

Chapter 396
of the Acts of 2022

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the One Hundred and Ninety-Second General Court

AN ACT ESTABLISHING A CHARTER FOR THE TOWN OF BREWSTER.

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. Notwithstanding any general or special law to the contrary, the following shall be the charter for the town of Brewster:

Brewster Town Charter

Preamble: We, the people of the town of Brewster, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the town's strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged citizenry. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.

CHAPTER 1

POWERS OF THE TOWN

Section 1 Incorporation

1-1-1 The present town of Brewster, within its corporate limits as now established, shall continue to be a body politic and corporate under the name, town of Brewster.

Section 2 Scope of Town Powers

1-2-1 The town shall possess and exercise all powers possible under the constitution and laws of the commonwealth as fully and completely as though those powers were expressly enumerated in this chapter.

Section 3 Form of Government

1-3-1 This charter provides for a select board-open town meeting-town manager form of government.

Section 4 Construction of Charter

1-4-1 The powers of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers

in the charter shall not be construed as limiting the general powers of the town as stated in section 1-2-1.

Section 5 Intergovernmental Relations

1-5-1 The town may exercise, consistent with the law, any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any 1 or more civil divisions, subdivisions or agencies of the commonwealth, other states or the United States government.

CHAPTER 2

TOWN MEETINGS AND ELECTIONS

Section 1. Legislative Power

2-1-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

Section 2. Open Town Meeting

2-2-1 Business sessions of the annual town meeting shall be held on the first Monday in May and may be continued on such additional days as may be decided by the town meeting upon recommendation of the select board. There shall also be a second business session of the annual town meeting, referred to as the annual fall town meeting, held in the last 3 months of the calendar year on a date to be determined by the select board, which meeting shall be an annual town meeting for purposes of the General Laws; provided, however, that the select board may, at its discretion, cancel the fall annual town meeting not later than September 15 in any year, so long as no more than 5 citizen petitioned articles submitted pursuant to section 4 of this charter for inclusion on the warrant at the fall annual town meeting and notice of the select board's action with regard to such meeting shall be posted on the town website and principal bulletin board. The select board's decision as to whether to hold an annual fall town meeting shall not prohibit the select board from calling for a special town meeting, from time to time, at its discretion.

Section 3. Warrant

2-3-1

(a) Except for procedural matters, all subjects to be acted on by town meeting shall be placed on warrants issued by the select board.

(b) The date of the closure of the warrant to petitioned articles shall be set by general by-law.

2-3-2

(a) In addition to any notice required by the General Laws, the select board shall: (i) post the town meeting warrant at the locations listed in subsection (b), town hall and at least 1 location in each precinct and (ii) make available sufficient copies of the warrant at the town meeting for all registered voters in attendance.

(b) The select board shall, at least 1 week prior to the meeting, post the warrant for the town meeting on the town website and make the same available at town hall, and as required by general by-law or select board policy, at town facilities and other common locations throughout the town; provided, however, that failure to timely post the warrant on the website or to make such copies available no later than 1 week prior to the date of the town meeting shall not invalidate or otherwise affect the legality or validity of the actions taken at the town meeting.

Section 4. Citizen Petitions

2-4-1 Any 10 registered voters of the town may secure, by written petition to the select board, the inclusion of an article for the warrant of any duly scheduled annual town meeting and not less 100 registered voters may secure the same for any duly scheduled special town meeting.

2-4-2 The select board may provide a pre-petition process whereby petitioners may seek review of proposed petitions prior to submission.

Section 5. Quorum

2-5-1 The town meeting shall establish by general by-law a quorum requirement for the opening of its business, but a smaller number than the established quorum may adjourn immediately any meeting to a stated date, time and place as recommended by the select board; provided, however, that in the event of a state of emergency declared by the governor to protect the public health or safety, the quorum may be reduced in the manner set forth in section 7 of chapter 92 of the acts of 2020.

Section 6. Presiding Officer

2-6-1 A moderator, who shall be a registered voter of the town, shall be elected for a 3-year term as provided in section 2-11-1. The moderator shall preside over all sessions of the town meeting. The moderator shall regulate the proceedings, decide questions of order and make public declarations of all votes. The moderator shall have all of the powers and duties given to moderators pursuant to the Constitution of the Commonwealth and the General Laws and such additional powers and duties as may be authorized by the charter, by-law or other town meeting vote.

2-6-2 The moderator shall appoint a deputy moderator for a 1-year term who shall serve as moderator, if the moderator is absent or has a conflict.

2-6-3 If the office of moderator becomes vacant, the select board shall appoint a registered voter of the town as acting moderator. The acting moderator shall not be an elected town officer and shall serve as acting moderator until the next scheduled election of town officers.

