

**Chapter A302  
CHARTERS**

**ARTICLE I  
Town Charter**

**§ A302-1. Charter of the Town of Nantucket.**

**ARTICLE II  
County Charter**

**§ A302-2. Charter of the County of Nantucket.**

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**ARTICLE I  
Town Charter**

**§ A302-1. Charter of the Town of Nantucket.**

**CHARTER ENABLING LEGISLATION  
CHAPTER 289 OF THE ACTS OF 1996**

**THE COMMONWEALTH OF MASSACHUSETTS**

**AN ACT PROVIDING FOR A CHARTER  
FOR THE TOWN OF NANTUCKET**

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. Text of Charter**

The following shall be the Charter of the Town of Nantucket:

**Preamble**

We, the inhabitants of the Town of Nantucket, in order to provide more perfectly for a municipal government known as the Town of Nantucket, to provide for the common welfare, and to secure for ourselves and for our community all the rights, powers, privileges, duties and obligations which may now or in the future be derived from town government, do hereby establish for ourselves and for our community this instrument as the Charter of and for the Town of Nantucket.

**ARTICLE I  
Powers of the Town**

**Section 1.1 – Intention of this Charter**

It is the intent of this Charter to confer on the Town of Nantucket, first incorporated in 1671, all powers possible under the Constitution of the Commonwealth as fully and completely as though they were expressly enumerated in this Charter. The Town shall remain subject to the laws of the Commonwealth, its rules and regulations and to the bylaws of the Town, except to the extent they are inconsistent with the provisions of this Charter. The Charter shall not be

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construed as a codification of all such laws, rules, regulations and bylaws but as effecting those particular changes by which the inhabitants of Nantucket may secure a more efficient, responsive and wise government.

### Section 1.2 – Liberal Construction

The powers of the Town under this Charter shall be construed liberally in favor of the Town.

## ARTICLE II Legislative Functions

### Section 2.1 – Legislative Powers

The legislative powers of the Town shall remain vested in the Town Meeting open to all voters.

Notwithstanding the foregoing, certain powers of Town Meeting as to real estate acquisitions shall be vested in the Board of Selectmen, as specified in Section 3.3., subject to the voters' right to petition, as specified in Sections 2.1(b) and 3.3, to place before Town Meeting any real estate acquisition voted by the Board of Selectmen under said Section 3.3.

The following additional powers may be exercised by Town Meeting:

(a) To exercise any power which a charter for the County of Nantucket may vest in Town Meeting; and

(b) To veto any real estate acquisition voted by the Board of Selectmen pursuant to Section 3.3; provided, however, that a petition proposing such veto in the form of a Town Meeting warrant article is signed by at least ten registered voters and provided that the petition is timely filed with the Town Clerk. The Town Clerk shall then present the petition to the Board of Selectmen within the time permitted for inclusion of the article in the next Town Meeting warrant. The Board of Selectmen may proceed with the real estate acquisition unless the acquisition is vetoed by the Town Meeting.

### Section 2.2 – Town Moderator

The Moderator shall be elected for a term of one year and shall have all the powers and duties given to moderators under the Constitution and the laws of the Commonwealth, and such additional powers and duties as are authorized by this Charter.

### Section 2.3 – Alternate Town Moderator

In advance of each Town Meeting, the Town Moderator shall by written notice to the Town Clerk appoint an Alternate Town Moderator who shall, during such Town Meeting, serve as acting Moderator in the event of absence or disability of the Moderator.

### Section 2.4 – Clerk of the Meeting

The Town Clerk shall serve as Clerk of the Town Meeting. In advance of each Town Meeting, the Town Clerk shall by written notice to the Moderator appoint an Alternate Clerk of the Meeting who shall, during such Town Meeting, serve in the event of absence or disability of

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the Clerk of the Meeting. If an Alternate Clerk of the Meeting is not appointed or is unable so to serve, the Moderator shall appoint a clerk.

### Section 2.5 – Town Meeting Warrant

(a) The Board of Selectmen shall include all proposed operating expenditures in a single article or in consecutive articles in the warrant and also all proposed capital improvement expenditures in a single article or in consecutive articles.

(b) The Board of Selectmen shall publish the warrant of each Town Meeting in a newspaper of general circulation within the Town promptly after issuance of the warrant. After such publication of the warrant, the Finance Committee shall hold a public hearing on each article and vote its recommendations. For articles that do not call for the Town to raise and appropriate, transfer or borrow sums of money, the Finance Committee may choose to make no recommendation.

(c) The Board of Selectmen shall publish the warrant with the recommendations of the Finance Committee by mailing a copy of such warrant to the address or postal box of each registered voter at least seven days prior to the Town Meeting.

### Section 2.6 – Rights of Nonresident Property Owners

One spokesperson for the Town's nonresident property owners shall be allowed to speak at any annual or special Town Meeting on matters before the Meeting but only at such times during a Meeting as the Moderator may allow and in accordance with the rules of order.

### Section 2.7 Conduct of the Town Meeting

Except to the extent other procedures have been or are adopted by Town Meeting or by the Moderator in conformity with this Charter and the laws of the Commonwealth, Town Meeting shall follow the latest revised edition of Town Meeting Times: A Handbook of Parliamentary Law, by Johnson, Trustman and Wadsworth.

## ARTICLE III

### **Board of Selectmen**

#### Section 3.1 – Composition, Term of Office and Quorum

The Board of Selectmen shall be composed of five members elected for terms of three years each, so arranged that the terms of as nearly equal number of members as possible expire each year. To qualify for office, each member shall be and remain a resident of the Town. Three of the five members shall constitute a quorum. A majority of the quorum shall be sufficient to set the Board's meeting agenda and to decide any question, except as may be otherwise provided in this Charter.

