

SENATE No. 2206

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. McGee

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act revising the charter of the town of Swampscott.

PETITION OF:

NAME:

Thomas M. McGee

Lori A. Ehrlich

DISTRICT/ADDRESS:

Third Essex

8th Essex

SENATE No. 2206

By Mr. McGee, a petition (accompanied by bill, Senate, No. 2206) of Thomas M. McGee and Lori A. Ehrlich (by vote of the town) for legislation to revise the charter of the town of Swampscott. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act revising the charter of the town of Swampscott.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 119 of the acts of 1949 is hereby amended by striking out section
2 1, as appearing in section 1 of chapter 416 of the acts of 1969, and inserting in place thereof the
3 following section:-

4 Section 1. There shall be in the town of Swampscott a Swampscott War Memorial
5 Scholarship Fund. The town of Swampscott may raise and appropriate the sum of \$40,000.00 to
6 provide high school and preparatory school graduates who are residents of the town with
7 financial assistance for higher education. The fund shall be dedicated as a memorial to veterans
8 of World War II, the Korean War and the Vietnam War.

9 SECTION 2. Section 2 of said chapter 119 is hereby amended by adding the following
10 sentence:- The board of trustees shall have a chairperson and a secretary and any vacancy in the
11 office of trustee shall be filled by appointment by the board of selectmen.

12 SECTION 3. Chapter 330 of the acts of 1998 is hereby repealed.

13 SECTION 4. Chapter 22 of the acts of 2000 is hereby repealed.

14 SECTION 5. Chapter 7 of the acts of 2002 is hereby repealed.

15 SECTION 6. Notwithstanding any general or special law to the contrary, the following
16 shall be the charter of the town of Swampscott:

17 CHARTER OF THE TOWN OF SWAMPSCOTT

18 PREAMBLE. We, the people of the town of Swampscott, not unmindful of the practical
19 necessity of delegating to a duly constituted general court the power to act on behalf of all the
20 inhabitants of the commonwealth in matters which transcend the boundaries of a single town but
21 firmly believing that the best government is that which is most directly that of the people
22 themselves, of which belief we recognize Article LXXXIX of the Amendments to the
23 Constitution of the Commonwealth to be an expression, do hereby adopt and establish this
24 charter of the town of Swampscott.

25 Chapter 1

26 INTRODUCTION

27 Section 1-1. Pursuant to the Article LXXXIX of the Constitution of the Commonwealth
28 and chapter 43B of the General Laws, the town of Swampscott adopts this charter.

29 Section 1-2. The effective date of this charter shall be July 1, 1969.

30 Chapter 2

31 TOWN MEETING

32 Section 2-1. Precincts. The existing precinct boundaries of the town shall be reviewed
33 and, if necessary, wholly or partly revised by the selectmen in October 1969, and once in every
34 10 years thereafter or in October of any year when so directed by a vote of a representative town
35 meeting held not later than September 20 of that year or otherwise as required by law so that
36 there shall be precincts, of compact and contiguous territory, bounded as far as possible by the
37 center line of known streets and ways or by other well-defined limits and containing
38 approximately an equal number of persons.

39 The board of selectmen shall, within 10 days after any revision of the precincts, file a
40 report of their doings with the town clerk, the board of registrar of voters and the board of
41 assessors with a description of the precincts and the names and residences of the voters therein
42 and shall post in the town hall such description, names and residences. Any revision of those
43 precincts shall take effect upon the date of the filing of the report therefor with the board of
44 registrar of voters or otherwise as required by law. Whenever the precincts are revised, the board
45 of registrar of voters shall give written notice thereof to the state secretary. Meetings of the
46 voters of the several precincts for elections, for primaries and for voting upon any question to be
47 submitted to all of the voters of the town shall be held on the day, at the hour and at such places
48 within the town as the selectmen shall direct in the warrant for the meeting.

49 Section 2-2. Precincts; Revision. If the precinct boundaries are wholly or partly revised
50 by the board of selectmen, the voters in each precinct shall, at the first town election following
51 any further precinct revisions, conformably to the laws relative to elections, elect by ballot 54
52 voters in the precinct to be town meeting members. The first 18 in the order of votes received
53 shall serve for 3 years, the second 18 shall serve for 2 years and the remaining 18 shall serve for
54 1 year from the date of the annual town meeting. In case of a tie vote affecting the division into

55 thirds, the members from the precinct determine the same by ballot. Except as otherwise
56 provided herein, if the precinct boundaries are not revised, at each annual town election, the
57 voters of each precinct shall elect 18 town meeting members for a term of 3 years and shall, at
58 such election, fill each vacancy for the unexpired term then existing. Upon every revision of the
59 precincts, the terms of office of all town meeting members shall cease upon the qualification of
60 their successors who shall be elected at the annual town election held after such revision. The
61 town clerk shall, after every election of town meeting members, forthwith notify each member
62 by mail of that member's election. Each town meeting member shall be sworn to the faithful and
63 impartial performance of duties of the office of town meeting member but failure to comply with
64 this requirement shall not affect the validity of any action taken at any town meeting. The town
65 meeting members shall be the judges of the election and qualification of their members.