Section 7. Rules

2-7-1 Unless otherwise provided by general by-law, rules of procedure for the town meeting shall be in accordance with "Town Meeting Time: A Handbook of Parliamentary Law" published by the Massachusetts Moderators Association.

Section 8. Clerk of the Meeting

2-8-1 The town clerk shall serve as the clerk of the town meeting. If the town clerk is absent, the assistant town clerk shall serve as town clerk regardless of whether such assistant is a resident or registered voter of the town.

Section 9. Report

2-9-1 A journal of the proceedings of the town meeting shall be kept as a permanent record in the town clerk's office and the journal shall be a public record.

Section 10. Elections

2-10-1 The annual election for the election of officers and such matters as are by law determined by ballot shall be held on the third Tuesday in May. If the annual election for the election of officers and such matters as are by law determined by ballot falls less than 2 weeks after the scheduled beginning of the spring annual town meeting, then the annual election shall be held on the fourth Tuesday in May; provided, however, that the select board may delay the date of the annual election to another date in the same fiscal year if the governor has declared a state of emergency to protect the public health or safety. If the governor has declared a state of emergency to protect the public health or safety, then the annual election shall be held on the fourth Tuesday in May or any other Tuesday in May or June as determined by the select board after consultation with the town clerk.

Section 11. Elected Officers

2-11-1 The registered voters of the town of Brewster shall, in accordance with any applicable laws, general by-laws, votes of the town or

intergovernmental agreement, elect the following position; provided, however, that members of multiple-member bodies shall be elected for overlapping terms:

- (a) moderator for a 3-year term;
- (b) select board of 5 members, each for a 3-year term;
- (c) school committee of 5 members, each for a 3-year term;
- (d) representatives to the Nauset Regional School District school committee, as the regional school agreement shall provide;
- (e) board of health of 5 members, each for a 3-year term;
- (f) planning board of 7 members, each for a 4-year term;
- (g) recreation commission of 5 members, each for a 3-year term;
- (h) historic district committee of 5 members, of which 4 members shall be elected and 1 member shall be appointed by the select board, each for a 3-year term;
- (i) housing authority of 5 members, of which 3 members shall be elected and 2 members shall be appointed in accordance with the General Laws; and
- (j) constable for a 3-year term; provided, however, that the authority of the elected constable in the town of Brewster shall be limited to the posting of the warrant for a town meeting or town election; provided further, that the person holding such position shall conform to any reasonable regulations concerning such responsibilities as may, from time to time, be proposed by the chief of police and approved by the select board.

Section 12. Recall of Elected Officers

2-12-1 (a)

Any holder of an elected office in the town may be recalled from that office by the registered voters of the town as hereinafter provided, for reasons including, but not limited to, neglect of duties, malfeasance, misconduct or inability to perform official duties; provided, however, that the question of whether the reasons stated for recall justify recall of a particular officer shall be determined solely by the voters.

(b)

Any 25 registered voters of the town of Brewster may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled, a statement of the grounds for recall and specifying the lead petitioner. The town clerk shall thereupon make available to the lead petitioner copies of petition blanks demanding such recall, printed copies of which the town clerk shall keep available. The blanks shall be issued by the town clerk under the town seal, and be dated and addressed

to the select board. The blanks shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought and the grounds for such recall as stated in the affidavit and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 20 days after notification by the town clerk to the lead petitioner that the recall petitions are available and shall have been signed by at least 12 percent of the registered voters of the town as of the last regular municipal election, who shall add to their signatures the street and number, if any, of their residence. The town clerk shall within 1 working day of receipt submit the petition to the registrars of voters in the town and the registrars shall, within 5 working days, certify thereon the number of signatures which are names of registered voters of the town.

(b)

If the petition shall be found and certified by the town clerk and board of registrars to be sufficient, the town clerk shall submit the petition with the town clerk's certificate to the select board within 3 working days and the select board shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within 5 days thereafter, the select board shall order an election to be held on a date fixed by it which shall be not less than 65 and not more than 90 days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within 100 days after the date of certification, the select board shall postpone submission of the question of recall to the date of such other election. No person shall be subject to recall if their term of office expires within 90 days of the certification. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(c)

An officer sought to be recalled may be a candidate to succeed themselves and, unless the officer requests otherwise in writing, the town clerk shall place the officer's name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the recall election shall all be in accordance with the provisions of law relating to elections.