#### Section 3.2 – Board Officers

Within 30 days following each annual Town election, the Board of Selectmen shall choose one of its duly elected members as Chair and another as Vice-Chair, each to serve until a successor is elected. The Vice-Chair shall, during any temporary disability or absence of the Chair, serve as Acting Chair. The Chair shall:

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(a) execute, and cause the Town Clerk to affix Town seal to, all contracts, bonds or other instruments requiring the signature and seal of the Town and having been duly approved by the Board of Selectmen;

(b) preside over all meetings of the Board of Selectmen with the right to vote on all questions, absent conflict of interest, and to propose the agenda prior to each such meeting;

(c) report annually to the people of the Town on the work of the previous year; and

(d) serve as representative of the Board of Selectmen at ceremonial and civic occasions.

### Section 3.3 – Power to Acquire Real Estate for the Town

Subject to applicable administrative procedures pursuant to the laws of the Commonwealth or Town bylaw, the Board of Selectmen may, notwithstanding any law to the contrary, vote the following:

To acquire any real estate, including any partial interest therein, by purchase or acceptance of gift; such acquisition being without the necessity of any vote of Town Meeting, but subject to the restriction that any acquisition of real estate by eminent domain may only be effected if first authorized by vote of Town Meeting pursuant to the laws of the Commonwealth and subject also to the availability of any necessary funds appropriated for such acquisition.

The Board of Selectmen shall publish a public notice of such vote in a newspaper having general circulation within the Town. Any such acquisition shall be subject to veto by Town Meeting if a petition as set forth in Section 2.1(b) is filed with the Town Clerk within 30 days following the date such public notice is published.

Nothing in this Section of the Charter shall affect the acceptance of gifts pursuant to c. 44, Section 53(a) of the General Laws.

### Section 3.4 – Selectmen Powers as to Appointments

(a) The Board of Selectmen may, at a public meeting, exercise the following powers:

(1) To appoint the Town Administrator for the purposes set forth in Article IV. Such appointment shall be upon appropriate terms and conditions, including provision for annual performance reviews, in conformity with this Charter and the General Laws. By a majority vote of the full count of members then in office, the Board may remove the Town Administrator;

(2) To appoint Town Counsel, and registrars of voters and other election officials (upon the recommendation of the Town Clerk), also other Town officers and employees to the extent so permitted to them by this Charter;

(3) To appoint and, for cause, upon written charges and after a public hearing if so requested, to remove members of the following Town boards, councils, commissions and committees:

Airport Commission, Conservation Commission, Commission on Disability, Council on Aging, Council for Human Services, Finance Committee, Parks and Recreation Commission, Our Island Home Board of Directors, Personnel Board (4 of 5 members), and Zoning Board of Appeals; and any other committee for which a Town bylaw makes the Board of Selectmen the appointing authority; also any advisory committee established by the Board of Selectmen and any committee acting for both the Town and the County.

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Cause for removals shall be put forward in good faith, and not arbitrary, irrational, unreasonable or irrelevant to the duties of the office, on grounds of incapacity beyond temporary illness, chronic nonattendance or violation of the oath of office.

Nothing in this Section 3.4(a)(3) mandates the continued existence of any such board or the specific number of members appointed;

(4) To exercise the power to disapprove of appointments made by the Town Administrator pursuant to Section 3.4(b) or 4.3 of this Charter. All appointments by the Town Administrator to the position of Assistant Town Administrator, of department head or of any other position pursuant to this Charter, are subject to a vote of disapproval by the Board of Selectmen; provided, however, that such appointments shall take effect unless the Board of Selectmen votes disapproval within a 15-day period following the day on which notice of the proposed appointment is filed with the Board Chair;

(5) To fill by appointment any elective position on a Town board, commission or council, vacant by reason of a member's resignation, death or incapacity beyond temporary illness, but only if the laws of the Commonwealth allow for appointments in such cases, the appointee to serve, any such laws notwithstanding, only until a successor is elected at the next annual Town election; and the successor so elected then to serve for the remainder, if any, of the member's unexpired term; and

(6) To appoint to the Planning Board three associate members to serve in zoning matters as alternates in lieu of any elected alternate, the terms of appointment being of such length and so arranged that the term of one associate member shall expire each year. Nothing in this Charter shall affect the election of the regular Planning Board members in accordance with the laws of the Commonwealth.

(b) Any vacancy occurring in an appointed position in Town offices, boards, councils, commissions or committees shall be filled by the Board of Selectmen, the Town Administrator or other appointing authority, whichever is empowered to make the initial appointment to the position vacated, for the balance of the unexpired term.

### Section 3.5 Further Powers of the Selectmen

The Board of Selectmen shall have the power:

- (a) to act in the capacity of the Board of County Commissioners;
- (b) to establish general Town priorities, goals and policies;

(c) To establish an advisory committee to conduct any inquiry or investigation or to make planning, policy or other recommendations; further to establish a 3-member audit committee whose duties would include appointment of an outside audit firm, review of the annual audit results and evaluation of the internal accounting procedures and controls. The audit committee will be composed of 3 voting members appointed for a 1-year term. The committee would consist of the Chairman of the Board of Selectmen, the Chairman of the Finance Committee and one appointed member from the Board of Selectmen.

(d) To adopt rules for the conduct of business and to fix times and places for meetings, to establish all five members as a committee of the whole, and to designate any number of its members as a subcommittee;

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(e) To approve or disapprove Town contracts, contract amendments, contract terminations and contract enforcement actions proposed by the Town Administrator;

(f) To identify emergency situations and to declare emergencies;

(g) To hear and decide upon license applications as may be provided by Town bylaws or by Special or General Laws; and

(h) To hear and decide administrative appeals from the Historic District Commission or from any other Town body as may be provided by Town bylaw or by the laws of the Commonwealth.