66 Section 2-3. Warrants; Notice; Quorum. The articles for the warrant for each town
67 meeting, so far as they relate to the election of the moderator, town officers and town meeting
68 members, and as herein provided, to referenda, and all matters to be acted upon and determined
69 by ballot shall be so acted upon and determined by the voters of the town in their respective
70 precincts. All other articles in the warrant for each town meeting shall be acted upon and
71 determined exclusively by town meeting members. The annual town meeting shall meet on the
72 third Monday of May each year and at such other times and places as shall be set forth by the
73 selectmen in the warrant for the meeting. The board of selectmen may convene a special town
74 meeting, subject to section 10 of chapter 39 of the General Laws. A special town meeting may
75 also convene upon petition in accordance with section 12 of said chapter 39. The town clerk shall
76 notify the town meeting members of the time and place at which representative town meetings
77 are to be held which shall be sent by mail at least 7 days before any town meeting. A majority of

78 the town meeting members shall constitute a quorum for doing business but a lesser number may
79 organize temporarily for the purposes of adjourning such meeting to a time, date and place
80 certain. All town meetings shall be open to the public. The town meeting members shall receive
81 no compensation for service as town meeting members. Subject to such conditions as may be
82 determined from time to time by the town meeting members, any voter of the town who is not a
83 town meeting member may speak at any town meeting but shall not vote.

84 Section 2-4. moderator. A moderator shall be elected by ballot at each annual town
85 meeting and shall serve as moderator of all town meetings, except as otherwise provided by law,
86 until a successor is elected and qualified. If a moderator is absent, a moderator pro tempore may
87 be elected by the town meeting members in accordance with section 14 of chapter 39 of the
88 General Laws.

89 Section 2-5. members; Resignation. A town meeting member may resign by filing a
90 written resignation with the town clerk and such resignation shall take effect on the date of filing.
91 A town meeting member who moves out of the town shall cease to be a town meeting member
92 and a town meeting member who moves to another precinct may serve only until the next annual
93 town meeting. Any vacancy in town meeting membership caused by the resignation of a town
94 meeting member shall be filled by offering the position to the person getting the next highest
95 number of votes at the last election. If there is a tie, then the process to fill the vacancy shall be
96 by lottery. If the person who to the highest vote declines appointment, then the vacancy shall be
97 offered to the person who got the next highest vote or, if a lottery shall be held and if that person
98 declines or if there is no list of persons who got the next highest vote, then the vacancy shall be
99 filled by the precinct caucus, by ballot, by a majority of those present and voting for the
100 unexpired term. Upon written acceptance by a person so chosen, that person shall be deemed

101 elected, subject to the right of all town meeting members to judge the election and qualifications
102 of the members as set forth in this section this chapter.

103 Section 2-5A. members; Removal. A town meeting member who has missed 3
104 consecutive sessions of any town meeting may be removed by a 2/3 vote of the town meeting
105 members of that precinct that are present and voting at a meeting convened for that purpose.

106 Section 2-6. Votes; Petition. No affirmative vote, except a vote to adjourn or authorize
107 the borrowing of money in anticipation of receipt of taxes for the current year, passed at any
108 representative town meeting, shall be operative until after the expiration of 5 days from the date
109 on which the possibility of reconsideration of such vote has expired or become exhausted. If,
110 within such 5 days a petition, signed by not less than 5 per cent of the voters of the town,
111 containing their names and addresses as they appear on the list of voters, is filed with the
112 selectmen and asking that any questions involved in such vote be submitted to the voters of the
113 town, the selectmen shall forthwith call a special election for the purpose of presenting any such
114 question to the voters. The hours of voting shall be the same as at the previous annual town
115 election and all other election laws shall be applicable to that special election.

116 The question shall be stated upon the ballot in substantially the same language and form
117 in which it was stated to the representative town meeting by the moderator as it appears from the
118 records of the meeting in a form similar to the following:

119 “Shall this town vote to approve the action of the representative town meeting whereby it
120 was voted on [insert date of meeting] to [insert full text of action taken by town meeting in the
121 form in which it was stated to the town meeting by the moderator?]”

122 Notwithstanding the preceding sentence, however, if the action taken by the
123 representative town meeting would exceed more than 2 paragraphs of text on the ballot, the
124 board of selectmen may direct town counsel to prepare a fair and concise description of the
125 action to be included on the ballot and the full text shall be posted on the town's official bulletin
126 board and on the town's official website.

127 Section 2-7. Finance committee. The moderator shall appoint a finance committee
128 consisting of 1 voter from each precinct and 3 additional voters at large who shall serve for three
129 (3) year terms; provided, however, that not more than 2 voters from any 1 precinct shall serve at
130 the same time on the finance committee. Matters referred to this committee shall be include all
131 questions pertaining to the appropriation or expenditure of money, the creation of debt, the
132 disposition of town property and all other questions affecting the town, for the purpose of
133 making recommendations, but this shall not prohibit the appointment of special committees to
134 investigate matters pertaining to the town or to execute work authorized by it. The finance
135 committee shall may consult with all departments, officers, employees, agents or committees of
136 the town and all such departments, officers, employees, agents and committees shall furnish such
137 information as they possess that may be required by the finance committee. The finance
138 committee may also examine all books, vouchers, papers and other instruments in the custody or
139 possession of any officer, employee, agent or committee of the town.

140 Section 2-8. Powers. The town shall have the capacity to act through and be bound by its
141 town meeting members who shall, when convened from time to time as herein provided,
142 constitute representative town meetings and such representative town meetings shall exercise
143 exclusively all powers vested in the town. Action in conformity with all laws now or hereafter
144 applicable to the transaction of town affairs in town meetings shall, when taken by any

145 representative town meeting in accordance with this charter, have the same force and effect as if
146 such action had been taken in a town meeting open to all the voters of the town.

147 Section 2-9. Capital Improvements committee.

148 (a) There shall be a capital improvement committee to be appointed by the moderator
149 which shall consist of 5 registered voters for alternating 3 years each, beginning on the first day
150 of July following appointment and expiring 3 years thereafter. The town administrator and the
151 director of public works and, at the discretion of the moderator, 1 additional town employee or
152 official shall be ex-officio, nonvoting members of the committee. Any vacancy on the committee
153 arising otherwise than by expiration of term shall be filled for the remainder of the unexpired
154 term. If any member of the committee ceases to be a resident or voter of the town, that member
155 shall forthwith cease to be a member of the committee. The committee shall choose its own
156 officers.