(d)

The incumbent shall continue to perform the duties of the office until the question of recall has been acted upon by the voters. If then re-elected, the officer shall continue in office for the remainder of their unexpired term subject to recall as before, except as provided in this charter. If not re-elected, the officer shall be deemed removed and the successor shall serve the remainder of the unexpired term; provided, however, that if the successor fails to qualify within 10 days after receiving notification of election, the office shall be deemed vacant.

(e)

(1) Ballots used for recall shall submit the following propositions in the order indicated:

For the recall of (name and title of officer).

Against the recall of (name and title of officer).

(2) Under the propositions shall appear the word "Candidates", the directions to the voters required by section 42 of chapter 54 of the General Laws and, beneath the directions, the names of candidates nominated in accordance with the laws relating to elections. If a majority of the votes cast upon the question of recall is in the affirmative, then the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question of recall is in the negative, then the ballots for candidates shall not be counted.

(f)

No recall petition shall be filed against an officer within 90 days after taking office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 6 months after the election at which their recall was submitted to the voters of the town.

(g)

No person who has been recalled from an office or who has resigned from office following the filing of a recall petition shall be appointed to any town office within 2 years after such recall or such resignation.

CHAPTER 3

THE SELECT BOARD

Section 1. Composition, Compensation and Vacancies

3-1-1 There shall be a select board consisting of 5 members elected for 3-year overlapping terms. The select board shall serve as the executive branch of town government. The select board shall have all of the powers, duties and responsibilities of a board of selectmen as provided in the

General Laws and any regulations there under, special laws applicable to the town of Brewster and any local laws and regulations.

3-1-2 A chair, vice-chair and clerk shall be elected by the select board at the first meeting following each regular town election.

3-1-3 A quorum of the select board shall be 3 members.

3-1-4 Each member of the select board may receive an annual stipend as set forth in the general by-laws, subject to appropriation by town meeting.

3-1-5 If a member of the select board dies, resigns, is convicted of a felony while serving or ceases to be a registered voter of the town, the resulting vacancy may be filled by special election in accordance with the General Laws.

Section 2. General Powers and Responsibilities

3-2-1 The select board shall exercise the powers and duties prescribed by the General Laws, this charter and the general by-laws. The select board may delegate powers and duties to the town manager or to another town board. The select board shall enforce the laws and orders of the town, including this charter.

3-2-2 The select board shall be the primary policy making, planning and goal-setting agency of the town; provided, however, that no individual member of the board, nor a majority of them, shall at any time, attempt to become involved in the day-to-day administration of the affairs of the town. The select board shall act only through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority.

3-2-3 The select board, following the development of the proposed budget by the town manager, shall review the annual proposed operating and capital budgets submitted by the department heads and shall make the main motion under the budget article at the annual town meeting.

3-2-4 The select board shall protect the assets of the town.

3-2-5 The select board shall approve all collective bargaining agreements of the town negotiated by the town manager, consistent with chapter 150E of the General Laws.

3-2-6 The select board shall, at least once annually, meet jointly with the finance committee, the school committee, the Nauset Regional School District school committee and the Cape Cod Regional Technical High School District school committee, or their respective designees, for the purpose of sharing information.

3-2-7 The select board shall be the licensing authority of the town and shall have the power to issue licenses, make all necessary rules and regulations regarding the issuance of licenses, attach conditions and restrictions thereto as it deems to be in the public interest and enforce the laws relating to all businesses for which it issues licenses; provided, however, that the board may, at its discretion, delegate responsibility to the town manager or a board created for such purposes for issuance and enforcement of any licenses.

3-2-8 The select board shall ensure that the general by-laws are kept current.

3-2-9 The select board shall be responsible to ensure that the town manager complies with the charter.

3-2-10 The select board shall approve all personnel policies proposed by the town manager in accordance with subparagraph (K) of paragraph 4-1-4.

Section 3. Written Records and Communication to the Town

3-3-1 Any goal, policy, plan or official act adopted by the select board shall be in writing and included in its entirety in the minutes of the meeting at which it was adopted. The town manager shall ensure that a file containing a complete list of the select board's current policies and goals is posted on the town website for public reference. The select board shall designate to the town manager the publishing of an annual town report for each calendar year.

3-3-2 Before August 31 and after the annual town election, the select board shall hold a meeting for the purpose of stating the board's goals for the next fiscal year or years, hereinafter referred to as the annual goal setting meeting.

Section 4. Powers of Appointment

3-4-1 The select board shall select and enter into a contract with a town manager. If the town manager position becomes vacant for any reason, the select board shall designate a qualified person to serve in an acting capacity.

3-4-2 The select board shall appoint, following consultation with the town manager, the fire chief, police chief and town counsel.

3-4-3 The select board shall appoint members of all multiple-member bodies, except as otherwise provided in this charter.

