Town election as defined in Town By-Laws, or a special Town election.

**Town Official:** An elected or appointed member of Town government with authority, duties, and responsibilities related to the operation of Town government (either individually or as part of a Town board, committee, or commission) as defined in the constitution, general laws, and special acts of the Commonwealth, this Charter, or Town By-Laws. Senior-level employees of the Town are, by definition, Town officials; but not all Town officials are senior-level employees of the Town.

**Voluntary Town Activity Positions:** Appointed positions that parallel those of being appointed to a Town board, committee or commission, without the position being a member of a deliberative body. Voluntary Town Activity Positions are not eligible for employment benefits of the Town. Voluntary Town Activity Positions include: the Town Historian and Shellfish Constables.

## Article 2: ADMINISTRATIVE ORGANIZATION OF MARBLEHEAD TOWN GOVERNMENT

### *Annotated Version*

Version 2.1/January 22, 2025

This section in other town charters we have examined (Longmeadow, Groton, Harvard) tries to present a high-level synopsis of how town government is organized and how it operates. Beyond that, all are pretty random in what they choose to talk about (and what they do not). (See notes at the end for how these other towns organize this section in their charter)

In looking at other town charters, most of the topics covered in this section are covered in more detail elsewhere in their town charter; the intent in this section being to present the major pieces, and explain how the pieces fit together.

The draft presented below for our charter varies significantly from the other charters we have looked at – but it is also the case that we operate differently than most of the towns we have looked at.

### Introduction

1. The government of the Town of Marblehead shall operate under the direction of an open Annual Town Meeting and the management of an elected Select Board.

Just a general opening statement.

As with everything in this draft, this is written to define how things currently operate – if we decide to change things in the charter (for example, if we decide to combine the cemetery department and the municipal light department – or have the dog officer report to the health board, etc.) changes would need to be made to this Article.

### Select Board

2. As enumerated in this Charter and Town By-Laws, and consistent with the constitution, general laws, and special acts of the Commonwealth, the Select Board shall be the executive body of Town government, and shall have direct responsibility for public safety, human resources, budget and finance, long range planning, public works, and engineering.

This is a brief re-statement of the first sentences in the Select Board draft in Article 4.

### Elected Boards, Committees, Commissions, and Offices

3. Marblehead shall have a decentralized form of government, with multiple elected boards, committees, commissions, and offices, each with authorities, powers, and responsibilities, as provided by this Charter, Town By-Laws, and in accord with the constitution, general laws, and special acts of the Commonwealth.

This language is adapted from *Town of Marblehead FY2024 Budget Book*, page 66. Should it be “government structure” or “governmental structure” or something else?

4. Marblehead’s elected boards, committees, commissions, and officers shall be responsible for the operation of specific operations of Marblehead Town government. These include:

Elected Body	Department/Office
Abbot Library Board of Trustees	Abbot Public Library
Board of Health	Health Department
Cemetery Commission	Cemetery Department
Municipal Light Commission	Municipal Light Department
Recreation and Parks Commission	Recreation and Parks Department
School Committee	School Department
Town Clerk	Office of the Town Clerk
Water and Sewer Commission	Sewer Department Water Department

This is a reference to the fact that almost all of the elected bodies, and the town clerk, have staff that they control. It is meant to convey the understanding that not all of Town government is controlled by a single entity. This is not intended to be a comprehensive list (thus the term “include” introducing the table).

Strictly speaking, Sentence 4 is redundant with Sentence 3 above, but is included for the purpose of providing an explanation of how the Town works. Is Sentence 4 too far in the weeds? Should we retain it?

### Appointed Boards, Committees, and Commissions

- Marblehead’s Town government shall also include appointed boards, committees, and commissions, whose members are appointed by the Select Board or other elected Town body or Town official, as enumerated in this Charter and Town By-Laws, consistent with the constitution, general laws and special acts of the Commonwealth.

I left “volunteers” out of the initial description of these bodies, because some appointed bodies include full time town employees (such as the Town Administrator) as members of the body. See sentence below.

- The appointed boards, committees, and commissions shall be composed primarily of citizen volunteers, and may control limited resources appointed to them.

A number of appointed boards include an elected official, or a town official as a member of the board (thus, it is not completely citizen volunteers)

- Some appointed boards, committees, and commissions shall have decision-making authority for certain actions or proposed actions on behalf of the Town, consistent with this Charter, Town By-Laws and the constitution, general laws, and special acts of the Commonwealth.

This sentence and the one that follows are a set. There are a number of appointed bodies that make decisions (such as the Zoning Board of Appeals). While other committees are primarily advisory in nature (Finance Committee, our committee...etc.)

8. Other appointed boards, committees, and commissions shall be primarily advisory in nature for investigating, analyzing, and making recommendations on various functions of Town government.

### **Town Administrator**

We have not yet had a discussion about what the authorities, duties, and responsibilities of the Town Administrator are in terms of our Charter. The two sentences below are meant to reflect how the role generally operates now. As is the case with the reference to open town meeting above (and elsewhere in draft language), should we decide to write something different, this section would be edited.

9. Consistent with this Charter, Town By-Laws and the constitution and general laws of the Commonwealth, Marblehead shall employ a Town Administrator who reports to the Select Board, and shall be the direct report to the Select Board regarding those functions of Town government under direct Select Board responsibility and control.

I am fond of the term “direct report,” but some people aren’t. Happy to make my case. Would the committee prefer to phrase this differently? (but I do like “direct report”)

10. The Town Administrator shall also serve as the Town’s chief operating officer, overseeing and coordinating Town-wide governmental functions, including, but not limited to the Town’s financial operations, budget development, and strategic planning.

It is suggested that in reviewing this sentence you focus on two phrases: 1. “overseeing and coordinating” Does this appropriately convey the role? Would another term(s) be more appropriate, such as “manage” or “lead?” 2. The three things that end the sentence: “financial operations” “budget development” and “strategic planning.” Are these the correct instances referencing a traditional COO role? It doesn’t have to be comprehensive – but illustrative (the intent of this sentence is to discuss “town-wide” functions). Compare to language in draft Section 4.2.

### **Organizational Flexibility**

11. Elected Town entities with responsibilities for specific Town functions and resources, may organize or reorganize that part of the Town government for which they are responsible, consistent with this Charter, Town By-Laws and the constitution, general laws, and special laws of the Commonwealth.

This is to recognize the various re-organization actions that have been routinely undertaken by the Select Board and Town Administrator in recent years, as being normal and expected as departments/boards look to improve efficiencies in their operations. As inferred in the text, and has been the case with some recent re-organizations, this may require changes to by-laws. This language is adapted from (sort of) similar text in the town charter of Longmeadow.

### **Collaboration and Coordination**

No other charter we have looked at has anything quite like the next two sentences, but I think they flow logically from the previous sections (elected boards, appointed boards and the TA), and they are the essence of how Marblehead operates effectively in a decentralized form of government.

12. Given the decentralized nature of Marblehead's government structure, collaboration coordination, and efficiency among operations of Town government are essential.
13. Town boards, committees, commissions, departments, officials, and senior-level Town employees shall proactively collaborate with regard to sharing of information and resources; the purchase, use, maintenance, and disposition of equipment and systems; preparation of the Town capital plan, development and implementation of Town-wide systems and policies, and development of the Town's annual budget.

The second half of this section is based loosely in the town by laws description of the public works committee. See town by laws at Part 1, Chapter 24, § 24-15, at [§ 24-15 Membership; officers; report; duties.](#)

## Funding

Article 9 in our charter is *Finances and Fiscal Procedures* (most charters have a section on this). This section is meant to be a high-level explanation of "where the money comes from." It will be consistent with what is written in Article 9 (but it is not meant to get into any details about the development and execution of the town budget)

14. Marblehead's annual operating budget and expenditures, including those requiring a Proposition 2 ½ override, shall be submitted for approval by Town Meeting.
15. With the exception of enterprise-funded operations, Town operations shall be funded primarily from general funds raised via taxes on real and personal property.
16. The following Town operations shall be funded from enterprise funds charged for their respective services provided:
  - a. The Municipal Light Department,
  - b. The Sewer Department,
  - c. The Water Department, and
  - d. The Harbor Enterprise Fund, which implements programs for the utilization of Marblehead waters.

d. Is taken from *Town of Marblehead FY2024 Budget Book, pages 8 and 9.*

Note: the MMLD is not discussed as an entity with the other three enterprise funds in the *Town of Marblehead FY2024 Budget Book*. We should check that what is written here is accurate.

17. Marblehead shall also have such revolving funds as may be determined by Town Meeting and Town By-Laws for use by Town departments, boards, committees, or officers in connection with the operation of programs or activities that generate fees, charges, or other receipts, to support all or some of the expenses of those programs or activities.

This is pretty close to the language in Town By-Laws. See Part I, § 63-8 at [§ 63-9 Departmental revolving funds.](#)

This final section is a bit of an outlier for this article. I considered including it earlier, after the discussion about appointed boards, but decided it inhibited the flow of the narrative, so it is attached here at the end. Thoughts? I realize “predominantly independently” sounds awkward...

### **Autonomous and Semi-Autonomous Entities**

18. There shall be municipally-organized entities that operate predominantly independently from the authority and responsibility of Marblehead Town government, including:

- a. **The Marblehead Housing Authority** shall be a state-authorized governmental entity, whose statutory basis, operation, and funding shall be determined solely under the general laws of the Commonwealth.

The Housing Authority is an odd outlier, but given the size of their footprint in town, I thought it was important to address them in this section – that is, to note that they really are autonomous from town government. (the “a” and “b” format here is just for the purposes of identifying sentences (need to check with Thatcher that b. is accurate).

- b. **The Board of Retirement** shall administer the Marblehead Contributory Retirement System, in accordance with the Town By-Laws and the general laws of the Commonwealth. Members' contributions, combined with employer contributions, shall be invested by the Massachusetts Pension Reserve Investment Management Board (PRIM) to fund retirement benefits.

The retirement board has a much smaller footprint than the housing authority, but has a far more complex regulatory relationship. Do we want to mention it or not?

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### **NOTES:**

From Longmeadow Table of Contents

#### **ARTICLE 6 ADMINISTRATIVE ORGANIZATION 14**

Section 6-1 Method of Organization - Town Departments 14

Section 6-2 Department of Finance and Administration 14

Section 6-3 Department of Public Works 14

Section 6-4 Department of Planning and Community Development 15

Section 6-5 Department of Parks and Recreation 15

Section 6-6 School Department

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From the Harvard town charter article on Administrative Organization

Section 5-1. Organization of Town Agencies.

Section 5-2. Merit Principle.

Section 5-3. Finance Department.

Section 5-4. Director of Community and Economic Development



Section 5-5. Public Works Department.

Section 5-6. Facilities Manager

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From the Groton town charter article on Administrative Organization

Section 5.1: Organization of Town Agencies

Section 5.2: Merit Principle

Section 5.3: Department of Finance

Section 5.4: Department of Public Works

Section 5.5: Information Technology

Section 5.6: Personnel Board

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## ARTICLE 3: TOWN MEETING (LEGISLATIVE)

### Section 3.1: Town Meeting

#### *Annotated Version*

Version 1.5/January 20, 2025

This draft is written based on an open town meeting form of government as currently exists. Were the committee to decide on a representative town meeting approach, the first sentence would be significantly different, however, sentences 2-15 would be unchanged.

#### **Open Town Meeting**

1. The legislative powers of the Town shall be exercised by an open Town Meeting at which voting may be exercised by all registered voters of the Town of Marblehead as enumerated in Town By-Laws.

This text is unchanged from the previous draft reviewed by the committee

2. For the purposes of this Charter, unless otherwise noted, the term “Town Meeting” refers to both Annual Town Meetings and Special Town Meetings.

This text is unchanged from the previous draft reviewed by the committee

#### **Annual Town Meeting and Special Town Meetings**

3. Annual Town meeting shall take place each spring at a date, time, and location as specified in Town By-Laws.

This text is unchanged from the previous draft reviewed by the committee

4. Special Town Meetings shall be held at the call of a majority of the full Select Board in order to transact the legislative and/or fiscal business of the Town in an orderly manner.

This text is unchanged from the previous draft reviewed by the committee

5. Special Town Meetings shall also be held on the petition, filed with the Town Clerk, of the lesser of at least 200 registered voters or 20 percent of the total number of registered voters, as certified by the Town Clerk.

This text is unchanged from the previous draft reviewed by the committee

#### **Quorum to Conduct Town Business**

This text is unchanged from the previous draft reviewed by the committee. Sentence numbering is for consistency in tracking edits across drafts.

- 5.1.1 A quorum of registered voters, as defined in Town By-Laws, and as verified by the Town Moderator, shall be present for the conduct of an official Town Meeting.

This text is modified for clarity of intent. The term “verified” replaced the word “determined.” This was at the suggestion of the Collins Center

### **Warrants and Articles**

6. Town Meeting shall discuss and act on articles in a warrant published for that meeting.

This text is unchanged from the previous draft reviewed by the committee

7. The Select Board shall assemble, organize, and issue a warrant for the Town Meeting in accordance with the general laws of the Commonwealth and Town By-Laws.

This text is unchanged from the previous draft reviewed by the committee

8. Articles in the warrant for a Town Meeting shall include those drafted by the Select Board, other Town boards, committees, and officials, as enumerated in this Charter, and Town By-Laws; and as submitted by citizen petition, in accordance with the general laws of the Commonwealth and Town By-Laws.

This text is unchanged from the previous draft reviewed by the committee; however, additional research is being done on the language based on comments from the Collins Center, and may be modified in subsequent drafts.

9. The warrant for Town Meeting shall be timely published, posted, distributed, and made available in advance of Town Meeting as prescribed in the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This text is unchanged from the previous draft reviewed by the committee

### **Conduct of Town Meeting**

10. The Town Moderator shall preside at all sessions of the Town Meeting, as outlined in Section 3.2 of this Charter.

This sentence was modified to reference Section 3.2 (Town Moderator)

- 10.1 In the absence of the Town Moderator, an Assistant Moderator, appointed by the Town Moderator, may preside.

This text is unchanged from the previous draft reviewed by the committee

11. The Town Moderator shall exercise the powers, duties and responsibilities to regulate the proceedings at Town Meeting, including to decide all questions of order and make public declaration of all votes, and may exercise such additional powers and duties as may be given to the Town Moderator under the constitution and general laws of the Commonwealth, by this Charter, by Town By-Law, or by other vote of the Town Meeting.

This text is unchanged from the previous draft reviewed by the committee

- 11.1 The Town Moderator shall be guided by Roberts’ Rules of Order and/or Robert’s Newly Revised Rules of Order and/or Town Meeting Time.

This sentence was modified to include a third reference – Town Meeting Time, at the suggestion of the Collins Center.

12. The Town Clerk shall serve as the clerk of the Town Meeting and assist the Town Moderator in the conduct of Town Meeting, by recording meeting votes, publishing post-meeting notices, reports and filings, adhering to Massachusetts Public Records Law, and other duties as specified in Town By-Laws, by vote of Town Meeting, or by the general laws of the Commonwealth.

This sentence was revised for clarity based on comments from the Collins Center.

13. Tellers and Assistant Moderators shall assist in the management of Town Meetings as enumerated in Town By-Laws.

This sentence is modified to include a reference to Assistant Moderators (and Sentence 14 was deleted)

This sentence

14. Removed

Sentence 14 was removed as it is covered in its entirety in Section 3.2

14.1 Town Meeting is intended as an informed, thoughtful, and deliberative space for widespread and inclusive democratic participation. Citizens shall treat the Town Moderator, fellow participants, and other officials in a manner befitting neighbors, with respect, in good faith, and in recognition of their shared purpose of self-governance.

This text is unchanged from the previous draft reviewed by the committee

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## Change Log

### Changes from Draft 1.4 to Draft 1.5

1. Sentence 5.1.1: Changed the word “determined” to “verified” at the suggestion of the Collins Center
2. Sentence 11.1: A third reference was added (Town Meeting Time) at the suggestion of the Collins Center.
3. Sentence 12: was modified at the suggestion of the Collins Center as follows:

Old Sentence: In accordance with the general laws of the Commonwealth, the Town Clerk shall assist the town Moderator in the conduct of town meeting, including: the recording of meeting votes, publishing post-meeting notices, reports and filings, and other duties as specified in town by-laws or by vote of town meeting.

New Sentence: The Town Clerk shall serve as the clerk of the town meeting and assist the Town Moderator in the conduct of town meeting, by recording meeting votes, publishing post-meeting notices, reports and filings, adhering to Massachusetts

Public Records Law, and other duties as specified in town by-laws, by vote of town meeting, or by the general laws of the Commonwealth.

4. Sentence 13 was modified to add “Assistant Moderators” to the sentence.
5. Sentence 14 was deleted as it is covered in its entirety in Section 3.2 (Town Moderator)

#### **Changes from Draft 1.3 to Draft 1.4**

1. Sentence 14.1. Added at the suggestion of Caleb Miller.

#### **Changes from Draft 1.2 to Draft 1.3**

1. Sentence 1: Re-worded sentence to clarify the definition of “open” relative to the right to vote at town meeting.
2. Sentence 2: the term “annual town meeting” was changed to “annual town meetings”
3. Sentence 5: After the word “petition” added the phrase “filed with the Town Clerk”
4. Sentence 5: Added “registered” before the word “voters” (twice)
5. Sentence 5: Added “as certified by the Town Clerk” at the end of the sentence.
6. Sentence 5.1: Added the entire sentence to address that town meeting requires a quorum to be present.
7. Sentence 8: Added the word “town” before the word “boards”
8. Sentence 9: Changed “Warrants” to “The warrant”
9. Sentence 9: Added the word “timely” before “published”
10. Sentence 9: Added the phrase “in advance of town meeting” prior to the words “made available”
11. The Header “Presiding Officer and Other Officials” was removed, and Sentences 10 through 15.1 are under the header “Conduct of Town Meeting”
12. Sentence 10.1: Added the sentence: “In the absence of the town moderator, an assistant moderator appointed by the town moderator may preside”
13. Sentence 11: The word “town” was inserted before the word “moderator” (twice)
14. Sentence 11: Changed the term “shall regulate” to “shall exercise the powers, duties and responsibilities to regulate”
15. Sentence 11: Changed the text “regulate, decide” to “proceedings at town meeting, including to decide”
16. Sentence 11.1” Added the sentence: “The town moderator shall be guided by Roberts’ Rules of Order and/or Robert’s Newly Revised Rules of Order.”
17. Sentence 12: Added the word “town” in front of the word “moderator”

- 18. Sentence 14: Added the word “town” in front of the word “moderator”
- 19. Sentence 15 was deleted.
- 20. Sentence 15.1 was deleted.

**Changes from Draft 1.1 to Draft 1.2**

- 1. Sentence 4: add the term “and or fiscal” after the word “legislative”
- 2. Sentence 12: Deleted the word “submissions” and replace it with the word “filings”
- 3. Added Sentence 15.1

## ARTICLE 3: TOWN MEETING (LEGISLATIVE)

### Section 3.2: Town Moderator

#### *Annotated Version*

Version 1.4/January 20, 2025

#### **Term of Office**

1. There shall be a Town Moderator, elected to a one-year term.

This sentence is modified to be structurally consistent with the first sentence of other elected positions in Articles 4 and 5.

2. The Town Moderator shall not hold another position of the Town that is compensated and eligible for employment benefits during the Town Moderator's term of office.

This this sentence had been edited for clarity: the word "employment" replaces the word

#### **Powers, Duties, and Responsibilities**

3. The Town Moderator shall preside at all sessions of a Town Meeting.

This text is unchanged from the previous draft reviewed by the committee.

4. The Town Moderator shall exercise authority and responsibility to regulate the conduct of Town Meeting as set forth Article 3 Section 1 of this Charter.

This text is unchanged from the previous draft reviewed by the committee

5. The Town Moderator shall collaborate and coordinate with the Select Board, the Town Clerk, the Finance Committee, and other Town officials to prepare for and carry-out an efficient and effective Town Meeting.

This text is unchanged from the previous draft reviewed by the committee

- 5.1 The Town Moderator shall coordinate with other Town officials to encourage and facilitate broad participation in Town Meeting by the citizenry of Marblehead.

This text is unchanged from the previous draft reviewed by the committee

#### **Appointing Powers**

6. The Town Moderator shall appoint Tellers and Assistant Moderators, as needed, in accordance with the constitution and general laws of the Commonwealth, this Charter, Town By-Law, or by other vote of Town Meeting.

This text is unchanged from the previous draft reviewed by the committee

7. The Town Moderator may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Town Moderator's powers and duties, and for such terms, as the Town Moderator deems in the best interest of the town.

This sentence was modified to only include the term advise.

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## Change Log

### Changes from Draft 1.3 to Draft 1.4

1. Sentence 1: Deleted the phrase "as enumerated in town by laws" to make the sentence consistent with other section in on elected officials.
2. Sentence 2: Replaced the word "medical" with the word "employment" at the suggestion of the Collins Center.
3. Sentence 7: Earlier version stated: "...appoint members of ad-hoc advisory bodies to investigate, advise, and make recommendations on such topics..." Removed the word "investigate" and the term "make recommendations" – leaving just "advise." This was a suggested edit of the Collins Center, who felt this sentence (and similar sentences in Articles 4 and 5) could have legal hang ups if it included the term "investigate." This entire edit will be run by town counsel for input.

### Changes from Draft 1.2 to Draft 1.3

1. Sentence 2: Replaced the word "their" with the phrase: "the town moderator's"
2. Sentence 3: Replaced the word "the" with the word "a".
3. Sentence 4: This sentence is shortened from earlier drafts, and references the legislative section of the charter that has a more detailed discussion about this.
4. Sentence 5: Modified the phrase "collaborate with" to the phrase "collaborate and coordinate with"
5. Sentence 5: At the end of the sentence, replaced ", as needed, in the preparation for, and execution of, town meeting." with "officials to prepare for and carry-out an efficient and effective own meeting.
6. Sentence 5.1 The phrase "The town moderator shall look for opportunities to encourage and facilitate broad participation by the citizenry of Marblehead in town meeting" was replaced with the phrase "The town moderator shall coordinate with other town officials to encourage and facilitate broad participation in town meeting by the citizenry of Marblehead."
7. Sentence 7: The last part of this sentence was changed from "...make recommendations on topics related to the town moderator's responsibilities, which the town moderator deems in the interest of the town." To "...make recommendations on such topics related to the town moderator's powers and duties, and for such terms, as the town moderator deems in the best interest of the town."



**Changes from Draft 1.1 to Draft 1.2**

1. Added sentence 5.1

## ARTICLE 4: SELECT BOARD (EXECUTIVE)

### Section 4.1: Select Board

#### *Annotated Version*

Version 1.5/January 20, 2025

#### **Composition**

1. There shall be a Select Board consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This text is unchanged from previous drafts reviewed by the Committee

2. A Select Board member shall not hold another position of the Town that is compensated and eligible for employment benefits during the member's term of office.

This this sentence had been edited for clarity: the word "employment" replaces the word "medical"

#### **Powers, Duties and Responsibilities**

3. The executive powers of the Town shall be vested in the Select Board.
4. The Select Board shall have the powers, duties, and responsibilities given to Select Boards under the constitution and general laws of the Commonwealth, except those powers and duties assigned by this Charter to other boards and Town officials; and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

This text is unchanged from previous drafts reviewed by the Committee

- 4.05 The Select Board 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.

This sentence is added at the suggestion of the Collins Center.

5. The Select Board shall have direct responsibility, as enumerated in Town By-Laws, for public safety, human resources, budget and finance, long range planning, public works, and engineering.

This text is unchanged from the previous draft reviewed by the committee

- 4.1 The Select Board may delegate its authority unless specifically prohibited by law.

This text is unchanged from previous drafts reviewed by the Committee. However, its location in the section has been moved at the suggestion of the Collins Center to emphasize that it applies to all of the previous provisions.

- 5.1 The Select Board shall have responsibility for those revolving funds designated in Town By-Laws as authorized for use by the Select Board, subject to the general laws of the Commonwealth and Town By-Laws.

This sentence was modified for clarity based on a comment from the Collins Center

6. Removed

This sentence was removed in an earlier revision.

**Appointing Powers**

7. The Select Board shall appoint the Town Administrator, Town Counsel, Registrars of Voters and other election officials, and senior-level Town employees working in those elements of Town government directly under Select Board authority, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This term “authority” replaced the term “control.” The term “and other election officials” was added.

8. The Select Board shall appoint members of the Town Finance Committee, as enumerated in the Town By-Laws.

This text is unchanged from previous drafts reviewed by the committee

9. Unless otherwise stipulated in the general laws of the Commonwealth, or in this Charter, or in Town By-Laws, the Select Board shall appoint members of standing boards, committees, commissions, other advisory bodies and executive bodies, and other designated positions, as enumerated in Town By-Laws or enacted at Town Meeting.

This text is unchanged from previous drafts reviewed by the committee

10. The Select Board may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Select Board’s powers and duties, and for such terms, as the Select Board deems in the best interest of the Town.

This language is changed from the previous drafts to only include the term advise (and removed references to “investigate” and “make recommendations”

**Policy Role**

11. The Select Board shall serve as the principal goal-setting and policy-making Town entity for matters within its statutory authority and for those matters for which the Town Meeting has authorized or directed the Select Board to act.

This text is unchanged from previous drafts reviewed by the committee

12. The Select Board shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all Town elements serving under it.

The last part of this sentence was edited for clarity.

13. The Select Board shall, in conjunction with other elected Town officials, develop and promulgate policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This text is unchanged from the previous drafts reviewed by the committee

### **Licenses and Permits**

14. The Select Board shall be the licensing and permitting authority for the Town, unless specific authority is designated elsewhere in this Charter and the general laws of the Commonwealth and shall carry out its licensing and permitting responsibilities in accordance with the general laws of the Commonwealth and Town By-Laws.

This text is slightly modified from the previous draft based on comments from the Collins Center

15. The Select Board shall establish procedures regarding the issuance of licenses and permits.

This text is unchanged from the previous drafts reviewed by the committee

16. The Select Board may attach reasonable conditions and restrictions to a license or permit that it deems in the public interest.

This text is unchanged from the previous drafts reviewed by the committee

17. The Select Board shall have discretion to exercise authority to enforce conditions, restrictions, and laws relating to businesses, entities, and individuals for which it issues licenses and permits, including the continued use, maintenance, or revocation of such licenses or permits.

This text is unchanged from the previous drafts reviewed by the committee

18. The Select Board may delegate its licensing and permitting authority unless specifically prohibited by law.

This text is unchanged from previous drafts reviewed by the committee

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## **Change Log**

### **Changes from Draft 1.4 to Draft 1.5**

1. Sentence 2: Replaced the word “medical” with the word “employment” at the suggestion of the Collins Center.
2. Sentence 4.05: This sentence was added at the suggestion of the Collins Center: “The Select Board 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.”
3. Sentence 4.1: This sentence was unchanged, but moved at the suggestion of the Collins Center to indicate that it applies to all the above provisions.

4. Sentence 5.1: This sentence was modified based on Collins Center comments that it was ambiguous as to whether the Select Board was responsible for all Revolving funds.

Old: The Select Board shall have responsibility for revolving funds, as designated in town by-laws, subject to the general laws of the Commonwealth and town by-laws.

New: The Select Board shall have responsibility for those revolving funds designated in town by-laws as authorized for use by the Select Board, subject to the general laws of the Commonwealth and town by-laws.