157 (b) The committee shall study articles for proposed capital projects and
158 improvements involving major nonrecurring tangible assets and projects which: (i) are purchased
159 or undertaken at intervals of not less than 3 years; (ii) have a useful life of at least 3 years; and
160 (iii) cost over \$20,000.00. All officers, boards, departments and committees, including the board
161 of selectmen and school committee shall, by December 31 of each year, give to the committee,
162 on forms prepared by it, information concerning all anticipated projects requiring town meeting
163 action during the ensuing 6 years, including all capital improvement article requests for the
164 annual town meeting. The committee shall consider the relative need, impact, timing and cost of
165 these expenditures and the effect each will have on the financial position of the town.

166 (c) No appropriation shall be voted by town meeting for a capital improvement
167 requested by a department, board or commission unless the proposed capital improvement has
168 been submitted to the committee for consideration. The committee shall report its findings to the
169 finance committee as part of the finance committee's budget deliberations.

170 (d) The committee shall prepare an annual report recommending a capital
171 improvement budget for the next fiscal year and a capital improvement program, including
172 recommended capital improvements for the following 5 fiscal years. The report shall be
173 submitted to the town meeting for its consideration and approval. The board shall submit its
174 approved capital budget to the annual town meeting for adoption by the town or take any action
175 relative thereto.

176 Section 2-10. Conformance. To the extent that any provision of chapter 300 of the acts of
177 1927 is inconsistent any provision of this charter, the charter provision shall control.

178 Chapter 3

179 ELECTION OF TOWN OFFICIALS

180 Section 3-1. board of selectmen. The board of selectmen shall consist of 5 members
181 elected for alternating 3-year terms, with not more than 2 seats expiring in any 1 year.

182 Section 3-2. Other Elected. There shall be such other town officers, boards and
183 committees serving for such terms as are now or hereafter provided for by law, by-law or vote of
184 the town. The adoption of this charter shall not change the present officers, boards or committees
185 or their powers, duties or terms of office except as expressly provided in this charter.

186 Section 3-2A. Vacancies. An elective or appointive office shall become vacant upon the
187 death, resignation or removal from office of the office holder in a manner authorized by law.
188 Any vacancy in an office, committee or board, with the exception of the board of selectmen and
189 town meeting members, originally filled by election shall be filled by a majority vote of the
190 board of selectmen and the remaining members of the respective office, board or committee until
191 the next annual election, at which time the vacancy shall be filled for the remainder of the
192 unexpired term.

193 Any vacancy in an office, board or committee to which the holder was originally
194 appointed shall be filled for the remainder of the unexpired term by any officials having the
195 original power of appointment.

196 Section 3-3.

197 (a) Board of assessors; Powers and Duties. The elected board of assessors shall
198 annually make a valuation of all property, both real and personal, within the town in accordance
199 with law. It shall, except as expressly provided herein, have all the powers and duties given to
200 boards of assessors under the Constitution of the Commonwealth, the General Laws and any
201 other general or special law and such additional powers and duties as may be authorized by the
202 charter, by-laws or other town meeting vote. The board of assessors shall also provide policy
203 guidance to the assessing department in areas within its jurisdiction.

204 (b) Appointment of Full-Time or Part-Time Assistant Assessors. Full-time or part-
205 time assistant assessors shall be appointed as provided in this subsection. The board of assessors
206 shall serve as a screening committee in accordance with clause 8 of subsection (a) of section 21
207 of chapter 30A of the General Laws and shall recommend to the town administrator not less than

208 3 finalists for appointment. The town administrator shall recommend to the board of selectmen,
209 in accordance with the subsection (c) of section 6-2, 1 such finalist for appointment. If the town
210 administrator chooses not to recommend any such finalist, the town administrator may direct the
211 board of assessors to conduct a new search.

212 Section 3-4.

213 (a) Board of Health. There shall be an elected board of health consisting of 3
214 members for terms of 3 years each, so arranged that the term of office of 1 member shall expire
215 each year.

216 (b) Powers and Duties. The board of health shall enforce all regulations and by-laws
217 relating to environmental control and shall annually submit, for the consideration of the town
218 meeting, such regulations and by-laws as it deems proper to accomplish its purposes including,
219 but not limited to, matters concerning noise abatement and the like, as provided in clause (22) of
220 section 21 of chapter 40 of the General Laws. The board of health shall be responsible for
221 advising the town administrator and board of selectmen on all matters relating to health issues.
222 The board of health shall, except as expressly provided herein, have all the powers and duties
223 given to a board of health under the Constitution of the Commonwealth, the General Laws and
224 any other general or special law and such additional powers and duties as may be authorized by
225 the charter, by-laws or other town meeting vote. The board of health may advise the health
226 department, when warranted, on all other matters.

227 (c) Appointment of Health Agent. The health agent shall be a person especially fitted
228 by education, training or previous experience to perform the duties of the office. The health
229 agent shall be appointed in manner provided in this subsection. The elected board of health shall

230 serve as a screening committee in accordance with clause 9 of subsection (a) of section 21 of
231 chapter 30A of the General Laws and shall recommend to the town administrator not less than 3
232 applicants for appointment. Thereafter, the town administrator shall recommend to the board of
233 selectmen, in accordance with subsection (c) of section 6-2, 1 such finalist for appointment. If
234 the town administrator chooses not to recommend a finalist, the town administrator may direct
235 the board of health to conduct a new search.