### ARTICLE IV

#### **Town Administration**

##### Section 4.1 – Roles of Selectmen and Town Administrator

(a) The administration of the Town shall be vested in the Town Administrator who shall, with the assistance of the various Town Department heads, cause this Charter, the Town's legislative actions pursuant to Articles II and III, and applicable General Laws to be enforced.

(b) It is the intent of this Charter to confer upon the Board of Selectmen such limited legislative powers and general executive policy setting and investigative powers as are provided in Article III but at the same time, by virtue of this Article IV, to confer upon the Town Administrator full control over Town Administration, as defined in Section 4.4(a) of this Charter, and of the administration of Town services provided for in this Article IV. Accordingly, this Charter seeks to establish clear lines between Article III powers of the Board of Selectmen and Article IV administrative functions as follows:

(1) The Board of Selectmen are to deal with individual Town Administration employees only through or jointly with the Town Administrator responsible for the overall administrative management of the Town's affairs as specified in this Article IV; and

(2) All routine contact with Town employees concerning the functions of Town Administration and its provision of services shall be from the Board of Selectmen through or jointly with the Town Administrator.

(c) Nothing in the foregoing nor in this Charter shall be construed to prohibit informal, non-directive conversations of Town Selectmen with other Town officials, nor the inquiry by the Board of Selectmen into any act or issue concerning Town Administration.

##### Section 4.2 – Town Administrator

(a) The Board of Selectmen shall appoint a Town Administrator for an initial term of 2 years. Any successive terms shall not exceed 3 years each. The Town Administrator so appointed shall, by education, experience and ability, be qualified to perform the duties established for the position. Such person need not be a resident of the Town at the time of appointment but shall be a resident during the term of office starting not later than six months following appointment.

(b) The Town Administrator shall devote full time to the duties of the office.

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(c) The Town Administrator shall be responsible to the Board of Selectmen for the efficient operation of Town Administration, for acting in conformity with policies established by the Board with respect to budget and other matters, and for the proper implementation of legislation adopted by the Town pursuant to Article II. The Town Administrator shall have all the powers, rights and duties delegated by the Board of Selectmen or as are commonly associated with the office of chief administrative officer of a local government unit.

(d) In particular, the Town Administrator:

(1) shall supervise, direct and be responsible for the efficient administration of all officers, boards, councils, commissions and committees appointed by the Town Administrator, and all other Town functions for which the Town Administrator is given responsibility by this Charter, Town bylaw, administrative code, or other legislation; and may issue administrative orders;

(2) shall have appointment powers as provided in Section 4.3;

(3) shall, with the assistance of the department heads, prepare and submit to the Board of Selectmen, all annual operating budgets and capital budgets, and any proposal for budget amendment; shall establish the schedules and procedures to be followed by all Town departments, boards, councils, commissions and committees in connection therewith and shall direct all phases of the budgetary process throughout each fiscal year;

(4) shall prepare the Town Meeting warrant for adoption by the Board of Selectmen pursuant to a schedule set by the Board, by administrative code or Town bylaw.

(5) may be present at all meetings of the Board of Selectmen and may participate in all deliberations, without the right to vote;

(6) shall, with the assistance of the Town department heads, ensure adequate inventory, care, construction and maintenance of all Town properties, owned or leased, and foster centralized purchasing including, if so requested, for the School Committee;

(7) may require reports from and may examine the records, accounts and operations of any Town department, board, council commission or committee and shall recommend whatever actions or programs are deemed necessary or desirable for the Town, the welfare of its residents and of visitors to the Islands;

(8) shall review, analyze and forecast trends of Town services and programs of all Town departments, boards, councils, commissions and committees and make reports and recommendations thereon to the Board of Selectmen;

(9) shall negotiate and sign on behalf of the Town contracts and contract amendments for the Town and initiate contract terminations and enforcement actions, subject in each case to resolution of approval or disapproval of the Board of Selectmen, and including any Town employment (but not union) contracts, subject to the availability of funds;

(10) shall have the authority, subject to resolution of approval or disapproval of the Board of Selectmen, to prosecute, defend and compromise, all litigation to which the Town is party. In the event that a board, council, commission or committee of the Town is a party defendant to litigation and the Town a party plaintiff, that board may vote to be represented by special counsel funded from the same appropriation as Town Counsel would otherwise be;

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(11) shall assure that all terms and conditions imposed in favor of the Town or its inhabitants in any statute, franchise or contract are faithfully kept and performed;

(12) may order any Town Administration department head to undertake tasks for any other Town Administration department, on a temporary basis if deemed necessary for proper and efficient administration;

(13) shall make recommendations to the Board of Selectmen of actions they might take for the improvement of the Town and for the welfare of its residents and Island visitors, also for provision of adequate working space and conditions of Town Administration and other Town agencies;

(14) shall approve warrants for payment before such warrants are submitted to the Board of Selectmen; and

(15) perform any other duties as may be required by this Charter, by Town bylaw or by majority vote of a quorum of the Board of Selectmen.

### Section 4.3 – Town Administrator Appointments

The Town Administrator:

(a) shall appoint the heads of all Town Administration departments (other than any elected heads), subject to resolution of disapproval pursuant to Section 3.4(a)(4) by the Board of Selectmen;

(b) shall appoint members of Town boards, councils, commissions and committees, but only to the extent that the power of appointment of the Board of Selectmen under Section 3.4 of this Charter to make such appointments is delegated by the Board of Selectmen to the Town Administrator and then subject to resolution of disapproval pursuant to Section 3.4(a)(4) by the Board of Selectmen;

(c) may, at the Administrator's discretion and for cause, remove, suspend or otherwise discipline any appointee of the Administrator, subject, however, to any grievance procedure as may be established by Town bylaw, rule or regulation or any applicable union contract provisions; and

(d) may, if the Board of Selectmen creates the office of Assistant Town Administrator, appoint and, subject to the limitations set out in Section 4.3(c) above, remove, suspend or otherwise discipline the Assistant Town Administrator. Such Assistant Town Administrator shall serve as acting Town Administrator during the temporary absence or disability of the Town Administrator.