5. Sentence 7: The word “control” was removed and replaced with the word “authority” at the suggestion of the Collins Center.
6. Sentence 7: The term “and other election officials” was added to align this section with Sections on the Town Clerk (Article 5), Board of Registrars (Article 6) and Article 10 (Elections).
7. Sentence 10: The last part of this sentence was changed. Earlier version stated: “...appoint members of ad-\ hoc advisory bodies to investigate, advise, and make recommendations on such topics...” Removed the word “investigate” and the term “make recommendations” – leaving just “advise.” This was a suggested edit of the Collins Center, who felt this sentence (and similar sentences in Articles 3 and 5) could have legal hang ups if it included the term “investigate.” This entire edit will be run by town counsel for input.
8. Sentence 12: A minor edit was made to the very end of the sentence for clarity.
9. This sentence was slightly re-worded at the suggestion of the Collins Center.

Old: Unless otherwise noted in this charter, the Select Board shall be the licensing and permitting authority for the town, and shall carry out its licensing and permitting responsibilities in accordance with the General Laws of the Commonwealth and town by-laws.

New: The Select Board shall be the licensing and permitting authority for the town, unless specific authority is designated elsewhere in this charter and the general laws of the Commonwealth and shall carry out its licensing and permitting responsibilities in accordance with the general laws of the Commonwealth and town by-laws.

#### **Changes from Draft 1.3 to Draft 1.4**

1. Changed second header from “Powers and Duties,” to “Powers, Duties, and Responsibilities”
2. Sentence 4: Changed to include the term “responsibilities” to go along with “powers and duties.”
3. Sentence 4: Added “and other town officials” after the words: “except those powers and duties assigned by this charter to other boards...”
4. Sentence 6 was deleted, as its intent is covered in sentence 13.
5. Sentence 7: changed the term “senior employees” to “senior level employees”

6. Sentence 10: After the words “make recommendations on...” revised the remainder of the sentence to read: *on such topics related to the Select Board’s powers and duties, and for such terms, as the Select Board deems in the best interest of the town.*
7. Sentence 11: after the words “town meeting has” added the term “authorized or...”
8. Sentence 11: at the end of the sentence changed “the board” to “Select Board”
9. Sentence 13: changed “other elected bodies” to “other elected town officials...”
10. Sentence 13: deleted reference to “state appointed officials” (was initially included to cover Commonwealth appointments to the Marblehead housing Authority).
11. Sentence 15: changed “may” to “shall”
12. Sentence 16: Added the word “reasonable” before the word “conditions”
13. Sentence 17: was significantly re-written to state that the Select board has the discretion to enforce, as opposed to mandating that they enforce.

### Changes from Draft 1.2 to Draft 1.3

1. Sentence 5: Inserted the term “long range” before the word “planning”
2. Sentence 10: Removed the word “shall” and replace it with the term “may, from time to time”

### Changes from Draft 1.1 to Draft 1.2

1. Sentence 4: Changed “Boards of Selectmen” to “Select Boards”
2. Added a new sentence, designated 4.1, that states: *The select board may delegate its authority unless specifically prohibited by law.*
3. Sentence 11: Revised Sentence 11 from: *The Select Board shall serve as the chief policy making entity of the town.* To: *The Select Board shall serve as the principal goal-setting and policy-making town entity for matters within its statutory authority and for those matters for which the town meeting has directed the board to act.*
4. Sentence 16: Revised the term: “...may attach conditions to a license...” to: *...may attach conditions and restrictions to a license...*
5. Changed the header to the section labeled “Licensing Authority” to “Licenses and Permits” and added references to permits in sentences 14, 15, 16, and 18, as follows
  - a. Sentence 14: Changed the words: *...the Select Board shall be the licensing board for the town, and shall carry out its licensing responsibilities...* to the following: *...the Select Board shall be the licensing and permitting authority for the town, and shall carry out its licensing and permitting responsibilities...*
  - b. Sentence 15: Added the following words to the end of the sentence: *and permits.*

- c. Sentence 16: In addition to the edits described above, the second half of this sentence was change from: ... *to a license that it deems in the public interest*. To the following: *...to a license or permit that it deems in the public interest*.
- d. Sentence 18: The sentence was changed from: *The select board may delegate its licensing authority unless specifically prohibited by law*. To the following: *The select board may delegate its licensing and permitting authority unless specifically prohibited by law*.

## ARTICLE 4: SELECT BOARD (EXECUTIVE)

### Section 4.2: Town Administrator

#### *Annotated Version*

Version 1.3/January 20, 2025

#### **Appointment**

1. A Town Administrator shall be appointed by the Select Board subject to the general laws of the Commonwealth, and as enumerated in this Charter and Town By-Laws.

This is more concise, with less details and caveats, than most town charters we have reviewed (see endnote i for a detailed comparison). The general laws of the Commonwealth section on the appointment of a Town Administrator are found at General Laws, Part I, Title VII, Chapter 41, Section 23A (shown in footnote below).<sup>1</sup> Currently there are very limited direct references to the Town Administrator in Town By-Laws.

2. The Town Administrator need not be a resident of the Town.

Some town charters address residency requirements -- some charters mention it, even when they do not require it. This sentence is from the Swampscott town charter.

3. The Town Administrator shall devote full time to the duties of the Office and shall not hold any other elective or appointed office (except ex officio positions); nor shall the Town Administrator engage in any other business unless the Select Board approves such action in advance in writing.

This is verbatim from the town charters of Harvard and Swampscott, except for the parenthetical about ex officio positions. (See number 7 below). The language also mimics the general laws of the Commonwealth (see footnote 1 below).

#### **Powers, Duties, and Responsibilities**

The first three sentences of this section are written with the intention of NOT transferring any authority of the Select Board (or any other elected body) to the Town Administrator; while at the same time trying to describe what the activities and duties of the Town Administrator are.

4. The Town Administrator derives all power, authority, and responsibilities through the Select Board.

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<sup>1</sup> The full section of the general laws state: *Section 23A. A town may by vote or by-law authorize and empower the selectmen to appoint an executive secretary or town administrator who may be appointed by them for a term of one or three years and to remove him at their discretion. An executive secretary or town administrator appointed under the provisions of this section shall be sworn to the faithful performance of his duties. During the time that he holds office he shall hold no elective town office, but he may be appointed by the selectmen or, with their approval, by any other town officer, board, committee or commission, to any other town office or position consistent with his office. He shall receive such aggregate compensation, not exceeding the amount appropriated therefor, as the selectmen may determine. He shall act by and for the selectmen in any matter which they may assign to him relating to the administration of the affairs of the town or of any town office or department under their supervision and control, or, with the approval of the selectmen, may perform such other duties as may be requested of him by any other town officer, board, committee or commission.*



This language is a concise summary of language in the general laws of the Commonwealth (see footnote 1). Most of the charters we have reviewed, vest power specifically to the Town Administrator (and correspondingly take it away from the Select Board, the Town Clerk, and other boards and committees).<sup>2</sup> This is the first of three sentences defining the relationship between the Select Board and the Town Administrator. Its intent is to document how the relationship currently operates.

5. The Select Board shall have the authority to delegate and rescind any of its authority, duties, or responsibilities to the Town Administrator by a majority vote of the full Select Board, as allowed by law.

This is the second of three sentences, defining the relationship between the Select Board and the Town Administrator.

6. It is at the discretion of the Select Board to determine:
  - Those tasks and activities carried out by the Town Administrator which require Select Board pre-approval (including those listed below); and
  - The level and degree of oversight of, and reporting from, the Town Administrator on the activities and operations of Town government (including those listed below).

Such discretionary determinations shall have no set durations.

This language is unlike anything found in the charters we have reviewed. However, this defines how it currently works in Marblehead. This sentence affords maximum flexibility to the Select Board in managing the Town Administrator, and is drafted, in part, based on comments from Moses Grader about the historic variation in quality of individuals appointed Town Administrator, and a desire for the Select Board to have flexibility in their relationship with the Town Administrator.

7. The Town Administrator shall be the Direct Report of all Town departments and functions under direct Select Board authority, including public safety, human resources, budget and finance, long term planning, public works, and engineering.

Use of the term “Direct Report” is suggested as being more neutral than “supervise,” or “manage” – it simply documents organizational alignment. See the proposed definition (from the Definitions Section of Article 1.)<sup>3</sup>

8. The Town Administrator shall function as the Town’s chief operating officer; leading Town-wide governmental functions, including, but not limited to: the Town’s financial operations, budget development, human resources, and strategic planning.

<sup>2</sup> The town charter of Groton has language somewhat similar: *The town manager shall be the chief administrator of the town and shall be responsible to the select board for the proper administration of all town affairs placed in the town manager’s charge by this charter...* But the Groton charter then goes on and assigns specific power and authority – powers that would otherwise rest with the Select Board.

<sup>3</sup> From the Definitions section of the Charter: **Direct Report:** A direct report is an employee whose role is directly below that of another employee. In the sentence *X is the direct report of Y*, X refers to the senior position in the relationship; and Y is the subordinate position in the relationship. In the sentence *X is the direct report to Y*, X is the subordinate position in the relationship; and Y is the senior position in the relationship.

9. In the role of Chief Operating Officer, the Town Administrator shall work closely and collaboratively with other elected bodies, departments, and Town officials, to ensure efficient and consistent operation of town government; including,
- Serving as the chair of the Town's Capital Planning Committee; and
  - Serving as the Town's chief bargaining agent with all unions except those related to the functioning of the school system.

Sentences 8 and 9 are meant to cover all those tasks that, while typically led by the Town Administrator, involve other elected bodies and officials beyond direct Select Board control.

10. The Town Administrator shall be an ex officio member of the following:

- The Finance Committee (non-voting)
- The Capital Planning Committee (Chair)
- Police Chief Screening Committee<sup>4</sup>
- Traffic Safety Advisory Committee
- Fair Housing Committee
- Other committees as assigned by the Select Board

There are some appointed boards/committees that operate in direct coordination with the Town Administrator. I suggest we flag these by naming the Town Administrator as an "ex officio member." If the concept is one we want to include, what others should we add to the list? Alternatively, we could shorten this to a variation of the last bullet: *as defined in town by laws and as assigned by the Select Board*

A number of the town charters we have reviewed include "attending town meeting" and "attending" Select Board meetings, and other board/committee meetings (specifics vary between charters). Do we want to include such language here? (my two cents is that it is too far in the weeds)

## Appointing Powers

This charter gives no independent appointment power to the Town Administrator. Appointments made by the Select Board, however, could be delegated per Sentence 5 above.

11. The Town Administrator shall advise the Select Board on the appointment of the Town Counsel, Registrars of Voters, Finance Committee members, and senior-level employees working in those elements of Town government directly under Select Board authority.

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<sup>4</sup> A Police Chief Screening Committee is described in town by laws at Part I § 45-1: *In the event there is an opening for the position of Police Chief, the Select Board shall exercise its authority as the appointing authority and appoint the Police Chief based upon the recommendation of the Police Chief Screening Committee (the "Committee"). Such Committee shall be comprised of seven members appointed by the Select Board and representing the following municipal and/or community groups: Town Administrator...*

12. The Town Administrator shall advise the Select Board on the appointment of members of standing and ad hoc committees, boards, commissions, and positions, under Select Board appointment authority.
13. The Town Administrator shall advise on the appointment of those senior-level Town employees appointed by elected bodies other than the Select Board, at the request of the appointing body.

### Policy Role

Consistent with other sections of this draft, the charter gives no “policy” decision authority to the Town Administrator. Thus, the use of the term “implementation.”

14. The Town Administrator shall be responsible for the implementation of policy directives and guidelines to be followed by those elements of Town government directly under Select Board authority.

This is similar to language in the Select Board’s section and is intended to speak to the oversight of those town employees directly under the Commission’s control. (See Select Board draft, Sentence 12).

15. The Town Administrator shall coordinate and work with elected Town officials, in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of town government.

This language is similar to language on the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). There is language similar to this in the town charters of Groton and Swampscott.

16. The Town Administrator shall be responsible for implementation of policies regarding the use and maintenance of those public areas, buildings, and facilities under Select Board control, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

There is similar proposed language in the “policy section” of the drafts of other elected bodies that have control over various town real property, including: Recreation and Parks Commission; Cemetery Commission, Board of Health. However, we may want to revisit a broader issue of infrastructure generally.

### Licenses and Permits

17. The Town Administrator shall be the licensing and permitting authority when delegated such authority by the Select Board, and as allowed by law.

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### NOTES

#### Detailed Comparison of Other Town Charters on the Appointment of the Town Administrator Appointment

Specific to the actual appointment, other charters vary as to how the Select Board decides:

- Swampscott states the appointment is made by the Select Board (from a vetted list prepared by a screening committee);
- Longmeadow and Harvard require a vote of 4 of the 5 members of the Select Board;
- Groton is by a “majority of the full board”

#### **Qualifications**

A number of town charters provided sentences regarding qualifications. Example from Longmeadow (Swampscott’s is similar): *The select board shall appoint the town manager solely on that person’s executive and administrative qualifications. The town manager shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience in municipal administration to perform the duties of the office.*

#### **Terms of Employment**

A number of town charters provide detail on the contractual elements of the appointment. Example from Groton: *...appoint or reappoint a town manager for a term of not more than 3 years and fix the compensation of the town manager within the amount annually appropriated for that purpose.*

Additionally, a number of charters have somewhat lengthy sections about firing/removing the Town Administrator.

#### **Other Caveats**

- Some charters state specifically whether the town administrator needs to be a resident, or not (that is, even if not required to be a resident the charter states that. Example from Swampscott: *The town administrator need not be a resident of the town.*).
- Several charters prohibit someone from going from an elected position to being appointed Town Administrator. Example from Groton: *The town manager shall not have served in an elective office in the town government for at least 1 year before being appointed.*

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.1: Abbot Library Board of Trustees

#### *Annotated Version*

Version 1.1/January 20, 2025

#### Composition

1. There shall be an Abbot Public Library Board of Trustees (the Trustees) consisting of six members elected for three-year terms, so arranged that an equal number of terms shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

2. A Library Trustee shall not hold another position of the Town under direct Trustee control or responsibility that is compensated and eligible for employment benefits during the Trustee's term of office.

This is a variation on similar language in the draft Select Board section (see Select Board draft, Sentence 2). The difference here is the limitation is only to those paid positions directly under library control.

#### Powers, Duties, and Responsibilities

3. The Trustees shall have the powers, duties, and responsibilities given to library trustees under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Trustees shall have direct responsibility for Abbot Public Library and its staff, as enumerated in Town By-Laws.

This sentence parallel language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct Trustee's control.

5. The Trustees shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things such as developing the town budget where the trustees will need to work with other parts of town government. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies).

### Appointing Powers

6. The Trustees shall appoint senior-level employees of Abbot Public Library, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” The Town website references a “Library Director.” As with the Select Board section of the charter, this language is intentionally vague to allow for flexibility. Or in this instance, do we just want to say “Library Director?”

7. The Trustees may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Trustee’s powers, duties, and responsibilities, and for such terms, as the Trustees deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint ad hoc advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.

### Policy Role

8. The Trustees shall be responsible for the formulation and promulgation of policies and rules for Abbot Public Library, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

Town by-laws have similar language (See Part I, Chapter 88)<sup>1</sup>

9. The Trustees shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Trustee authority.

This is similar to language in the Select Board’s Sentence 12 and is intended to speak to the oversight of those town employees directly under the Trustee’s control.

10. The Trustees shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

### Licenses and Permits

The library has space that it lets people use – including for-profit events. Do we want to mention that here, or is that sufficiently covered under number 8 above?

<sup>1</sup> Town By-Laws, Part I, Chapter 88, §88-2 states: *The rules and regulations for the operation and maintenance of the Abbot Public Library shall be as established from time to time by the Abbot Public Library Board of Trustees.*

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.2: Board of Assessors

#### *Annotated Version*

Version 1.3/January 23, 2025

#### Composition

1. There shall be a Board of Assessors (the Board) consisting of three members elected for three-year terms, so arranged that an equal number of terms shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

Do we want to include any language relevant to conflict of interests? See Footnote<sup>1</sup> about a Code of Ethics from the Massachusetts Association of Assessing Officers.

#### Powers, Duties, and Responsibilities

2. The Board shall have the powers, duties, and responsibilities given to Boards of Assessors under the constitution and general laws of the Commonwealth, except those powers and duties assigned by this Charter to other boards and Town officials; and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

3. The Board shall be responsible for the full and fair market valuation of real and personal property for the purposes of levying the property tax as of January 1 every year, consistent with the constitution and general laws of the Commonwealth.

This sentence, and variations of this sentence, appear in multiple state documents about taxes and valuation – it is viewed as the primary responsibility of Boards of Assessors. The sentence is also the first sentence in the most recent Board of Assessors Report in the annual town report. Its basis is MGL Part I, Title IX, Chapter 59, Section 2A

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<sup>1</sup> The Massachusetts Association of Assessing Officers (a non-profit/non-government organization) has a code of ethics that includes the following: *If an Assessor, or an assessing department employee, finds that in his/her own assessing district, a matter arises in which he/she or their family have a financial interest, they must advise the Board of Assessors and refrain from any participation in the matter.*

(a) which states: *...The assessors of each city and town shall determine the fair cash valuation of such real property for the purpose of taxation on the first day of January of each year...*

4. The Board shall be responsible for conducting inspections of building permit properties and determine new growth for the levy limit.

This sentence is based on MGL Part I, Title IX, Chapter 59, Section 21C (f).<sup>2</sup>

#### 5. The Board shall have direct responsibility for the Assessing Department.

We need a sentence here to describe the relationship between the Board of Assessors and the Assessing Department. Whatever we come up with will need careful review and input from Town Counsel. Per our discussions with the Assistant Assessor, the town assessor/assistant assessor works day-to-day with the Finance Director – which was the gist of Article 35 in the 2024 annual town meeting (which passed). However, the Board of Assessors appoints the Town Assessor (and has the power to fire as well). Given the legal requirements MGL places on assessors, I cannot see how the Town can have an assessing department that doesn't technically report to the assessors, even if they work in close coordination with the Finance Director. So, suggestions?

6. The Board shall keep records of the valuation of all estates, and all abatement of taxes, consistent with the general laws of the Commonwealth and as enumerated in Town By-Laws.

This is derived from town by-laws. See foot note for full text.<sup>3</sup> Beyond these two sections, the by-laws only mention the Assessors in a cursory way – referencing assessors maps and things they do when land is sub-divided.

7. The Board shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things such as developing the town budget where the board will need to work with other parts of town government. A similar sentence appears in most of the sections in Article 5

<sup>2</sup> The relevant part of Section 21C (f) states: *...and provided further, that the total amount of taxes assessed for the then current fiscal year may be increased by an amount equal to the tax rate for the preceding fiscal year multiplied by the amount of increase in the assessed valuation of any parcel of real, or article of personal property over the assessed valuation of such property during the prior year which shall become subject to taxation for the first time, or taxed as a separate parcel for the first time during such fiscal year, or which has had an increase in its assessed valuation over the prior year's valuation unless such increased assessed valuation is due to revaluation of the entire city or town.*

<sup>3</sup> From the Marblehead General By-Laws, Chapter 24, Article II:

#### **§24-2 Records; notification of abatements.**

*The Assessors shall keep a record of all abatements of taxes, the names of the parties taxed, and the reasons for and the amount of the abatement. On the first day of every month they shall notify the Collector and Town Accountant in writing of the amount of taxes abated in the preceding month, stating separately the amount abated from each tax levy.*

#### **§24-3 Valuation of Estates**

*It shall be the duty of the Board of Assessors to issue every tenth valuation of estates made by them, to be printed in sufficient number to be available for the distribution to taxpayers at the office of said Assessors. The valuation of all estates, so printed, shall be listed under the names of the streets upon which properties are located and not according to the alphabetical arrangement of the names of the owners of such estates.*



(elected bodies) and Article 6 (appointed bodies). In this instance this sentence also refers to the cooperation and coordination that is needed between the Board, the Assessing Department, and the Finance Director.

### **Appointing Powers**

8. The Board shall appoint Assistant Assessors, subject to the constitution and general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” The general laws of the Commonwealth use the term “Assistant Assessor” to describe those individuals not elected to the Board, but carrying out duties of Assessors. In various instances The town uses various terms to describe this position including “Town Assessor.” The full text of the general laws that apply are in the footnote below.<sup>4</sup> There is currently nothing in the by-laws about such appointments.

9. The Board may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Board’s powers, duties, and responsibilities, and for such terms, as the Board deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint ad hoc advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.

10. The Board shall be the administrating authority for applications for exemptions and requests for abatements, consistent with the general laws of the Commonwealth.

### **~~Policy Role~~**

I do not see any policy role. Have I missed something?

### **~~Licenses and Permits~~**

I do not see any direct licensing or permitting. Sentence 10 could potentially be moved to under this header, but it seems sufficiently different from other licenses and permits that are discussed in this subsection in other sections of Article 5 (elected bodies) and Article 6 (appointed bodies)

<sup>4</sup> From the general laws, Part I, Title VII, Chapter 41, Section 25A: *The assessors may appoint as assistant assessors such number of suitable citizens as they deem necessary, and may remove them. Such assistant assessors shall perform such duties as the assessors may require for such time as they may determine and shall receive compensation only for duties performed as so required. Every such assistant assessor shall hold office for the period of one year from the date of his appointment, unless sooner removed; provided, that, in the case the assessors fail to appoint a successor to any such assistant assessor during the month preceding the expiration of his term, he shall continue to serve during the following period of one year, unless sooner removed. This section shall apply in all cities and towns, except Boston, notwithstanding any provision of special law.*

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.3: Board of Health

#### *Annotated Version*

Version 1.3/January 20, 2025

#### Composition

1. There shall be a Board of Health (the Board) consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

Article 37 at the 2024 town meeting increased the board's membership from three to five.

2. A member of the Board of Health shall not hold another position of the Town under direct Board control or responsibility that is compensated and eligible for employment benefits during the board member's term of office.

This is a variation on similar language in the draft Select Board section (see Select Board draft, Sentence 2). The difference here is the limitation is only to those paid positions directly under Board of Health control.

#### Powers, Duties, and Responsibilities

3. The Board shall have those powers, duties and responsibilities given to boards of health under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Board shall have direct responsibility for the Health Department, and the Marblehead transfer station, as enumerated in Town By-Laws.

This sentence parallel language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct Board of Health control.

5. The Board shall have the authority to administer and enforce health and sanitation regulations as provided for in the general laws of the Commonwealth and as enumerated in Town By-Laws.

There are extensive instances of the Board having enforcement powers over a wide variety of violations/regulations. The language in this sentence is take from town by-laws (see Part III, §217-16 D.).

6. The Board may make such emergency orders and regulations as may, in the opinion of Board, be in the best interest of the Town.

This is verbatim from town by-laws. (see Part I, §156-2 B.)

7. The Board shall have responsibility for those revolving funds designated in Town By-Laws as authorized for use by the Board of Health, subject to the general laws of the Commonwealth and Town By-Laws.

There are 13 revolving funds identified in town by-laws (see Part I, §63-9), the majority of which are designated for the use of and/or under the control of a designated board, committee, or commission. Two such funds are under the responsibilities of the Board of Health: the Commercial Waste Revolving Fund; and the Vaccine Revolving Fund.

8. The Board shall collaborate and coordinate with other elected and appointed bodies and officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things such as developing the town budget where the board will need to work with other parts of town government. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies).

9. The Board shall make a full and comprehensive annual report of its acts during the preceding year, and of the sanitary condition of the Town, as enumerated in Town By-Laws.

Draft Section 8.2 (operation of boards committees and commissions) has general language about town boards and departments submitting annual reports. This sentence is added here because Town By-Laws explicitly state the details of the BOH's annual reporting (something that is not covered for most other bodies). This is near verbatim from town by laws at Part I, Chapter 135, § 135-6.

### **Appointing Powers**

10. The Board shall appoint senior-level Town employees of the Health Department, subject to the constitution and general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a "department." Town by-laws make numerous references to the "Director of Public Health." This language proposed (senior level employees) is to allow for flexibility in how the Board organizes the health department. Or do we just want to say "Director of Public Health?"

11. The Board may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Board's powers, duties, and responsibilities, and for such terms, as the Board deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint ad hoc advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.

## Policy Role

12. The Board shall be responsible for the formulation and promulgation of policies and regulations for the Marblehead transfer station and corresponding activities associated with waste collection, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

There are numerous town by-laws about the rules regarding trash and the transfer station (also referred to as “the Town Dump.”) This recognizes that the Board may need to develop policies to carry out those by-laws. There is also a provision in the by-laws about the Board making “regulations” about waste coming into the Transfer Facility.<sup>1</sup>

13. The Board shall be responsible for formulation and promulgation of public health policies and regulations subject to the general laws of the Commonwealth.

The policy role related to sanitation (in Sentence 12 above) is pretty clear in the by-laws, but are more oblique relative to public health. As noted above in Sentence 6 however, the by-laws allow for the Board making emergency orders and regulations. This sentence is proposed as a general policy role for the Board.

14. The board shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Board authority.

This is similar to language in the Select Board’s Sentence 12 and is intended to speak to the oversight of those town employees directly under the Board’s control.

15. The Board shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

## Licenses and Permits

16. The Board shall be responsible for the issuing of licenses and permits related to public health, sanitation, and live fowl, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

Town by-laws have a long list of fees for “Licenses and Permits” issued by the Board of Health, under Part III, Chapter 217 (titled: Health and Sanitation) Article I. The language above mimics by-law language (without going through the lists of everything).<sup>i</sup>

There are also provisions in the by-laws that the Board issues licenses for keeping live fowl. Other animals come under the authority of the town clerk (dogs) and town animal control (everything else).

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<sup>1</sup> The specific language at Part I, §156-2 A. states: *Refuse of any type or description which is collected or accepted by the Board of Health, its agents, employees or authorized contractors shall be set out for collection or deposited on the Town Dump in accordance with regulations promulgated by the Board from time to time.*

Sentences 17-20 mimic similar sentences in the Select Board draft. The by-laws are silent on them, although Sentence 17 could be inferred. Thoughts on including these or not?

17. The Board shall establish procedures regarding the issuance of licenses and permits.
18. The Board may attach reasonable conditions to a license or permits that it deems in the public interest.
19. The Board shall have discretion to exercise authority to enforce conditions, restrictions, and laws related to licenses and permits which it issues, including the continued use, maintenance, or revocation of such licenses or permits.
20. The Board may delegate its licensing and permitting authority unless specifically prohibited by law.

## NOTES

- Longmeadow's town charter does not mention a board of health.
- The town charters of Harvard (appointed), and Groton (elected) say pretty much nothing about boards of health, mentioning them only in passing.
- Swampscott's town charter looks the closest to the proposed language here (but isn't all that close). Swampscott's charter states:

- (a) Board of Health. There shall be an elected board of health consisting of 3 members for terms of 3 years each, so arranged that the term of office of 1 member shall expire each year.
- (b) Powers and Duties. The board of health shall enforce all regulations and by-laws relating to environmental control and shall annually submit, for the consideration of the town meeting, such regulations and by-laws as it deems proper to accomplish its purposes including, but not limited to, matters concerning noise abatement and the like, as provided in clause (22) of section 21 of chapter 40 of the General Laws. The board of health shall be responsible for advising the town administrator and board of selectmen on all matters relating to health issues. The board of health shall, except as expressly provided herein, have all the powers and duties given to the board of health under the constitution of the commonwealth, the General Laws and any other general or special law and such additional powers and duties as may be authorized by the charter, by-laws or other town meeting vote. The board of health may advise the health department, when warranted, on all matters.
- (c) Appointment of Health Agent. The health agent shall be a person especially fitted by education, training or previous experience to perform the duties of the office. The health agent shall be appointed in the manner provided in this subsection. The elected board of health shall serve as a screening committee in accordance with clause 9 of subsection (a) of section 21 of chapter 30A of the General Laws and shall recommend to the town administrator not less than 3 applicants for appointment. Thereafter, the town administrator shall recommend to the board of selectmen, in accordance with subsection (c) of section 6-2, 1 such finalist for appointment. If the town administrator chooses not to recommend a finalist, the town administrator may direct the board of health to conduct a new search.