236 Section 3-5.

237 (a) Board of Library Trustees; Composition, Term of Office. There shall be an
238 elected board of library trustees which shall consist of 3 members for terms of 3 years each, so
239 arranged so that the term of office of 1 member shall expire each year.

240 (b) Powers and Duties. The board of library trustees shall have all the powers and
241 duties given to a board of library trustees under the Massachusetts constitution and the General
242 Laws and such additional powers and duties as may be authorized by the charter, by-law or other
243 town meeting vote. The board of library trustees may advise the library department, when
244 warranted, on all other matters.

245 (c) Appointment of Head Librarian. The head librarian shall be appointed as provided
246 in this subsection. The board of library trustees shall serve as a screening committee in
247 accordance with clause 8 of subsection (a) of section 21 of chapter 30A of the General Laws and
248 shall recommend to the town administrator not less than three (3) applicants for appointment.
249 Thereafter, the town administrator shall recommend to the board of selectmen, in accordance
250 with subsection (c) of section 6-2, 1 such finalist for appointment. If the town administrator

251 chooses not to recommend a finalist, the town administrator may direct the board of library
252 trustees to conduct a new search.

253 Chapter 4

254 RECALL

255 Section 4-1. Process. This section providing for recall shall apply to all elected town
256 officials, regardless of length or term of office:

257 (a) Recall action may be commenced at any time after election to office, subject to
258 the limitations in subsection (l); provided, however, that recall shall not be initiated with respect
259 to any elected official if there are 3 months or less remaining in the term of office of the official
260 sought to be recalled.

261 (b) A minimum of 25 registered voters may file an affidavit, signed under oath or
262 before a notary public, containing their signatures and setting forth the name and office of the
263 elected official sought to be recalled and the specific reasons for the recall. At the time of filing,
264 1 signer shall be identified as the primary petitioner.

265 (c) After the board of registrars of voters has verified that at least 25 or more
266 signatures on the affidavit are those of registered voters of the town, the town clerk shall, within
267 5 days after receipt of the affidavit, issue to the primary petitioner petition forms, in sufficient
268 quantity, containing the name and office held by the elected official sought to be recalled, the
269 names and addresses of the first 10 signers of the petition, the specific reasons for recall and the
270 date and time that the petition forms were issued to the primary petitioner.

271 (d) Recall petition forms shall be returned and filed with the board of registrars of
272 voters not later than 5:00 p.m. on the twentieth day following the date on which the town clerk
273 has issued petition forms; provided, however, that if such day is a Saturday, Sunday or legal
274 holiday, the petitions shall be filed on the next business day. The petitions so filed shall contain
275 the signatures of at least 15 per cent of the registered voters of the town, calculated as of the date
276 of the last town election.

277 (e) The board of registrar of voters shall certify the validity of the required number of
278 signatures, increased by one-fifth thereof to the extent additional signatures have been filed or
279 submitted, within 5 days after the last day fixed for filing the petition forms.

280 (f) Immediately after the certification pursuant to subsection (e), the board of
281 registrars of voters shall order that written notice be given to the official sought to be recalled,
282 such notice to be served in hand on that official or otherwise by a town constable or other
283 process server in hand or at the elected official's place of residence as shown on the official list
284 of voters and shall set forth the specific reasons given for the recall and shall also contain a
285 statement advising the official concerned of the official's right to tender a written resignation to
286 the town clerk within 7 calendar days after service of the written notice as provided in this
287 subsection.

288 (g) If the official sought to be recalled does not resign as provided in subsection (f),
289 the board of selectmen shall forthwith set a date for the recall election and the calling and
290 conduct of the election shall be in accordance with all General Laws relative to elections.

291 (h) A recall election shall be held on a date not less than 64 days or more than 90
292 days from the date the board of selectmen called for the recall election. The polls shall be open

293 for recall election voting during the same hours as they were set for the most recent annual town
294 election and the result shall be determined by a majority vote. In the event that the annual town
295 election is scheduled to take place within 100 days of the date on which the board of registrars of
296 voters certifies the recall petitions, the recall election shall be postponed until the date of such
297 annual town election and the recall election may, at the discretion of the board of selectmen,
298 appear on the ballot therefor or on a separate ballot.

299 (i) If the official sought to be recalled does not resign as provided in subsection (f),
300 the official shall continue to perform the duties of the official's office until the recall election and
301 shall, at the official's discretion, appear on the ballot as a candidate for the office which is the
302 subject of the recall election by notifying the town clerk in writing of the same. The recall
303 election shall take place notwithstanding any vacancy occurring prior thereto.

304 (j) The recall election ballot shall contain 2 propositions in the order indicated:

305 For the Recall of (Name of Official, Name of Office)

306 Against the Recall of (Name of Official, Name of Office)

307 (k) The recall election ballot shall also contain the names of the candidates nominated
308 as hereinbefore provided to fill a vacancy resulting from a vote for recall. If recall is voted under
309 subsection (j), the candidate receiving the greatest number of votes shall be deemed elected, or
310 reelected, to fill the remainder of the term of office subject to the recall election.

311 (l) A second recall against any elected town official shall not be initiated until at least
312 6 months after the date of the first recall election.

313 Chapter 5

314 BOARD OF SELECTMEN

315 Section 5-1. Powers and Duties.

316 (a) Powers and Duties in General. The board of selectmen shall serve as the chief
317 policy making agency of the town and shall be responsible for the formulation and promulgation
318 of policy directives and guidelines to be followed by all town agencies serving under it. The
319 board of selectmen shall also be responsible for the development and promulgation of policy
320 guidelines for elected town officers and multiple member bodies not serving under the board, in
321 conjunction with those officers and bodies. The board of selectmen shall recommend to the town
322 meeting for approval, disapproval or other appropriate action each article presented in the
323 warrant. The recommendation shall be printed in the town meeting warrant, if then available, and
324 the town moderator shall, after a motion has been made on each article, request that the board's
325 recommendation be announced by a member of the board or its designated representative.