3-4-4 The select board may appoint ad hoc committees as it deems necessary or appropriate.

Section 5. Investigatory Powers

3-5-1 The select board may investigate the alleged misconduct of the town manager, any town board or any member of a town board. The select board may direct the town manager to investigate: (i) the affairs of the town; (ii) the conduct of any town department or town employee; and (iii) any claim against the town.

3-5-2 Any alleged potentially criminal matter shall be referred to the appropriate law enforcement agency.

Section 6. Limitations and Public Ceremonies

3-6-1 Unless specifically provided in the General Laws, a member of the select board shall not hold any other position in town government, whether appointed or elected, paid or unpaid, that is created by the select board or town meeting; provided, however, that serving in an ex officio capacity shall not be considered a separate position for purposes of this paragraph. Service as a representative from the town to a governmental body other than the town shall not be prohibited by this paragraph.

3-6-2 The select board, and individual members thereof, shall deal with employees who are under the direction and supervision of the town manager solely through the town manager, except when the select board is conducting an investigation of the town manager under paragraph 3-5-1, in which case the employees shall contact the select board chair. Neither the select board nor its individual members shall give direct orders to any such employee.

3-6-3 Except as otherwise specified in this chapter, the select board shall be subject to the same rules as apply to all other town boards, including that members have no authority in their individual capacities except as delegated by majority vote of the select board.

3-6-4 The select board shall represent the town for all ceremonial purposes.

Section 7. Code of Conduct

The select board shall adopt a policy establishing a code of conduct applicable to all appointed and elected officials, which policy shall be amended from time to time at the board's discretion and any additional code of conduct adopted by another board shall be no less restrictive. Any code of conduct adopted by a board shall be posted in its office and on the town website.

CHAPTER 4

TOWN MANAGEMENT

Section 1 Town manager

4-1-1 .

The select board shall by majority vote of the entire select board appoint a town manager. The method of selection shall be left to the discretion of the select board so long as the method of selection ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The town manager shall be chosen solely upon the basis of the individual's administrative training, education, experience and ability and need not, when appointed, be a resident of the town; provided, however, that the town manager shall establish such residence within 12 months following the effective date of appointment; provided further, that the select board may, by a 2/3 vote of the entire board, extend to a time certain the time for establishing residence or waiving this requirement.

4-1-2

The town manager shall receive such compensation as may be fixed by the select board within the amount appropriated by town meeting and according to the town manager's expertise, education and training. Any contract between the select board and the town manager shall be made consistent with section 108N of chapter 41 of the General Laws.

4-1-3 Term and Removal

The town manager may be appointed for a definite term, but may be removed at the discretion of the select board by majority vote of the entire select board. The action of the select board in suspending or removing the town manager shall be final. It is the intention of this charter to invest all authority and fix all responsibilities of such suspension or removal in the select board.

4-1-4

The town manager shall be responsible to the select board for the proper administration of the affairs of the town consistent with the General Laws and this charter, and shall:

(A) appoint for a term of years or, at the town manager's discretion, for an unlimited period, all town employees, including civil service positions, not otherwise addressed herein, but excluding employees of the school department; provided, however, that the town manager shall:

(i) act upon recommendations from the police chief and the fire chief, respectively, for appointment of employees of the police and fire departments;

(ii) consult with the appropriate department head or multiple-member body for appointment of employees of other departments or multiple-member bodies;

(B) supervise, discipline, suspend or remove all appointed department heads and employees and organize and structure all town departments accordingly, except as otherwise provided in section 3;

(C) administer and enforce the General Laws and special acts and all by-laws and regulations established by the select board;

(D) coordinate activities of all town departments;

(E) attend all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and to matters under the general supervision of the town manager;

(F) keep the select board fully informed as to the needs of the town and recommend to the select board for adoption such measures requiring action by the select board or by the town as the town manager deems necessary or expedient;

(G) ensure that complete and full records of the financial and administrative activity of the town are maintained and render reports to the select board as may be required;

(H) be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all town facilities;

(I) serve as the chief procurement officer for purposes of chapter 30B of the General Laws and be responsible for the purchase of all supplies, materials and equipment, approve the award and execute all such contracts; provided, however, that any contract over \$1,000,000, or such higher amount as shall be approved by the select board from time to time, shall require approval by the select board;

(J) develop and maintain a formal and complete inventory of all town-owned real and personal property and equipment;

(K) propose personnel policies for approval by the select board under section 3-2-10 and administer all personnel policies, practices, rules and regulations, any compensation plan and any related matters for all municipal employees and administer all collective bargaining agreements entered into by the town;

(L) fix the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;