Most general laws of the Commonwealth regarding municipal boards of health are found in Title XVI Chapter 111. Section 126 states: *...Boards of health in towns shall be chosen as provided in chapter forty-one...*

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<sup>i</sup> The entire article is as follows:

**§217-1 Licenses and permit fees**

The following are fees charged by the Board of Health for issuance of licenses and permits:

A. Plumbing.

(1) Residential.

- (a) New homes: \$25 for the first five fixtures; \$5 each additional.
- (b) Remodeling kitchen or bath: \$15.
- (c) Replacing pipes: \$15.
- (d) Electric hot-water tank: \$15.
- (e) Any other miscellaneous: \$15.
- (f) Return inspection: \$20.
- (g) Fine violation: \$200.

(2) Commercial.

- (a) First five fixtures: \$30; \$5 each additional fixture.
- (b) Return call for inspection: \$20.
- (c) Fine violation: \$200.

(3) No person may do plumbing in his own home. Permits are issued to licensed plumbers.

B. Gas.

(1) Residential.

- (a) New homes: \$25; \$5 each additional fixture.
- (b) Remodeling: \$15.
- (c) Hot-water tank: \$15 plus \$5.
- (d) Boilers: \$15 plus \$5.
- (e) Return call for inspection: \$20.
- (f) Fine violation: \$20.

(2) Commercial.

- (a) Initial permit: \$30; \$5 each additional fixture.
- (b) Return call for inspection: \$20.
- (c) Fine violation: \$200.

(3) For new homes with both plumbing and gas, the initial permit is \$50 and \$5 for each additional fixture.

C. Miscellaneous fees.

- (1) Bakeries: \$5 to \$100.
- (2) Catering: \$5 to \$100.
- (3) Food service establishments: \$5 to \$100.
- (4) Limited retail: \$5 to \$50.
- (5) Massage: \$5 to \$100.
- (6) Mobile fish truck: \$5 to \$100.
- (7) Mobile food service: \$5 to \$100.

- 
- (8) Retail food stores: \$5 to \$100.
  - (9) Swimming pools:
    - (a) Yearly: \$5 to \$100.
    - (b) Seasonal: \$5 to \$50.
  - (10) For any food units requiring two licenses, only the first license is \$100 (second: \$5).
  - (11) Burial permit: no fee.
  - (12) Funeral director's license: no fee.
  - (13) Permit to attend school after contagious disease: no fee.
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## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.4: Cemetery Commission

#### *Annotated Version*

Version 1.0/January 24, 2025

#### Composition

1. There shall be a Cemetery Commission (the Commission) consisting of three members elected for three-year terms, so arranged that an equal number of terms shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

2. A Cemetery Commissioner shall not hold another position of the Town under direct Commission control or responsibility that is compensated and eligible for employment benefits during the Commissioner's term of office.

This is a variation on similar language in the draft Select Board section (see Select Board draft, Sentence 2). The difference here is the limitation is only to those paid positions directly under cemetery control.

#### Powers, Duties, and Responsibilities

3. The Commission shall have the powers, duties, and responsibilities given to cemetery commissions under the constitution, general laws, special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Commission shall have direct responsibility for the Cemetery Department, the Town's public cemeteries, and affiliated buildings and facilities as enumerated in Town By-Laws.

This sentence parallel language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct Cemetery Commission control. This sentence also parallels draft sentence 4 in the Recreation and Park department section.

5. The Commission shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.



This sentence is intended to document those things such as developing the Town budget where the Commission will need to work with other parts of Town government. In this instance it would also cover the arrangement the Cemetery Department has the Recreation and Park Department to cut grass. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies).

### Appointing Powers

6. The Commission shall appoint senior-level employees of the Cemetery Department, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” Town by-laws make numerous references to “the Superintendent.” As with the Select Board section of the charter, this language is intentionally vague to allow for flexibility (see Select Board draft, Sentence 7). Or in this instance, do we just want to say “Superintendent?”

7. The Commission may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Commission’s powers, duties, and responsibilities, and for such terms, as the Commission deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint ad hoc advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.

### Policy Role

8. The Commission shall be responsible for the formulation and promulgation of policies and rules for Marblehead’s public cemeteries, its components, and its associated facilities, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

There are numerous town by-laws about the rules regarding “the Marblehead Cemetery.” This recognized the Commission may need to develop policies to carry out those by-laws.<sup>1</sup>

9. The Commission shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Commission authority.

This is similar to language in the Select Board’s Sentence 12 and is intended to speak to the oversight of those town employees directly under the Commission’s control.

10. The Commission shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and

<sup>1</sup> Existing by-laws state (see Part III, § 206-1): *It is the duty of the Commissioners to see that the bylaws of the Town and these rules and regulations are complied with and to protect and promote the best interests of the cemetery. To that end they are authorized to make additional rules which may be needed from time to time to meet emergencies which are not covered by these rules and regulations or to amend, alter or repeal any rule.*

guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

### **~~Licenses and Permits~~**

I do not see any licensing or permitting role for the Commission.

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### **NOTES**

- There are general laws of the Commonwealth for town-owned cemeteries (Title XVI, Chapter 114, Sections 20-24, with the core powers being covered in Section 23)
- There are extensive Marblehead by-laws regarding the management of “the Marblehead Cemetery.” The by-laws have a decidedly different tone than most other by-laws, and give specific instances where the Commission will serve as an appeal body for decisions made by the Superintendent; and other decisions are made by the Commission (as opposed to the Superintendent of the Department).
  - An example of quirky by-law language: *Urns may be selected at the office of the Superintendent. Designs are available in a wide range of prices. Supervisory personnel will be pleased to inform you of the details and prices. Not metal or nonmetal name plates or other ornamentation is permitted. Urns placed in glass front niches must be of a design, kind and quality of materials approved by the Cemetery Department).*
- The town charters of Longmeadow and Groton do not have any reference to a Cemetery Commission; The charters of Swampscott and Harvard have brief mention of cemetery commissions, which are appointed.

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.5: Housing Authority Board of Commissioners

#### *Annotated Version*

Version 1.2/January 20, 2025

#### Composition

1. There shall be a Housing Authority Board of Commissioners (the Commission) consisting of five members. Three of the Commissioners shall be elected for five-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

2. The fourth Commissioner shall be appointed by the Select Board for a term of five years, and said Commissioner shall be a tenant of the Authority's housing.
3. The fifth Commissioner shall be appointed by the Commonwealth, as prescribed in the general laws of the Commonwealth.

The specifics for sentences 2 and 3 are taken from the Housing Authority's web site. (See <https://marbleheadha.org/about/meet-the-directors/>). State law includes provisions for a member being a tenant of public housing elected by other tenants. As near as I can tell, that provision (for an election of tenant member) doesn't apply in Marblehead. The appointment of the fourth member by the Select Board is for a tenant – although it is somewhat oblique in how it is documented. Because the Housing Authority is barely mentioned in the by-laws, the only documentation of this is in the annual Town report, which states: *The Board of Commissioners consists of three members elected by the Town, one member (a resident) selected by the Select Board following an interview process and one member appointed by the Governor. All members of the Board serve a 5-year term.*

There is no verbiage proposed related to conflict of interest. Is this something we want to include?

#### Powers, Duties, and Responsibilities

4. The Commission shall have those powers and duties given to housing authorities under the constitution and general laws of the Commonwealth, and such additional powers, duties, and responsibilities as may be authorized by this Charter, by Town By-Laws, or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

5. The Commission shall have direct responsibility for the Marblehead Housing Authority, and affiliated public areas, buildings, and facilities.

This sentence parallels language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct Housing Authority Board of Commissioners authority.

6. The Commission shall collaborate and coordinate with other elected and appointed bodies and officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

The housing authority operates autonomously from the rest of town government, but still coordinate activities such as snow plowing, and construction work being done on Town housing.

7. The Commission shall be responsible for the preparation and submission of an annual report of the activities of the Housing Authority to the Town, to be included in the annual Town Report.

I am uncertain if this is a new responsibility or not – it is not explicitly covered in town by laws (and I do not think it is in state law). However, the Housing Authority annually does submit a report that is included in the Town Report published before town meeting. Moreover, Town By-Laws at Chapter 135, §13-5 1 state: *It shall be the duty of the Select Board to publish the annual reports of the boards, committees or officers of the Town...*

### Appointing Powers

8. The Commission shall appoint senior employees of the Marblehead Housing Authority, subject to the general laws of the Commonwealth.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” The Housing Authority’s web site mentions the Executive Director, Director of Maintenance, Director of Public Housing, and Operations and Facility Manager. As with the Select Board section of the charter, this language is intentionally vague to allow for flexibility (see Select Board draft, Sentence 7)

Do we want to add a sentence about the housing authority board having the power to appoint ad-hoc advisory bodies (it would be the same sentence that appears in other elected bodies)? Given that they operate primarily in state space, I have left it out of this draft, but it could be included.

### Policy Role

9. The Commission shall be responsible for the formulation and promulgation of policies and procedures for the operation of the Marblehead Housing Authority, subject to the general laws of the Commonwealth.

This covers all the policies and procedures related to persons applying for town-owned housing, and living in town-owned housing.

### ~~Licenses and Permits~~

I do not think the Housing Authority has any licensing or permitting functions. Did I miss something?

## NOTES

- The charters of Swampscott and Havarad do not include the word “housing.”
- Groton and Longfellow have cryptic, boilerplate language. Longmeadow’s is the longer of the two and is presented below:

### Section 3-5 Housing Authority

(a) **Composition; Term of Office** - There shall be a housing authority consisting of five members who shall be voters of the town. Four members shall be elected for terms of five years, so arranged that as nearly as possible one term shall expire each year, and the fifth member shall be appointed by the Commonwealth as provided by law.

(b) **Powers and Duties** - The housing authority shall have all of the powers and duties given to housing authorities under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote.

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.6: Municipal Light Commission

#### *Annotated Version*

Version 1.0/January 15, 2025

#### Composition

1. There shall be a Municipal Light Commission (the Commission) consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

2. A Municipal Light Commissioner shall not hold another position of the Town under direct Commission control or responsibility that is compensated and eligible for employment benefits during the Commissioner's term of office.

This is a variation on similar language in the draft Select Board section (see Select Board draft, Sentence 2). The difference here is the limitation is only to those paid positions directly under Light Commission control.

#### Powers, Duties, and Responsibilities

3. The Commission shall have the powers, duties, and responsibilities given to municipal light commissions under the constitution and general laws of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Commission shall have direct responsibility for the Marblehead Municipal Light Department, and affiliated equipment, machinery, buildings, and facilities, as enumerated in Town By-Laws.

This sentence parallel language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct Commission control.

5. The Commission shall set rates for electrical power and services, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

There is no corresponding language in the other charters we have examined, but the rate structure is actually quite complicated, and there are general laws of the Commonwealth about municipal power organizations. Not sure we need “as enumerated in Town By-Laws”

6. The Commission shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things where the commission will need to work with other parts of town government. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies). This sentence would cover situations such as storms where emergency services are coordinated across Town.

### Appointing Powers

7. The Commission shall appoint the General Manager of the Marblehead Municipal Light Department, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” This sentence in other sections of this article refer to the commission/committee/board appointing “senior members” of their respective department (for the purposes of flexibility). Per our meeting with the MMLD Commissioners, state law limits the Commission’s appointment authority to just the General Manager (this has not been independently confirmed). Therefore, the appointment power for the MML Commission is narrower in scope than in some other sections of this article.

8. The Commission may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Commission’s powers, duties, and responsibilities, and for such terms, as the Commission deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint ad hoc advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.

### Policy Role

9. The Commission shall establish policies related to the purchase, distribution, and use of electric power in Marblehead.

There are a number of incentives, rebates and programs in place, in addition to an existing policy *regarding safe and reliable electricity, generated by environmentally responsible power sources...* (from the MMLD web site).

10. The Commission shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Commission authority.

This is similar to language in the Select Board’s Sentence 12 and is intended to speak to the oversight of those town employees directly under the Commission’s control.

11. The Commission shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and

guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

### **~~Licenses and Permits~~**

I do not think the Light Department has any licenses or permits. Did I miss something?

### **NOTES:**

From Groton's town charter:

*Powers and Duties - The Groton electric light commission shall set the policy direction of the Groton electric light department, which provides electric power to the town, consistent with chapter 164 of the General Laws; provided, however, that if a provision of this charter shall conflict with said chapter 164, said chapter 164 shall go*



## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.7: Recreation and Parks Commission

#### *Annotated Version*

Version 1.3/January 20, 2025

#### **Composition**

1. There shall be a Recreation and Parks Commission (the Commission) consisting of five members elected to a one-year term as enumerated in Town By-Laws.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

2. A Recreation and Parks Commissioner shall not hold another position of the Town under direct Commission control or responsibility that is compensated and eligible for employment benefits during the Commissioner's term of office.

This is a variation on similar language in the draft Select Board section (see draft Select Board, Sentence 2). The difference here is the limitation is only to those paid positions directly under R&P control: such as the superintendent of parks. Historical note: in the 1970s a Marblehead police officer was a R&P Commissioner.

#### **Powers, Duties, and Responsibilities**

3. The Commission shall have the powers, duties, and responsibilities given to park commissions under the constitution, general laws and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Commission shall have direct responsibility for the Recreation and Parks Department, and affiliated public areas, playgrounds, buildings, and facilities, as enumerated in Town By-Laws.

This sentence parallels language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of Town government that comes under direct Recreation and Parks Commission control. Side note: town by-laws are oblique regarding the Commission, and primarily consist of three special acts of the Commonwealth accepted by the Town (1963, 1965, and 1990).

5. The Commission shall have responsibility for those revolving funds designated in Town By-Laws as authorized for use by the Recreation and Park Commission, subject to the general laws of the Commonwealth and Town By-Laws.

There are 13 revolving funds identified in town by-laws (see Part I, §63-9), the majority of which are designated for the use of and/or under the control of a designated board, committee, or commission. One such funds is under the responsibilities of the Recreation and Parks Commission: the Recreation and Parks Revolving Fund.

6. The Commission shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things such as developing the town budget where the Commission will need to work with other parts of town government. Additionally, the Recreation and Park Department has a number of arrangements with other Town Departments for services, such as cutting grass at cemeteries, and maintaining sports fields for the School Department. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies).

### **Appointing Powers**

7. The Commission shall appoint senior-level employees of the Recreation and Parks Department, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” The town web site mentions the Superintendent of Recreation and Parks, and the Director of Recreation. As with the Select Board section of the charter, this language is intentionally vague to allow for flexibility (see Select Board draft, Sentence 7)

8. The Commission may, from time to time, appoint members of ad-hoc advisory bodies to advise on such topics related to the Commission’s powers, duties, and responsibilities, and for such terms, as the Commission deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies.

### **Policy Role**

9. The Commission shall be responsible for the formulation and promulgation of policies for the use and maintenance of those public areas, playgrounds, buildings, and facilities under its control, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

There are numerous town by-laws about what can and cannot (mostly cannot) be done on R&P land/facilities. This recognized the R&P often needs to develop policies to carry out those by-laws.

10. The Commission shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Commission authority.

This is similar to language in the Select Board’s Sentence 12 and is intended to speak to the oversight of those town employees directly under the Commission’s control.

11. The Commission shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

### **Permitting Authority**

12. The Commission shall be responsible for the issuing permits it deems necessary for use of those public areas, playgrounds, buildings, and facilities under its control, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

The Recreation and Park Department issues a number of permits for use of Town facilities – tennis courts and other playing fields, use of cookout area at Devereux Beach, etc.

13. The Commission shall establish procedures regarding the issuance of permits subject to the general laws of the Commonwealth, and this Charter; and as enumerated in Town By-Laws, and by vote of Town Meeting.

This is similar to language in the licensing authority portion of the draft Select Board section of the charter (see Select Board draft, Sentence 15) The R&P has many procedures on the town web page regarding the use of their land/facilities.

14. The Commission may attach reasonable conditions and restrictions to a permit that it deems in the public interest.

This is similar to language in the licensing authority portion of the draft Select Board section of the charter (see Select Board draft 1.4, Sentence 16) The R&P has many procedures on the town web page regarding the use of their land/facilities.

15. The Commission may delegate its permitting authority unless specifically prohibited by law.

This is similar to language in the licensing authority portion of the draft Select Board section of the charter (see Select Board draft, Sentence 18)

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.8: School Committee

#### *Annotated Version*

Version 1.0/January 20, 2025

#### Composition

1. There shall be a School Committee (the Committee) consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to Town of Harvard charter; and similar to language in the charters of Groton, Longview, and Swampscott.

2. A School Committee member shall not hold another position of the Town under direct School Board authority or responsibility that is compensated and eligible for employment benefits during the Board Member's term of office.

This is a variation on similar language in the draft Select Board section (see Select Board draft, Sentence 2). The difference here is the limitation is only to those paid positions directly under School Board control.

#### Powers, Duties, and Responsibilities

3. The Committee shall have the powers, duties, and responsibilities given to school committees under the constitution and general laws of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Committee shall have direct responsibility for the School Department, and affiliated property, buildings, and facilities, consistent with the constitution and general laws of the Commonwealth, and as enumerated in this Charter, and Town By-Laws, or by other vote of Town Meeting.

This sentence parallels language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct School Committee control.

5. The Committee shall have responsibility for those revolving funds designated in Town By-Laws as authorized for use by the School Committee, subject to the general laws of the Commonwealth and Town By-Laws.

There are 13 revolving funds identified in town by-laws (see Part I, §63-9), the majority of which are designated for the use of and/or under the control of a designated board, committee, or commission. Two such funds are under the responsibilities of the School Committee: the School Transportation Revolving Fund, and the Special Education Revolving Fund.

6. The Committee shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things such as developing the town budget where the board will need to work with other parts of town government. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies). (Another example: the MOU the School Department has with Rec and Park relating to cutting the grass).

### Appointing Powers

7. The Committee shall appoint senior-level employees of the School Department, subject to the constitution and general laws of the Commonwealth, and as enumerated in Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a “department.” The term “superintendent” does not show up in town by-laws related to the school department. It is widely used in the School Department’s web site. Do we want to state “senior level employees” or “superintendent of schools?”

8. The Committee may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Committee’s powers and duties, and responsibilities, and for such terms, as the Committee deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.

### Policy Role

9. The Committee shall be the policy making body for the Marblehead school system; and guide long-range educational planning.

This sentence is taken from the Longmeadow town charter. Longmeadow’s first sentence also included a reference to long-range “facility needs.” Do we need those words in our charter as well?<sup>1</sup>

<sup>1</sup> The relevant section the Longview charter states: *The school committee shall be the policy making body for the school system; guide long range educational planning and facilities needs; supervise officials appointed by it; and monitor budgetary compliance. The school committee shall make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town.*

10. The Committee shall development and promulgate rules and policies, consistent with law, for the administration and management of the public schools of the Town.

This is a slight re-working of a sentence from the Longmeadow charter. See footnote 1 below.

11. The Committee shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Committee authority.

This is similar to language in the Select Board's Sentence 12 and is intended to speak to the oversight of those town employees directly under the Trustee's control.

12. The Committee shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.9: Town Clerk

#### *Annotated Version*

Version 1.3/January 24, 2025

#### Composition

1. There shall be a Town Clerk elected to a three-year term as provided in Town By-Laws.

This language is similar to the proposed composition sections of the Select Board, Town Moderator, and other elected positions.

This section on the Town Clerk does not include prohibitive language related to employment in the town that would cause a conflict of interest. The Town Clerk is the only elected full time position in Town government. Is there anything we would want to say in a second sentence similar to that of other elected boards? (I cannot think of anything, therefore have skipped adding a sentence here).

#### Powers, Duties, and Responsibilities

2. The Town Clerk shall have the powers, duties, and responsibilities given to town clerks under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

3. The Town Clerk shall be responsible for the maintenance of Town documents and records, and the Town Seal, as provided by Town By-Laws and consistent with the constitution, general laws and special laws of the Commonwealth.

Town by-laws have a detailed section dedicated to the responsibilities of the Town Clerk (see Part I, Article 3, Chapter 106). These responsibilities have been organized into two sentences in this charter (sentence 3 above; and sentence 4, below).

4. The Town Clerk shall be responsible for filings, notices, and reports related to Town government, including those related to Town Meeting, as provided by Town By-Laws and consistent with the constitution, general laws, and special acts of the Commonwealth.

5. As provided by this Charter, Town By-Laws and consistent with the constitution and general laws of the Commonwealth, the Town Clerk shall be the chief election officer of the Town, and shall work in conjunction with the Select Board and the Board of Registrars of Voters to carry out all Town activities related to elections.

This language is adapted from information on the Town Clerk section of the town website. There is very little in Town By-Laws that I can find that address general elections. Nor can I find any language that well-aligns with the Town website description of the Town Clerk's responsibilities in state law.

MGL Part I, Title VII, Chapters 50 through 57 cover all the Commonwealth laws related to elections, and some of the duties routinely carried out in Marblehead by the Town Clerk, appear to be designated to the Select Board in the General Laws (see for example, Part I, Title VII, Chapter 54 § 12, which appears to say that the Select Board appoint election officers: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVIII/Chapter54/Section12>) or to the Board of Registrars.

Additionally, in the General Laws there are a number of references to the responsibilities of registrars, which is also a bit of a black hole in Town By-Laws (the term doesn't appear in town by-laws).<sup>1</sup> The Town Clerk is a member of the Board of Registrars, however. Much of the language in this section, the section on the Board of Registrars and the article on elections have been written to "thread the needle" between what MGL say happens, and how it is carried out on a daily basis in Marblehead (btw, Marblehead is very typical in how they run elections in terms of who does what).

6. The Town Clerk shall be a voting ex officio member of the Board of Registrars of Voters.
7. The Town Clerk, working in collaboration with the Board of Registrars of Voters, shall be responsible for an annual Town-wide census, as enumerated in the constitution and general laws of the Commonwealth, and as provided by this Charter and Town By-Laws.

This is from the town's web site, which states: *The census numbers are used by the State to partially determine local aid to our community.* There is nothing in town by laws about this. The origin appears to be from the general laws of the Commonwealth, Part I, title VIII, Chapter 51, sections 4 and 6 (which refer to this as "street lists") which assign the responsibility to "registrars." Because MGL assigns this responsibility to the Board of Registrars, and in practice this is a core duty of the Town Clerk, the charter language proposed here varies somewhat from a strict interpretation of the state's general laws. See Notes 1 and 2 below. This is probably a sentence we should run by Town Counsel.

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<sup>1</sup> Of the town charters we have used as points of reference, only the charter for Longmeadow has anything marginally close to touching on the topic. The Longmeadow charter has two references that somewhat overlap with the town clerk's responsibilities as described on the town web site:

- *The number of signatures of voters required to place the name of a candidate for any town office on the official ballot for use at any town election shall be as prescribed by general law, or town by-law, and certified by the registrars of voters.*
- *The select board shall appoint the town manager, town counsel, special counsel, labor counsel, registrars of voters (but not the town clerk) and other election officers...*



8. The Town Clerk shall have direct responsibility for the staffing and operation of the Town Clerk's office.

This might seem obvious, but lest anyone have any question who the clerk's staff work for or report to...

9. The Town Clerk shall collaborate and coordinate with other elected and appointed Town officials in the development and promulgation of policies to ensure efficient and consistent operation of Town government.

A sentence similar to this one appears in other sections in Article 5 (elected bodies); and is generally intended to cover things such as developing the annual town budget.

However, it has a more significant meaning for the Town Clerk, who has a number of reporting/filing responsibilities related to other entities' actions, and is responsible for documenting compliance with state-mandated ethics and conflict of interest laws. I think this sentence sufficiently covers everything, but it does have a different application to the Town Clerk than to other elected boards.

### Appointing Powers

10. The Town Clerk may appoint Assistant Town Clerks as enumerated in the general laws of the Commonwealth.

Under state law a town clerk can appoint an assistant town clerk. See Title VII, Chapter 41 § 19 at: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter41/Section19> This is a legally-defined position, that basically allows an Assistant Clerk to carry out the functions of the Town Clerk in the absence of the Town Clerk or as delegated. This is routinely done in Marblehead and the Assistant Clerks are staff in the Town Clerk's office.

### Policy Role

11. The Town Clerk shall, in conjunction with other elected and appointed officials, participate in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

### Licenses and Permits

In reviews of earlier drafts of this section it was suggested that sentences 12 and 13 might not be necessary and that sentence 14 is sufficient coverage of this topic. Thoughts?

12. The Town Clerk shall be the licensing and registration authority for dogs, and shall carry out its licensing responsibilities in accordance with Town By-Laws.

Town by-laws are very detailed about dog licenses. I do not think there is a need to reference the "general laws of the Commonwealth" because I am not sure there are any.

13. The Town Clerk may issue marriage licenses for marriages taking place in the Commonwealth, in accordance with the general laws of the Commonwealth.

Under Commonwealth law, Town Clerks can issue marriage licenses for a marriage anywhere in the Commonwealth. There is almost nothing about marriage licenses in town by-laws,<sup>2</sup> but there is information on the town's web site. If we do not put this in there, it is still an authority she has.

14. The Town Clerk shall establish and publish procedures regarding licenses issued under the Town Clerk's authority, as provided by Town By-Laws and in accordance with the constitution and general laws of the Commonwealth.

This is similar to Sentence 15 in Select Board draft section.

## NOTES

### 1. Board of Registrars of Voters

The word "registrar" does not appear in town by laws.

Under the general laws of the Commonwealth, many of the responsibilities for conducting elections fall to a board of registrars of voters. This is codified in MGL Part I, Title VIII, Chapter 51. Almost all of the election-related duties of the Town Clerk, as presented on the town's web site (see <https://www.marblehead.org/town-clerk>) are actually responsibilities of the board of registrars of voters (of whom the Town Clerk is an ex officio member).

Under the General laws (Part I, Title VIII, Chapter 51 § 15) the Town Clerk is one of four members of a town's Board of Registrars. The other three are appointed by the Select Board, and two of those three should be a member of one of the two predominant parties (that is, one Republican and one Democrat).

In Marblehead the other three members are halfway between "ceremonial" and "advisors/sign-offs" to the Town Clerk, who carries out almost all of those responsibilities.

Also, MGL uses the terms *Board of Registrars* and *Board of Registrars of Voters* interchangeably.

### 2. Annual Town Census

I looked at over 50 towns and cities in the Commonwealth, and most list the Town Clerk's responsibilities similar to how they are carried out in Marblehead – the Town Clerk conducts the census. Many of these other towns specifically cite Chapter 51 Section 4 of the General Laws of the Commonwealth for conducting the annual census – even though that specific section assigns the responsibility to the Board of Registrars!! I did find this piece of language on the town web site of Princeton Massachusetts: *The law requiring an annual town census has been amended over the years, and currently, Massachusetts General Law Chapter 51 requires that the Board of Registrars conduct the annual town census. In Princeton, as in most towns, the Town Clerk's Office does the work, under the direction of the Board of Registrars.* This is pretty close to describing how it works in Marblehead, although "under the direction of..." might be a bit of a stretch.