326 (b) Licensing Authority. The board of selectmen shall be the licensing board for the
327 town and may issue licenses in accordance with the General Laws and town by-laws.

328 (c) Appointment Powers. The board of selectmen shall appoint a town administrator,
329 persons who to serve as representatives or delegates of the town to the governing or advisory
330 boards of regional or district authorities and such other town officials and members of multiple
331 member bodies as provided for in this chapter.

332 (d) Investigations. The board of selectmen may make, or authorize the town
333 administrator to make, investigations into the affairs of the town and the conduct of any town
334 agency. The report of the results of any such investigation shall be placed on file in the office of

335 the board of selectmen and a report summarizing the results of any such investigation shall be
336 printed in the next annual town report.

337 (e) Contracts. The board of selectmen shall be the signatory authority for all contracts
338 within its jurisdiction as provided for in the General Laws, town by-laws, by vote of the town
339 meeting or otherwise.

340 Section 5-2. Appointments. The board of selectmen may appoint:

- 341 • a town administrator, subject to chapter 6;
- 342 • a conservation commission which shall consisting of 7 members who shall serve
343 for terms of 3 years;
- 344 • the zoning board of appeals which shall consist of 5 regular members who shall
345 serve for terms of 5 years and 3 associate members who shall serve for terms of 2 years;
- 346 • a council on aging as provided by by-law;
- 347 • a cable television oversight committee;
- 348 • constables;
- 349 • an arts council;
- 350 • a historical commission;
- 351 • a building code board of appeals;
- 352 • a harbor advisory board;
- 353 • a recreation commission as provided in chapter 7;

- 354 • an affirmative action committee;
- 355 • a 4th of July committee;
- 356 • a Veteran's Day committee;
- 357 • a Memorial Day committee;
- 358 • a War Memorial Scholarship Fund committee;
- 359 • the board of registrars of voters;
- 360 • a disability commission;
- 361 • an athletic field and facilities advisory committee as provided in chapter 10; and
- 362 • any other committee not referred to in this charter which the town meeting or the
363 board or the board of selectmen deems appropriate.

364 Chapter 6

365 TOWN ADMINISTRATOR

366 Section 6-1. Appointment; Qualifications; Term. The board of selectmen shall appoint a
367 town administrator from a list prepared by a screening committee. The board of selectmen shall
368 appoint the town administrator to serve for a renewable contract period not to exceed 5 years and
369 shall fix the compensation for the town administrator annually within the amount appropriated
370 by the town meeting. The town administrator shall be appointed solely on the basis of
371 demonstrated executive and administrative qualifications. The town administrator shall be a
372 person especially fitted by education, training and previous experience in public or business

373 administration to perform the duties of the office. The town administrator need not be a resident
374 of the town. The town administrator shall not have served in an elective office in the town of
375 Swampscott government for at least 12 months prior to appointment, with the exception of
376 service as a town meeting member.

377 The town administrator shall devote full-time to the office and shall not hold any other
378 public office, elective or appointive, nor engage in any other business or occupation during such
379 service, unless such action is approved in advance and in writing by the board of selectmen.

380 The board of selectmen shall provide for a review of the job performance of the town
381 administrator twice in the first year of a new contract and annually thereafter which shall, at least
382 in summary form be, a public record.

383 Any vacancy in the office of the town administrator shall be filled as soon as possible by
384 the board of selectmen and, in the interim, the board of selectmen shall appoint a qualified town
385 administrative officer or employee to serve as a temporary town administrator to perform the
386 duties of the office. A temporary appointment shall not exceed 6 months but 1 renewal of the
387 temporary appointment may be approved by the board of selectmen to extend the temporary
388 appointment for a second 6 months. Compensation for the temporary town administrator shall be
389 set by the board of selectmen.

390 Section 6-2. Powers and Duties. The town administrator shall be the chief administrative
391 and financial officer of the town and shall be directly responsible to the board of selectmen for
392 the administration of all town affairs not specifically reserved to another elected body. The
393 powers and duties of the town administrator shall include, but not be limited to, the following:

394 (i) to supervise, direct and be responsible for the efficient administration of all functions
395 and activities for which the office of town administrator is given authority, responsibility or
396 control by the town charter, by-laws, by town meeting vote, by vote of the board of selectmen or
397 otherwise;

398 (ii) to attend all sessions of all town meetings and, at the request of a town meeting
399 member or voter and at the discretion of the town moderator, provide an explanation of any
400 warrant article and answer all questions which relate to warrant articles; provided, however, that
401 the town administrator shall also provide appropriate information to town meeting including, for
402 example, written summaries of town meeting warrant articles and such other information as the
403 town administrator or the board of selectmen deems appropriate and helpful to inform town
404 meeting;

405 (iii) to appoint, hire, remove and discipline, subject to the civil service law and any
406 applicable collective bargaining agreements, all nonschool department officials and nonschool
407 department employees for whom no other method of selection or discipline is provided in this
408 charter; provided, however, that notwithstanding the foregoing, the town administrator shall
409 recommend and the board of selectmen shall appoint, hire, remove and discipline, subject to the
410 civil service law and any applicable collective bargaining agreements, the following officials and
411 employees, which appointment, hire, discipline or removal shall become effective upon approval
412 of the majority of the members of the board of selectmen:

- 413 • superintendent/director of public works;
- 414 • police chief;
- 415 • fire chief;

