FALMOUTH HOME RULE CHARTER

Articles 8-22 are proposed changes to the Charter by the Charter Review Committee. Only the proposed new language appears in the Town Meeting Warrant. Below is both the old and new text of each alteration with a line through the existing wording, that is to be deleted, and the proposed new or added wording is underlined.

Article 8

Vacancies in the Office of Town Meeting member shall be filled until the next annual election by the unsuccessful candidate for Town Meeting in that precinct receiving the largest number of votes at the most recent election. If no such unsuccessful candidate exists, the remaining precinct members shall be called together by the Town Clerk, by written notice, before the next Town Meeting, within thirty (30) days. The Clerk shall conduct an election, having first publicized the vacancy in accordance with §C7-1C6-2C. The remaining members shall choose a registered voter residing in the precinct in which the vacancy exists.

Article 9

The Moderator shall establish a standing committee, the Rules and Procedures Committee, of Town Meeting members to review town meeting rules, procedures and related town bylaws and submit their recommendations to Town Meeting.

Article 10

The Town Clerk shall serve as Clerk of the Town Meeting and as an ex-officio member of the Town Meeting Rules and Procedures Committee. The Clerk shall cause notices of all meetings to be posted in the town office building and a public place in each precinct and shall mail copies of the notice, citing the place, date and time of the Meeting, to all Town Meeting members at least ten (10) days before the date of each meeting. The Town Clerk may comply with this section by mailing within the prescribed time the Finance Committee report containing the complete warrant with recommendations and explanations as required by §C8–4B of this Charter.

Article 11

The Moderator, or his designee, shall act as the Watchman of the Warrant and shall present a written progress report on each passed action article of Town Meeting to be printed in the Annual Town Report.

Article 12

A. Set and communicate Setting policies to be carried out by the Town Manager, and other officers, and governmental bodies board and commissions appointed by the Board. [Amended ATE 5-15-2007, Question 12]
C. Making recommendations to Town Meeting on all warrant articles that are not the purview of the Finance Committee or the Planning Board, unless within the purview and responsibility of the Finance Committee, the Community Preservation Committee or the Planning Board.

Article 13

C. Governmental bodies Boards and commissions established or continued under this article shall perform their functions and duties in accordance with the Constitution, General Law, this Charter, bylaws and vote of the Representative Town Meeting. They shall organize annually; elect necessary officers; adopt rules of procedure and voting including the development of agendas; maintain minutes and records of attendance, copies of which shall be public records and shall be filed regularly with the Town Clerk. It is the responsibility of each chairperson to file a current description of the duties and responsibilities of the governmental body and its members with the Town Clerk.

Article 14

The Planning Board shall be responsible for the development and periodic review updating of a Master Plan or portions thereof. Such plan may include all or portions of plans developed by other boards or committees but these inclusions must receive a vote of approval by the Planning Board. Plans approved by the Local Comprehensive Planning Committee must receive a vote of approval from the Planning Board before submission. The Master Plan, also known as the Local Comprehensive Plan, shall be submitted to Town Meeting and then the Cape Cod Commission. [Amended ATE 5-15-2007, Question 5]

Organize annually; elect necessary officers; establish a quorum requirement; adopt rules of procedure and voting; maintain minutes and records of attendance, copies of which shall be a public record and shall be regularly filed with the Town Clerk; and shall consult with the Town Manager on the appointment, suspension and removal of the Town Planner. [Amended ATE 5-15-2007, Question 12]

Article 15

Subject to the approval of the Board of Selectmen granted within ten (10) working days, the Town Manager shall appoint, and, on the basis of merit and fitness alone, and except as otherwise is provided by General Law, Charter or personnel bylaws, may suspend or remove: an Assistant Town Manager; a Town Planner; a Town Counsel; a Finance Director, a Director of Personnel, a Town Treasurer, a Town Collector, department and division heads, and a Director of Personnel. The failure of the Board of Selectmen to act within ten (10) working days shall constitute tacit approval of the Town Manager’s actions. The Town Manager may suspend or remove any person so appointed consistent with the General Laws, this Charter or the by-laws of the Town. [Amended ATE 5-15-2007, Question 10]

Article 16

A. The administrative functions of the town government shall be performed within the organizational framework of several departments, divisions thereof and other administrative organizations as determined by the Town Manager, divisions and departments.