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<sup>2</sup> In Part I, Chapter 90 (Licenses and Permits) of town by-laws the only reference to marriage license is that it cannot be revoked (along with a list of other licenses that cannot be revoked for failure to pay taxes). This is the sole mention of Marriage licenses in the by-laws.

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.10: Planning Board

#### *Annotated Version*

Version 1.2/January 22, 2025

#### Composition

1. There shall be a Planning Board consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton Longview and Swampscott.

2. An associate member shall be appointed by a majority vote of the Select Board and the Planning Board combined, as prescribed in the general laws of the Commonwealth, and as enumerated by Town By-Laws.

This sentence is (almost) verbatim from town by-laws (See Part II, § 200-4.2 B.). It appears that associate members are limited to one (See town by-laws Part I, Chapter 24, Article IV<sup>1</sup>)

Do we need any conflict of interest statement related to being on the planning board?

#### Powers, Duties, and Responsibilities

3. The Board shall have the powers, duties, and responsibilities given to Planning Boards under the constitution and general laws of the Commonwealth, except those powers and duties assigned by this Charter to other boards and Town officials; and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

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<sup>1</sup> Full text of town by-laws reads: *Planning Board of five members hereby is established under Chapter 41, Section 81A of the General Laws; provided, however, that in accordance with Section 200-4(B) of the Zoning Bylaw and G.L. c. 40A, § 9, the Planning Board shall be comprised of five members and one associate member where it is authorized by the Zoning Bylaw to determine whether to grant, deny or grant with conditions a special permit, and is acting in said capacity. The members of the Planning Board now in office shall serve as members of the Planning Board established hereunder as provided in Chapter 41, Section 81A of the General Laws.*

4. It is the responsibility of the Planning Board to act on proposed development actions, certain special permits, and other proposed building actions, as prescribed in the general laws of the Commonwealth and Town By-Laws.

This language is heavily adapted from the town's web site. (See <https://www.marblehead.org/town-planning-board>)

5. The Planning Board shall, from time to time, create and/or update, various zoning artifacts to provide a basis for decision making regarding zoning actions, and the long-term physical development of the Town as prescribed in the general laws of the Commonwealth and Town By-Laws.

- General laws of the Commonwealth regarding planning boards (Title 40 Sections 81A through 81J of general laws of the Commonwealth cover everything about town planning boards) have a number of plans and maps required of planning boards (See excerpts below in end note i.i). There are some (but not as comprehensive) requirements in the by-laws at Part II, Article III about zoning districts (at <https://ecode360.com/10438344#10438344>).
- The term "artifacts" is increasingly being used instead of "documents" in part because some things are not printed documents (data bases, for example). It generally encompasses documents, models, graphs, reports, diagrams, maps, photos, videos, and meeting notes. Given that the by-laws and general laws refer to various maps and plans, this term seemed to be more succinct.
- The term: *...provide a basis for decision making regarding zoning actions, and the long-term physical development of the town...* is adapted from language in the general laws Title 40 Section 81D (see end note i below)

6. The Board shall coordinate its activities and decisions with other elements of Town government for the purpose of notices, filings and recordkeeping; and in carrying out other administrative tasks, consistent with the general laws of the Commonwealth and Town By-Laws.

This is similar language to what appears in the Board of Appeals section of the town web site. According to the town web site: *The Town Planner oversees the Board's administrative process and provides technical assistance to prospective applicants.* The town planner is a direct report to the Town Administrator, therefore the use of the term "coordinate" rather than "direct" or similar language.

### **Appointing Powers**

I see no appointment powers for the Planning Board. Have I missed something?

### **Policy Role**

I see no policy role for the Board of Appeals. Have I missed something?

### **Licenses and Permits**

7. The Board shall be responsible for approvals and permits related to development and zoning, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

8. The Board may attach reasonable conditions and restrictions to such approvals and permits that it deems in the public interest.

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## NOTES

1. Do we want to say anything about the relationship between the planning board and the town planner beyond what is in this draft section?

2. From the Town website:

It is the responsibility of the Planning Board to approve different types of development including divisions of land to create new lots, all new nonresidential buildings over 700 square feet and all new residential construction and additions that are over 500 square feet within the shoreline and harbor front districts. In addition to the [site plan approval special permits](#) and subdivision control approvals, the Board issues smart growth special permits, [wireless communication special permits](#) and [incentive zoning special permits](#). State and local laws which govern the process for these approvals are Massachusetts General Laws (MGL) Chapter 40A (the Zoning Act); MGL Chapter 41, Sections 81K – 81GG (the Subdivision Control Law); the Town of Marblehead Subdivision Rules and Regulations [Chapter 258 of the by-laws of the Town of Marblehead](#), MGL Chapter 40A and the [Town of Marblehead Zoning Bylaws](#).

3. What Other Charters Say

- From Harvard's charter in the definitions section: *"Master Plan," a plan revised or developed every 10 years by the Planning Board per Massachusetts General Laws.*
- From the Groton charter: *The written report for each spring town meeting shall include: (i) the written report of the planning board setting forth its findings and recommendations as to all zoning articles;*
- From the Longmeadow charter: *The planning board shall further be responsible for coordinating the implementation of the long-range plan of the Town of Longmeadow.*

4. Need to define roles and decide if they should be referenced here (or are they already?)

- Not sure if the Building Commissioner needs to be mentioned in this? (Mentioned in by laws)

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<sup>i</sup> From Title 40 Section 81C: *The planning board established under section eighty-one A shall from time to time make careful studies and when necessary prepare plans of the resources, possibilities and needs of the city or town, and, upon the completion of any such study, shall submit to the city council or selectmen a report thereon, with its recommendations. A copy of each completed study shall be furnished to the executive office of housing and livable communities. Said planning board shall report annually to the city council or to the annual town meeting, giving information regarding the condition of the city or town and any plans or proposals for its development and estimates of the cost thereof, and shall at the same time furnish a copy of its report to the executive office of housing and livable communities.*

From Title 40 Section 81D: *A planning board established in any city or town under section eighty-one A shall make a master plan of such city or town or such part or parts thereof as said board may deem advisable and from time to time may extend or perfect such plan.*

*Such plan shall be a statement, through text, maps, illustrations or other forms of communication, that is designed to provide a basis for decision making regarding the long-term physical development of the municipality. The comprehensive plan shall be internally consistent in its policies, forecasts and standards, and shall include the following elements: ...*

From Title 40 Section 81E: *Each city or town having a planning board established under section eighty-one A may, by action of its city council or town meeting adopt an official map, prepared under the direction of such planning board and showing the public ways and parks therein as theretofore laid out and established by law and the private ways then existing and used in common by more than two owners. Such official map is hereby declared to be established to conserve and promote the public health, safety and general welfare.*

## ARTICLE 5: ELECTED BOARDS, COMMITTEES, COMMISSIONS AND OFFICIALS

### Section 5.11: Water and Sewer Commission

#### *Annotated Version*

Version 1.0/January 20, 2025

#### Composition

1. There shall be a Water and Sewer Commission (the Commission) consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

This language is similar to the proposed composition sections of the Select Board and other elected bodies. Language is identical to/similar to language in the charters of Harvard, Groton, Longview, and Swampscott.

2. A Water and Sewer Commissioner shall not hold another position of the Town under direct Commission authority or responsibility that is compensated and eligible for employment benefits during the Commissioner's term of office.

This is a variation on similar language in the draft Select Board section (see Select Board draft, Sentence 2). The difference here is the limitation is only to those paid positions directly under Water and Sewer control.

#### Powers, Duties, and Responsibilities

3. The Commission shall have those powers, duties, and responsibilities given to water commissions and sewer commissions under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Commission shall have direct responsibility, as enumerated in Town By-Laws, for the Water Department and the Sewer Department.

This sentence parallel language in the section on the Select Board (see Select Board draft, Sentence 5) and is intended to mark off that part of town government that comes under direct Commission control.

5. The Commission shall set rates for water and sewer services, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

I'm guessing here, but they do set rates for water and sewer services. Thoughts?

6. The Commission shall have the authority to conduct inspections related to sewers in accordance with the provisions in Town By-Laws; and shall have the authority to provide written notice of violations resulting from such inspections.

The town by laws regarding sewers are extensive. Part III, § 248-26 (Power and Authority of Inspections) and 248-27 (the Violations and Penalties) discuss the authorities summarized in this sentence. This sentence is meant to address these two sections of the by-laws. Did I get it right? Do we want to go this far into the weeds? This might be one we should have Victor look at. (Link: [§ 248-26 Powers and authority of inspectors.](#))

7. The Commission shall have the authority to restrict the use of water at any time and in any manner if it deems it necessary to do so in the public interest.

This language seems a little harsh (or at least the tone doesn't seem to match how we are writing this charter), but it is verbatim from town by laws at Part III, § 268-10. (link: [§ 268-10 Restrictions on use of water.](#)) . Do we want this sentence in the charter? If yes, do we want to modify the language?

8. The Commission shall have responsibility for those revolving funds designated in Town by-Laws as authorized for use by the Sewer and Water Commission, subject to the general laws of the Commonwealth and Town By-Laws.

There are 13 revolving funds identified in town by-laws (see Part I, §63-9), the majority of which are designated for the use of and/or under the control of a designated board, committee, or commission. Two such funds are under the responsibilities of the Water and Sewer Commission: the Sump Pump Improvement Revolving Fund; and the Storm Water By-Law Revolving Fund.

9. The Commission shall collaborate and coordinate with other elected and appointed Town officials, in the execution of Town functions to ensure efficient and consistent operation of Town government.

This sentence is intended to document those things where the commission will need to work with other parts of town government. A similar sentence appears in most of the sections in Article 5 (elected bodies) and Article 6 (appointed bodies).

### **Appointing Powers**

10. The Commission shall appoint senior-level employees of the Sewer Department and the Water Department, subject to the general laws of the Commonwealth, and as enumerated in this Charter and Town By-Laws.

This sentence is similar to those showing up in other elected bodies that oversee a "department." The town web site mentions the Superintendent and the Deputy Superintendent. As with the Select Board section of the charter, this language is intentionally vague to allow for flexibility (see Select Board draft, Sentence 7)

11. The Commission may, from time to time, appoint members of ad hoc advisory bodies to advise on such topics related to the Commission's powers and duties, and responsibilities, and for such terms, as the Commission deems in the best interest of the Town.

We have discussed the concept of giving elected boards the authority to appoint ad hoc advisory bodies (see draft Definitions section in Article 1 and draft Section 8.3). This is language similar to that in the Select board section of the charter (see Sentence 10), and similar language is proposed in the drafts for other elected bodies and positions.



## Policy Role

Should there be a policy sentence about rates? See Sentence 9 in the section on the Municipal Light Commission

12. The Commission shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by those elements of Town government directly under Commission authority.

This is similar to language in the Select Board's Sentence 12 and is intended to speak to the oversight of those town employees directly under the Trustee's control.

13. The Commission shall, in conjunction with other elected and appointed Town officials, participate in the development and promulgation of policy directives and guidelines designed to ensure the efficient and consistent operation of Town government.

This language is similar to language in the Select Board section and is intended to address those situations where a town-wide policy or directive would be beneficial to the town, but not all town elements come under a single entity (See Select Board draft, Sentence 13). This sentence is similar to language in the Swampscott and Groton town charters.

## Licenses and Permits

The Commission shall be the licensing and permitting authority for licenses, permits, and approvals related to sewer and water connections; and shall carry out its licensing, permitting, and approval responsibilities in accordance with the general laws of the Commonwealth as enumerated in Town By-Laws.

See Part III, Chapter 248 of the town by-laws, which has provisions for a license to "lay pipe" and has provisions for permits related to actions in any way impacting the existing sewer system. This sentence parallels similar language in the Select Board section (see Draft, Sentence 14). Town by laws Part III Chapter 268 covers all issues related to water, and § 268-15 covers water connections, and does not reference "permits," but rather applications for which they grant approval. Thus, the somewhat awkward language here of licenses, permits, and approvals. (see [§ 268-14 Water mains in private property and developments.](#))

14. The Commission shall establish procedures regarding the issuance of licenses and permits; and granting of approvals.

This sentence parallels similar language in the Select Board section (see Draft, Sentence 15)

15. The Commission may attach reasonable conditions and restrictions to a license, permit, or approval that it deems in the public interest.

This sentence parallels similar language in the Select Board section (see Draft, Sentence 16)

16. The Board may delegate its licensing, permitting, and approval authority unless specifically prohibited by law.

This sentence parallels similar language in the Select Board section (see Draft, Sentence 18)

## NOTES

- Marblehead has extensive by-laws for both water (Part III Chapter 268) and sewers (Part III Chapter 248). The sewer by laws generally use the terms “license” and “permit;” while the water by-laws use the term “approval.” Both have extensive authorities – including cutting off water; and going into homes to conduct inspections. What I struggled with here is how deep a dive to go into all of these things.
- In Longmeadow the Select board is the Water and Sewer Commission. There is no independent/separate water or sewer department, but the responsibility rests with the Department of Public Works
- In Harvard, W&S is a component under public works. There is no elected (or appointed) commission.
- Groton has separate elected water and sewer commissions. Except for being listed in the list of elected officials the charter is silent on it.
- Swampscott’s charter does not contain the words “water” or “sewer”

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.1: (Zoning) Board of Appeals

#### *Annotated Version*

Version 1.2/January 20, 2025

#### Composition

1. There shall be a Board of Appeals (the Board) consisting of five members and four alternate members appointed by the Select Board for five-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. Specifics for the Board of Appeals are based on town by-laws (see Part II § 200-4.1 A), which align with general laws of the Commonwealth (see Title VII, Chapter 40A)<sup>1</sup>

2. Board members shall recuse themselves from deliberations and decisions in cases of a conflict of interest. In such circumstances, the chair will appoint an alternate (from the four existing alternate members) to sit in their place.

This is not explicitly stated in the town by laws, but it is explicitly stated in the general laws of the Commonwealth at Title VII, Chapter 40A, § 12. Relevant language states: *if provision for associate members has been made the chairman of the board may designate any such associate member to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled in the manner provided in this section...*

#### Powers, Duties, and Responsibilities

3. The Board shall have those powers, duties and responsibilities given to zoning boards of appeals under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to

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<sup>1</sup> Town by laws at Part II, § 200-4.1 A state: Membership. *There is established a Board of Appeals comprised of five members and four associate/alternate members, all of whom shall be appointed by the Select Board, as provided in G.L. c. 40A.*

Relevant part of Chapter 40A, § 12 states: *Any board of appeals established hereunder shall consist of three or five members who, unless otherwise provided by charter, shall be appointed by the mayor, subject to the confirmation by the city council, or by the selectmen, for terms of such length and so arranged that the term of one member shall expire each year...Zoning ordinances or by-laws may provide for the appointments in like manner of associate members of the board of appeals...*

reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. It is the responsibility of the Board to act on requests for zoning variances and special permits related to building; and to act on appeals on zoning issues brought by "aggrieved" parties, as prescribed in the general laws of the Commonwealth and Town By-Laws.

This is similar to language in the Planning Board's section, and takes some language (e.g., *requests for zoning variances and special permits related to building*) from the town website (see <https://www.marblehead.org/zoning-board-appeals/pages/what-we-do>)

5. The Board shall coordinate its activities and decisions with other elements of Town government for the purpose of notices, filings and recordkeeping; and in carrying out other administrative tasks, consistent with the general laws of the Commonwealth and Town By-Laws.

This is similar language to that proposed for the Planning Board. The town's web site says that *the administrative work of the zoning Board of Appeals is done through the Engineering Department*. The Engineering Department is a direct report to the town administrator (this is the reason for the use of the term "coordinate" rather than "direct" or similar language).

### Appointing Powers

6. The chair of the Board may designate any such associate member to sit on the Board in case of absence, inability to act, or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled in the manner described in this Charter.

This is close to verbatim from the general laws of the Commonwealth at Title VII, Chapter 40A § 12, which state: *... if provision for associate members has been made the chairman of the board may designate any such associate member to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled in the manner provided in this section...*

### Policy Role

I see no policy role for the Board of Appeals. Have I missed something?

### Licenses and Permits

7. The Board may approve variances and issue special permits related to zoning, consistent with the constitution and general laws of the Commonwealth, and as enumerated in Town By-Laws.

This is a high level summary of what the by laws say the Board can do.

8. In approving a variance, the Board may attach conditions concerning time, use, and safeguards, which the Board deems necessary to protect the surrounding neighborhood and the public good.

This sentence is verbatim from town by laws. See Part II, § 200-5 B.

9. The Board may attach reasonable conditions to special permits that it deems in the public interest.

I actually cannot find language to this extent in the by-laws, but it seems consistent with what the by laws say about approving variances.

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## NOTES

- The by laws covering the Board of Appeals are in the same section as the Planning Board. Part II, § 200-4 is titled: *Board of Appeals and Planning Board*
- General laws of the Commonwealth are in Title VII, Chapter 40A.
  - In § 12: ... if provision for associate members has been made the chairman of the board may designate any such associate member to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled in the manner provided in this section...
- What other charters say:
  - Concord doesn't mention one
  - Longmeadow, Havard, Groton and Swampscott mention them only in that they exist and how appointments are made. Nothing else.

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.2: Board of Registrars of Voters

#### *Annotated Version*

Version 1.2/January 20, 2025

#### Composition

1. There shall be a Board of Registrars of Voters (the Board) consisting of the Town Clerk as an ex officio member, and three additional members appointed by the Select Board for three-year terms, so arranged that one term shall expire each year.

The composition sentences are based on Section 15 of Chapter 51 in the general laws of the Commonwealth. See Note 1 below for the full text. The Board of Registrars does not appear in Town By-Laws.

2. As nearly as possible, two of the three appointed members shall be representatives of the two leading national political parties, and shall be selected from a list of three names submitted by each of the Town committees of the two leading political parties, as enumerated in the general laws of the Commonwealth

This is taken directly from Section 15 of Chapter 51, including the phrase “as nearly as possible.” See Note 1 below for full text from the general laws.

3. Board members appointed by the Select Board shall be registered as voters of the Town. Of the four board members, at no time shall more than two members be from the same political party.

This language is also from Section 15 of Chapter 51. Note the mention of the four board members – meaning it includes the Town Clerk.

4. Appointed registrars shall hold no other office in the Town, either by election or by direct appointment by the Select Board. Nor may an appointed registrar hold any office by election or appointment under the governments of the United States or of the Commonwealth.

This is taken almost directly from Section 25 of Chapter 51. See note 2 below for full text from the general laws.

#### Powers, Duties, and Responsibilities

5. The Board shall have the powers, duties, and responsibilities given to Boards of Registrars of Voters under the constitution and general laws of the Commonwealth, and as may be lawfully provided by this Charter, Town By-Laws, or by other vote of Town Meeting.

There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

6. The Board shall be responsible for the entire Town voter registration process, including promoting voter registration, maintaining registration records, and sending certain records to the Secretary of the Commonwealth, as enumerated in the general laws of the Commonwealth.

This is taken from Section III of the publication BOARDS OF REGISTRARS & ELECTION COMMISSIONS, published by the Secretary of the Commonwealth, 2017. This might seem inconsistent with the Article on elections, but the term used is “responsible” which is consistent with the general laws. Just because it is their responsibility, does not mean that they actively carry out these tasks (which are generally carried out by the Town Clerk)

7. The Board shall be responsible for certifying signatures on nomination papers and petitions, issuing party enrollment certificates and certificates of voter registration, investigating objections and challenges to local nomination papers, and certifying absent voter applications, as enumerated in the general laws of the Commonwealth.

This is taken from Section V of the publication BOARDS OF REGISTRARS & ELECTION COMMISSIONS, published by the Secretary of the Commonwealth, 2017. See note 3 below

8. The Board shall render decisions on objections to certificates of nomination, nomination papers, withdrawals for local offices or objections to petitions for local ballot questions, as enumerated in the general laws of the Commonwealth.

This is almost verbatim from Section VIII of the publication BOARDS OF REGISTRARS & ELECTION COMMISSIONS, published by the Secretary of the Commonwealth, 2017. See note 4 below

9. The Board shall preside over recounts as enumerated in the general laws of the Commonwealth.
10. The Board, working in collaboration with the Town Clerk, shall be responsible for an annual Town-wide census, as enumerated in the constitution and general laws of the Commonwealth, and as provided by this Charter and Town By-Laws.

The general laws of the Commonwealth, Part I, title VIII, Chapter 51, sections 4 and 6 (which refer to this as “street lists”) assign the responsibility to “registrars.” However, in Marblehead, as in many communities, this is actually carried out by the Town Clerk. I’ve tried to “thread the needle” in this charter – not putting in something that goes against state law; but also putting in language about how it really works. See Sentence 7 in the Town Clerk section. This is something we will need to run by Town Counsel.

### **Appointing Powers**

11. The Board shall assist the Select Board in the appointment of election officers as enumerated in the general laws of the Commonwealth and as provided by this Charter and Town By-Laws.

The Select board annually appoints election officers. But the process is somewhat complex, and involves the registrars, and the local political parties. The entire process is described in the general laws of the Commonwealth at Part I, Title VIII, Chapter 54, Section 12. The section is somewhat lengthy. You can read it in its entirety at: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVIII/Chapter54/Section12>

12. The Board shall work closely with the Town Clerk in the execution of all its duties and responsibilities, and may delegate its authority to the Town Clerk to the extent allowed by the constitution and the general laws of the Commonwealth.

There is nothing in the general laws of the Commonwealth or Town By-Laws that speak to this; however, this is de facto how it works in Marblehead (and a number of other towns such as Lexington and Arlington). This is an important sentence – as it codifies how elections actually work in town.

## **Policy Role**

## **~~Licenses and Permits~~**

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## **NOTES**

### **Note 1: MGL Part I, Title VIII, Chapter 51 (basis of composition of the board)**

Section 15. Except as provided in section seventeen, there shall be in every city, other than one having a board of election commissioners or an election commission, and in every town a board of registrars of voters consisting of the city or town clerk and three other persons who shall, in a city, be appointed by the mayor, with the approval of the aldermen, and in a town, by a writing signed by the selectmen and filed with the town clerk. When a board of registrars is first appointed, the registrars shall be appointed in February or March for terms respectively of one, two and three years, beginning with April first following. In February or March in every year after the original appointment, one registrar shall be appointed for the term of three years, beginning with April first following.

As the terms of the several registrars expire, and in case a vacancy occurs in the board of registrars of voters, the selectmen or the appointing authority shall so appoint their successors that as nearly as possible the members of the board shall represent the two leading political parties, as defined in section one of chapter fifty; provided, that a city or town clerk need not be enrolled in a political party; and provided further, that in no case shall an appointment be made as to cause a board to have more than two members, including the city or town clerk, of the same political party. Every such appointment shall be made in a town by the selectmen or the appointing authority from a list to be submitted to them by the town committee of the political party from the members of which the position is to be filled, containing the names of three enrolled members of such party resident in the town, selected by a majority vote at a duly called meeting, at which a quorum is present, of such committee; and every member of a board of registrars of voters shall serve until the expiration of his term and until his successor has qualified; provided, however, if the chairman of the town committee has not submitted such list to the selectmen or the appointing authority within forty-five days after a notification to said chairman by certified mail, the selectmen or the appointing authority shall make said appointment without reference to such a list.

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### **Note 2: MGL Part I, Title VIII, Chapter 51 (basis of Sentence 4)**

Section 25. Every person appointed as a registrar or assistant registrar who is not regularly employed by the registrars shall be a voter of the city or town where he is appointed. No person appointed as a registrar or assistant registrar shall hold an office in the city or town for which he is appointed either by election or by direct appointment of the mayor or of the board of selectmen or of a city manager or town manager or hold an office by election or appointment under the government of the United States or of the commonwealth or of the city or town, except as a justice of the peace, notary public or officer of the state militia; provided, however, that in a town with a population of under two thousand residents, a person may be appointed a registrar or assistant registrar who holds an office in the town for which he is directly appointed by the board of selectmen or town manager, or



who holds an office by appointment under the government of the United States or of the commonwealth. The acceptance by a registrar or assistant registrar of any such office shall vacate his appointment as registrar or assistant registrar. Nothing in this section shall prohibit a registrar or assistant registrar from becoming a candidate for election and serving as a member of a home rule charter commission or as a town meeting member.

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**Note 3: From *Boards of Registrars and Election Commissions*, Massachusetts Secretary of State, elections Divisions, Revised 2017**

*(This document nicely lays out the legal basis for all the responsibilities of Boards of Registrars. Also note that the last sentence in this paragraph notes that often these functions are carried out by the Town Clerk.)*

**V. CERTIFICATION OF SIGNATURES**

Registrars are responsible for certifying signatures on nomination papers and petitions, issuing party enrollment certificates and certificates of voter registration, investigating objections and challenges to local nomination papers, and certifying absent voter applications. Signatures on nomination papers, initiative petitions, referendum petitions, recount petitions, public policy petitions, and local ballot question petitions must be certified as names of registered voters in the city or town where they are filed. In many cities and towns, the town clerk or other office employees perform most certification functions. G.L. c. 53, §§ 7, 22A; G.L. c. 54, § 135; 950 C.M.R. §§ 55.02, 55.04.

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**Note 4: From *Boards of Registrars and Election Commissions*, Massachusetts Secretary of State, elections Divisions, Revised 2017**

**VIII. OBJECTIONS AND CHALLENGES**

Objections to certificates of nomination, nomination papers, or withdrawals for local offices or objections to petitions for local ballot questions shall be filed with the city or town clerk and transmitted to the board of registrars. The board must render a decision on any matter referred to them. G.L. c. 55B, § 7.

Persons dissatisfied with the registrars' decisions may have these decisions reviewed by filing a complaint with the Superior Court. G.L. c. 55B, § 6.

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**Note 5: A brief review from other towns' websites describing the role of the Board of Registrars (See especially Arlington and Lexington)**

Chelmsford: Registrars assist the Town Clerk's office in promoting voter registration, maintaining voter registration, certifying signatures on nomination papers and petitions, issuing party enrollment certificates, certifying absentee voter applications, investigating challenges to local nomination papers, conducting recounts, assisting in the preparation of the street list, and being present at all elections as part of the reporting process.

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Billerica: The Registrars assist the Town Clerk's office in promoting voter registration, maintaining the Voter Lists, being present at all Voter registration sessions, certifying the signatures on all nomination papers and petitions, certifying absentee voter applications, conducting recounts and assisting in the preparation of the annual street list.

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Arlington: The Town Clerk serves while they hold the position and they do not need to be enrolled in a political party. While the Board's original purpose was to register voters and maintain the street list and voter list, the Boards commonly vote now to authorize the Town Clerk to perform routine duties authorized under the law.

Registrars assist the Town Clerk's office in promoting voter registration, investigating challenges to local nomination papers, conducting recounts, and assisting at elections by delivering absentee and early voting ballots to the

precincts.

The Board of Registrars meets as needed during the year.

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Lexington: While the Board's original purpose was to verify the accuracy and validity of elections, the Board may vote to authorize the Town Clerk to perform all certification functions.

Registrars assist the Town Clerk's office in promoting voter registration, maintaining voter registration, certifying signatures on nomination papers and petitions, issuing party enrollment certificates, certifying absentee voter applications, investigating challenges to local nomination papers, conducting recounts, assisting in the preparation of the street list, and being present at all elections as part of the reporting process.