### Section 4.4 – Town Administration Departments [**Amended 4-10-2002 ATM by Art. 46, approved 4-1-2003 ATE**]

(a) The Town Administration shall include the Building, Finance, Fire, Health, Island Home, Marine and Coastal Resources, Police, Public Works, and Visitors Services departments; provided, however, that nothing in this Charter mandates the continued existence of any such Town Administration department or continuance of a department name or function.

(b) The Town Administration shall not include the Airport, the Park and Recreation, the School and the Water departments.

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In addition to the foregoing, the following boards, commissions and agencies shall be hereby classified as town administration departments:

- Board of Appeals
- Conservation Commission
- Council on Aging
- Council for Human Services
- Historic District Commission
- Planning Board
- Park & Recreation Commission
- Shellfish & Harbor Advisory Board

All town employees in the employ of these boards, and commissions, and agencies as staff, assistants and the like shall, on the effective date of this amendment, come under the appointment, removal or other authority of the Town Administrator in accordance with section 4.3 and 4.6 of the Charter; provided, however, that the method of appointment or election of members of such boards and commissions (which boards and commissions shall be "Department Head" within the meaning of section 4.6 of the Charter of the Town for each of their respective jurisdictions) shall not be changed by this amendment.

### Section 4.5 – Department Head Responsibilities

The heads of Town Administration departments shall be responsible to the Town Administrator for the efficient operation of their respective departments and for the proper implementation of the laws and regulations of the Commonwealth and of Town bylaws applicable to their departmental functions.

### Section 4.6 – Department Personnel

With authorization of the Town Administrator and subject to availability of budgeted funds, the heads of Town Administration departments shall appoint and hire the personnel of their respective departments. With authorization of the Town Administrator, the department heads may remove, suspend or otherwise discipline such personnel, subject, however, to any grievance procedures as may be established by Town bylaw, rule or regulation or any applicable union contract provisions.

### Section 4.7 – Town Clerk

The Town Clerk shall be elected and shall have such duties and powers as are provided by General Law, including the power to appoint an Assistant Town Clerk.

### Section 4.8 – Town Boards not within Town Administration

The Town Administrator shall not exercise any control over the discretionary power vested by the laws of the Commonwealth in any Town board, council, commission, or committee not within Town Administration.

### Section 4.9 – Staff of Boards not within Town Administration

Each Town board, council, commission or committee not within the Town Administration shall have the power to appoint its respective staff personnel, subject to availability of budgeted

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funds and (except staff of the School Committee) subject to prior written notification to the Town Administrator. Such staff personnel shall be responsive to the Town Administrator only in matters of the Town's general administrative procedures but not as to substantive decisions entrusted to such board, council, commission or committee. With prior written notification to the Town Administrator, such boards may remove, suspend or otherwise discipline their staff personnel, subject, however, to any grievance procedures as may be established by Town bylaw, rule or regulation or any applicable union contract provisions.

### ARTICLE V

#### **Elections, Dismissals and Recalls**

##### Section 5.1 – Elections

The regular elections to any Town office shall be by official ballot for the annual Town election. Except as may be provided generally for town governments by the General Laws of the Commonwealth or as provided for recalls in Section 5.4, nothing in this Charter shall grant any power to remove or dismiss any elected Town official.

##### Section 5.2 – Actions Not to be Influenced by Selectmen

No Selectman shall individually or collectively seek to influence the Town Administration to dismiss any person from or to appoint or to promote any person to any position in the Town Administration. However, the Board of Selectmen may, pursuant to Section 3.4(a)(4), adopt a resolution of disapproval as to appointments which the Town Administrator is empowered to make in accordance with Section 3.4(b) or 4.3 of this Charter.

##### Section 5.3 – Indemnification of Town Officials

The Town shall indemnify and hold harmless all Town officers pursuant to Chapter 258, Section 13 of the General Laws.

##### Section 5.4 – Recall of Elected Officials

(a) Any holder of elective Town office may be recalled by the voters of the Town. Any two-hundred registered voters may file with the Town Clerk an affidavit identifying the name of the officer sought to be recalled and stating in full the specific grounds for the recall. The affidavit shall be signed by each voter under pains and penalty of perjury and shall include the street address of each voter.

(b) Within ten days, the Town Clerk shall certify the signatures and, if sufficient, shall deliver upon request to any of the certified voters a blank recall petition form naming such voter. Each such petition form shall carry the Clerk's signature and seal and date of the certification, shall be addressed to the Board of Selectmen, shall identify the officer's name and the stated grounds for recall, and shall demand election of a successor to the office.

(c) If, within 21 days after the certification date, such recall petition forms signed by at least 20% of registered voters with Town residence address shown are returned to the Town Clerk, the Clerk shall, within 14 days, certify the signatures of registered voters, to determine sufficiency of the petition.

(d) If sufficient the Town Clerk shall thereupon submit the petition with date of its certification to the Board of Selectmen which shall forthwith give written notice thereof to the

## CHARTERS

officer sought to be recalled. If the officer does not resign within 7 days, the Board of Selectmen shall order a recall election to be held concurrently with the next annual election for Town officers not less than 75 days after such certification date. The recall election, once ordered, shall proceed, even if the office becomes vacant, in the same manner as for an annual Town election.

(e) The officer sought to be removed may seek renomination, may serve until expiration of the current term of office unless and until a successor is sooner elected, and may not be put twice to the recall process in the same term.