B. The Town Manager shall determine the functions, duties and responsibilities of departments, divisions and other administrative organizations. Responsibility for the functions administered within the divisions shall be vested in the Town Manager.

C. The Town Manager, with the approval of the Board of Selectmen, may directly supervise any department, division and other administrative organization; provided, however, such
additional duties shall be performed without additional compensation.

shall designate those divisions to be supervised by the Town Manager. If the Manager is designated to act as director of one or more divisions, such additional service shall be provided without additional compensation.

Article 17

A. The Assistant Town Manager shall act as the Town Manager during the absence of the Manager of not more than ninety (90) days and, with the approval of the Board of Selectmen, for an additional period of ninety (90) days.

B. In the event of a vacancy in the office of Town Manager caused by the suspension, removal, resignation, death or temporary absence of both the Town Manager and the Assistant Town Manager, the Board of Selectmen shall designate, within ten (10) days of any such event, a town employee or other person to exercise the powers and perform the duties of the Town Manager. This designation shall be for a period not to exceed ninety (90) days, and it may be renewed, only once, for an additional period not to exceed ninety (90) days. Members of the Board of Selectmen shall be ineligible to serve in this capacity. The designation shall be made by vote at a duly noticed open meeting and a copy shall be filled with the Town Clerk.

A. The Assistant Town Manager shall perform the duties and responsibilities of the Town Manager during any period when the Town Manager is unable to perform the duties of the office of the Town Manager. If the Assistant Town Manager is also absent or unable to perform, the Board of Selectmen shall designate a competent and qualified person, preferably a town employee, to serve on an acting basis at the will of the board until the Town Manager or the Assistant Town Manager returns to office. No member of the Board of Selectmen shall serve in this capacity. The Board of Selectmen shall make the appointment at a duly noticed open meeting and shall file written notice thereof with the Town Clerk.

B. The Assistant Town Manager shall perform the duties and responsibilities of the Town Manager during any vacancy in the office of Town Manager. If the Assistant Town Manager is unable to perform, the Board of Selectmen shall designate a competent and qualified person to serve on an interim basis at the will of the board until a permanent Town Manager has been appointed and sworn to the office. No member of the Board of Selectmen shall serve in this capacity. The Board of Selectmen shall make the appointment at a duly noticed open meeting and shall file written notice thereof with the Town Clerk.

Article 18

A. (Reserved) Publicizing of vacancies. Delete and replace C6-2 with C7-1(below)

A. Prior to making appointments to multimember bodies, the Board of Selectmen shall publicize all vacancies and impending appointments. Said publicity shall enumerate the vacancies that are to be filled and shall include a description of the duties and shall solicit the names of persons willing and able to serve. The description of the duties shall be on file at the office of the Town Clerk. The publicity shall include the place, time and date of the meeting, to be held no sooner than seven (7) days after the publication of the vacancy, at which it is expected that the appointments will be made.

B. Prior to the making of nominations to the Finance Committee, the Moderator shall cause a notice to be published enumerating the vacancies that are to be filled and the location, time and date when the nominating committee will be available to interview persons able and
C. The Town Clerk shall publicize vacancies arising in Town Meeting membership caused by the resignation, death or removal from town of any precinct member. Said publicity shall enumerate the vacancies by precinct and shall solicit the names of precinct registered voters willing and able to serve.

C7-1 Publicizing of vacancies on town boards.

Except as otherwise specifically provided, the Board of Selectmen shall be the appointing authority for all governmental bodies. Prior to making appointments to governmental bodies, the board shall publicize all vacancies to be filled together with information on the filing of applications by prospective members, and the deadline for receiving applications. The board shall also require all chairs of governmental bodies to file with the Town Clerk a description of the duties and responsibilities of the governmental body and the members thereof. The board shall further consult with the governmental body to which appointments are to be made to obtain the names of prospective candidates for appointments. The board shall interview all applicants and make appointments in a timely manner, but no appointments shall be made until the last day for filing applications has passed.