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Hanover: The Board of Registrars is responsible for maintaining accurate lists of registered voters in the town, conducting elections, accepting nomination papers, and certifying initiative or referendum petitions. The Board also conducts an annual census and has other duties and responsibilities that may be assigned under Chapter 51 of the Massachusetts General Laws.

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Townsend: The Board of Registrars is responsible for overseeing voter registration, maintaining accurate voter lists, and ensuring the integrity of the election process in Townsend.

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Wilmington: Every City and Town must have a Board of Registrars or election commission whose responsibilities include registering voters, making local listings of residents, certifying nomination papers and petitions, processing absent voter applications, and administering election recounts. This is a four-member board of which one member is the Town Clerk. The Select Board appoints the other three members from lists submitted by Town Committees of the two leading political parties.

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Concord: <https://concordma.gov/DocumentCenter/View/32800/Board-of-Registrars-Charge?bidId=>

The Board of Registrars are responsible for:

- Conducting the Annual Census
- Printing the annual listing of all persons in the town who are 17 years of age or older
- Compiling the annual school census
- Voter Registration
- Certifying Petitions and Nomination Papers
- Maintaining voting lists
- Preparing voter check-in lists for elections
- Updating voter activity

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Kingston: The Board of Registrars, created under Mass General Law, Part 1, Title VIII, Chapter 51, Section 15, consists of the town clerk and three other persons, appointed by Board of Selectmen to three year terms. Responsibilities include, annual census, voter registrations, elections, accepting nomination papers & certifying petitions.

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Andover: The purpose of the Board of Registrars is to assist the Town Clerk's Office in promoting and maintaining voter registration (Reference - Massachusetts General Law, Chapter 51, Section 15).

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Franklin: The Board of Registrar's assist the Town Clerk's office in promoting voter registration, maintaining the Voter Lists, being present at all Voter registration sessions, certifying the signatures on all nomination papers and petitions, certifying absentee voter applications, conducting recounts and assisting in the preparation of the annual street list.

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**Milton: Overview**

Every city and town must have a board of registrars or election commission whose responsibilities include registering voters, making local listings of residents, certifying nomination papers and petitions, processing absentee voter applications, and administering election recounts.

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Plymouth: The Board of Registrars responsibilities include registering voters, making local listings of residents, certifying nomination papers and petitions, processing absent voter applications, and administering election recounts.

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Rowley: The Board of Registrars operate out of and in conjunction with the Town Clerk's office and oversee certification of signatures on both local and state Nomination Papers as well as Initiative Petition Papers. The Registrars are also responsible for keeping the Voter Registration list up to date and accurate through the Annual Town Census.

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Manchester-by-the-Sea: The Board of Registrars operate out of and in conjunction with the Town Clerk's office and oversee certification of signatures on both local and state Nomination Papers as well as Initiative Petition Papers. The Registrars are also responsible for keeping the Voter Registration list up to date and accurate through the Annual Town Census.

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Groton: The Registrars, with the Town Clerk, are responsible for:

- registering voters
  - making local listings of residents
  - certifying nomination papers and petitions
  - processing absentee voter applications
  - administering election recounts
  - maintaining voter special registration hours/sessions
- 

Lincoln –

**Meeting Agenda**

1. Welcome and Introductions
2. To examine into complaints filed by Mr. Thomas Risser, 70 Todd Pond Road, Lincoln under the provisions of General Laws Chapter 51, sections 48, challenging the voter registration of 357 persons, and to determine whether

sufficient ground exits to call for hearings under Chapter 51, section 49; to confer with Town Counsel concerning the complaints.

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Dover: This Board consists of three members, each appointed for a three-year term by the Board of Selectmen on a bipartisan basis, plus the Town Clerk who is an ex officio member of the Board. In addition to the registration of voters, the Board is responsible for publishing the Voting Lists and the List of Residents, which is compiled yearly from the January census.

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Lynnfield: Every city and town must have a board of registrars or election commission whose responsibilities include registering voters, making local listings of residents, certifying nomination papers and petitions, processing absentee voter applications, and administering election recounts.

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Hamilton: Every city and town must have a board of registrars or election commission whose responsibilities, historically, have included registering voters, making local listings of residents, certifying nomination papers and petitions, processing absentee voter applications, and administering election recounts. Certain functions are performed by the Town Clerk, a member of the board.

Registrars assist the Hamilton Town Clerk's office by certifying signatures on nomination papers and petitions and signing the papers, investigating challenges to local nomination papers, conducting recounts, reviewing and processing census forms for the preparation of the annual street list and checking in voters at Town Meetings. Registrars may also assist the Town Clerk's office in promoting voter registration, maintaining voter registration, and certifying absentee voter applications.

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Truro: ...Must hold no other office in the city or town where he/she is a registrar either by election or by direct appointment by the mayor, selectmen, or city/town manager or hold an office by election or appointment under the government of the United States or of the Commonwealth, except for towns with less than 2000 residents: MGL Chapter 51 Section 25

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Carlisle: The responsibilities of the Board include maintaining accurate lists of registered voters in the town, conducting elections, being part of the reporting process of elections, conducting recounts, certifying nomination papers and petitions, and conducting an annual census.

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Carver: The Registrars assist the Town Clerk's office in promoting voter registration, maintaining the Voter Lists, being present at all Voter registration sessions, certifying the signatures on all nomination and petition papers, certifying absentee voter applications, conducting recounts and assisting in the preparation of the annual street list.

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Lawrence:

Board of Registrar shall have the following responsibility:

- The Board of Registrars of Voters are responsible for maintaining the list of registered voters in the city and conducting elections. Administrative support is provided by the City Clerk who is also the chief election official in the city.
- The Board of Registrars of Voters are responsible for maintaining the list of registered voters in the city and conducting elections. Administrative support is provided by the City Clerk who is also the chief election official in the city.

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.3: Capital Planning Committee

#### *Annotated Version*

Version 1.1/January 20, 2025

#### Composition

This committee was significantly reorganized by vote of the 2024 annual town meeting. See footnote for the full article language.<sup>1</sup>

1. There shall be a Capital Planning Committee (the Committee) consisting of nine members. Three of the nine members shall be Town residents appointed by the Select Board to three-year terms.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. There is nothing in the revised/reorganized committee that says anything about whether the three resident positions should be staggered (e.g., one expiring each year). Do we want to add something or not?

2. The other six members shall be senior-level Town employees and Town officials, appointed by the Select Board, serving as ex officio committee members, for indeterminant terms at the discretion of the Select Board.

The language in the 2024 article revising this committee is somewhat awkward for the purposes of a charter. The language proposed above is vaguer, and consistent with the intent of the revised committee. There is a draft definition of *ex officio members* in the charter dictionary in Article 1. See footnote.<sup>2</sup>

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<sup>1</sup> **Article 39 Amend Bylaw, Capital Planning Committee, Membership**

Voted Yes 421 No 120

To amend Chapter 24, Article VII, section § 24-16 Purpose; membership; appointment (underline and bold new and cross out removed).

The Capital Planning Committee shall consider and report on the influence of capital projects upon the present and future well-being of the Town. The Committee shall be composed of a total of five nine members, three residents to be appointed by the Select Board for a three year term. In addition, there shall be six members appointed by the Select Board as follows: the Chair of the Finance Committee, Public Works Director, Community Development Director, Superintendent of Schools, Superintendent of Buildings and Town Administrator who shall be the chair. The Select Board may determine that the foregoing positions shall be changed if they determine a different staff person should serve instead. to be appointed by the Board of Selectmen for three-year terms. No member of the Committee shall be a regular Town employee, a Town officer, or a member of a Town board, commission or committee responsible for the expenditure of Town funds. A member who ceases to reside in the Town or accepts regular employment by the Town or is elected or appointed to a Town board, commission or committee responsible for the expenditure of Town funds shall cease to serve on the Committee and a successor shall be appointed by the Board of Selectmen Select Board to serve the unexpired portion of the term.

<sup>2</sup> **Ex Officio Member** – (Latin for *from the office*.) An individual appointed to a Town board, committee, or commission solely on the basis of their position as a designated Town official or Town employee. Ex Officio membership on Town boards, committees, and commissions are not subject to term limits but shall nonetheless terminate when the appointed individual ceases to serve in the position of the designated Town official or Town employee. Ex Officio members of Town boards, committees, and commissions shall have full/equal membership

3. Members appointed to the three resident seats shall not hold a position of the Town that is compensated and eligible for employment benefits, nor serve on an elected or appointed Town board, commission, or committee responsible for the expenditure of Town funds.

This is adapted from language in the 2024 warrant article. See footnote 1.

### **Powers, Duties, and Responsibilities**

4. The Committee shall have those powers, duties, and responsibilities given to capital planning committees under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

5. The Committee shall consider and report on the influence of capital projects upon the present and future well-being of the Town as enumerated in this Charter, and Town By-Laws.

There are fairly detailed by-laws about what constitute a capital project, and reporting on their deliberations of the Committee (for example, they jointly look at things with the Finance Committee prior to town meeting), but most of that strikes me as more than we need to put in the charter. The Committee is covered in Town By-Laws at Part I, Chapter 24, Article VIII. See <https://ecode360.com/10437331#10437331>

6. The Committee shall review proposed capital improvement projects, and shall annually provide recommendations on such to the Finance Committee and Select Board, as enumerated in Town By-Laws.

The town by-laws about the capital planning committee are pretty straightforward and comprehensive. They are in Part I Chapter 24. § 24-17 defines capital improvement projects; § 24-19 is the source of this sentence – “annually provide recommendations.” But § 24-18 while mostly about departments having to give information to the capital planning committee -- in there it mentions these recommendations are on projects that might be before Town Meeting in the coming six years.

7. The Committee may undertake such investigations and hold such hearings, relative thereto, as it may deem necessary as enumerated in Town By-Laws.

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unless otherwise specified in the general laws and special acts of the Commonwealth, this Charter, or Town By-Laws.

This language is taken almost verbatim from town by-laws at Part I, Chapter 24, Article VIII, §24-18. See full text in the footnotes.<sup>3</sup>

### **Appointing Powers**

I see no appointment powers for the Capital Planning Board. Have I missed something?

### **Policy Role**

I see no policy role for the Capital Planning Board. Have I missed something?

### **Licensing and Permitting**

I see no licensing or permitting authority for the Capital Planning Board. Have I missed something?

## **NOTES**

The legal basis for capital planning committees is Title VII, Chapter 41, Section 106B of the general laws of the Commonwealth. The full section is below:

*Section 106B. A town at its annual town meeting may by by-law establish a capital planning committee. Said by-law shall prescribe the composition, mode of appointment or election and terms of the members of said capital planning committee. Said committee shall annually review the capital improvement program, if any, and proposals for the construction of municipal buildings, acquisition of land or personal property and make recommendations to the appropriate officer, board, agency or department. Such recommendations may be included within the annual budget or the annual report required by section sixty-one if authorized by a by-law of the town. Other duties and responsibilities of said capital planning committee may be specified by by-law. Any vacancy occurring shall be filled for the unexpired term in the same manner as the original appointment.*

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<sup>3</sup> Chapter 24, Article VIII, §24-18: **Information provided to Committee:** All officers, boards, committees and commissions shall annually or as circumstances otherwise require provide the Committee with information concerning all projects referred to in § [24-17](#) hereof which may reasonably be deemed to require Town Meeting action, during the ensuing six years. The Committee shall consider the relative need, timing, cost, interrelationship, cost of maintenance and operation and financing of such capital projects. The Committee may undertake such investigations and hold such hearings, relative thereto, as it may deem necessary.

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.4: Conservation Commission

#### *Annotated Version*

Version 1.1/January 20, 2025

#### Composition

1. There shall be a Conservation Commission (the Commission) consisting of seven members appointed by the Select Board for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. There is no corresponding language in charters we have reviewed relative to Conservation Commissions, which have practically no reference to conservation committees (See Note 1 below).

On many write ups for boards and officials in sections in Articles 5 and 6 of the charter the second sentence had focused on any limitations to the position because of a potential conflict of interest (for example, a member of the Select Board cannot be a paid employee of the town). I do not see the need for such a statement here regarding the Conservation Committee. Is there something we need to add?

#### Powers, Duties, and Responsibilities

2. The Commission shall have those powers, duties, and responsibilities given to conservation commissions under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

3. The Commission shall be responsible for the administration and enforcement of those general laws of the Commonwealth and Town By-Laws applicable to wetlands, related water resources, and adjoining land areas, as enumerated in Town By-Laws.

The language is taken primarily from town by-laws related to wetlands and stormwater found at Part I Chapter 194 (Wetlands Protection), which are extensive. The term *wetlands, related water resources, and adjoining land areas* is an all-encompassing term that covers wetland by-laws and stormwater guidelines. Term is from by-laws at Part I, §194-1, which is the introduction to the by-law section on wetlands.

4. The Commission shall have direct responsibility for Town conservation areas; and shall collaborate with elements of Town government and private organizations in the maintenance and upkeep of said areas, as enumerated in Town By-Laws.



The “direct responsibility” term is used in this charter to designate specific spans of control (see Sentence 4 of the Recreation and Parks draft for example). See Marblehead by-laws Part III chapter 209 for the rather lengthy set of by-laws on conservation areas (<https://ecode360.com/10438819#10438819>). The last part of the sentence is based on current practices as explained on the Town’s website.

5. The Commission shall coordinate its activities and decisions with other elements of Town government for the purpose of enforcement, notices, filings, and recordkeeping; consistent with the general laws of the Commonwealth and Town By-Laws.

This language is identical to proposed language for the Planning Board section of the charter (See planning board draft, Sentence 6). In making decisions and giving or denying permit requests, town by-laws have a number of requirements related to hearings, and decisions. See, for example, by-laws Part I, § 194-5 (Notice and Hearings) at: <https://ecode360.com/10438092?highlight=hearing,hearings&searchId=5677372333681607#10438092>.

Additionally, the by-laws specifically discuss the Commission working with the Select Board and Town Counsel in matters of enforcement of the wetland by-laws at Part I, § 194-11 C (see: <https://ecode360.com/10438079#10438125>)

6. The Commission shall have responsibility for those revolving funds designated in Town By-Laws as authorized for use by the Conservation Commission, subject to the general laws of the Commonwealth and as enumerated in Town By-Laws.

There are 13 revolving funds identified in town by-laws (see Part I, §63-9), the majority of which are designated for the use of and/or under the control of a designated board, committee, or commission. Two of those funds are designated as being under the control of the Conservation Commission: the Conservation Fines Revolving Fund; and the Stormwater By-Law Revolving Fund.

7. The Commission shall be responsible for the preparation and submission of an annual report of the activities of the Conservation Commission to the Town, to be included in the annual Town Report.

From MGL Title VII, Chapter 40 Section 8C: *...It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the case of towns in the annual town report...* Not sure we need this sentence, as annual reporting is covered in Article 8 Section 8.2 (Operation of Boards, Committees, and Commissions). Thoughts?

### **Appointing Powers**

I do not believe the Commission has any appointment powers, and recommend that this sub-section be left out.

### **Policy Role**

8. The Commission shall be responsible for the formulation and promulgation of policies and procedures for the use and maintenance of Marblehead conservation lands, subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

This mimics language in the Recreation and Parks section of the charter (see Recreation and Parks draft, Sentence 9). The term “Marblehead conservation lands” is taken from town by-laws (See Part III, Chapter 209)

### **Licenses and Permits**

9. The Commission shall be responsible for the issuing of permits, and other written decision documents, related to wetlands protection, and use of conservation land; subject to the general laws of the Commonwealth, and as enumerated in Town By-Laws.

The Commission grants permits under two different parts of the Town By-Laws.

- There are several types of permits related to wetlands, and related actions. (Part I, Chapter 194 has extensive verbiage related to permits for actions related to wetlands). In addition to permits related to wetlands, the Commission also responds to “requests for determination,” which is basically asking the Commission to rule on whether a proposed activity needs a permit (which is the reason for the inclusion of the words *other written decision documents*...).
- The second part of the by-laws are permits related to conservation areas (See by-laws Part III Chapter 209, at <https://ecode360.com/10438835?highlight=conservation&searchId=5704423677240130#10438820>)

10. The Commission may attach reasonable conditions and restrictions to a permit that it deems in the public interest, consistent with the general laws of the Commonwealth and as enumerated in Town By-Laws.

The by-laws are specific about the Commissions ability to impose conditions for wetland-related permits (See by-laws Part I, § 194-7, at <https://ecode360.com/10438079#10438100>)

11. The Commission shall have discretion to exercise authority to enforce the laws for which it issues permits, subject to the general laws of the Commonwealth and Town By-Laws.

The by-laws specifically discuss enforcement in Part I, Chapter 194 (See Part I, § 194-11 B at: <https://ecode360.com/10438079#10438125>)

In some other sections on elected officials there is a sentence added about the ability to delegate permit authority to the degree that it is allowed by law. I do not see anything in the general laws of the Commonwealth or Town By-Laws where this is mentioned, and it strikes me as something we probably should not add unless the Commission members tell us this is something that they do.

## NOTES

1. What other charters says about a Conservation Commission:
  - Swampscott’s charter only mentions that their Conservation Commission is composed of 7 persons appointed for 3 years. Nothing else.
  - Longmeadow only mentions a commission in regard to their being an organization that needs to be coordinated with (a sentence fragment)
  - Harvard has five mentions in their charter – all related to their being an organization to be coordinated with.
  - Groton only mentions that they are appointed by the Select Board.
  - Not mentioned in Concord’s charter.

2. Conservation Commissions are empowered by Title VII, Chapter 40 § 8C of the Massachusetts general laws (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40/Section8C>). The section is somewhat lengthy, but clearly lays out the purpose and foundation of such a commission.
3. On the town web site, for the page on the Conservation Commission there is a tab marked “Tree Removal and Maintenance.” It appears to be a draft regulation about cutting or trimming trees. Per the existing by-laws, the Conservation Commission has authority of trees on conservation lands, but the draft regulation is broader, as written. Not sure what is going on with this...probably worth some follow up. (see <https://www.marblehead.org/conservation-commission>)

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.5: Council on Aging

#### *Annotated Version*

Version 1.1/January 20, 2025

#### Composition

1. There shall be a Council on Aging (the Council) consisting of seven members appointed by the Select Board for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. This is close to the text in Town By-Laws, which state (at Town By-Laws Part I § 24-12): *Upon acceptance of this By-Law the Select Board shall appoint the Council on Aging consisting of seven members. The Board shall appoint three members for three years; two members for two years; two members for one year, and afterward each member shall be appointed for a three-year term.*

Do we want to add a sentence about not working for the COA while serving in the Council? The COA has ten paid staff members. Both Commonwealth general laws and town by-laws are silent on this issue.

#### Powers, Duties, and Responsibilities

2. The Council shall have those powers, duties, and responsibilities given to councils on aging under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

3. The Council shall be responsible for coordinating or carrying out programs designed to meet the problems of aging, in cooperation with programs of the Commonwealth's Department of Elder Affairs.

This is taken from town by-laws which state at Part I, § 24-11: *The Select Board shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of aging, in cooperation with programs of the Commission on Aging* (Note: Commission on Aging was replaced by the Department of Elder Affairs)

4. The Council shall advise the Executive Director on the operations of the Council on Aging Department.

The Executive Director of the Council on Aging is appointed by the Select Board, and is a Direct Report to the Town Administrator. Given that the Council is appointed (not elected), it appears their powers are primarily advisory in

nature. There is nothing in the general laws of the Commonwealth to suggest otherwise. This proposed language differs from comparable sections in most elected board's section which use the term *shall have direct responsibility*.

5. The Council shall advise the Executive Director on use of those revolving funds designated in Town By-Laws as authorized for use by the Council on Aging Director, subject to the general laws of the Commonwealth and Town By-Laws.

There are 13 revolving funds identified in town by-laws (see Part I, §63-9), the majority of which are designated for the use of and/or under the control of a designated board, committee, or commission. One of those funds are designated as being under the control of the Council on Aging: The Council on Aging Revolving Fund. However, the by laws designate the director, not the board. Specific language states: *...authorized for use by the Council on Aging Director*.

6. The Council shall be responsible for preparing and distributing an annual report on its activities as enumerated in Town By-Laws.

Town by-laws state at Part I, § 24-14: *The Council shall prepare and submit an annual report of its activities to the Town, to be included in the Town Report, and shall send a copy thereof to the Commission on Aging* (Note: Commission on Aging was replaced by the Department of Elder Affairs). Annual reports are covered in Article 8, Section 8.2 (Operation of Boards, Committees, and Commissions), but it is suggested it be covered here as well because of the additional copy going to the state is mentioned in the Town By-Laws.

## Appointing Powers

7. The Council shall, at the request of the Select Board, offer advice on the appointment of senior-level members of the Council on Aging Department.

Neither the general laws of the Commonwealth, nor Town by-laws give the Council any appointment powers. In fact, Town By-Laws state that the Executive Director of the COA (the senior paid position) is appointed by the Select Board. This sentence simply says the Select Board might ask for the Council's input when appointing an Executive Director.

## Policy Role

As near as I can tell, the COA does not set any policy. Is this an accurate statement

## Licensing and Permitting

As near as I can tell, the COA does not deal with license or permits.

## NOTES

1. Town by-laws refer to the "Council on Aging" as the appointed 7-person body. The town web site refers to them as the "Council on Aging Board," to differentiate them from the "Council on Aging Department." This is consistent (in its inconsistency) with general laws of the Commonwealth which do not clearly differentiate an appointed/elected body from a department. Specifically, at Title 40 Section 8B it states:

*Section 8B. A city by ordinance or a town by by-law may establish a council on aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with*

*programs of the department of elder affairs. The council shall submit an annual report to the city or town and shall send a copy thereof to the department of elder affairs. Said department shall from time to time review and evaluate such reports and make recommendations as to any required or needed changes in said local programs. The council may appoint such clerks and other employees as it may require. The names, addresses, telephone numbers, or other identifying information about elderly persons in the possession of the council shall not be public records, but the use of these records shall comply with sections 14 to 24, inclusive, of chapter 19A as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.*

This ambiguity – is the “council” the seven-member board, or the department headed by an executive director. It appears Marblehead operates with the seven-member board being an advisory body, with the power resting with the Executive Director who is a Direct Report to the Town Administrator. This draft is written from that frame of reference.

2. The Council on Aging is covered in town by-laws at Part I, Chapter 24, Article IV
3. What other town charters say: The town charters of Longmeadow, Harvard, and Concord do not mention a council on aging; the charters of Groton and Swampscott only say the council is appointed by the Select Board.

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.6: Design Review Board

#### *Annotated Version*

Version 1.0/January 20, 2025

#### Composition

1. There shall be a Design Review Board (the Board) consisting of five members: four appointed by the Planning Board; and one appointed by the Select Board.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. This is a little different than the first sentence in other sections, as a second and third sentence (below) are needed to elaborate on the membership terms.

2. The four members appointed by the Planning Board shall be:
  - A member of the Planning Board or designee for a three-year term;
  - Two residents with appropriate qualifications for two-year terms; and
  - One resident with appropriate qualifications for a one-year term,as enumerated in Town By-Laws.

The membership of the Design Board is fairly detailed in the town by-laws (and pretty odd to boot). See Note 2 below for full citation (and if you notice inconsistency in the language, it is verbatim – I double-checked). I wrote the language about qualifications more general in the charter than it is in the by-laws, but note I referenced the by-laws at the end of the sentence.

3. The member appointed by the Select Board shall own a property in the district or serves on a downtown business organization for a three-year term, as enumerated in Town By-Laws.

The Select Board appointee qualifications are verbatim from town by-laws.

Do we want to add any language about conflicts of interest? There is nothing I can find that directly applies in the general laws of the Commonwealth or town by-laws.

#### Powers, Duties, and Responsibilities

4. The Board shall have those powers, duties, and responsibilities given to design review boards under the constitution, general laws, and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

5. The Board shall review requests for sign permits, new construction, or any other exterior alterations or modifications to a nonresidential building within the Business One District, in a timely manner as enumerated in Town By-Laws.

Except for the reference to timeliness, this is verbatim from town by laws at Part II, Chapter 200, Article XI. See: <https://ecode360.com/15545620#15545620>

6. The Board shall make recommendations, in the form of findings, restrictions, and conditions, to the special permit granting authority or Building Commissioner on applications it reviews, as enumerated in Town By-Laws.

This summarizes Part II, § 200-45 E. of town by laws, which states:

*Process. A written determination must be made within 30 days after the filing of the application or such further time as the applicant may in writing allow. Its findings, along with any restrictions and/or conditions, shall be submitted in writing to the special permit granting authority or Building Commissioner. These comments may also be incorporated in the recommendations of the Planning Board to the special permit granting authority. All decisions and reports of the Design Review Board shall be advisory only.*

### **Appointing Powers**

I see no appointment powers for the Design Review Board.

### **Policy Role**

I see no policy role for the Design Review Board.

### **Licensing and Permitting**

I see no licensing or permitting powers for the Design Review Board.

### **NOTES**

1. From town web site: *The Design Review Board reviews all requests for sign permits; new construction or any other exterior alterations or modifications; and exterior work, including maintenance to all non-residential buildings within the business one district.*

*The Design Review Board evaluates such requests based on the design criteria, all requests must be submitted to the Design Review Board prior to application for a special permit granting authority or building permit.*

2. From By-Laws (Part II, § 200-45 B.):

*Design Review Board. For the purposes of this section, the Design Review Board shall be appointed by the Planning Board and the Select Board to consist of five Town residents as follows:*

- 1) *A member of the Planning Board or designee for a three-year term.*
- 2) *Two persons appointed by the Planning Board qualified by training and experience design each for a two-year term. [Amended 5-4-2015 ATM by Art. 35]*
- 3) *A person appointed by the Planning Board qualified by training and experience in design for a one-year term.*
- 4) *A person appointed by the Select Board who owns a property in the district or serves on a downtown business organization for a three-year term.*



## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.7: Finance Committee

#### *Annotated Version*

Version 1.1/January 20, 2025

#### **Composition**

1. There shall be a Finance Committee (the FinCom) consisting of nine members appointed by the Select Board for three-year terms, so arranged that an equal number of terms shall expire each year.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. The town by-laws have similar language but refer to the members as “voters.” We have used the term “members” for consistency across sections in the charter. Article 8 requires all members of elected and appointed bodies to be citizens of the town and be on the list of registered voters (unless specifically stated otherwise, such as the case of ex officio members)

2. Members of the FinCom shall not hold any other elected or appointed Town office.

This mimics language in the Town By-Laws. Specifically, Part I, § 24-4 states: *There shall be a standing Finance Committee to consist of nine voters, no one of whom shall hold any other Town office, and the election to any other Town office shall terminate the individual's membership...The Select Board shall appoint the members of the Finance Committee.*

3. FinCom members shall not participate in any deliberation where a conflict of interest or perception of a conflict of interest exists consistent with the general laws of the Commonwealth.

Commonwealth Conflict of Interest laws are found at Part IV, Chapter 268A. The State Ethics Commission offers a detailed discussion of how the law applies specifically to Finance Committees. See: <https://www.mass.gov/info-details/conflict-of-interest-law-explanation-for-municipal-finance-committee-members#:~:text=As%20a%20member%20of%20a,responsibilities%20as%20a%20public%20official>.

#### **Powers, Duties, and Responsibilities**

1. The FinCom shall have those powers, duties, and responsibilities given to finance committees under the constitution, general laws, and special laws of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The FinCom shall investigate, and report to the Town, with their recommendations relating to articles in the warrant for Town Meeting which pertains to the

appropriation or expenditure of money; the creation of a debt; or the disposition of Town property.