(f) Recall election ballots shall first submit the question:

For the recall of (name of officer)

Against the recall of (name of officer)

and then the heading "Candidates" followed by a listing of the names of candidates nominated for the office. Only if the majority of votes counted upon the question of recall is in the affirmative shall the votes upon the candidates be effective to elect the one receiving the highest number.

## ARTICLE VI General Provisions

### Section 6.1 – Application of Laws of the Commonwealth

The provisions of this Charter shall govern notwithstanding any General or Special Law of the Commonwealth to the contrary. Where not contrary to or inconsistent with the provisions of this Charter, the Town shall remain subject to the laws of the Commonwealth.

### Section 6.2 – Code of the Town of Nantucket

Unless expressly altered or superseded by the provisions of this Charter, the Code of the Town of Nantucket shall remain in force and effect notwithstanding ratification of this Charter unless and until amended, added to or repealed in accordance with this Charter and the laws of the Commonwealth.

### Section 6.3 – Town Clerk to have Custody of Charter

The Town Clerk shall have custody of the original of this Charter and any amendments thereto.

### Section 6.4 – Charter Interpretation

(a) To the extent any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail. The provisions are severable, the remaining provisions being unaffected if a Charter provision is held to be invalid.

(b) To facilitate bringing Town governmental organization and operations into conformity with this Charter, the members of the Town and County Charter Commission elected April 4, 1995 shall serve ex officio as members of a Committee on Charter Conformance, but only during the continuance of the Charter Commission and, in any event, not later than April 4,

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2000. Such Committee shall serve in an advisory capacity to the Board of Selectmen, the Town Administrator and to such boards, councils, commissions and committees as may request advice.

### Section 6.5 – Amendment of Charter

(a) This Charter may be replaced, revised or amended in accordance with the procedure set forth in either Chapter 43B of the General Laws of the Commonwealth or in c. 328 of the Acts of 1992.

(b) As permitted by Article II, Sec. 4, of the Articles of Amendment of the Constitution of the Commonwealth, this Charter may also be amended as follows:

The Town Meeting may, by a two-thirds vote, propose amendments of this Charter. All proposed Charter amendments so voted shall be published and submitted for approval at the next annual Town election in the same manner as provided for the adoption or revision of a charter upon the recommendation of a charter commission. Notwithstanding the foregoing, any change in the Charter relating in any way to the composition, mode of election or appointment, or terms of office of the Town Meeting or the Board of Selectmen or a town manager shall be made only by the procedure of charter revision set forth in Section 3 of Article II of the Articles of Amendment of the Constitution of the Commonwealth.

### Section 6.6 – Time of Taking Effect

This Charter shall take effect on July first next following ratification by the voters of the Town. All Town officers, boards, councils, commissions and committees shall continue to perform their duties until re-appointed or re-elected or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another.

Any person holding a Town office or employment under the Town shall continue to retain such office or such employment and shall continue to perform the duties of the office or of the employment until such time as provisions shall have been made in accordance with this Charter for the performance of such duties by another person or agency. No person in the permanent, full time service or employment of the Town shall forfeit pay grade or time in service by reason solely of the adoption of this Charter. All such persons, unless removed in accordance with this Charter, shall be retained in an employment capacity as similar to their former employment capacity as is feasible.

### SECTION 2. Continuance of the Charter Commission

The Town and County Charter Commission elected April 4, 1995 pursuant to Chapter 328 of the Acts of 1992 shall continue to exist until thirty days after the enactment of this Act and any act that it may recommend in furtherance of a merger of the Town and County of Nantucket, provided that it shall submit a final report of its recommendations as to such a merger by December 31, 1998 and provided further that in no event shall such Commission continue beyond April 4, 2000.

### SECTION 3. Ratification by the Voters

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On the official ballot to be used by the Town of Nantucket at the next annual election for Town officers at least two months after enactment of this Act by the General Court, the question shall be placed substantially as follows:

“Shall an act passed, by the General Court in the year 1996 entitled ‘An Act providing for a Charter for the Town of Nantucket’ be accepted?”

A summary of the Charter to be prepared by the Town and County Charter Commission shall accompany the ballot question described herein.

If the majority of the votes cast in answer to such question is in the affirmative, this Act shall take full effect but not otherwise.

Ratified April 8, 1997

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ARTICLE II  
County Charter

§ A302-2. Charter of the County of Nantucket.

ENABLING LEGISLATION  
CHAPTER 290 OF THE ACTS OF 1996  
THE COMMONWEALTH OF MASSACHUSETTS  
AN ACT ESTABLISHING A CHARTER FOR THE  
COUNTY OF NANTUCKET

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. We, the inhabitants of Nantucket County, in order to provide more perfectly for a regional government known as Nantucket County, to provide for the common welfare and to secure for ourselves and for our community all the rights, powers, privileges, duties and obligations which may now or hereafter be derived from county government, do hereby establish for ourselves and for our community this instrument to be known as the Charter of and for Nantucket County within the Commonwealth.

SECTION 1A. Establishment of Charter The Charter of and for Nantucket County shall be, and is hereby declared to be, as set forth in Section 4, provided, however, that the same is adopted by the voters of the Town as set forth in Section 3.

SECTION 2. Grant of Authority The intent of this Act is to confer certain powers upon Nantucket County in addition to those granted in the General Laws applicable to counties generally and, accordingly, the Charter and the powers set forth therein are granted to Nantucket County, notwithstanding the provisions of any general or special law to the contrary.

SECTION 3. Ratification by the Voters On the official ballot, to be used in Nantucket County at the next annual election for Town officers at least two months after such enactment, the question shall be placed substantially as follows:

“Shall an act passed by the General Court in the year 1996 entitled ‘An Act establishing a charter for Nantucket County’ be accepted?”

A summary of the Charter, which summary is to be prepared and approved by the Attorney General, shall accompany the ballot question described herein.