B. The Board of Selectmen shall also consult the multimember bodies to which appointments are to be made, in order to obtain the names of persons who might be willing to serve. In cases where the Moderator is the appointing authority to a governmental body, the Moderator shall follow a procedure similar to the procedure set forth in paragraph A above; provided, however, the Moderator may delegate the function to a duly appointed nominating committee, which shall follow a similar procedure.

C. Prior to making appointments to Moderator-appointed committees, the Moderator shall cause a similar notice to be posted, enumerating the vacancies that are to be filled and the location, time and date when the Moderator will be available to interview persons able and willing to serve.

Article 19

A. Governmental Multimember bodies established in this article chapter shall possess and exercise all powers given to them under the Constitution and laws of the commonwealth and shall have and exercise such additional powers and duties as may be authorized by this Charter, bylaw or vote of the Town Meeting.

B. All governmental bodies boards, commissions and committees of the town shall organize annually; elect necessary officers; establish a quorum requirement; adopt rules of procedure and voting, including the development of agendas; maintain minutes and records of attendance, copies of which shall be a public record and regularly filed with the Town Clerk. It is the responsibility of each chairperson to file a current description of the duties and responsibilities of the governmental body and its members with the Town Clerk. Governmental bodies may nominate prospective employee(s) of their choice, who shall then be considered for appointment by the Town Manager. All such employees shall be under the day-to-day supervision of the Town Manager. [Amended ATM]
C. All governmental bodies such boards shall submit a written report to or meet with the Board of Selectmen at least once in each year.

Article 20

C(-1)(Reserved).

Enforcement

A. Any person who has reason to believe that a town official or public body has violated any provision of this charter by action or failure to act may file a written complaint with the Town Clerk, setting forth the circumstances which constitute the alleged violation.

(1) The written complaint shall identify the official or public body, specify the date and time of the alleged violation and cite the section of the charter allegedly violated.

(2) The written complaint shall be filed within thirty (30) days of the alleged violation.

Upon receiving the written complaint, the Town Clerk shall forward a copy thereof to the official or the chairperson of the public body with a further copy to the Town Manager and the Board of Selectmen.

B. The official or chairperson of the public body shall file a reply with the Town Clerk.

(1) It shall either acknowledge the alleged violation with proposed remedial action if appropriate and feasible, or deny the alleged violation with a statement of reasons therefore.

(2) The reply shall be so filed by an official within 30 days of receipt of a copy of the complaint. In the case of a governmental body, its chairperson shall file a reply within thirty (30) days of the receipt of the copy of the complaint or within ten (10) days after the second regularly scheduled meeting of the governmental body following receipt of the copy of the complaint, whichever is greater.

(3) The Town Clerk shall forward a copy of the reply to the complainant with a copy of the reply to the Town Manager and the Board of Selectmen.

C. A complainant who is aggrieved by the reply may pursue any remedy available at law or in equity.

Article 21

The Board of Selectmen shall ensure that the town by-laws are reviewed and prepared for any necessary revision or amendment at least every five (5) years.

A. Commencing in 1990, and at least every five (5) years thereafter, the Board of Selectmen shall appoint a Bylaw Revision Committee of five (5) members.

B. Said Committees shall revise the bylaws of the town, present them to the Town Meeting and shall codify and republish them as needed. Copies of the bylaws shall be made available in the Town Clerk's office.

Article 22

FINANCIAL PLAN - A forecast of revenues and expenditures for a predetermined period of time, including operating and capital categories.

GOVERNMENTAL BODY – A multi-member board, committee, commission or subcommittee thereof within the Town, however created, elected, appointed or otherwise constituted, and established to serve a public purpose, whether or not specifically mentioned in this Charter, with the exception of Town Meeting. The provisions of the Charter apply to all governmental bodies within the Town unless specifically exempted herein.
LONG RANGE PLAN – A plan developed by the Board of Selectmen sometimes referred to as the Strategic Plan covering areas of importance to the Town.

MASTER PLAN – The Master Plan, sometimes referred to as the Local Comprehensive Plan, is the community vision of the future of the Town, including issues of growth, economic and community development, civic improvements and resource conservation.

MULTIMEMBER BODY — Any board, commission or committee of the town consisting of three (3) or more persons, whether appointed or elected. Any reference to a multi-member body shall be considered a reference to a governmental body as previously defined.