(M) be responsible for the negotiation of all contracts with town employees regarding wages and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the select board, employ special counsel to assist in the performance of these duties; provided, however, collective bargaining agreements shall be subject to the approval of the select board in accordance with chapter 150E of the General Laws;

(N) be responsible for the preparation and development of the financial forecast, annual operating and capital budgets and 5-year capital improvement plan, consistent with policy guidance provided by the select board, and prepare and submit to the select board and finance committee such budget and plan, and be responsible for the administration of such budget and plan after their adoption;

(O) keep the select board and the finance committee fully informed as to the financial condition of the town and make recommendations to the select board;

(P) investigate or inquire into the affairs of any town department or office;

(Q) have full authority to act on behalf of the town during emergencies, including the direction of town personnel, declaring states of emergency, opening the emergency operations center and shelters and the emergency expenditure of funds, and to delegate such responsibility by appointing an emergency management director, who shall be a town employee duly trained in public safety, and a deputy emergency management director to assist the emergency management director and to assume the duties of the emergency management director in the director's absence;

(R) delegate, authorize or direct any subordinate or employee in the town, including an assistant town manager, if any, and subject to funding therefor, to exercise any power, duty or responsibility that the office of town manager may exercise; provided, however, that all acts performed under such delegation shall be deemed to be the acts of the town manager; and

(S) perform such other duties as necessary or as may be assigned by this charter, by-law, town meeting vote or vote of the select board.

4-1-5

The town manager shall appoint as acting town manager a town employee who shall perform the duties of the town manager in the town manager's absence; provided, however, that if there is an assistant town manager serving at the time of any such absence, such person may function as the acting town

manager. In the event of long-term disability or absence exceeding 14 days, or the resignation, termination or vacancy in the office of town manager, the select board shall not later than 14 days thereafter, appoint an acting town manager for the duration of any such disability or absence or until appointment of a permanent town manager. No member of the select board shall serve as acting town manager.

Section 2. Town Counsel

4-2-1 The select board shall appoint a competent and duly qualified and licensed attorney practicing in the commonwealth to be the counsel for the town. Town counsel shall receive such compensation for services as may be fixed by the select board and shall hold office at the pleasure of the select board. The town counsel shall be the legal adviser of all offices and departments of the town and shall represent the town in all litigation and other legal proceedings; provided however, that the select board may retain special counsel at any time the select board deems appropriate and necessary. The town counsel shall review and concur or dissent upon all documents, contracts and legal instruments in which the town may have an interest. The town counsel shall perform other duties prescribed by this charter, by by-law or as directed by the select board. No employee, committee or board, elected or appointed, other than the select board, shall contact or otherwise interact with the town, labor or other special counsel in a manner inconsistent with the policy relative to access to counsel established by the select board. This section shall not limit the school committee from retaining its own legal counsel.

Section 3. Fire, Police and Water Departments; Other Departments

4-3-1 Except as otherwise provided in this charter, there shall be a fire department consistent with sections 42, 43 and 44 of chapter 48 of the General Laws. The fire chief shall have responsibility for the day-to-day supervision of firefighters and the fire department. The fire chief shall have additional authority to place a firefighter on administrative leave with pay, or discipline or suspend a firefighter, for a period of no more than 5 days and shall provide the town manager with written notification upon implementation of such suspension. When the town manager intends to take action under clause (B) of subsection 4-1-4 of section 1 with respect to subordinate members of the fire department, the town manager shall consult with the fire chief before taking such action.

4-3-2 Except as otherwise provided in this charter, there shall be a police department consistent with section 97A of chapter 41 of the General

Laws. The police chief shall have responsibility for the day-to-day supervision of police officers and the police department. The police chief shall have additional authority to place a police officer on administrative leave with pay, or discipline or suspend a police officer, for a period of no more than 5 days and shall provide the town manager with written notification upon implementation of such suspension. When the town manager intends to take action under clause (B) of subsection 4-1-4 of section 1 with respect to subordinate members of the police department, the town manager shall consult with the police chief before taking such action.

4-3-3

(a) There shall be a water department under the supervision of a water superintendent. The department shall have all of the powers, rights and duties to be exercised by a water commission under the General Laws and special laws, except as otherwise provided herein. The water superintendent shall be responsible for the efficient exercise, performance and coordination of the department. Any exercise by the department of the authority of water commissioners with respect to acquisition or disposition of land shall be approved by the select board prior to any such acquisition or disposition of land. The superintendent shall report to the town manager as to the doings of the office at such times as the town manager may require.