If the majority of the votes cast in answer to said question is in the affirmative, the Charter set forth herein shall take full effect but not otherwise.

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SECTION 4. Text of Charter The text of the Charter of and for Nantucket County is as follows:

### COMMONWEALTH OF MASSACHUSETTS CHARTER OF AND FOR NANTUCKET COUNTY

#### ARTICLE I

#### County Incorporation and Powers

##### Section 1.1 – Incorporation

The Nantucket County shall hereby continue to be a body politic and corporate and a public instrumentality providing regional governmental services within the geographical bounds fixed by law, including the Islands of Nantucket, Tuckernuck and Muskeget. The exercise of the powers herein conferred upon the County shall be deemed the performance of an essential governmental function.

##### Section 1.2 – General Grant of Powers

It is the intent of this Charter to confer on the County all powers permitted under the Constitution of the Commonwealth and the General Laws and special acts relating to county governments; this Charter is intended to be liberally construed so to empower the County.

##### Section 1.3 – Enumerated Powers

Without intending to limit the generality of County powers as stated in Section 1.2 and notwithstanding the provisions of any general or special law to the contrary, the following enumerated powers are granted to the County government:

(a) To establish, subject to such approvals by the Commonwealth as may from time to time be required by the general laws, the annual operating and capital budgets for operation and maintenance of the various County offices, departments and functions and for County purposes, including the establishment of grants to the Town of Nantucket;

(b) Through the adoption, amendment or repeal of ordinances, or the provisions of an administrative code, to organize and regulate County internal affairs; to create, alter and abolish County agencies, offices, positions and employments, to provide for the manner of appointment and removal and the salary or other compensation to be paid for such offices, positions and employments. Nothing in this Charter shall be deemed to grant the power to effect any alteration, amendment or abolition of (i) the existence of Nantucket County as a county, (ii) the offices of the County Sheriff, Register of Probate, Clerk of the Courts or the Register of Deeds; or (iii) the composition, mode of election or term of office of the legislative body or of the County Chair or Vice-Chair.

(c) Notwithstanding any limitation on county purposes as may be contained in Chapter 34 or Chapter 35 of the General Laws, to adopt, amend, enforce and repeal resolutions and ordinances, with fines and penalties not to exceed \$300 for a violation thereof, in furtherance of, or not inconsistent with, the bylaws, regulations and resolutions of the Town of Nantucket, in order to provide for the general health, welfare and safety of the inhabitants of, and visitors to, the Islands; provided, however, that this Charter shall not in any way infringe upon or diminish the paramount powers and duties of the Town of Nantucket under the General Laws,

## NANTUCKET CODE

pursuant to which the Town of Nantucket shall retain the right, by exercise of the local police power, to provide for the general health, safety and welfare of its citizens;

(d) To construct, acquire, operate and maintain public improvements, projects or enterprises for any public purpose, notwithstanding any limitation upon county purposes as may be contained in c. 34 or c. 35 of the General Laws, and specifically including roads, bike paths, public works, recreation, open space, sewage collection and disposal facilities, solid waste disposal facilities, law enforcement facilities such as regional lockups and corrections and police stations, and other such purposes, and to exercise the power of eminent domain in furtherance of any such purpose, subject to such procedures as are provided for county governments by the General Laws;

(e) To exercise powers of eminent domain, borrowing and taxation to the extent authorized for county governments by the laws of the Commonwealth;

(f) To sue and be sued; to establish, maintain and use the corporate seal of the County; to enter contracts; to buy, sell, lease, hold, encumber, impose easements upon, and dispose of real and personal property; and to appropriate and expend funds for County purposes;

(g) To contract with or sign agreements with other governmental entities for the provision of a joint, coordinated or cooperative service or functions; and

(h) To apply for, to accept and to obtain federal and state grants, loans and other funds and in-kind grants, as if the County were a district, a city, a town, a region, an authority, a state or a state agency within the meaning of legislation authorizing any contract or grant consistent with the purposes of Nantucket County.

## ARTICLE II Legislative Functions

### Section 2.1 – Repository of Legislative Functions

The legislative powers of the County shall be vested generally in the five members who are to perform the functions of County Commissioners, except those specific legislative powers later identified in this Charter as being vested in the Town Meeting of the Town of Nantucket.

### Section 2.2 – Composition and Compensation

The five persons who have been elected and are serving as Town of Nantucket Selectmen shall constitute ex officio the members of the Board of County Commissioners and shall perform the functions of County Commissioners; provided, however, that the five Selectmen acting as the County Commissioners may fix by ordinance an additional compensation for the County Chair that is reasonable and commensurate with special duties of that office.

### Section 2.3 – Organization

Within 30 days following each annual election of the Board of Selectmen of the Town of Nantucket, the five members acting as the Board of County Commissioners shall choose one of its duly elected members as County Chair and another as County Vice-Chair to serve until a successor is elected. Neither the County Chair nor the County Vice-Chair shall concurrently serve respectively as Chair or Vice Chair of the Nantucket Board of Selectmen. The County

## CHARTERS

Vice-Chair shall, during any temporary absence or temporary disability of the County Chair, serve as Acting County Chair.

Three of the five members of the Board of County Commissioners shall constitute a quorum.

The County Chair shall

(a) execute and cause the County Clerk to affix the County seal to all contracts, bonds or other instruments requiring the signature and seal of the County and having been duly approved by the five members performing the functions of County Commissioners;

(b) shall preside over all meetings of the five members who perform the functions of County Commissioners with the right to vote on all questions, absent conflict of interest, and shall serve as representative of the five members at ceremonial and civic occasions;

(c) serve as an ex-officio nonvoting member of all appointed bodies in County government; and

(d) report annually to the people of the County on the work of the previous year.

### Section 2.4 – Exercise of five-member Legislative Powers

The County's Article I powers may be exercised by the adoption, by vote of the five members who act as County Commissioners, of ordinances or otherwise by the adoption of resolutions.