- 416 • assistant town administrator;
- 417 • town accountant;
- 418 • town clerk;
- 419 • treasurer/collector;
- 420 • town counsel and all other employees of that office;
- 421 • Full-time and part-time assistant assessors;
- 422 • head librarian;
- 423 • harbormaster;
- 424 • inspector of buildings;
- 425 • veterans' agent;
- 426 • health agent; and
- 427 • town planner;

428 (iv) to be entrusted with the administration of a town personnel system, except for the
429 school department, and including, but not limited to, personnel policies and practices, rules and
430 regulations, including provisions for an annual employee performance review, personnel by-laws
431 and collective bargaining agreements entered into by the town; provided, however, that the town
432 administrator shall also prepare and keep current a plan establishing the personnel staffing
433 requirements for each town department;

434 (v) to attend all regular and special meetings of the board of selectmen and other
435 meetings deemed appropriate by the board of selectmen unless unavailable for reasonable cause;
436 provided, however, the town administrator shall have a voice, but not a vote, in all of its
437 proceedings;

438 (vi) to assure that full and complete records of the financial and administrative activities
439 of the town are kept and to render as often as may be required by the board of selectmen, but at
440 least once each year, a full report of all town financial and administrative operations during the
441 period reported on, which report shall be made available to the public;

442 (vii) to keep the board of selectmen fully advised as to the needs of the town and shall
443 recommend to the board of selectmen and to other elected town officers and agencies for
444 adoption such measures requiring action by them or by the town meeting as the town
445 administrator may deem necessary or expedient;

446 (viii) to have full jurisdiction over the rental and use of all town facilities and property
447 except school property; provided, however, that the town administrator shall be responsible for
448 the maintenance and repair of all town buildings and facilities placed under the town
449 administrator's control by by-law or by vote of the town or otherwise;

450 (ix) to prepare and present each year a balanced annual operating budget for the town and
451 a proposed capital outlay program for the 5 fiscal years next ensuing in accordance with existing
452 by-laws;

453 (x) to assure that an inventory of property of the town, both real and personal, is kept,
454 including property within the jurisdiction of the school committee, in accordance with generally
455 accepted government accounting principles;

456 (xi) to negotiate all contracts involving any subject within the jurisdiction of the office of
457 town administrator, including contracts with town employees, except employees of the school
458 department, involving wages, hours and other terms and conditions of employment;

459 (xii) to be responsible for purchasing all supplies, materials and equipment for all
460 departments and activities of the town, but not including food for schools, school books and
461 other instructional materials, supplies and equipment unless otherwise specifically requested by
462 the school committee; provided, however, that the town administrator shall examine, or cause to
463 be examined, the quantity, quality and condition of all supplies, materials and equipment
464 delivered to or received by any town department, except schools; provided further, that the town
465 administrator shall be responsible for the disposal of all supplies, materials and equipment which
466 have been declared surplus by any town agency; and provided further, that the town
467 administrator, or the town administrator's designee, shall be the chief procurement officer for the
468 town;

469 (xiii) to see that all of the General Laws, the town charter, the town by-laws and the votes
470 of the town meeting and board of selectmen and other elected boards that the town administrator
471 has operational jurisdiction over, which require enforcement by the town administrator or other
472 officials subject to the direction and supervision of the town administrator, are faithfully
473 executed, performed or otherwise carried out;

474 (xiv) to inquire, at any time, into the conduct of the office or the performance of duties of
475 any official, employee, department, board, commission or other town agency, excluding schools;

476 (xv) to recommend to the board of selectmen, who are granted the authority to make such
477 changes upon majority vote, the reorganization, consolidation or abolishment of town

478 departments or agencies serving under the supervision of the town administrator, in whole or in
479 part, to provide for new departments or agencies and to recommend a reassignment of powers,
480 duties and responsibilities among such departments or agencies so established or existing;

481 (xvi) to coordinate the activities of all town departments or agencies serving under the
482 office of the town administrator and the board of selectmen with those under the control of other
483 officials and multiple member bodies elected directly by the voters; provided, however, that for
484 this purpose, the town administrator may require the persons so elected or their representatives,
485 to meet with the town administrator at reasonable times for the purpose of effecting coordination
486 and cooperation among all departments or agencies of the town; and

487 (xii) to perform any other duties as may be required to be performed by the town
488 administrator by by-law, administrative code, vote of the town meeting or vote of the board of
489 selectmen or otherwise.

490 Section 6-3. Acting town administrator.

491 (a) Temporary Absence. By letter filed with the town clerk, the town administrator
492 shall recommend a qualified town administrative officer or employee who, with the approval of
493 the board of selectmen, shall exercise the powers and perform the duties of town administrator
494 during a temporary absence. During a temporary absence, the board of selectmen shall not
495 revoke such designation until at least 10 working days have elapsed, whereupon it may appoint
496 another qualified town administrative officer or employee to serve until the town administrator
497 shall return.

498 (b) Vacancy. Any vacancy in the office of town administrator shall be filled as soon
499 as possible by the board of selectmen but, pending such regular appointment, the board of

500 selectmen shall appoint a qualified town administrative officer or employee to perform the duties
501 of the office on an acting basis.

502 (c) Powers and Duties. The powers of a temporary or acting town administrator under
503 subsections (a) and (b) shall be limited to matters not admitting of delay and shall include
504 authority to make temporary, emergency appointments or designations to town office or
505 employment but not to make permanent appointments or designations.

506 Section 6-4. Removal and Suspension.

507 (a) The board of selectmen may, by a vote of at least 4 of its members, terminate and
508 remove, or suspend, the town administrator in accordance with this section.