(b) The water superintendent shall supervise and direct the operations and employees of the department in accordance with the town's personnel by-laws and any applicable collective bargaining agreements. The water superintendent shall be especially qualified by education, training and experience to perform the duties of the office and shall have such other qualifications as may be required from time to time. While employed by the town, the water superintendent shall not engage in a business or occupation falling within the jurisdiction of the water department, unless approved in advance by the town manager with the concurrence of the select board. Unless specifically provided in the General Laws, the water superintendent shall not hold any other position in town government, whether appointed or elected, paid or unpaid, that is created by the select board or town meeting; provided, however, that serving in an ex officio capacity shall not be considered a separate position for purposes of this subparagraph. Service as a representative from the town to a governmental body other than the town shall not be prohibited by this subparagraph. The water superintendent need not be a resident of the town during their tenure.

(c) There shall be a water commission consisting of 3 members to be appointed by the select board for alternating, overlapping 3-year terms. The commission shall be responsible for setting water rates, making budget recommendations and providing advice and support to the superintendent with respect to other policy matters on which the commission may be consulted and which falls within the jurisdiction of the water department. The water commission shall recommend priorities and policies to govern the provision of water in the town, and, with the concurrence of the water superintendent, may adopt policies and regulations to carry out the same.

CHAPTER 5

TOWN BOARDS/COMMISSIONS/COMMITTEES

Section 1. Appointed Boards and Committees

5-1-1

(a) In addition to any boards and committees specified in this charter, boards and committees may be created by adoption of by-laws, by town meeting vote or a vote of the select board. A list of any such boards and committees, specifying the number of members, terms of office, if any, and listing their respective charges, shall be maintained in the office of the town clerk and, within 10 business days after the creation of the board or committee, posted on the town website.

(b) Notwithstanding any other provision of this charter or General Laws to the contrary, any person appointed to a multiple-member body may be removed by their respective appointing authority following written notice and the opportunity for a public hearing; provided, however, that failure to reappoint following the expiration of an appointed term shall not constitute removal.

Section 2. Moderator Appointments

5-2-1

The moderator may appoint members of the boards, committees and commissions established under this section or as may be authorized by by-law, town meeting vote or regional school district agreement. Appointments made by the moderator shall each be for a fixed term and such appointments shall not be subject to review or confirmation by any other person or group.

5-2-2

(a) There shall be a finance committee which shall be consisting of 9 residents of the town who shall be appointed by the moderator, shall serve without pay and shall hold no other town office or employment; provided, further, that each member shall serve for a 3-year term beginning on July 1

and terminating on June 30 of the third year following appointment. Vacancies on the committee shall be filled by the moderator for the remainder of the unexpired term. A member of the finance committee shall not hold any other position in town government, whether appointed or elected or paid or unpaid, that is created by the select board or town meeting; provided, however, that serving in an ex officio capacity shall not be considered a separate position for purposes of this paragraph.

(B) The finance committee shall consider all the articles in any town meeting warrant and report to the town meeting its recommendations by posting the same on the town website and in any other manner it deems appropriate. Following the drawing up of the warrant for a town meeting, the select board shall forthwith forward the warrant to the members of the finance committee. The finance committee shall annually prepare for the annual town meeting a comprehensive summary of the current condition of the town's finances.

(C) To carry out the finance committee's duties, the finance committee may investigate the books and accounts of any town department. The finance committee and the individual members thereof shall deal with employees who are under the direction and supervision of the town manager solely through the town manager. Neither the finance committee nor its individual members shall give direct orders to any such employee.

Section 3. Alternate Members of Certain Multiple-Member bodies

5-3-1

The select board, following consultation with a committee, commission or board elected under clause (c), (e), (f), (g) or (h) of subsection 2-11-1 of section 11 of chapter 2 may appoint not more than 2 alternate members to serve for terms of 1 or 2 years. The chair of each committee, commission or board to which alternate members have been appointed may designate an alternate member to sit on the committee, commission or board in the case of absence, inability to act or conflict of interest on the part of any member of the committee, commission or board, or in the event of a vacancy. Any vacancy arising in the alternate position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

5-3-2 Alternate Members of Appointed Boards

The appointing authority may appoint not more than 2 alternate members to boards, committees or commissions established pursuant to paragraph (a) of subsection 5-1-1 of section 1 for terms of 1 or 2 years. The chair of each board to which alternate members have been appointed may designate an alternate member to sit on the board in the case of absence, to

act or conflict of interest on the part of any member of the board, or in the event of a vacancy. Any vacancies arising in the alternate position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

Section 4. General Provisions Applicable to Multiple-Member Bodies

5-4-1

Except as otherwise provided in this charter, each multiple-member body set forth herein or established pursuant to paragraph (a) of subsection 5-1-1 of section 1 shall be organized and charged with, as applicable, the powers and duties specified in any general or special law or in any by-law, town meeting vote, vote of the select board or as otherwise provided herein.