This is a variation of the language in the town by-laws, which are a tad legalistic. Specific section in the Town By-Laws at Part I, § 24-4 A.: *It shall be the duty of the Finance Committee to investigate and report to the Town, with their recommendations, all pertinent facts relating to any article in the warrant, the subject matter of which pertains to the appropriation or expenditure of money, the creation of a debt, or the disposition of Town property. For this purpose the Committee shall have access to all books, vouchers, and other documents and papers belonging to the Town.*

5. The FinCom shall confer and consult with Town departments, boards, commissions, committees, and officials in carrying out its investigative responsibilities.

This too, is a variation of language in the town by-laws – at Part I, § 24-4 B.: *The Committee shall confer or consult with such departments, officers, employees or committees as may have information concerning the subject matter under consideration, and it shall be the duty of all departments, officers, employees or committees to communicate to said Finance Committee such information as they may possess relating to the same.* I didn't think it needed the language about giving them the information. That is still in the by-laws, just didn't think we needed to put it in here. Thoughts?

### **Appointing Powers**

I do not see the Finance Committee having any appointment power

### **Policy Role**

I do not see the Finance Committee having any policy role

### **Licenses and Permits**

I do not see the Finance Committee having any role in licenses or permits

### **NOTES:**

1. Finance Committees are covered in the general laws of the Commonwealth at Title VII, Chapter 39, § 16. Full text reads: *Every town whose valuation for the purpose of apportioning the state tax exceeds one million dollars shall, and any other town may, by by-law provide for the election or the appointment and duties of appropriation, advisory or finance committees, who shall consider any or all municipal questions for the purpose of making reports or recommendations to the town; and such by-laws may provide that committees so appointed or elected may continue in office for terms not exceeding three years from the date of appointment or election.*

*In every town having a committee appointed under authority of this section, such committee, or the selectmen if authorized by a by-law of the town, and, in any town not having such a committee, the selectmen, shall submit a budget at the annual town meeting.*

2. Language from the town's web site explaining the Finance Committee: *The Finance Committee consists of nine members appointed by the Select Board to staggered three-year terms. The Finance Committee functions in an advisory capacity for all financial matters of the Town.*

*The Committee reviews the budgets of all town departments and holds a public hearing on all Town Meeting warrant articles calling for the expenditure of Town funds. The Finance Committee's recommendations in favor, in opposition, to table or to indefinitely postpone these articles are included in the Report of the*

*Finance Committee that is delivered to each home prior to Town Meeting. Copies of this report are also available at Town Meeting.*

*It should be noted that the Committee may take a final position on some articles on the floor of Town Meeting that varies from the printed report. In the event of a Special Town Meeting (a Town Meeting called at any time other than the Annual Town Meeting), the Finance Committee's recommendations are distributed to the voters at the meeting.*

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.8: Harbors and Waters Board

#### *Annotated Version*

Version 1.0/January 23, 2025

#### **Composition**

1. There shall be a Harbors and Waters Board (the Board) consisting of five members and no more than three alternate members appointed by the Select Board for one-year terms.

Composition first sentence language is formatted to match other composition first sentences in Article 5 of this charter. See language in Section 1 of the Special Acts, in the notes below regarding composition. "No more than three..." is verbatim from the Special Acts.

2. The Board's chair shall appoint an alternate member to substitute for an absent regular member at board meetings. The substitute shall have all the powers and authorities of the regular member.

The Special Act that created the H&W Board, included specific language about the use of alternative members. See language in Section 1 of the special Acts below in the Notes.

#### **Powers, Duties, and Responsibilities**

3. The Board shall have the powers, duties, and responsibilities given to it under special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.

There is a sentence similar to this one as the first sentence in the "Powers, Duties, and Responsibilities" subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

4. The Board shall establish, and from time-to-time revise, procedures, controls, rules and regulations regarding the harbors and waters of Marblehead, consistent with the general laws and special acts of the Commonwealth, and Town By-Laws.

This sentence and the one that follow are from the Special Acts, Section 2 (b). See below for full Act.

5. As enumerated in special acts of the Commonwealth and Town By-Laws, such procedures, controls, rules and regulations enacted by the Harbors and Waters Board may be revoked by the Select Board within 30 days of such an enactment.
6. The Board shall supervise the Harbormaster; and shall:

- Work with the Harbormaster in enforcing waterways provisions in the Town By-Laws; and other procedures, controls, rules and regulations related to Marblehead waters; and
- Provide for the orderly placement or arrangement of existing and future moorings in the harbor in cooperation with the Harbormaster.

This is a combination of authorities related to the Harbormaster in the Special Act. See below for the full Act. The reference to the Board “supervising” the harbormaster is taken from town by-laws at: Part I, Chapter 190, § 190-3 states that the Harbormaster is under the “supervision and control” of the Board.

7. The Board shall be responsible, in conjunction with the Harbormaster, for operating the Harbor Enterprise fund.

This language is taken from the Town of Marblehead Budget Book 2024.

8. The Board shall review and make recommendations on proposed zoning changes for land bordering the harbors and waters of Marblehead.

This sentence is from the Special Acts, Section 2 (g). See below for full Act.

### **Appointing Powers**

9. The Board shall advise the Select Board on the appointment of the Harbormaster and the Assistant Harbormasters

I do not see any appointment powers assigned to the Board. Harbormaster and assistant harbormasters are all appointed by the Select Board, per general laws of the Commonwealth (see note below)

### **Policy Role**

10. The Board shall be the policy setting body for the care, use, and maintenance of Marblehead’s harbors and waters as defined in special acts of the Commonwealth, and as enumerated in Town By-Laws.

### **~~Licenses and Permits~~**

I do not see any licensing or permitting powers assigned to the Board. Let me know if you think I missed something.

### **NOTES**

*There is nothing in the general laws of the Commonwealth regarding harbor and water boards. Rather, its establishment was created via a special act of the Commonwealth in 1988 (it is beyond the ability of the town to create and empower such a body solely through Town By-Laws). The mechanics are as follows: an article at Town Meeting proposed the creation of the harbors and waters board. After it passed Town Meeting it went to the state legislature which passed a special act. The act then had to be “accepted” by the Town via a ballot question. Moreover, changes to the operation of the harbors and waters board would also require a special act. Below is the 1988 Special Act creating the board.*

7-27-1988

Chapter 228, Acts of 1988, establishing Marblehead Harbors and Waters Board

Chapter 228. AN ACT ESTABLISHING THE MARBLEHEAD HARBORS AND WATERS BOARD. Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Marblehead a harbors and waters board hereinafter referred to as the board. The board shall consist of five regular members and not more than three alternate members, all of whom shall be appointed by a majority vote of the board of selectmen. Such members shall to the extent possible be versed in the policy and direction of the harbors and waters of Marblehead. Members shall serve for a one year term. Members shall be appointed annually. Any vacancy occurring shall be filled for the remainder of the unexpired term. The board shall designate one member as chairperson and one member as secretary for terms of one year and may reappoint such persons as chairperson and secretary. Three members shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by vote of the board. Alternate members shall substitute for absent regular members at meetings of the board and shall have all the powers of and for all purposes be considered as regular members when substituting for regular members. The members shall serve without compensation.

SECTION 2. The board is hereby authorized and empowered:

- (a) to develop a harbor management plan;
- (b) to mandate procedures, controls, rules and regulations consistent with and pursuant to chapter twenty-one of the town of Marblehead by-laws; establish long-range plans for recreational boating, commercial fishing and water-dependent development projects; confirm the enforcement powers of town, state and federal authorities; recommend fees for town-operated facilities and designate fines for violations;
- (c) to work with the harbormaster in enforcing chapter twenty-one of the by-laws of the town of Marblehead and the rules and regulations of the harbors and waters of Marblehead;
- (d) to research, publicize and assist in the complementation of rules and regulations of the department of environmental quality engineering promulgated under the provisions of chapter ninety-one of the General Laws and licensing procedures of the army corps of engineers;
- (e) to provide for the orderly placement or arrangement of existing and future moorings in the harbor in cooperation with the harbormaster;
- (f) to act as liaison between the town of Marblehead and the United States Army corps of engineers, division of wetlands and waterways of the department of environmental quality engineering, and the Massachusetts office of coastal zone management;
- (g) to review and make recommendations on proposed zoning changes for land bordering the harbors and waters of Marblehead. Such recommendations shall be forwarded in written form to the planning board;
- (h) to meet at least once a month; and
- (i) to prepare an annual budget.

SECTION 3. The geographic jurisdiction of the board is as follows: The waters between the shores of the town and a line dividing the town of Marblehead and the town of Swampscott, running from Phillips beach at the end of Seaview avenue, as defined by the Harbor and Land Commissioners under chapter one hundred and ninety-six of the acts of eighteen hundred and eighty-one, across Great Pig Rocks to a point southwesterly of the bell at Outer Breakers thence along a line northeasterly to a point southwesterly of Halfway Rock thence northwesterly to Satan Rock thence in line to Mid Channel Rock off Eagle Island to a point in the line dividing the town of Marblehead and the city of Salem as defined by the Harbor and Land Commissioners under chapter one hundred and ninety-six of the acts of eighteen hundred and eighty-one. Said point being in the water space between said town and city, said point being also in a straight line drawn from the mainland of said town of Marblehead near Peaches Point to Curtis Point in the city of Beverly, the distance between said point and the mainland near Peaches Point; thence turning and running in a general westerly, southwesterly, southerly and southwesterly direction along the said line

dividing the town of Marblehead and the city of Salem as defined by said Harbor and Land Commissioners to a point at or near the mouth of the Forest River.

SECTION 4. The board of selectmen of said town may revoke any and all acts of the board by a majority vote taken within thirty days of such act. The board shall transmit to the administrative assistant of the board of selectmen the minutes of each meeting within fourteen days of the close of such meeting.

SECTION 5. The board shall at all meetings provide a period of time for members of the public to be heard.

Approved July 27, 1988.

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## MORE NOTES

Harbormaster is appointed by the Select Board per MGL, Part I Title XV Chapter 102 §19. Total text is:

Section 19. The mayor of a city, except Boston, or the selectmen of a town where a harbor is situated, unless otherwise specially provided, may, and for all harbors that have been improved by the expenditure of money by the commonwealth shall, appoint a harbor master and assistant harbor masters and fix their compensation, to be paid by their respective cities or towns. Said appointment shall remain in force unless the harbor master is removed for neglect of duty, negligence or conduct unbecoming a harbor master. Assistant harbor masters shall be appointed for terms of three years. Any appointment or re-appointment of assistant harbor masters shall be on the recommendation of the harbor master.

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.9: Old and Historic Districts Commission

#### *Annotated Version*

Version 1.1/January 20, 2025

#### Composition

1. There shall be an Old and Historic Districts Commission (the Commission) consisting of five members and two alternate members appointed by the Select Board for one-year terms.

This language is similar to the proposed composition subsection first sentence in Article 5 (Elected bodies), and Article 6 (appointed bodies). Language is similar to language in the charters of Harvard, Groton, Longview, and Swampscott. The basis of the Commission is a 1965 Special Act of the Massachusetts legislature, accepted by the Town in 1967. The Special Act allowed for between three and five members. In 2003 the legislature amended the 1965 Act to allow for two additional alternate members. See Note 3 below for entire 2003 Act.

2. Commission members and alternate members shall reside in an historic district established under the special acts of the Commonwealth and Town By-Laws; provided, however, that the Select Board may appoint not more than one member who resides outside of an historic district.

This is pretty much the language in the special act of 1965 creating the Commission. See Note 2 below, Section 4 of the Special Act. The second half of the sentence (provided however...) is from a 2016 special act amending the language in Section 4. It is pretty much verbatim. See Note 4 below for full text of the 2016 Act. I have not included "Resident of Marblehead" as a requirement because that is covered under Article 7 of the charter.

3. The Commission's chair shall appoint an alternate member to substitute for an absent or recused regular member at board meetings. The substitute shall have all the powers and authorities of the regular member.

This pretty much tracks with the language in the 2003 Special Act that allows for there to be alternates. See note 3 below.

4. Commission members shall recuse themselves from deliberations and decisions in cases of a conflict of interest. In such circumstances, the chair will appoint an alternate (from the two existing alternate members) to sit in their place.

The 2003 Acts, in allowing for alternates, raises the issue of "conflict of interest" as being why there may be a need to have an alternate that can take the place of a regular member. This is similar language to what is proposed for the Zoning Board of Appeals, that has a similar legal basis.

#### Powers, Duties, and Responsibilities

5. The Commission shall have the powers, duties, and responsibilities given to it under the general laws and special acts of the Commonwealth, and shall have such additional powers, duties and responsibilities as may be authorized by this Charter, by Town By-Law or by Town Meeting vote.



There is a sentence similar to this one as the first sentence in the “Powers, Duties, and Responsibilities” subsection of all sections in Articles 5 (elected bodies) and 6 (appointed bodies), as well as the sections on the Town Moderator and the Select Board. Its intent is to broadly state where these powers, duties, and responsibilities come from. Many charters have language like this; and some of the language in our draft sections is adapted from the town charter of Longmeadow. We have incorporated suggestions from the Collins Center on how best to reference these other bodies of law; and this language is currently being reviewed by Town Counsel. Therefore, we request no edits be made to this sentence at this time.

6. The Commission shall be responsible for reviewing and acting on the appropriateness of the exterior architectural features of buildings, and structures hereafter to be erected, reconstructed, altered or restored in said districts wherever such exterior features are subject to public view from a public street or way, as enumerated in the Special Acts of the Commonwealth and in Town By-Laws.

This is the core power of the Commission. The wording is taken almost verbatim from the Special Acts that established the Commission. See Note 2, Section 5(a) below.

### **Appointing Powers**

I see no appointment authority for the Commission

### **Policy Role**

I see no policy role for the Commission. Have a I missed something?

### **Licenses and Permits**

7. The Commission shall grant or deny applications for certificates of appropriateness consistent with the general laws and special acts of the Commonwealth, and Town By-Laws.
8. The Commission shall establish procedures regarding the issuance of certificates of appropriateness consistent with the Special Acts of the Commonwealth, and as enumerated in Town By-Laws.

### **Note 1: Massachusetts General Laws (MGL)**

*(This is the basis in the general laws for the Commission. The Special Acts of 1965 vary on some of what is in the general laws. In such cases, the Special Act is the more specific, and should be followed.)*

- Chapter 40C of the general laws of the Commonwealth is *Historic Districts*

Whenever an historic district is established as provided in section three an historic district commission shall be established which shall consist of not less than three nor more than seven members. An historic district commission shall be appointed in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen, in the same manner as an historic district study committee unless (a) the report recommending its establishment recommends alternate or additional organizations to submit nominees for membership and states reasons why such alternate or additional organizations would be appropriate or more appropriate for the particular city or town, the Massachusetts historical commission does not recommend otherwise prior to the public hearing on the establishment of the district, and the ordinance or by-law so provides;

or (b) there is an existing historic district commission in the city or town which the report recommends should administer the new district, and the ordinance or by-law so provides. Unless the report recommends otherwise on account of the small number of residents or individual property owners, and the ordinance or by-law so provides, the members of the historic district commission shall include one or more residents of or owners of property in an historic district to be administered by the commission. If within thirty days after submission of a written request for nominees to an organization entitled to submit nominations for membership on the commission no such nominations have been made the appointing body may proceed to make the appointment to the commission without nomination by such organization. The appointments to membership in the commission shall be so arranged that the term of at least one member will expire each year, and their successors shall be appointed in the same manner as the original appointment for terms of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. Ordinances or by-laws adopted hereunder may provide for the appointment of alternate members not exceeding in number the principal members who need not be from nominees of organizations entitled to nominate members. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the commission, his place shall be taken by an alternate member designated by the chairman. Each member and alternate shall continue in office after the expiration of his term until his successor is duly appointed and qualified. All members shall serve without compensation. The commission shall elect annually a chairman and vice-chairman from its own number and a secretary from within or without its number.

## Note 2

*(This is from the Special Acts of the Legislature for 1965. It was adopted by town meeting in 1967, and is in the town by laws at Chapter A272 (Province and State Laws) Article 2 (Certain Special Acts of the Legislature Accepted by the Town). This is the legal basis of the Commission.)*

Chap. 101. AN ACT ESTABLISHING AN OLD AND HISTORIC DISTRICTS COMMISSION FOR THE TOWN OF MARBLEHEAD.

Be it enacted, etc., as follows:

SECTION 1. This act shall be designated and may be known as the Old and Historic Marblehead Districts Act.

SECTION 2. The purpose of this act is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of historic buildings, places and districts of historic interest in the town of Marblehead, through the maintenance of such districts as landmarks in the history of architecture and as a tangible reminder of the early days of the commonwealth and said town, through the development of appropriate settings for said buildings, places and districts, and through the benefits resulting to the economy of the commonwealth and said town through the promotion of such historic associations.

SECTION 3. The town of Marblehead by vote at a town meeting may by by-law establish historic districts in the town of Marblehead. Prior to the establishment or change in any such by-law or district the planning board of said town shall hold a public hearing thereon after due notice given and file a report on recommendations to town meeting; provided, that such by-law or district may be established or changed if twenty days shall have elapsed after such hearing without the submission of such report.

SECTION 4. After the effective date of this act and the establishment of an historic district, an Old and Historic Marblehead Districts Commission, hereinafter called the commission, consisting of not less than three nor more than five members, shall be established. Each member shall be a resident of the town of Marblehead and shall reside in an historic district established under this act. Such members shall be appointed by the board of selectmen for a term of one year. Any member of the commission so appointed may be removed by the board of selectmen at its pleasure. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the manner provided in section eleven of chapter forty-one of the General Laws. Said commission shall elect annually a chairman and a secretary from its own number. The commission shall have, in addition to the powers, authority and duties granted to it by this act, the powers, authority and duties as provided by said by-law.

SECTION 5. (a) It shall be the function and the duty of the commission to pass upon the appropriateness of the exterior architectural features of buildings, and structures hereafter to be erected, reconstructed, altered or restored in said districts wherever such exterior features are subject to public view from a public street or way. All plans, elevations and other information deemed necessary by the commission to determine the appropriateness of the exterior features to be passed upon shall be made available to the commission by the applicant. It shall also be the duty of the commission to pass upon the removal of any building within said districts as set forth in section six, and the erection or display of occupational or other signs as set forth under section seven. (b) The town, in establishing said by-law, may, in addition to the purposes set forth in section two, consider among other things the historical and architectural value and significance, architectural style, the general design, arrangement, texture and material of the buildings or structures to be regulated within a district and the relation of such factors to similar features of buildings and structures in the immediate surroundings within said district. (c) The commission shall not consider detailed designs, relative size of buildings in plan, interior arrangement or building features not subject to public view. Said by-law may provide that the commission shall not consider ordinary maintenance and repair to buildings and structures, building permits issued prior to the notice of public hearing given by the planning board as provided in section three, fences, stone or brick walls; arbors; trellises, terraces, patios, flagpoles, chimneys, screens, storm doors, windows, color, sheds and temporary buildings as may be defined by said by-law, and other exclusions as the town may determine. (d) In the event that vacant land exists or should occur through catastrophe, and that such land is an integral part of a district, the commission shall have the right to pass upon all plans for construction, and such plans shall be submitted to the commission for its approval before a building permit may be issued. (e) In case of disapproval the commission shall state its reasons therefor in writing, and it may make recommendations to the applicant with respect to historic significance, appropriateness of design, arrangement, texture, material and the like, as set forth in said by-law, of the building or structure involved. (j) Upon approval of the plans the commission shall cause a certificate of appropriateness, dated and signed by the chairman, to be issued to the applicant or affixed to the plans.

SECTION 6. In any historic district no building or structure shall hereafter be erected, reconstructed, altered or restored within said district unless and until an application for a certificate of appropriateness shall have been approved by the commission or issued as hereinafter provided. The building inspector shall not issue a building permit for work in any historic district until such certificate of appropriateness has been procured.

SECTION 7. The erection or display of an occupational or other sign in a size in excess of size established by the by-law, or the erection or display of more than one such sign on any lot, building or structure located within a district shall be approved in advance by the commission. Evidence of such approval shall be a certificate of appropriateness issued by the commission. .

SECTION 8. Within ten days after the filing of an application for a certificate of appropriateness, Saturdays, Sundays and legal holidays excluded, the commission shall determine the estates deemed by it to be materially affected by such application, and unless a public hearing on such application is waived in writing by all persons entitled to notice thereof, shall forthwith cause its secretary to give, by mail, postage prepaid, to the applicant, to the owners of all such estates as they appear on the then most recent real estate tax list, and to the planning board, reasonable notice of a public hearing before the commission on such application. As soon as convenient after such public hearing or the waiver thereof, but in all events within thirty days after the filing of the application for the certificate of appropriateness, or within such further time as the applicant may in writing allow, the commission shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the historic district for the purposes of this act, and whether, notwithstanding that it may be inappropriate, owing to conditions especially affecting the building or structure involved, but not affecting the historical district generally, failure to issue a certificate of appropriateness will involve a substantial hardship, financial or otherwise, to the applicant, and such certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this act. If the commission determines that the proposed construction, reconstruction or alteration involved will be appropriate or, although inappropriate, owing to conditions as aforesaid, failure to issue a certificate of appropriateness will involve substantial hardship to the applicant and the issuance thereof may be made without substantial detriment or derogation as aforesaid, or if the commission fails to make a determination within the time prescribed, the secretary of the commission shall forthwith issue to the applicant a certificate of

appropriateness. If the commission determines that a certificate of appropriateness should not issue, the commission shall spread upon its records the reasons for such determination, and may include recommendations respecting the proposed construction, reconstruction or alteration. The secretary of the commission shall forthwith notify the applicant of such determination, transmitting to him an attested copy of the reasons and recommendations, if any, spread upon the records of the commission.

SECTION 9. Nothing in this act shall be construed to prevent the construction, reconstruction, alteration or demolition of a public building or structure; nor shall anything in this act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition.

SECTION 10. Appeals may be taken to the board of appeals, being the board of selectmen, by any person aggrieved by a ruling of the commission. The board of appeal" shall hear and act upon such appeals within a reasonable time. The concurring vote ,Jf all except one member of the board of appeals shall be necessary to reverse any decision of the commission.

SECTION 11. Any applicant aggrieved by a determination of the board of appeals may, within twenty days after the making of such decision, appeal to the superior court sitting in equity for the county of Essex at Salem. The court shall hear all pertinent evidence, and shall annul the determination of the board if it finds the decision of the board to be unwarranted by the evidence, 01' to be insufficient in law to warrant the determination of the board, or make such other decree as justice and equity may require. The remedies provided by this section shall be exclusive: but the parties shall have all rights of appeal and exception as in other cases in equity. The commission shall not have the right of appeal to the superior court from a decision of the board of appeals.

SECTION 12. The superior court shall have jurisdiction in equity to enforce the provisions of this act, any by-law established and the rulings issued under its provisions, and may restrain by injunction violations thereof.

SECTION 13. This act shall take effect upon its acceptance by the town of Marblehead.

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**Note 3 (this was a special act of the state legislature to amend Section 4 of the 1965 Act to allow for two alternates to be appointed to the board).**

Chapter 162 Acts of 2003

AN ACT PROVIDING FOR ALTERNATE MEMBERS OF THE OLD AND HISTORIC DISTRICTS COMMISSION OF THE TOWN OF MARBLEHEAD.

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

**SECTION 1.** Section 4 of chapter 101 of the acts of 1965 is hereby amended by adding the following sentence:- There shall be 2 alternate members to be appointed by the board of selectmen, who may be designated by the chairman to sit on the commission in the case of absence, inability to act or conflict of interest on the part of any member or in the event of a vacancy until the vacancy is filled in the manner provided in this act.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 31, 2003.

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**Note 4 (in 2016 the state legislature amended the 1965 Act to allow some flexibility in who could be appointed to the Commission, and increase the amount of time the Commission had to act on making determinations of appropriateness).**

Chapter 311 Acts of 2016

AN ACT CHANGING THE MEMBERSHIP OF THE OLD AND HISTORIC DISTRICT COMMISSION OF THE TOWN OF MARBLEHEAD AND LENGTHENING THE COMMISSION'S DETERMINATION PERIOD FOR A CERTIFICATE OF APPROPRIATENESS

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

SECTION 1. Section 4 of chapter 101 of the acts of 1965, as amended by section 1 of [chapter 162 of the acts of 2003](#), is hereby further amended by inserting after the word "act", in line 6, the following words:- ; provided, however, that the board of selectmen may appoint not more than 1 member who resides outside of a historic district.

SECTION 2. The first paragraph of section 8 of said chapter 101 is hereby amended by striking out, in line 1, the word "ten" and inserting in place thereof the following figure:- 21.

SECTION 3. This act shall take effect upon its passage.

Approved, November 10, 2016

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**Note 5 (There are two chapters in the town by laws that mention the Old and Historic District Commission in addition to the Special Act above. In Part I, Chapter 110 (Old and Historic Districts), and in Part III, Chapter 233 (Old and Historic District Regulations). Pieces (but not the complete chapters) are presented below.**

From Town By-Laws:

**Part I, Chapter 110 (Old and Historic Districts), § 110-3**

**§ 110-3 Old and Historic Marblehead Districts Commission.**

**A.** The Old and Historic Marblehead Districts Commission established, and as from time to time existing, under the Act (hereinafter sometimes called "Commission") shall have the powers, authority and duties granted to it by the Act and the powers, authority and duties provided by this Bylaw.

**B.** It may adopt such rules and procedure and prescribe forms as it deems necessary or desirable for the exercise of its powers, authority and duties. It may employ clerical and technical assistants or consultants and in connection therewith or otherwise in its discretion incur expenses and expend funds in the exercise of its powers, authority and duties within the amounts from time to time appropriated to it by the Town and any other amounts which it receives and is duly authorized to expend for use in the exercise of said powers, authority and duties. It may accept gifts and, subject to any necessary authority, expend the same for said purposes.

**C.** In passing upon appropriateness of the exterior architectural features of buildings or other structures or the removal of any building or the erection of any sign the Commission shall consider, among other things, the historical and architectural value and significance, architectural style, the general design, texture and material of the buildings or structures to be regulated pursuant to the Act and this By-Law and, so far as appropriate, of the signs involved, and the relation of such factors to similar features of buildings and structures in the immediate surroundings within the district, and where appropriate, signs in such surroundings.

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**Part III, Chapter 233 (Old and Historic District Regulations), Article II (Old and Historic Districts Commission)**

**§ 233-3 Quorum.**

A quorum for the conduct by the Commission of all public hearings on applications, or other matters before the Commission under the Act and Bylaw referred to in [§ 233-1](#), or the conduct of its own business affairs, shall consist

of a majority of the members thereof at the time in office. The Commission at any meeting may act by vote of a majority of its members at the time in office.

§ 233-4Officers. The Commission shall elect a Chairman and Secretary from its own members. Such officers shall be elected annually at the first meeting of the Commission following its appointment by the Board of Selectmen.

§ 233-5Chairman. The Chairman, or acting Chairman elected by the Commission in the absence of the Chairman, shall preside at all meetings and public hearings and decide all questions of order.

§ 233-6Secretary. The Secretary shall give all required notices of meetings and hearings, all required decisions and notices thereof, keep the minutes of the proceedings of the Commission, issue certificates of appropriateness, and perform such other duties as may be directed by the Chairman of the Commission.

§ 233-7Public hearing. Where required by the Act or Bylaw referred to above, the Commission shall hold a public hearing with respect to the applications submitted to it. The applicant and all other persons entitled thereto shall receive notice of such hearing. At the hearing the applicant and all other interested persons may be heard relative to the appropriateness of the matter before the Commission. Every person so appearing before the Commission shall be required to state his name, address and the name and address of the party whom he represents at the hearing. Questioning of persons appearing other than by Commission members shall not be permitted, except upon the approval of the Chairman. Any member of the Commission may question any person present at a hearing who has or may have knowledge of any matter relating to the hearing.