### Section 2.5 – Legislative Ordinances

After public advertisement in a newspaper of general circulation within the County at least seven days in advance and after holding a public hearing, the five members who perform the functions of County Commissioners may vote to adopt legislative ordinances, having an effective date 7 days after enactment, unless prior to such effective date a petition as set forth in Section 2.8(d) is filed with the County Clerk, and having permanent force and effect until amended or repealed by the five members, or amended or repealed by Town Meeting of the Town of Nantucket as set forth in Section 2.8 for the purposes specified below notwithstanding any law to the contrary:

(a) To establish, alter or abolish any County department, office or agency except as prohibited in Article I or V;

(b) To provide for a fine or other penalty or establish a rule or regulation as authorized in Article I, for violation of which a fine or other penalty not to exceed \$300 is imposed;

(c) Notwithstanding any limitation as may be contained in Chapter 34 or Chapter 35 of the General Laws, to appropriate funds for the operation and maintenance of County government and for the furtherance of County purposes and to authorize the transfer of funds between County departments and agencies; or to grant funds to the Town of Nantucket; provided however that such appropriation, transfer or grant is approved as described in Section 2.7 or Section 2.8 of Article II and provided further that the amount of the County's assessment upon the Town of Nantucket shall be fixed by a Nantucket Town Meeting pursuant to Section 2.8 of Article II; and provided, further, that Chapter 59, Section 20A of the General Laws shall not apply to County assessments applicable to the Town of Nantucket;

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- (d) To grant, renew or extend a franchise, license, lease, permit or other authorization;
- (e) To regulate the rate charged for services provided to any other governmental unit or authorize a contract with such unit for services;
- (f) To implement the borrowing of money as may be authorized pursuant to Section 2.8 of Article II of this Charter;
- (g) To initiate petitions to the General Court for special legislation applicable to Nantucket County, subject to the limitation contained in Section 2.8 of this Charter;
- (h) To acquire any property, whether real or personal, including any partial interest therein, by purchase, acceptance of gift or eminent domain and to convey, lease or give by grant any such property, for any purpose permitted by this Charter and its enabling Act, Chapter 290 of the Acts of 1996, provided, however, that the procedures for such acquisition or disposition of real property shall comply with the General Laws and the Constitution of the Commonwealth; and
- (i) Amend or repeal any ordinance previously adopted.

### Section 2.6 – Legislative Resolutions

The five members acting as the Board of County Commissioners may act informally at a public meeting without a public hearing to exercise Article I powers by the adoption of resolutions to be immediately effective:

- (a) To establish an advisory council or committee on any subject and to conduct any inquiry or investigation;
- (b) To elect, appoint and remove County officers and employees, to the extent permitted by this Charter or otherwise, and to establish general County personnel policies;
- (c) To exercise the power of advice and consent to actions of the County Administrator and to approve contracts presented by the County Administrator;
- (d) To adopt rules for the conduct of business and to fix times and places for meetings; to establish all five members as a committee of the whole, and to designate any number of its members as a subcommittee.
- (e) To identify emergency situations and to declare emergencies;
- (f) To designate newspapers for required advertisements or notices; and
- (g) To take any other actions specified as resolutions.

### Section 2.7 – Nantucket County Review Committee

The Nantucket County Review Committee shall consist of those persons then serving as the Finance Committee of the Town of Nantucket.

It shall be the duty and responsibility of the Nantucket County Review Committee

- (a) to review every article applicable to County matters presented to any Annual or Special Town Meeting of the Town of Nantucket in accordance with Section 2.8 of this Charter and to provide to such Town Meeting the Committee's guidance and recommendations; and

## CHARTERS

- (b) to approve every appropriation and transfer of money;

No appropriation of County funds nor transfer of money nor issuance of a grant pursuant to Article II shall be effective unless and until the same has been approved by the Nantucket County Review Committee or the denial of approval by the Nantucket County Review Committee has been overturned as provided in Section 2.8(c).

### Section 2.8 – Legislative Powers granted to Nantucket Town Meeting

Notwithstanding any other provision of this Charter, the following Article I legislative powers may be exercised exclusively by a Town Meeting of the Town of Nantucket

- (a) To authorize by a two-thirds vote the issuance of County bonds or other County borrowing;

- (b) To ratify or confirm by majority vote any petitions to the General Court for special legislation applicable to Nantucket County; provided, however, that such petitions may be submitted to the General Court in advance of and pending a vote of the next regularly scheduled Town Meeting, or may be submitted with the proviso that any legislation enacted as a result shall not take effect unless accepted by such Town Meeting;

- (c) To fix by majority vote the amount of the County assessment to be imposed upon the Town of Nantucket without regard to any limit contained in Chapter 59, Section 20A of the General Laws; to vote to approve any County appropriation, transfer or grant for which approval has been denied by the Nantucket County Review Committee pursuant to section 2.7(b), provided that an appropriate article has been placed upon the warrant in accordance with the General Laws of the Commonwealth; and

- (d) To vote, by two-thirds vote, to repeal, amend, or veto any County ordinance adopted pursuant to Section 2.5; provided, however, that a petition proposing such repeal or veto at the next Annual or Special Town Meeting shall have been signed by the number of voters required by the General Laws for inclusion of an article upon the warrant and is presented to the Board of Selectmen of the Town of Nantucket within the time permitted for inclusion in the Warrant for such meeting; and provided, further, that if such petition is filed by the proponents thereof with the County Clerk prior to the effective date as described in Section 2.5, the ordinance shall not take effect, and the same shall be stayed, until after the vote of the Town Meeting.