5-4-2

Each multiple-member body shall elect a chair, vice chair and clerk, and shall cause the select board and the town clerk to be notified of its selection. Such elections shall be taken up at the first meeting after the election for all elected boards, at the first meeting after annual appointments are made or at the first meeting of a new board or committee. All boards and committees created under this chapter or by by-law, shall make a written annual report of their activities to the select board in accordance with subsection 3-3-1 of section 3 of chapter 3.

5-4-3 Resignation

The resignation of any elected town officer under subsection 2-11-1 of section 11 of chapter 2 or any appointed multiple-member body created by this charter or by by-law under clause (a) of subsection 5-1-1 of section 1 shall be deemed effective when such resignation is filed with the town clerk or at such later time as may be specified in the filed resignation.

5-4-4 Excessive Absences; Loss of Appointed Office

For the purpose of this charter, 3 consecutive absences from meetings of an appointed member of a multiple-member body shall be considered a reason for removal. Under such circumstances, the chair of the multiple-member body may notify the appointing authority and the appointing authority may remove the member pursuant to clause (b) of subsection 5-1-1 of section 1 and notify the town clerk in writing that the position has been vacated.

Section 5 Cape Cod Regional Technical High School District School Committee and Other Regional Entities

5-5-1 Members of the Cape Cod Regional Technical High School District school committee shall be appointed or elected in accordance with the regional school district agreement as it may be amended from time to time.

5-5-2 Election or appointment to other regional entities shall be in accordance with an applicable intermunicipal agreement for such purposes.

CHAPTER 6

FINANCIAL PROVISIONS

Section 1 Budget Schedule

6-1-1 Annually, before December 1, the town manager shall establish and issue a budget schedule that shall set forth the calendar dates for developing the annual budget for the next fiscal year.

6-1-2 On or before December 15, the town manager shall present a financial forecast to the select board. Thereafter, the select board shall set guidelines for the preparation of the annual budget.

6-1-3 On or before February 15, the town manager shall submit to the select board a proposed line item budget and accompanying message.

Section 2 Proposed Budget

6-2-1 The budget shall provide a complete financial plan of all town funds and activities, including details on debt and debt service, anticipated income and proposed expenditures.

6-2-2 The budget message shall begin with a clear general summary of its content and explain, in both fiscal terms and program objectives, the proposed expenditures for each department and the projected tax rate.

Section 3 Budget Adoption

6-3-1 The town meeting shall adopt the annual operating budget, with or without amendments, before the beginning of the fiscal year, except in the event that the governor has declared a state of emergency to protect the public health or safety and the town meeting cannot complete its business as a result thereof.

Section 4 Capital Planning

6-4-1

The town manager shall prepare a 5-year capital improvement plan identifying proposed capital outlays or acquisitions in excess of \$10,000 or such other sum as shall be determined by the select board for any 1 project, whether it be spent in 1 year or over several years. The town manager, in the town manager's sole discretion, may appoint a committee to assist the town manager with preparation of the plan.

6-4-2

(a) The capital improvement plan shall include all town activities and departments. Proposed capital expenditures for regional entities shall be

consistent with the regional or intermunicipal agreement establishing such entities.

(b) The capital improvement plan shall include a list, by department, of all proposed capital improvements to be undertaken during the next 5 fiscal years and shall include cost estimates, methods of financing and time schedules. This information shall be revised and extended on an annual basis.

6-4-3

(a) The capital improvement plan shall be submitted to the select board by February 1 of each year.

(b) The select board shall, after providing 7 days' notice in the manner required by section 20 of chapter 30A of the General Laws and applicable regulations, hold a public hearing on the capital improvement plan. The select board shall make the capital improvement plan available for public inspection.

6-4-4

The select board shall prepare and submit to each annual town meeting a summary of the capital improvement plan, identifying all proposed capital expenditures for the next 5 years estimated to cost \$100,000 or more, or such other amount as the select board shall determine from time to time and which shall include the fiscal year in which it is anticipated to be expended, the amount and its anticipated source of funding.

Section 5. Annual Audit

6-5-1 At the close of each fiscal year and at such other times as may be deemed necessary, an independent audit shall be undertaken of all accounts of the town by a certified public accountant. The audit committee created by by-law, if any, or in the absence thereof, the select board, shall solicit a firm or firms for such purposes. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the town or any of its offices. Upon completion of the audit, the results shall be reviewed by the audit committee, if any, and by the select board and the finance committee. The results, in summary form, shall be placed on file in the office of the town clerk and on the town website as a public record and shall be available in the public library for public information.