§ 233-8Suspension of rules; amendments.

A. Any rule of the Commission, except as is governed by law, statute, or bylaw, may be suspended in a particular case by a vote of a majority of its members at the time in office at any meeting of the Commission.

B. These rules or any one of them may be altered, amended or repealed by vote of a majority of the members at the time in office at a meeting of the Commission after six days' written notice to the members of the proposed amendment. Such notice may be waived by any member of the Commission in writing.

## ARTICLE 6: APPOINTED BOARDS, COMMITTEES, AND COMMISSIONS

### Section 6.10: Other Boards, Committees, Commissions, and Officials

#### ***Annotated Version***

Version 1.1/January 20, 2025

1. There shall be other Town committees, commissions, boards, and officials (collectively, “committees”) established by the general laws and special acts of the Commonwealth, by vote of Town Meeting, by appointment provisions in this Charter, and by Town By-Laws.

This sentence and the one that follow are loosely based on language in the Longmeadow town charter.<sup>1</sup>

2. Such committees shall be constituted and operate in accordance with this Charter, Town By-Laws, and the constitution, general laws and special acts of the Commonwealth.

Article 5 (elected boards), and Article 7 (comings and goings) cover appointments. Article 8 covers establishment and operation of all committees in town. Therefore, nothing additional needs to be said.

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<sup>1</sup> Language is loosely based on the Longmeadow Town Charter, which states: *Other Committees:*

*There shall be such other town committees as the town may establish by by-law, by vote of town meeting or as may otherwise be established by the select board or school committee. Such committees shall be monitored and dissolved as appropriate by their appointing authorities. The identity and purpose of such other committees shall be listed in the office of the town manager.*

## ARTICLE 7: APPOINTMENTS, VACANCIES, RESIGNATIONS, REMOVALS, AND RECALLS

### Section 7.1: Appointments

#### *Annotated Version*

Version 1.1/January 20, 2025

1. This section shall apply to appointments to boards, committees, commissions, voluntary Town activity positions, and to senior-level employees of Town government as described in this Charter, including appointments to fill vacancies as described in this article.

This is a somewhat cumbersome opening, but the intent is to cover all the situations that would apply. In the definitions section of Article 1 I have provided a definition of *senior-level employee*,<sup>1</sup> and is intended to cover people like the police chief, superintendent of the DPW, etc. The term “voluntary Town activity position” is also in definitions section of Article 1, and is intended to cover things like shellfish constables, town historian, and other non-full time positions.<sup>2</sup>

2. All openings or vacancies for appointed positions shall be posted and publicized, consistent with applicable general laws and special laws of the Commonwealth and Town By-Laws, and in such manner that information regarding the opening or vacancy is widely available to the citizens of Marblehead.

Both the general laws of the Commonwealth and town by laws are pretty scarce on any references to such postings for such openings and vacancies (although I did not try to look up every possible iteration). However, this does describe how it is currently done in town, and certainly meets the committee’s goal of transparency. The same logic underlies the following two sentences.

3. In accordance with applicable general laws and special laws of the Commonwealth and Town By-Laws, the appointing authority shall establish procedures for individuals interested in being appointed to express their interest and present their qualifications to the appointing authority.
4. Unless otherwise provided by the state constitution, applicable general laws and special laws of the Commonwealth, or by Town By-Laws, the appointing authority

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<sup>1</sup> **Senior-Level Employee:** An employee of the Town of Marblehead who is compensated and eligible for medical benefits, and who: (A) heads a Town department or division; and/or (B) is identified in Town By-Laws as being an appointed full-time compensated position; and/or (C) is identified in Town By-Laws as requiring specific qualifications for employment. As a condition of their position, a senior-level employee is ineligible to be a member of a union that negotiates a contract with the Town.

<sup>2</sup> **Voluntary Town Activity Positions:** Appointed positions that parallel those of being appointed to a Town board, committee or commission, without the position being a member of a deliberative body. Voluntary Town activities are not eligible for employment benefits of the Town. Voluntary Town Activity Positions include: the Town Historian and Shellfish Constables.



shall make appointments by majority vote at a scheduled open meeting of the appointing authority.

This is a third sentence related to appointments being made in an open setting.

5. Individuals appointed to boards, committees, commissions, voluntary Town activity positions, and senior-level employees of Town government shall meet criteria and qualifications established by the appointing authority for such appointment, subject to the state constitution, applicable general laws and special laws of the Commonwealth, this Charter, and Town By-Laws.
6. The appointing authority shall make appointments deemed to be in the best interests of the town.

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## NOTES

1. I considered including a reference to merit principals, but eventually decided against it, because as used in the general laws of the Commonwealth it primarily applies to full time employees and promotions.

## ARTICLE 7: APPOINTMENTS, VACANCIES, RESIGNATIONS, REMOVALS, AND RECALLS

### Section 7.2: Vacancies

#### *Annotated Version*

Version 1.2/January 22, 2025

1. A vacancy in an appointed position on a board, committee, commission or voluntary Town activity position that occurs during a term of the appointment shall be filled by the appointing authority. Such interim appointment shall be for the remainder of the unexpired term of the appointed position.
2. Consistent with the constitution, applicable general laws and special laws of the Commonwealth, this Charter, and Town By-Laws, a vacancy in an elected board, committee, commission, or office that occurs during the term of that position, shall be filled as shown below.

Position Vacated	Replacement Process
Abbot Public Library Trustee	Majority vote of the combined total Select Board and total remaining trustees. <sup>i</sup>
Board of Assessors Member	Majority vote of the combined total Select Board and total remaining board members <sup>i</sup>
Board of Health Member	Majority vote of the combined total Select Board and total remaining board members <sup>i</sup>
Cemetery Commissioner	Majority vote of the combined total Select Board and total remaining commissioners <sup>i</sup>
Housing Authority Commissioner (elected positions only)	Majority vote of the combined total Select Board and total remaining commissioners <sup>i</sup>
Municipal Light Commissioner	Majority vote of the combined total Select Board and total remaining commissioners <sup>i</sup>
Planning Board Member	Majority vote of the combined total Select Board and total remaining board members <sup>ii</sup>
Recreation and Park Commissioner	Majority vote of the combined total Select Board and total remaining commissioners <sup>i</sup>
School Committee Member	Majority vote of the combined total Select Board and total remaining board members <sup>i</sup>
Select Board Member	<p>The remaining Select Board members:</p> <ul style="list-style-type: none"> <li>• May appoint an interim Select Board member by a majority vote of the remaining members; or</li> <li>• May call a special election to fill the vacancy; or</li> <li>• Shall call a special election to fill the vacancy if petitioned by the lesser of two hundred registered voters of the Town, or 20 percent of the total number of registered voters of the Town; and not less than 100 days prior to the next scheduled Town election, as provided in the general laws of the Commonwealth<sup>iii</sup></li> </ul>
Town Clerk	The Select Board may appoint a temporary clerk as enumerated in the general laws of the Commonwealth <sup>iv</sup>
Town Moderator	This one is up for discussion. See note below <sup>v</sup>

Water and Sewer Commissioner	Majority vote of the combined total Select Board and total remaining Commissioners <sup>i</sup>
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3. The term of an interim appointment for an elected position shall be only until a scheduled Town election shall be held to elect an individual to serve the remainder of that position's unexpired term.

I realize this is somewhat of an awkward sentence, but I believe it is accurate. Glad to consider alternative verbiage covering the same points.

4. A successful recall of an elected official, as described in this Charter, shall not create a vacancy as described in this section.

The proposed recall section of this charter has provisions for an election to replace the individual recalled; and this is to be clear that a recall does NOT create a vacancy as defined in this section.

5. An individual appointed to fill a vacancy for an elected position shall meet the requirements and qualifications for eligibility to run for said office.

This is simply to note that anyone who wouldn't be eligible to hold the position – not a registered voter of the town, for example – would not be eligible to fill the vacancy.

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<sup>i</sup> Title VII, Chapter 41, § 11 appears to apply to all elected boards except for the Select Board and Town Clerk (when not otherwise addressed in the general laws of the Commonwealth). The full section states: *As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.*

<sup>ii</sup> Based on Title VII, Chapter 41, § 81A, which states: *A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term, in a city, in the same manner as an original appointment, and, in a town, if the members of the board are appointed, in the same manner as the original appointment. If the members of a planning board are elected, any unexpired term shall be filled by appointment by the board of selectmen and the remainder of the members of the planning board until the next annual election, at which time, such office shall be filled, by election, for the remainder of the unexpired term. All appointments pursuant to this section shall be in the manner provided in section eleven.*

<sup>iii</sup> Based on Title VII, Chapter 41 § 11, which states: *...If there is a failure to elect or a vacancy occurs in the office of selectman, the remaining selectmen or selectman may call a special election to fill the vacancy and shall call such election upon the request in writing of two hundred registered voters of the town, or twenty per cent of the total number of registered voters of the town, whichever number is the lesser; provided, that such request is filed with them or him not less than one hundred days prior to the date of the next annual election...*

<sup>iv</sup> Based on Title VII, Chapter 41 § 19E, which states: *...Whenever such vacancy occurs in the office of clerk in any town, or in any city in which it is provided by law or by its charter that the city clerk shall be elected by popular vote*

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*at a regular election, a temporary clerk may be appointed as provided by section fourteen of said chapter forty-one to serve until the qualification of such duly elected city or town clerk as shall be elected at the next regular annual or biennial election at which such officer shall be elected...*

<sup>v</sup> Provisions to address a vacancy in the role of moderator in the general laws are found at Title VII, Chapter 39, § 14, but the directions are oblique, stating: *If a vacancy in the said office occurs during any term, it may be filled by the voters of the town or district.* See the entire section at: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter39/Section14> . There are no provisions in the town by laws.

The town charter of Groton allows for appointment by the Select Board until the next town election. Harvard's town charter has the town clerk run town meeting at which the moderator is elected by town meeting.

## **ARTICLE 7: APPOINTMENTS, VACANCIES, RESIGNATIONS, REMOVALS, AND RECALLS**

### **Section 7.3: Resignations**

#### ***Annotated Version***

Version 1.1/January 20, 2025

1. If a member appointed to a board, committee, commission or voluntary Town activity position has a change in status that would make them ineligible to be appointed to that board, committee, commission or voluntary Town activity position, the appointed member shall promptly inform the appointing authority, the Select Board (if different from the appointing authority), the Town Administrator, and the Town Clerk in writing, and to immediately resign the position. Such action shall result in a vacancy as described in this charter.

This is a general clause to cover things like people moving out of town. There are other triggers to various boards, such as taking a paid position as a town employee, being elected or appointed to another town board, etc.

2. If a member of an elected board, committee, commission, or office has a change in status that would make them ineligible to be elected to that board, committee, commission or office, the individual shall promptly inform the Select Board, Town Administrator, and Town Clerk in writing and to immediately resign the position. Such action shall result in a vacancy as described in this charter.

This is a general clause to cover things like people moving out of town. There are other triggers to various boards, such as taking a paid position as a town employee, being elected or appointed to another town board, etc.

3. If a member of an appointed or elected board, committee, commission, office, or voluntary Town activity decides to voluntarily resign their position, the individual shall promptly inform the Select Board, Town Administrator, and Town Clerk in writing and to immediately resign the position. Such action shall result in a vacancy as described in this charter.

## ARTICLE 7: APPOINTMENTS, VACANCIES, RESIGNATIONS, REMOVALS, AND RECALLS

### Section 7.4: Removals

#### *Annotated Version*

Version 1.1/January 20, 2025

#### **Removal of Appointed Board, Committee, Commission Members, or Voluntary Town Activity**

1. The authority to remove an individual who has been appointed to a Town board, committee, commission or voluntary Town activity position shall rest with the appointing authority.

Removal of board members is intermittently (or even sparsely) covered in town-by laws and the Commonwealth's general laws. But when they are covered, they universally state that any removal authority rests with the appointing authority.

2. Consistent with the state constitution, applicable general laws and special laws of the Commonwealth, this Charter, and Town By-Laws, the following removal provisions apply when the appointing authority exercises its authority to remove an appointed member of a board, committee, commission, or voluntary town activity position prior to the expiration of a term of appointment, whether for a fixed or indefinite term.

Removal From	Removal
Board of Appeals (Zoning)	By the Select Board, for cause, upon written notice of charges, and after a public hearing <sup>i</sup>
Capital Planning Committee	At the discretion of the Select Board <sup>ii</sup>
Council on Aging Board	At the discretion of the Select Board <sup>ii</sup>
Cultural Council Board	At the discretion of the Select Board <sup>ii</sup>
Design Review Board	At the discretion of the appointing authority <sup>iii</sup>
Finance Committee	At the discretion of the Select Board <sup>ii</sup>
Harbors and Waters Board	At the discretion of the Select Board <sup>ii</sup>
Marblehead Affordable Housing Trust Fund	At the discretion of the Select Board <sup>ii</sup>
Marblehead Conservation Commission	By the Select Board, for cause, after a public hearing, if requested <sup>iv</sup>
Marblehead Disabilities Commission	By the Select Board, for cause, after a public hearing, if requested <sup>v</sup>
Marblehead Historical Commission	By the Select Board, for cause, after public hearing, if requested <sup>vi</sup>
Old and Historic Marblehead Districts Commission	At the discretion of the Select Board <sup>vii</sup>
Personnel Relations Review Board	At the discretion of the Select Board <sup>ii</sup>
Traffic Safety Advisory Committee	At the discretion of the Select Board <sup>ii</sup>

All other boards, committees, commissions, and voluntary town activity positions	At the discretion of the appointing authority
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We may want to condense this table to “at the discretion of the appointing authority,” for everything except those that have something else in the general laws of the Commonwealth or in town by laws. The table was constructed to check against the general laws and by laws; see footnotes for specifics. Are there others I should have looked up?

3. A removal, as described in this section, shall create a vacancy as described in this Charter.

There is a connection between removals, resignations, vacancies, and (re)appointments and recalls. There is sentence similar to this in some of the other sections covering those topics for clarity.

### **Removal of Senior-Level Employees of the Town<sup>viii</sup>**

4. Certain appointed senior-level Town employees may be employed under a contract in accordance with the state constitution, applicable general laws and special laws of the Commonwealth and Town By-Laws.
5. At the conclusion of a contract’s term, an appointing authority may determine whether to renew or decline to renew such contract without the need to show cause, provide notice, or hold a public forum related to the expiring contract.
6. Non-renewal of an expiring contract does not constitute a removal action as defined in this Charter. To the extent consistent with the constitution, applicable general laws and special laws of the Commonwealth, this Charter, and Town By-Laws, non-renewal of a contract may either create a vacancy or constitute termination of the contract position.

There are only a handful of positions in town government that are allowed to employ someone via a contract (the Town Administrator, for example). This paragraph is to explain what happens at the end of a contract vis-à-vis letting the person go.

7. The authority to remove a senior-level employee of the Town shall rest with the appointing authority, as provided in the constitution, applicable general laws and special laws of the Commonwealth, this Charter, and Town By-Laws.

Similar to removal of board members covered above; removal of senior-level employees is intermittently (or even sparsely) covered in town by laws and the Commonwealth’s general laws. But when they are covered, they universally state that any removal authority rests with the appointing authority.

8. To the extent practicable, the appointing authority shall consult Town Counsel before initiating a removal action.

The term “to the extent practicable” is included to cover a situation where they are planning to remove the Town Counsel.

9. To the extent practicable, the appointing authority shall also consult the Director of the Town Human Resources Department and the Town Administrator prior to initiating a removal action.

The term “to the extent practicable” is included to cover a situation where they are planning to remove one of the individuals they are supposed to consult with (the head of HR for example).

10. To the extent consistent with the constitution, applicable general laws and special laws of the Commonwealth and Town By-Laws, such consultation by the appointing authority may be conducted in executive session.

11. Any removal action shall be conducted in accordance with the general laws of the Commonwealth and Town By-Laws.

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## NOTES

From the town charter of Harvard:

*Notwithstanding the provisions of any general or special law to the contrary, any appointed officer, appointed member of an agency, or employee of the Town not covered by the terms of a collective bargaining agreement or other agreement addressing removal, and whether appointed for a fixed or indefinite term, may be removed from office by the appointing authority. The appointing authority, when removing any such officer, appointed member of an agency, or employee of the Town, shall act in accordance with the Town's personnel bylaws or rules and regulations.*

From the town charter of Groton:

### *Section 7.7: Removals*

*7.7.1 Notwithstanding any general or special law to the contrary, an appointed official, appointed member of a multiple-member body or employee of the town not covered by the terms of a collective bargaining or other agreement addressing removal and, whether appointed for a fixed or an indefinite term, may be removed from office by the appointing authority.*

*7.7.2 When removing any such official, appointed member of a multiple- member body or employee of the town, the appointing authority shall act in accordance with the town's personnel by-laws or rules and regulations.*

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<sup>i</sup> From General Laws Title VII, Chapter 41, § 81Z: *Any member of such a board of appeals may be removed for cause by the appointing authority upon written charges and after a public hearing.*

<sup>ii</sup> There are no provisions in the general laws (that I could find) or town by-laws about removal from this board.



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<sup>iii</sup> There are no provisions in the general laws (that I could find) or town by laws about removal from this board. Four members are appointed by the Planning Board, and one member is appointed by the Select Board.

<sup>iv</sup> From General Laws, Title VII, Chapter 40 § 8C: ... *Any member of a commission so appointed may, after a public hearing, if requested, be removed for cause by the appointing authority...*

<sup>v</sup> From Title VII, Chapter 40 § 8J: ... *Any member of said commission may, after a public hearing, if so requested, be removed for cause by the appointing authority...*

<sup>vi</sup> From Title VII, Chapter 40 § 8D: ... *Any member or alternate member of a commission so appointed may, after a public hearing if requested, be removed for cause by the appointing authority...*

<sup>vii</sup> From town by laws at Appendix, Chapter A272, Article II, Chapter 101 of the Acts of 1965, Section 4 states: ...*Any member of the commission so appointed may be removed by the board of selectmen at its pleasure.*

<sup>viii</sup> One potential “work around” specific to removals of “senior level employees,” is to follow the framework of some other charters, where this provision applies to any employee not covered by a collective bargaining agreement. This might make us revisit the “appointment” section of most elected boards (currently they only address “senior level employees; but who/how everyone else gets hired is unstated in the charter).

## ARTICLE 7: APPOINTMENTS, VACANCIES, RESIGNATIONS, REMOVALS, AND RECALLS

### Section 7.5: Recalls

#### *Annotated Version*

Version 1.2/January 23, 2025

There are currently no provisions in Town By-Laws to recall elected officials; and provisions for recalls in the general laws of the Commonwealth are oblique at best (my best read is they do not exist for most elected positions). This section, if included in the charter will represent a not-insignificant change in the operation of Town government. This section was drafted by reviewing the recall provisions in a number of town charters, including the towns of Groton, Maynard, Saugus, Swampscott, and Webster, which are mentioned in the annotation to this draft. The framework for recalls in these charters is very similar.

Inclusion of this section in the Town Charter may necessitate edits to the proposed language in Article 5 (in the section on the Town Clerk), in Article 6 (in the section on the Board of Registrars of Voters), and in Article 10 (Elections).

#### **Applicability**

1. With the exception of the members of the Housing Authority Board of Commissioners, who are governed under Massachusetts General Laws, Chapter 121B, Section 6, any elected Town official may be recalled under the provisions of this section.

This sentence is taken from the town charters of Maynard and Swampscott. Some towns do not allow recalls for one-year terms, but that is not suggested here (it would only apply to the rec and park commission and the town moderator) and the process is so long, it is a moot point in and of itself)

2. A recall shall not be initiated with respect to any elected official if there are three (3) months or less remaining in the term of office of the official sought to be recalled.

This is based on language in the Swampscott charter. Groton has different language (and the counting of time may be different) that basically says you cannot recall someone if they are six months from the end of the term. Maynard also has six months.

3. A recall shall not be initiated with respect to any elected official in the first three (3) months of that official's term of office.

The Saugus charter has a provision that you cannot initiate a recall in until after the official has been in office for three months. Maynard has the same thing, but for six months. Swampscott has no such grace period.

#### **Recall Initiation**

4. The initiation of a recall shall be a two-step process consisting of an affidavit and a petition.

This sentence is purely for clarity of understanding.

#### **Affidavit**

5. A minimum of 50 registered voters may file with the Town Clerk an affidavit, signed under oath or before a notary public, containing their signatures and setting forth the name and office of the elected official sought to be recalled and the specific reasons for the recall.

This is almost verbatim from the Swampscott charter – except they have 25 registered voters. A number of charters have 50, several are over 100. The number 50 is suggested because that is the number of signatures needed to get on a ballot in town.

6. The first signer of the affidavit shall be designated as the primary petitioner.

This is slightly different than the language on the Swampscott charter which states: *At the time of filing, 1 signer shall be identified as the primary petitioner.* The Swampscott language could be messy, in that there is no designated method by which the primary petitioner is identified/selected. Moreover, as is shown below, position on the affidavit is used for other purposes.

7. Within five (5) days of receiving an affidavit, the Board of Registrars of Voters shall verify the signatures on the affidavit.

This language is based on the Swampscott charter, although theirs has a number of run-on sentences that have been broken up here (and they are rather blasé in the operations of the Board of Registrars).

### Petitions

8. If 50 or more signatures are verified as being those of registered voters of the Town, within two (2) days, the Town Clerk shall issue to the primary petitioner petition forms, in sufficient quantity, containing the name and office held by the elected official sought to be recalled, the names and address of the first 10 signers of the petition, the specific reasons for recall, and the date and time that the petition forms were issued to the primary petitioner.

The bulk of this sentence is verbatim from the Swampscott charter. Their charter had five days to verify and to issue the petition forms, but it was vague on how much time the registrars had vis-à-vis the Town Clerk. Therefore, I have given the Registrars five days in sentence 7; and an additional two days here for the Town Clerk. The “ten signers” language appears in other charters, although I am unclear of its origin.

9. Recall petition forms shall be filed with the Town Clerk within 30 days following the date on which the Town Clerk initially issued petition forms.

This is based on Swampscott’s language, but there are differences. Swampscott had the forms filed with the Board of Registrars (Groton has it filed with the Town Clerk); and it allowed only 20 days to return them. But it also gets bogged down talking about weekends, etc. Groton has the timing as being 45 days from the initial filing of the affidavit. Maynard has 30 days. 30 days just seems cleaner.

10. Within five (5) days of the petition forms being filed with the Town Clerk, the Board of Registrars of Voters shall certify the validity of the required number of signatures, if such number be present.

This language is primarily from the Swampscott charter – including the term “certify the validity.” I added the “if such number be present” because otherwise if you read this literally it would say they must certify the required number.

11. For the recall process to move forward, the petitions so filed shall contain the signatures of at least 20 percent of the registered voters of the Town, calculated as of the date of the last Town election.

Swampscott uses 15%. Groton uses 20%. Maynard uses 20% Webster and Saugus use 25%. In Marblehead 20% is roughly 3,400.

### Notice

12. If the petitions are certified by the Registrars of Voters to be sufficient in number, the Town Clerk shall submit the petitions with the certificate to the Select Board.

This is based on a sentence in the recall provisions of Groton, which are more straightforward than Swampscott's (which has a constable going to the official's residence!).

13. Upon receipt of the certificate, the Select Board shall immediately give written notice of the petition and certificate by certified mail to the officer whose recall is sought.

This is also verbatim from the town charter of Groton.

14. The Select Board shall take no action for seven (7) days following delivery of the notice to afford the officer whose recall is sought the opportunity to resign, in a manner consistent with this Charter.

This sentence and the one below are variations on what other charters include (although ours is stated more succinctly) about a period of time to afford the official time to resign (and thus save the Town the cost of running a recall election)

15. If at the end of the seven-day waiting period the officer whose recall is sought has not resigned, the Select Board shall immediately move forward with scheduling a recall election.

### Recall Election

16. The Select Board shall order a special election to be held not less than 64 days nor more than 90 days after the date of certification of the Board of Registrars.

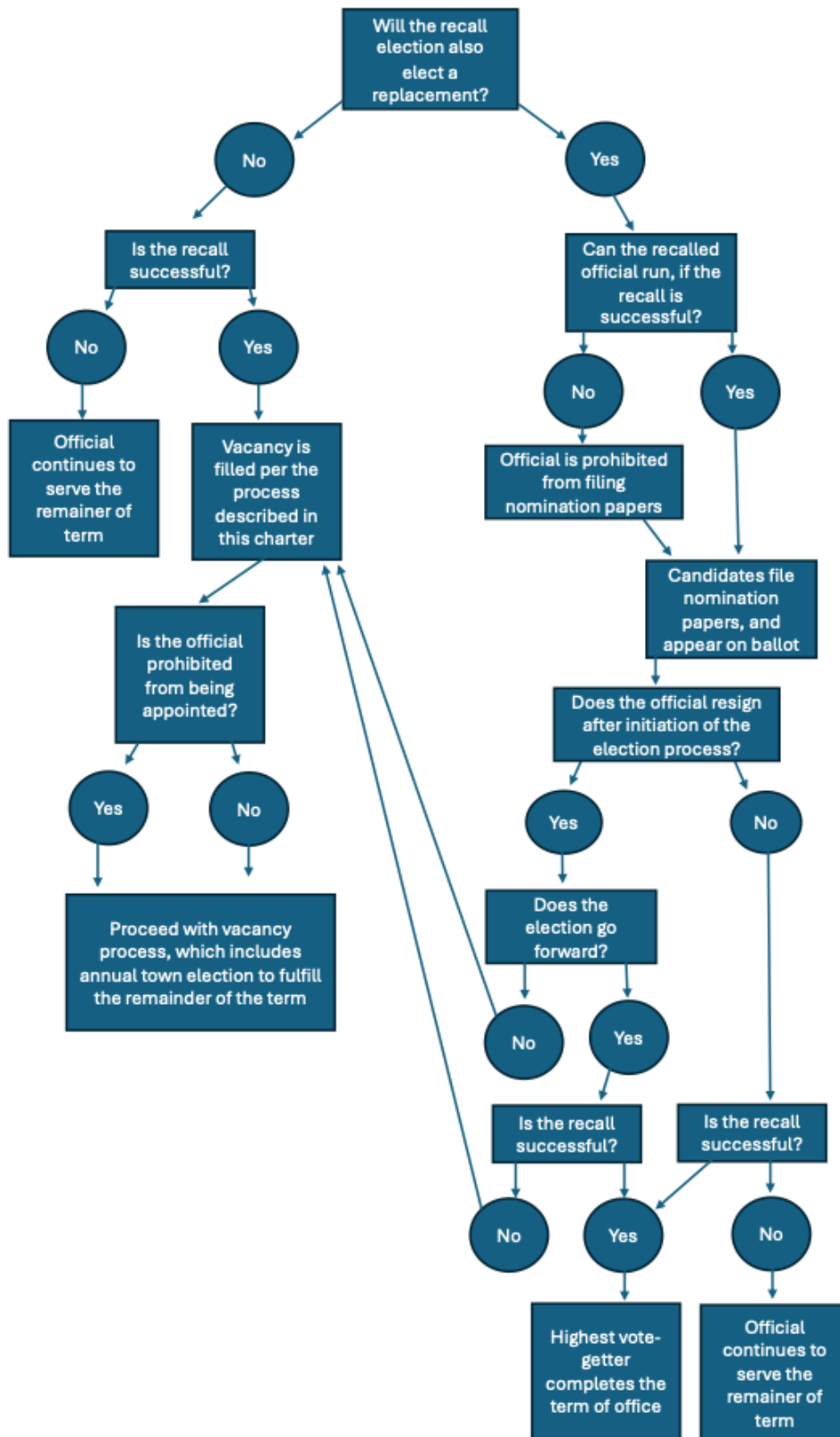
This is adapted from the Maynard town charter. Swampscott, Webster, and Groton also have 64-90 day ranges; but they vary across towns. Saugus has the shortest timeframe with a range of 25-35 day.