509 (b) The board of selectmen shall adopt a preliminary resolution of removal by at least 4
510 of its members which shall state the reasons for removal. The preliminary resolution may
511 suspend the town administrator for a period not to exceed 45 days. A copy of the resolution shall
512 be delivered in hand or by certified mail, return receipt requested, to the town administrator.

513 (c) Within 5 days after receipt of the preliminary resolution, the town administrator may
514 request a public hearing by filing a written request for therefor with the board of selectmen. The
515 hearing shall be held at a meeting of the board of selectmen not later than 30 days and not earlier
516 than 20 days after the request is filed. The town administrator may file a written statement
517 responding to the reasons stated in the resolution of removal with the board of selectmen
518 provided that the written statement is received at the office of the board of selectmen more than
519 48 hours in advance of the public hearing.

520 (d) If the town administrator does not request a public hearing, the board of selectmen
521 may, by the affirmative vote of at least four 4 of its members, not less than 10 days and not more
522 than 21 days following the delivery of the preliminary resolution to the town administrator, adopt
523 a final resolution of removal, which may be made effective immediately. If the town
524 administrator requests a public hearing, the board of selectmen may, by the affirmative vote of at
525 least four 4 of its members within 10 days following the close of the public hearing, adopt a final
526 resolution of removal, which may be made effective immediately. Failure to adopt a final
527 resolution of removal within the time periods as provided in this subsection shall nullify the
528 preliminary resolution of removal and the town administrator shall, at the expiration of that time,
529 immediately resume duties of the office. The town administrator shall continue to receive full
530 pay and benefits until the adoption of a final resolution by the board of selectmen.

531 (e) The action of the board of selectmen in suspending or removing the town
532 administrator shall be final.

533 Section 6-5. Appointment of town administrator; Qualifications.

534 (a) Upon the occurrence of a vacancy in the office of the town administrator, a
535 screening committee shall be established for the purpose of soliciting, receiving and evaluating
536 applications for the position of town administrator.

537 The screening committee shall consist of 5 persons, 1 of whom shall be a member or a
538 designee of the board of selectmen, the school committee and the finance committee and 2 of
539 whom shall be elected town meeting members appointed by the town moderator. A person
540 named as a designee of any aforementioned members may, but need not be, members of the
541 agency from which they are designated. Appointments made by the town moderator shall be

542 made last in time in order that in making appointments the town moderator may, insofar as it
543 may be feasible to do so, appoint persons who will broaden the membership base of the
544 committee to be most representative of the demographic and occupational base of the town.

545 If in the sole judgment of the screening committee there are no candidates deemed
546 acceptable, then the screening committee shall report to the board of selectmen and request that
547 the advertising and solicitation process be reinstated. The screening committee may employ a
548 professional search firm to aid in this process, subject to funding, but all final decisions shall be
549 made by the screening committee except that the search firm shall not be required to forward
550 applications to the screening committee that the search firm deems unqualified for the position.
551 The screening committee shall have full access to the relevant files of the search firm.

552 Not more than 90 days following the date on which the screening committee meets to
553 organize, the screening committee shall submit to the board of selectmen the names of not less
554 than 3 and not more than 5 persons whom it believes to be best suited to perform the duties of the
555 office of town administrator. The board of selectmen may, upon request by a majority vote of the
556 screening committee, grant an extension of the 90-day period, such extension not to exceed 30
557 days. The board of selectmen may grant only 3 such 30-day extensions.

558 Within 30 days following the date the list of nominees is submitted to it, the board of
559 selectmen shall choose, by the affirmative vote of at least 3 of its members, 1 of the nominees to
560 serve as town administrator. If the board of selectmen does not select one of the finalists
561 submitted, the process shall commence again beginning with the advertising of a vacancy and
562 solicitation of candidates.

563 Upon the appointment of a town administrator, the screening committee established
564 hereunder shall be discharged.

565 (b) Town Administrator Qualifications - Until such time as the town meeting may
566 act, by by-law, to establish different qualifications for the office, the town administrator shall
567 have:

568 (i) at least a Master's degree from a recognized, accredited college or university in a
569 relevant discipline;

570 (ii) a Bachelor's degree from a recognized, accredited college or university and 3
571 additional years of experience may; or

572 (iii) served full time as an administrative officer of a city or town for not less than 3 years
573 or have demonstrated executive, management and administrative qualifications and be fitted by
574 education, training and previous experience in the public or private sector.

575 Chapter 7

576 RECREATION COMMISSION

577 Section 7-1. Establishment and Composition. There shall be a recreation commission
578 which shall consist of 7 voters of the town who shall be appointed by the board of selectmen for
579 terms of 3 years.

580 Chapter 8

581 FINANCE AND FISCAL PROCEDURES

582 Section 8-1. Fiscal Year. The fiscal year of the town shall begin on the July 1 and shall
583 end on the June 30 unless another period is required by the General Laws.

584 Section 8-2. School committee Budget. Submission to town administrator - The budget
585 for the ensuing fiscal year as adopted by the school committee shall be submitted to the town
586 administrator in sufficient time, but not later than February 15, to enable the town administrator
587 to consider the effect of the school department's requested appropriation upon the total town
588 operating budget which is required to be submitted under this charter.

589 Section 8-3. Finance committee. The finance committee shall perform its responsibilities
590 as provided in section 2-7.

591 Section 8-4. Submission of Budget and Budget Summary. Within the time fixed by by-
592 law, before the town meeting is to convene, the town administrator, after consultation with the
593 board of selectmen, shall submit concurrently to the board of selectmen and the finance
594 committee a proposed town operating budget for the ensuing fiscal year with an accompanying
595 budget summary and supporting analysis. The proposed operating budget, summary and
596 supporting analysis shall be based, in part, on annual departmental appropriation requests
597 received by the town administrator, who shall provide copies of the same within 7 days after
598 receipt thereof, to the finance committee. Complete copies of the proposed operating budget
599 shall be available for examination by the public. The board of selectmen shall by a majority vote
600 approve a balanced budget and submit the budget to the finance committee not later than the
601 March 1 for the ensuing fiscal year.