CHAPTER 7

BY-LAWS AND CHARTER - ADOPTION, AMENDMENT AND PERIODIC REVIEW

Section 1. By-laws

7-1-1 By-laws may be proposed by warrant article consistent with the General Laws and this charter.

7-1-2 Adoption and amendment of by-laws shall be approved in accordance with applicable General Laws.

7-1-3 The select board shall ensure that the by-laws are reviewed and prepared for any necessary revisions at least once every 10 years.

7-1-4 The town clerk shall codify and republish the by-laws from time to time as may be reasonable and such by-laws shall also be posted on the town website.

7-1-5 All special acts, by-laws, town meeting resolutions, and rules and regulations of the town in force at the time this charter takes effect, not inconsistent with this charter, shall continue in full force and effect.

Section 2 Charter

7-2-1 Amendments to the charter may be approved by any means available pursuant to the Constitution of the Commonwealth and the General Laws; provided, however, that if such amendments are to be acted upon by town meeting in accordance with section 10 of chapter 43B of the General Laws, the select board and finance committee shall present their recommendations to town meeting for consideration upon any such proposed amendment.

7-2-2 The select board shall appoint a committee of not less than 5 nor more than 9 members to review the charter at least once every 10 years, such that review of the charter shall begin 5 years after the by-law review provided for in section 7-1-3 and shall provide recommendations, if any, to a subsequent town meeting with respect to such review.

SECTION 2. All town of Brewster by-laws, resolutions, rules and regulations and votes of the town meeting in force at the time the charter established pursuant to section 1 takes effect, that are not inconsistent with this charter shall continue in full force and effect. If any provision of the charter established in section 1 conflicts with any of the by-laws, rules and regulations, orders or special acts or acceptances of laws of the town, the charter provisions shall govern. All town by-laws, rules and regulations, orders and special acts of the town not superseded by the charter established in section 1 shall remain in full force and effect.

SECTION 3. All persons appointed or elected to offices, boards, commissions and agencies in the town of Brewster on the effective date of this act shall continue to perform the duties thereof until they are reappointed or re-elected or until successors to their respective positions

are appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.

SECTION 4. Any person holding an office or a position in the administrative service of the town of Brewster or any person holding permanent employment under the town on the effective date of this act shall retain their office, position or position of employment and shall continue to perform the duties of their respective office, position or position of employment until provision has been made for the performance of those duties by another person or agency; provided, however, that a person in the permanent service of the town shall not forfeit their pay grade or time in the service of the town as a result of the adoption of the town charter. Nothing in this section shall provide a person holding an administrative office or position or a person serving in the employment of the town on the effective date of this act with any greater rights or privileges with regard to that person's continued service or employment with the town than that person had before the effective date of this act. Nothing in this section shall impair the rights of any person under an individual employment contract or collective bargaining agreement.

SECTION 5. All records, property and equipment of a office, board, commission, committee or agency or part thereof of the town of Brewster, the powers and duties of which are assigned in whole or in part to another town office, board, commission or agency by this act shall be transferred forthwith to the office, board, commission or agency as so assigned.

SECTION 6. All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by, on behalf of or to the town of Brewster before the effective date of this act, and all taxes, assessments, fines, penalties and forfeitures, incurred or imposed or due or owing to the town of Brewster, shall be enforced and collected and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the adoption of the charter in section and no legal act done by or in favor of the town shall be rendered invalid by reason of the passage of this act.

SECTION 7. To provide for the transition to reduce the terms of all planning board members of the town of Brewster from 5-year terms to 4-year terms, at the next regular election following at least 64 days after the effective date of this act, 1 planning board member shall be elected for a 1-year term, 1 planning board member shall be elected for a 2-year term and the expiring term shall be placed on the ballot for a 4-year term. The expiring

term shall appear on the ballot with instructions to vote for 1 candidate; provided, however, that if the incumbent is running for the office, the incumbent shall have the words "candidate for re-election" next to their name. The 2-year term and the 1-year term shall appear together on the ballot with instructions to voters to vote for 2 candidates, with the longer term going to the candidate with the most votes. Following the effective date of this act, the term of the planning board member most recently elected shall be reduced from 5 years to 4 years. Thereafter, all planning board members shall be elected to alternating 4-year terms, with no more than 2 terms expiring each year.

SECTION 8. This act shall take effect upon its passage.

ENDORSEMENT FOLLOW ON PAGE 24


House of Representatives, January 3 , 2023.

Passed to be enacted,

 Speaker.

In Senate, January 4 , 2023.

Passed to be enacted,

 , President.

Jan 5 , 2023.

Approved,

at 9 o'clock and 24 minutes, P. M.


Governor.