17. However, if a regular Town election is to be held within 110 days following the date of said certificate, the recall election shall be held in conjunction therein and not at a special Town election.

This is also adapted from the Maynard town charter. The timing (110 days) needs to be aligned to with the timing in Sentence 16 above.

***From this point see the Recall Decision Grid. Once those decision points have been agreed up, the remainder of this section will be completed.***

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## NOTES

A number of charters that have a recall section have extensive verbiage about “days,” and many get into discussions about business days, Sundays, etc. in the various timeframes. The proposed solution to this in our charter is to include “day” in our Definitions section in Article 1, as follows:

**Day.** A 24-hour period with a single designated calendar date. *Days* include any and all business days, weekdays, weekend days, and holidays.

## ARTICLE 8: ESTABLISHMENT AND OPERATION OF TOWN BOARDS, COMMITTEES, AND COMMISSIONS

### Section 8.1: Establishment of Standing Town Boards, Committees, and Commissions

#### *Annotated Version*

Version 1.2/January 22, 2025

1. Standing Town boards, committees, and commissions may be established by a variety of means, including: being required or allowed by the general laws or special acts of the Commonwealth, and/or as voted by Town Meeting, and/or at the discretion of authorized elected Town boards, committees, commissions, or elected officials. Establishment and operation of such bodies shall be consistent with the constitution, general laws, and special acts of the Commonwealth, this Charter, and Town By-Laws.

“Standing” is defined in the definitions Section of Article 1.<sup>1</sup> Ad Hoc Committees are covered in Section 3 of this article. I believe this is the entire list of how a board, committee or commission can come into being. The last sentence is just intended to highlight the limitations of establishing such bodies.

2. Members of boards, committees, and commissions shall be elected or appointed to terms, not to exceed five years, except for ex officio members.<sup>2</sup>

About “elected”: Although this sentence is primarily written for appointed boards, there are provisions in the general laws of the Commonwealth to create other elected boards that Marblehead currently does not have. Specifically, Part I, Title VII, Chapter 41, Sections 69C through 69F describe how towns can create elected Board of Public Works. Therefore, this section mentions “elected or appointed” in several sentences.

This sentence primarily is for the purpose that no one is appointed to such a body without there being a specific end date to the appointment, unless they are an ex officio member.

The five years is an upper bound. Should this be a different number? Most general laws, special acts and Town By-Laws include lengths of term that are less than five years. The five-year term mentioned here is an upper bound in instances where no term limits are specified.

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<sup>1</sup> **Standing Committee:** An appointed body established as required or allowed by the general laws or special acts of the Commonwealth, and/or by an authorized elected Town body or Town official, and/or by vote of Town Meeting, that is created to carry out specific functions of Town government, or to investigate, advise and make recommendations on a specific issue of Town interest. Standing committees are created with an expectation that their responsibilities will be ongoing over time. Compare to *Ad Hoc Committee*.

<sup>2</sup> **Ex Officio Member** – (Latin for *from the office*.) An individual appointed to a Town board, committee, or commission solely on the basis of their position as a designated Town official or Town employee. Ex Officio membership on Town boards, committees, and commissions are not subject to term limits but shall nonetheless terminate when the appointed individual ceases to serve in the position of the designated Town official or Town employee. Ex Officio members of Town boards, committees, and commissions shall have full/equal membership unless otherwise specified in the general laws and special acts of the Commonwealth, this Charter, or Town By-Laws.

3. Unless specifically prohibited by the general laws or special acts of the Commonwealth or by Town By-Law or by vote of Town Meeting, at the end of a member's term, a member of a Town board, committee, or commission may run for re-election or be considered for re-appointment.

This is a sentence regarding term limits.

4. Members of elected or appointed Town boards, committees, and commissions shall be citizens of the Town of Marblehead unless specifically otherwise provided for by the general laws and special acts of the Commonwealth, by this Charter, by Town By-Law, or by vote of Town Meeting. This requirement shall not apply to ex officio members.

There are some appointed boards where a town official such as the Town Administrator, Police Chief, or Fire Chief, are ex officio members of the board. They are not necessarily Town residents. These are identified in Town By-Laws (and some may end up covered in our charter). Except for these instances, boards, committees and commissions shall be made up of Marblehead residents.

5. Appointed Town boards, committees, and commissions shall periodically, and in any event at least every five years, be reviewed by their appointing authority to consider continued operation or cessation of operations.

This sets the expectation that all appointed bodies can be considered for retirement. *Appointing Authority* is defined in the draft charter dictionary. See footnote<sup>3</sup>

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<sup>3</sup> **Appointing Authority:** A public official, or public body, with legal authority (via the constitution and general laws or special acts of the Commonwealth, this Charter, Town By-Law, or vote of Town Meeting) to make appointments to boards, committees, commissions, or voluntary Town activity positions; or to appoint senior-level employees of the Town, as described in this Charter and Town By-Laws.



## ARTICLE 8: ESTABLISHMENT AND OPERATION OF TOWN BOARDS, COMMITTEES, AND COMMISSIONS

### Section 8.2: Operation of Town Boards, Committees, and Commissions

#### **Annotated Version**

Version 1.2/January 22, 2025

1. All elected and appointed boards, committees, and commissions shall conduct their operations in compliance with open meeting laws and other applicable general laws of the Commonwealth and Town By-Laws.

This could have been stated more succinctly by not mentioning "open meeting requirements," (could simply say *in accordance with the general laws of the Commonwealth*). This language is more transparent, however. Thoughts on which way to present this? This sentence covers notices, minutes, etc.

2. All elected and appointed boards, committees, and commissions shall keep written records of their proceedings, and shall make periodic reports not less than annually to Town Meeting or to the appointing authority as applicable, or otherwise as required by the general laws and special acts of the Commonwealth, this Charter and Town By-Laws.
3. Elected and appointed boards, committees, and commissions may allow for members to participate remotely, in accordance with the general laws of the Commonwealth. Members participating remotely shall have full voting rights accorded board members and shall not be deemed absent.

In the general laws of the Commonwealth at Title III, Chapter 30A, Section 20 states: ...d) *The attorney general may, by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided further, that a quorum of the body, including the chair, are present at the meeting location. The authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.*

4. Unless otherwise specified in the general laws or special acts of the Commonwealth, or in this Charter, or in Town By-Laws, the appointing authority shall be responsible for the annual appointment of a chair to appointed boards, committees, and commissions. The appointing authority may delegate this authority to an annual majority vote of the members of the board, committee, or commission.

Some boards created under Commonwealth general laws or special acts specify chair selection. Example: the Zoning Board of Appeals under general laws Chapter 40A § 12 states: *Each zoning board of appeals shall elect annually a chairman from its own number...*

## ARTICLE 8: ESTABLISHMENT AND OPERATION OF TOWN BOARDS, COMMITTEES, AND COMMISSIONS

### Section 8.3: Ad Hoc Boards, Committees, and Commissions

#### *Annotated Version*

Version 1.0/January 23, 2025

Early drafts of this article included coverage of ad hoc boards, committees, and commissions in the same sections and sentences as standing boards, committees and commissions (Section 8.1 above). It was decided that it was “cleaner” to write a separate article related to just ad hoc boards, committees and commissions (presented here).

1. Ad hoc boards, committees, and commissions may be created as allowed by the general laws and special acts of the Commonwealth, this Charter, Town By-Laws, or by vote of Town Meeting.

I could not find much in the general laws allowing or prohibiting the creation of ad hoc bodies. Historically, there have been town elected bodies, such as the health department and school department, that have set up such bodies.

2. Ad hoc boards, committees, and commissions shall be created with an expectation that the committee will not be permanent; and will disband upon completion of their intended purpose.
3. Ad hoc boards, committees, and commissions shall in any event at least every year, be reviewed by their appointing authority to consider continued operation or cessation of operations.

There is a similar section in Section 1 of this Article that calls for a five-year consideration. Is one-year sufficient, or should we say two?

4. Ad hoc boards, committees, and commissions shall comply with all the pertinent sections of this Article on matters of establishment, membership, and operation.

This sentence is for the purpose of open meeting rules and recordkeeping, applying to ad hoc bodies such as our own.

## ARTICLE 9: FINANCES AND FISCAL PROCEDURES

### *Annotated Version*

Version 1.2/January 20, 2025

1. The fiscal year of the Town shall begin on July 1<sup>st</sup> and end on June 30<sup>th</sup>, unless otherwise directed by the constitution and general laws of the Commonwealth.

This is very similar to language in the town charters of Longmeadow and Groton.

2. The Town financial procedures shall be guided by best practices published by the Government Finance Officers Association, and by the Department of Revenue Division of Local Services.

This is taken from the Town of Marblehead FY2024 Budget Book.

3. Annually, the Select Board, the Town Administrator, the Finance Director, and the Finance Committee shall review and, when appropriate, update the Town's financial policies and procedures.

This is adapted from a paragraph in the town of Groton's charter. For the full text from the Groton charter, see the footnote.<sup>1</sup> Do we want to include the four entities in this sentence as written, or re-worded to be closer to the Groton example?

### **Annual Town Budget**

4. The Select Board shall be responsible for overseeing the development of a proposed Town budget for presentation to Town Meeting.
5. A draft proposed annual Town budget shall be organized and coordinated by the Town Administrator and Finance Director, working with town departments and elected town boards, commissions, and committees with responsibilities for such departments for submission to the Select Board.

The term "draft proposed annual budget" is used in this and the following two sentences to describe the development and evolution of the annual budget. Although the term is not used in by laws or in the Town of Marblehead FY2024 Budget Book, the process described in the Budget book is to develop a "draft" annual town budget, that hearings are held on. Furthermore, the budget is "proposed" until it is approved by town meeting. Other town charters use the term "proposed annual budget" to cover similar steps in their Financial Article.

6. The Finance Committee and the Capital Planning Committee shall assist in the development of the draft proposed annual Town budget, consistent with this Charter, Town By-Laws and the constitution, general laws and special laws of the Commonwealth.

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<sup>1</sup> From the Groton town charter: *Annually, the select board and the finance committee shall review and update the town's overall financial management policy. When reviewing and updating the policy, the select board and the finance committee shall seek input from the town manager, the department of finance and other advisors.*

7. The Select Board shall hold one or more public hearing regarding the draft proposed town budget, following which the Select Board shall direct the Town Administrator and Finance Director to make such changes to the draft proposed budget the Select Board feels are in the best interest of the Town.

In the Town of Marblehead FY2024 Budget Book this is described as two meetings in March that also include the School Committee and the Finance Committee. In drafting this sentence, I have not indicated a time frame (e.g., March) and have left out the School Committee and the Finance Committee for purposes of flexibility. Does that seem right, or should we be explicit about the School Committee?

8. The Select Board shall close the warrant for Annual Town Meeting at least 60 days in advance of Town Meeting and shall immediately forward to the Finance Committee for its review of all articles involving the expenditures of Town funds.
9. In advance of Town Meeting, the Capital Planning Committee and the Finance Committee shall jointly review all warrant articles which concern proposed capital improvement projects as defined in Town By-Laws.

This is taken from Part I Chapter 24. See § 24-20 at: [Review of warrant articles.](#)

10. The budget generally, and all articles for appropriation of Town funds in particular, shall be voted upon at Town Meeting consistent with this Charter, Town By-Laws and the constitution and general laws of the Commonwealth.

### **Enterprise Funds**

11. Marblehead shall operate electric, water and sewer utilities, and harbor and waterfront services as enterprises, with departmental operations funded by user fees for the services provided, consistent with this Charter, Town By-Laws and the constitution, general laws, and special laws of the Commonwealth.

### **Revolving Funds**

12. Marblehead shall establish and operate revolving funds for the operation of programs or activities that generate fees, charges, or other receipts to support all or some of the expenses of those programs or activities, in accordance with this Charter, the Town By-Laws and constitution, general laws, and special laws of the Commonwealth.

Most of this sentence is from by laws. See Part I, Chapter 63, § 63-9 at: [Departmental revolving funds.](#)

### **Independent Audit**

13. The Select Board may provide annually for an independent audit of all financial books and records of the Town and whenever the Select Board otherwise deems an audit of the whole town or of any particular Town agency to be necessary. An audit of the Town's financial books and records shall be conducted by a certified public accountant or a firm of certified public accountants, provided, however, that the

accountant or firm shall not have a direct or indirect interest in the affairs of the Town.

This is verbatim from the town charter of Groton, except ours uses the term “may” and Groton’s uses the term “shall.” (that is, Groton is required to do annual audits). As near as I can tell, towns are not required to have annual audits (unless receiving a certain amount of Federal funding), but many do. The Massachusetts Department of Revenue Division of Local Services says an annual audit is a “best practice.” See their four-page fact sheet here: <https://www.mass.gov/doc/municipal-audits-fags/download> . Some towns have an annual audit as a requirement, others, as an option.

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## NOTES

There is very little in the Town By-Laws about finances, and none of it has to do with the development of the Town budget. To review what is in town by laws, click here: [Chapter 63 Finance and Contracts](#)

### ***Other Town Charters***

Most of the town charters that we have been directed to as examples by the Collins Center have this as an article in their charters, but focus almost exclusively on how the annual budget is put together. Despite the title of this article, most do not cover any other aspects of finances or fiscal policies.

#### *Longmeadow*

##### *Section 7-1 Fiscal Year*

##### *Section 7-2 School Committee Budget*

##### *Section 7-3 Submission of Proposed Budget*

##### *Section 7-4 Budget Message*

##### *Section 7-5 Content of Proposed Budget*

##### *Section 7-6 Action on the Proposed Budget*

##### *Section 7-7 Capital Improvement Program*

##### *Section 7-8 Approval of Financial Disbursements*

##### *Section 7-9 Audit Committee*

##### *Section 7-10 Annual Audit (Approved at Annual Town Election 6/12/07)*

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#### *Groton*

##### *Section 6.1: Fiscal Year*

##### *Section 6.2: Finance Committee*

##### *Section 6.3: Annual Review of Financial Policies*

##### *Section 6.4: The Budget*

##### *Section 6.5: Action on the Budget*

##### *Section 6.6: Capital Improvement Plan*

##### *Section 6.7: Audits*

##### *Section 6.8: Transparency of Financial Holdings*

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Harvard

*Section 6-1. Fiscal Year.*

*Section 6-2. Submission of Budget and Budget Message.*

*Section 6-3. The Budget.*

*Section 6-4. Action on the Budget.*

*Section 6-5. Capital Planning and Investment.*

*Section 6-6. Audits.*

## ARTICLE 10: ELECTIONS

### *Annotated Version*

Version 1.2/January 21, 2025

#### Town Elections

1. Annual town elections shall be held [on the second Tuesday after the first Monday in June] **or** [each spring following annual town meeting] in accordance with this Charter, the Town By-Laws and the constitution, general laws and special laws of the Commonwealth.

Specifics about the annual town elections are enumerated in town by laws at Part I, § 174-1, which is about annual town meeting. See complete section in Note 1 below. For the first sentence, two options are presented: A: *on the second Tuesday after the first Monday in June* (this is the current verbiage in the by-laws; or B: *each spring following annual town meeting* (this is vaguer, but potentially affords more flexibility in the charter)

2. Other Town elections shall be held as needed in accordance with this Charter, the Town By-Laws and the constitution, general laws and special acts of the Commonwealth.

Theoretically, there can be other town elections separate from the annual town election each spring. There are three scenarios which would trigger such an election: 1. If there is a special town meeting that votes for a Proposition 2 ½ override, there would need to be a ballot action following (technically, I'm not sure this is called an "election" if it is just to vote on a ballot initiate (thoughts?)); 2. If there is a vacancy on the Select Board a petition can force there to be a special election to replace the board member. 3. If in this charter we include provisions for recalls, that would also potentially trigger an election. Although this sentence references town by laws, there are currently no by laws that address this scenario.

3. Ballots for Town elections shall be prepared by the Town Clerk consistent with this Charter, Town By-Laws and the constitution, general laws and special acts of the Commonwealth.

Article 39 at 2024 town meeting was a provision to randomly organize names on the ballot of a town election. This is awaiting a special act of the legislature before taking effect.

#### Candidates for Elected Town Office

4. All candidates for elected Town office shall be residents of the Town of Marblehead and be listed on the town's list of registered voters.

Our committee actually discussed this sentence in one of our very first meetings.

5. Candidates for elected Town offices shall file nomination papers in accordance with this Charter, Town By-Laws and the constitution and general laws of the Commonwealth.

#### Conduct of Elections (All)

Many town charters that have an article on elections, just cover local elections in a fashion similar to the above sentences, and stop there. This subsection about all elections is suggested to make more transparent the various

roles in town government in carrying out all elections. There is nothing in town by laws that mention the Board of Registrars of Voters, but they actually are responsible for almost every component in carrying out elections, according to multiple sections of the general laws of the Commonwealth. Moreover, the town web site does not mention the Board of Registrars, and says only that the Town Clerk runs all the elections. Marblehead runs its elections like many towns – the Town Clerk runs them, even though legally the responsibility rests with Board of Registrars and the Select Board in state law. The sentences below are a very high-level tip toe act to state what actually happens, and what the laws states. Please review draft sections on the Town Clerk and the Board of Registrars to see the interface.

6. The Town Clerk shall be the chief election officer for the Town of Marblehead, and shall coordinate all elements of all elections, in accordance with this Charter, the Town By-Laws and the constitution, general laws, and special acts of the Commonwealth.

Purposely used the term “coordinate,” as actual authority for many elements does not rest with the Town Clerk, per the general laws.

7. The Board of Registrars of Voters shall work closely with the Town Clerk in the execution of elections, including, but not limited to, the registration of voters, the review and certification of nomination papers, and recounts of elections, all consistent with this Charter, the Town By-Laws and the constitution and general laws of the Commonwealth.
8. The Select Board, working in collaboration with the Board of Registrars of Voters, shall annually appoint election officers to each precinct in the Town in accord with this Charter, the Town By-Laws, and the constitution and general laws of the Commonwealth.

This is actually a somewhat complex process that involves local party heads. The basis of this sentence is Chapter 54 § 12 of the general laws of the Commonwealth. There is a three-paragraph description in a document published by the Secretary of State’s office that explains the process. See Note 2 below.

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## NOTES

### **Note 1: § 174-1 [Annual meeting dates.](#)**

[Amended 3-14-1974 ATM by Art. 67; 5-6-2013 ATM by Art. 38; 5-6-2019 ATM by Art. 38; 5-1-2023 ATM by Art. 38]

The Annual Town Meeting shall be held on the first Monday of May at 7:00 p.m. in each year at a place designated by the Select Board. The annual election for Town officers shall be held on the second Tuesday after the first Monday in June each year. The Select Board, in the warrant for the election of Town officers, shall specify when the polls will be opened and when the polls will be closed in accordance with the provisions of Section 64 of Chapter 54 of the General Laws and amendments thereto.

### **Note 2: From *Board of Registrars and Election Commissions, Secretary of the Commonwealth, Elections Divisions, 2017***



### **Election Officers in Towns**

The selectmen are required to notify the chairmen of the town party committees by April 15th that they may submit lists of party members by June 1st for appointment of election officers.

No later than June 30th, the registrars shall submit to the selectmen the names of the persons on the lists provided by the parties who appear to be qualified to act as election officers. Not earlier than July 15th, nor later than August 15th, the selectmen shall appoint election officers to each precinct, using the list provided by the registrars. If no lists were submitted by either party, the selectmen shall appoint any qualified registered voters of the town.

If the selectmen fail to make appointments by August 15th, the registrars shall appoint election officers from the lists of party members submitted by the party committees. If no list was submitted, the registrars may appoint any qualified registered voters. G.L. c. 54, § 12.

## ARTICLE 11: GENERAL PROVISIONS

### *Annotated Version*

Version 1.0/January 22, 2025

Content in this article is pretty boilerplate, and almost all of the language is taken from other town charters (which also have almost identical text). Given the paragraph structure used in these other charters, numbers in this article are sometimes given to multiple sentences, rather than individual sentences.

### Charter Changes

1. This Charter may be replaced, revised, or amended in accordance with any procedures made available under the constitution and laws of the Commonwealth.

This is verbatim from the town charter of Harvard. Groton also has the same exact sentence.

### Severability

2. 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. 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.

This is verbatim from the town charter of Longmeadow. Groton and Harvard have different language that while essentially the same, is presented in more formal legalese. See footnote.<sup>1</sup> Would we prefer this sentence or the one in the footnotes?

### Special Provisions

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

This is verbatim from the charters of Longmeadow, Groton and Harvard.

### References to General Laws

4. All references to the general laws contained in the charter refer to the general laws of the Commonwealth of Massachusetts and 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 after the adoption of the Charter.

This is taken verbatim from the charter of Longmeadow. There is no corresponding sentence in the charters of Groton or Harvard. Do we want to keep? If we do, do we want to mention special acts as well?

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<sup>1</sup> Groton and Harvard have identical language regarding severability: *The provisions of this charter shall be severable. If a provision of this charter is held to be invalid, the other provisions shall remain in full force and effect and shall not be affected by the invalidity. If the application of any provision of this charter to a person or circumstance is held to be invalid, the application of any such provision to any other person or circumstances shall not be affected thereby.*

## Number and Gender

5. When the Charter refers to a word in the singular, it may be applied to several persons or things. When the Charter refers to words in the plural, they may be applied to the singular. Words importing the masculine gender shall include the feminine gender and words importing the feminine gender shall include the masculine.

This is taken verbatim from the charter of Longmeadow. Groton and Harvard have similar sentences that are almost – but not quite – identical to each other. See the Groton and Harvard sentences in the footnote.<sup>2</sup>

## Rules and Regulations

I am suggesting we do not have a sentence on rules and regulations. Longmeadow does not cover this in their charter. Groton and Harvard have similar sentences, shown below. I think putting this in here may add to be burden of the Town Clerk (and open a whole other can of worms – rules and regulations are poorly defined terms in state law). Moreover, proposed Article 8 covers reports, etc.

But here are the sentences from Groton and Harvard. Do we want to add something like this?

*Groton: A copy of all rules and regulations adopted by a town agency shall be filed in the office of the town clerk and the rule or regulation shall become effective on the date of such filing unless otherwise provided for by law or by-law. Copies of all such rules and regulations shall be made available for review by any person upon request pursuant to chapter 66 of the General Laws.*

*Harvard: A copy of all rules and regulations adopted by any Town agency shall be filed in the office of the Town Clerk and any such rule or regulation shall become effective on the date of such filing, unless otherwise provided for by law or bylaw. Copies of all such rules and regulations shall be made available for review by any person who requests such information pursuant to the public records law.*

## Periodic Charter Review

6. At least once in every 10-year period after the effective date of this Charter, the Select Board shall establish a special committee for the purpose of reviewing this Charter. After review, the special committee shall present its report and any related draft warrant articles to the Select Board in advance of Town Meeting.

This is adapted from language in the Harvard town charter. It is similar to language in Groton's charter. Both of those sections take a deep dive about the structure of the committee, and have them reporting to Town Meeting rather than to the Select Board. I have included their language of "at least once in every 10-year period...." I know some committee members have thought maybe 3-5 years might be the appropriate first review. That is still

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<sup>2</sup> Harvard: *Words importing the singular number may extend and be applied to several people or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.*

Groton: *Words importing the singular number may extend and be applied to several persons or things. Words importing the plural number may include the singular. Words importing the feminine or masculine gender shall include any gender.*

captured in the “at least once in every ten year period language, but do we want to be more specific about the first one? To see the full text of each, see the footnote below.<sup>3</sup>

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<sup>3</sup> Harvard: *At any time, an article may be placed on a Town Meeting warrant by the Select Board or by citizen petition to amend this Charter. Any Charter amendments that are approved by Town Meeting shall either be presented for adoption by the voters at the next Annual Town Election or shall be submitted to the State Legislature for enactment.*

*At least once in every 10-year period after the effective date of this Charter, the Select Board shall establish a special committee for the purpose of reviewing this Charter. After review, the special committee shall present its report and any related warrant articles at Town Meeting.*

*The special committee shall consist of nine members who shall be appointed as follows: each member of the Select Board shall designate one person, the Finance Committee shall designate two people, the School Committee shall designate one person, and the Moderator shall designate one person. People appointed may, but need not, be members of the agency that designates them, except in the case of the Select Board where no more than two members of the Select Board shall serve on the committee. The committee shall hold a public hearing within 30 days after the date on which it meets to organize and hold at least one additional public hearing before filing its final report.*

*Groton: Not less than once in every 10-year period after the effective date of this charter, a charter review committee shall, by an affirmative vote of the majority of the full select board, be established to review this charter and report its recommendations to an annual town meeting concerning any proposed amendments that the committee may determine to be necessary or desirable. The charter review committee shall consist of 7 members, 3 of whom shall be appointed by the select board, 2 of whom shall be appointed by the finance committee, 1 of whom shall be appointed by the Groton-Dunstable Regional District school committee and 1 of whom shall be appointed by the town moderator. An appointed person may be a member of the agency from which they are appointed; provided, however, that the charter review committee shall not include more than 1 select board member, more than 1 member of the finance committee or more than 1 member of the Groton-Dunstable Regional School District school committee. The charter review committee shall meet to organize immediately after the full charter review committee has been appointed. The charter review committee shall hold a public hearing not more than 60 days after the date on which it meets to organize and shall hold at least 1 additional public hearing before filing its final report.*

## **NOTES**

### ***Longmeadow***

Section 8-1 Charter Changes

Section 8-2 Severability

Section 8-3 Specific Provisions Prevail

Section 8-4 References to General Laws

Section 8-5 Computation of Time

Section 8-6 Number and Gender

Section 8-7 Definitions

Section 8-8 Notice of Vacancies

### ***Groton***

#### *General Provisions*

*Section 7.1: Charter Changes*

*Section 7.2: Severability*

*Section 7.3: Specific Provisions to Prevail*

*Section 7.4: Number and Gender*

*Section 7.5: Rules and Regulations*

*Section 7.6: Periodic Charter Review*

*Section 7.7: Removals*

*Section 7.8: Loss of Office*

*Section 7.9: Notice of Vacancies*

*Section 7.10: Waiver of Administrative Fees*

#### *Transitional Provisions*

*Section 8.1: Continuation of Government*

*Section 8.2: Continuation of Administrative Personnel*

*Section 8.3: Transfer of Records and Property*

### ***Harvard***

#### *General Provisions*

*Section 7-1. Charter Changes.*

*Section 7-2. Severability.*

*Section 7-3. Specific Provisions to Prevail.*

*Section 7-4. Number and Gender.*

*Section 7-5. Rules and Regulations.*

*Section 7-6. Removal From Office.*

*Section 7-7. Periodic Charter Review.*

*Transitional Provisions*

*Section 8-1. Continuation of Existing Laws.*

*Section 8-2. Continuation of Government.*

*Section 8-3. Continuation of Personnel.*

*Section 8-4. Transfer of Records and Property.*

*Section 8-5. Time of Taking Effect.*