602 Section 8-5. Budget Summary. The budget summary prepared by the town administrator
603 shall explain the budget for all town departments, both in fiscal terms and in terms of work

604 programs. It shall describe important features of the budget, indicate any major variations from
605 the current year in financial policies, expenditures and revenues, together with the reasons for
606 such variations, summarize the town's debt position and include such other materials as the town
607 administrator deems desirable or as the board of selectmen may reasonably require.

608 Section 8-6. The Budget. The proposed operating budget shall provide a complete
609 financial plan for all town funds and activities for the ensuing fiscal year. The budget shall
610 include supplemental information showing in detail all estimated income from the proposed
611 property tax levy and other sources and all proposed expenditures, including debt service, for the
612 following year. Supplemental information shall be arranged to show the actual and estimated
613 income and expenditures for the previous, current and ensuing fiscal years and shall indicate in
614 separate sections:

615 (i) proposed expenditures for current and new operations during the ensuing fiscal year,
616 detailed by town department and position in terms of work programs, and the method of
617 financing such expenditures; and

618 (ii) proposed capital expenditures for current operations during the ensuing fiscal year,
619 detailed by town department, and the proposed methods of financing each such capital
620 expenditure, the estimated surplus revenue and free cash at the end of the current fiscal year and
621 estimated balances in any special accounts established for specific purposes.

622 Section 8-7. Action on the Budget. Action by town meeting - Upon receipt of the
623 proposed operating budget approved by the board of selectmen, the finance committee may
624 review, investigate and amend the proposal as it deems necessary and appropriate. The finance
625 committee budget proposal, as amended, shall be placed before town meeting for its approval,

626 subject to further amendments from the floor. Supplemental budget information including, but
627 not limited to, the budget summary, income and expense projections and program descriptions
628 shall also be available to town meeting for its approval. Supplemental budget information shall
629 not be subject to town meeting approval.

630 Section 8-8. Intentionally Omitted.

631 Section 8-9. Approval of Warrants. The town administrator shall be the chief fiscal
632 officer of the town. Warrants for the payment of town funds prepared by the town accountant in
633 accordance with the General Laws shall be submitted to the town administrator. The approval of
634 any such warrant by the town administrator shall authorize payment by the town treasurer but, in
635 the event of an absence of the town administrator or a vacancy in the office of town
636 administrator, the board of selectmen shall approve all warrants.

637 Section 8-10. Annual Financial Forecast. The town administrator shall report to the board
638 of selectmen, the Finance committee, and the School committee no later than November 15 of
639 each year and present a financial forecast for the next fiscal year detailing anticipated revenues,
640 transfers and expenditures.

641 Section 8-11. Five-Year Budget Plan. The town administrator shall submit as
642 supplemental information to town meeting a five-year budget plan detailing anticipated revenues
643 and expenditures, including, without limitation, a five-year capital budget identifying future
644 capital expenditures and providing a prioritized list of town capital needs as recommended by the
645 town administrator.

646 Chapter 9

647 INTENTIONALLY OMITTED

648 Chapter 10

649 ATHLETIC FIELD AND FACILITIES ADVISORY COMMITTEE

650 Section 10-1. Creation. There shall be an athletic field and facilities advisory committee
651 which shall be appointed by the board of selectmen. The advisory committee shall provide
652 recommendations to the board of selectmen and the town administrator concerning the use,
653 maintenance and upkeep of the town's athletic fields and facilities, excluding school-owned
654 property. The recommendations may include possible alternative and supplemental funding
655 sources. The size and membership of the committee shall be determined by the board of
656 selectmen; provided, however, that the recreation director and director of public works shall be
657 ex-officio members to the committee; and provided further, that a member of the recreation
658 commission, as designated by the recreation commission, shall be a voting member of the
659 committee. The membership of the committee shall include, to the extent possible,
660 representatives of athletic groups of different types, ages and genders, and others with relevant
661 backgrounds in the design, care and maintenance of athletic fields and facilities.

662 Chapter 11

663 CONTINUATION OF GOVERNMENT; EXISTING LAWS, SEVERABILITY AND
664 TRANSITION

665 Section 11-1. Continuation of Government. All town agencies shall continue to perform
666 their duties until reappointed, reelected or until successors to their respective positions are duly

667 appointed or elected or until their duties have been transferred and assumed by another town
668 agency in accordance with this charter.

669 Section 11-2. All other special acts, by-laws, rules and regulations for the town of
670 Swampscott which are not inconsistent with this charter shall remain in full force.

671 Section 11-3. Severability. The provisions of this charter shall be severable. If any
672 provision of the charter is held invalid by the final judgment of a court of competent jurisdiction,
673 the other provisions shall not be affected thereby. If the application of the charter or any of its
674 provisions to any person or circumstances is held invalid by the final judgment of a court of
675 competent jurisdiction, the application of the charter and its provisions to other persons and
676 circumstances shall not be affected thereby.

677 SECTION 7. On the effective date of this act and notwithstanding chapter 119 of the acts
678 of 1949, the trustees of the World War II Memorial Fund established pursuant to section 1 of
679 said chapter 119 shall become the trustees of the Swampscott War Memorial Scholarship Fund
680 for the administration of the fund and shall have the same responsibilities and the same terms of
681 office as the trustees of the World War II Memorial Fund shall have had.

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