

THE TOWN CHARTER

Presentation to Barnstable Town Council

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WHAT IS THE CHARTER?

Under state law, a Charter is a written instrument which establishes and defines the government structure under which a city or town operates. The Charter may create local offices; distribute powers and responsibilities among local offices; and establish and define certain procedures to be followed by a city or town government. (G.L. c. 4, sec. 7, Clause Fifth.)

The Charter is essentially a local constitution that sets forth the legal framework of Town government. It takes precedence over Town ordinances if there is a conflict. The charter provisions cannot be inconsistent with the Massachusetts Constitution or laws enacted by the Legislature.

HOME RULE

The Home Rule Amendment (Article 89 of the Amendments to the Massachusetts Constitution), enacted in 1966, granted cities and towns the right of self-government in local matters. The Home Rule Amendment shared the powers of the state with cities and towns in certain areas, including granting the ability for cities and towns to form a charter commission to adopt a new charter, entirely revise an existing charter or amend selected charter provisions.

G.L. c. 43B, the Home Rule Procedures Act, sets forth the process for how a city or town may exercise its Home Rule powers.

PROCESS TO ADOPT OR AMEND

- To adopt: Charter Commission or by Special Act of the Legislature
- 3 options to amend: (1) Charter Commission; (2) Special Act; or (3) two-thirds vote of a city council, after a public hearing and final action within 6 months. Proposal must then be submitted to the Attorney General for approval and then to the voters. Proposed changes relating to the composition, mode of election or appointment, or terms of office of the legislative body or the town manager must be done through a charter commission. (G.L. c. 43B, sec. 10).
- Barnstable Charter Section 9-1 provides that it may be replaced, revised or amended in accordance with the Home Rule Amendment and any laws enacted to implement Article 89 (Home Rule Procedures Act, G.L. c. 43B).

TOWN OF BARNSTABLE CHARTER

- Known as the “Barnstable Home Rule Charter”
- Voters approved on April 11, 1989;
new Town Council sworn in January 1990

STRUCTURE

- **Under our Charter, although the name of the Town is the Town of Barnstable, it is a city form of government.** Cities are typically municipalities with a Council or Board of Aldermen as their elected legislative bodies and either an elected or appointed Mayor or Manager. Barnstable has a council-manager form of government.
- **The elected Town Council is the legislative body** and is responsible for adopting ordinances (the laws of the Town), approving budgets and setting policy. Under the Charter, “[a]ll legislative powers of the town shall be exercised by a town council.” The Charter further provides that “[e]xcept as otherwise provided by law or by the charter, all powers of the town shall be vested in the town council ...”

Structure (continued):

- The **appointed Town Manager is the chief executive officer** who manages and oversees the day-to-day operations of the Town. Under the Charter, “the administration of all town fiscal, business and municipal affairs shall be vested in the executive branch headed by the town manager.”
- Town staff report to the Town Manager. The Town Manager reports to the Town Council.

KEY CHARTER PROVISIONS:

- Town Council generally appoints the boards, commissions and committees of the Town.
- A quorum of the Council is defined in the Charter as nine (9) – one-half of the total membership of the Council plus two.
- Votes are adopted by a majority of those present and voting, unless otherwise provided by law or the Charter. For example, under the Charter, the affirmative vote of a majority of the full Council, i.e., 7 votes, is required to adopt an appropriation order. Under state law, a 2/3 vote is required for loan authorizations (G.L. c. 44, secs. 7 and 8.)

Key Charter Provisions (Continued)

- Town Council shall adopt written rules for its proceedings (Town Council Rules).
 - If Rules conflict with the Charter, the Charter prevails
 - Rules can be suspended; Charter provisions cannot be suspended
- Roll call votes are required for ordinances, appropriation orders and loan authorizations.
- Regular meetings must include a period for public comment.

“Measures” – defined by the Charter:

- “any matter coming before the town council that is inherently legislative in nature including, but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, contract approvals and eminent domain authorizations.” Note: some types of contracts require Council approval by law and those are treated as measures; most other contracts fall within the Town Manager’s authority to approve.

- **Does not include:** “any matter that is executive, administrative or ministerial or quasi-judicial including, but not limited to, appointments, resolutions, proclamations, tax classification votes and petitions to the general court.”
- Measures require 2 reads; they are generally effective 30 days after adoption.

- Ordinances, appropriation orders and loan authorizations are required to be published in a local newspaper at least 10 days before passage.
- Agenda items typically use “Orders” for measures (2 reads) and “Resolves” for non-measures (1 read).
- Charter objection – may be used to postpone a vote on a measure until the next regular or special meeting of the Council; can only be used once per agenda item.

Key Town Manager Responsibilities:

- Appoints and supervises all Town staff, **except for employees of the School Department, Airport Commission, and persons serving under elected officials.** Certain appointments require Town Council approval.
Section 10-7(k).
- Coordinates all activities of Town departments or agencies.
- Responsible for the rental, use, maintenance and repair of all Town facilities, except those under the jurisdiction of the School Committee and Airport Commission.

Key Town Manager Responsibilities:(Continued)

- Responsible for the purchase of all supplies, materials and equipment (except books and education materials for the schools) and approves all contract awards (except for educational materials).
- Develops and maintains inventory of all Town property.
- Administers personnel policies and regulations, compensation plan and collective bargaining agreements (except for School Department agreements).

Key Town Manager Responsibilities:(Continued)

- Negotiates employee contracts and collective bargaining agreements, except for School Department and Airport Commission. Appropriations for such contracts must be approved by the Town Council.
- Prepares and submits an annual operating budget, capital improvement program and a long term financial forecast.

Organization of Town Agencies

- Administrative Code – is an appendix to, but not part of, the ordinances of the Town

Elected Town Offices

- **School Committee** – oversees the public schools of the Town.
Has powers and duties given to school committees by state law, the charter, ordinance or other Council vote.
- **Town Clerk** – has the powers and duties provided to town clerks under state law, the charter, ordinance or other Council vote; serves as the Clerk of the Council.
- **Housing Authority** – has the powers and duties given to housing authorities under state law.

Citizens Relief Mechanisms

- Examples – Individual and Group

Petitions; Open Meeting of the Voters

Financial Procedures