### Section 2.9 – Appointment Powers

The five members performing the functions of the County Commissioners shall appoint, on such terms and conditions of employment as deemed appropriate, and shall have the power to remove, a County Administrator by a majority vote of those present and voting, and may create the office of, appoint and remove, an Assistant County Administrator by such a majority vote, such Assistant to serve as Acting County Administrator during the temporary absence or disability of the County Administrator.

All Article III appointments by the County Administrator for which County Commissioner confirmation is specified in this Charter or in an administrative code which may be adopted hereunder shall not take effect without the advice and consent of the five members who serve as County Commissioners.

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### ARTICLE III **Executive Functions**

#### Section 3.1 – Executive Powers

The executive powers of the County shall be vested in the County Administrator who shall, with the assistance of the various County Department heads, be responsible for the enforcement of this Charter, the County's legislative actions pursuant to Article II, and any General Laws applicable thereto.

It is the intent of Article II of this Charter to confer on the five members who perform the legislative functions of County Commissioners broad general legislative and investigative powers as are germane to the exercise of their legislative powers, but at the same time, by virtue of Article III, to retain to the Executive Branch of County government full control over County administration and of the administration of County services provided for in this Charter. Accordingly, this Charter seeks to establish clear lines between Article II legislative and Article III executive functions as follows: the five members who perform the legislative functions are to deal with individual Article III County employees only through the executive officials responsible for the overall executive management of the County's affairs as specified in this Article III. All routine contact with Article III County employees, all actions and communications concerning the administration of the County's government and provisions of services shall be from the legislative branch to and through the County's executive officials.

Nothing in the foregoing nor in this Charter shall be construed to prohibit informal, non-directive conversations of County Commissioners with County officials, nor the inquiry by the legislative branch into any act or problem of County administration. Any of the five members who perform the functions of County Commissioners may require a report on any aspect of the government of the County at any time by making a request therefor to the County Administrator. The five members may, by majority vote, require the County Administrator to appear before them sitting as a committee of the whole and to bring before them such records and reports and such officials and employees of the County as the five members shall deem necessary to insure clarification of any legislative matter under study. The five may further vote to establish any number of its members as an ad hoc committee to consult with the executive branch to study any matter and to report thereon.

#### Section 3.2 – County Administrator

Unless the five members who perform the functions of County Commissioners vote to appoint another; the County Administrator shall be the person then serving as Nantucket Town Administrator or Executive Secretary. The person so appointed shall, by education, experience and ability, be qualified to perform the duties established for the position. Such person need not be a resident of the County at the time of appointment but shall become a resident during the period of service to the County.

The County Administrator shall be responsible to the five members who perform the functions of County Commissioners, for the efficient administration of the County government and the proper implementation of legislation adopted pursuant to Article II. The County Administrator shall have all the powers, rights and duties designated by the five members performing the functions of County Commissioners or as commonly associated with the office

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of chief administrative officer of a local government unit; and, in particular, in exercising the County's Article III powers, the County Administrator:

(a) may require reports from and may examine the records, accounts and operations of any agency of County government and shall recommend whatever actions or programs are deemed necessary or desirable for the County, the welfare of its residents and of visitors to the Islands;

(b) shall appoint the heads of all county administrative departments (other than those who are elected) with the advice and consent of the five members who perform the functions of County Commissioners, and shall appoint all members of County committees and other County administrative personnel whose appointment is not prescribed elsewhere in this Charter; and may, except as may be provided by the General Laws or any applicable civil service regulations, at the Administrator's discretion remove, suspend or otherwise discipline any such appointee subject to the provisions of Article IV of this Charter; and may, subject to any applicable provisions of the General Laws, delegate to any department head the County Administrator's powers of appointment and removal of departmental employees;

(c) shall coordinate, with the Director of County Finance, the preparation, for submission to the five members performing the functions of County Commissioners, of a proposed annual operating budget and a capital budget, and any proposal for budget amendment; and shall establish the schedules and procedures to be followed by all County departments and agencies in connection therewith and shall coordinate, with the Director of County Finance, all phases of the budgetary process throughout each fiscal year;

(d) may be present at all meetings of the five members who perform the functions of County Commissioners and may participate in all deliberations, without the right to vote;

(e) shall insure through the office of the various County department heads adequate supervision, direction and control of all County administrative departments and the care and maintenance of all County properties, institutions and agencies;

(f) shall organize the work of the County departments, subject to this Charter, the General Laws, and any administrative code adopted by the five members performing the functions of County Commissioners, and make any recommendations pertaining thereto;

(g) shall review, analyze and forecast trends of County services and programs of all County departments and other agencies and make reports and recommendations thereon;

(h) shall negotiate contracts for the County with the approval of the five members performing the functions of County Commissioners, including any County employment and union contracts;

(i) shall assure that all terms and conditions imposed in favor of the County or its inhabitants in any statute, franchise or contract are faithfully kept and performed;

(j) may order any County agency or department head to undertake tasks for any other County agency, on a temporary basis, if deemed necessary for proper and efficient administration;

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(k) shall make recommendations to the five members who perform the functions of County Commissioners for actions they might take for the improvement of the County and for the welfare of its residents and visitors to the Islands; and

(l) shall perform any other duties as may be required by this Charter, by County ordinance or by majority vote of the five members performing the functions of County Commissioners.

### Section 3.3 – Executive: Department Heads

The following administrative positions and offices, all holders of which shall be charged with the implementation of County legislation adopted pursuant to Article II and with the enforcement of the laws of the Commonwealth, shall be included in the Executive Branch:

#### (a) County Sheriff, Register of Probate, Clerk of the Courts & Register of Deeds

Nothing in this Charter shall alter, change or affect the positions of Sheriff, Register of Probate, Clerk of the Courts or Register of Deeds, who shall continue to remain elected County officials and shall perform their duties in accordance with the general laws of the Commonwealth. Such officials shall provide such reports to the five members who perform the functions of County Commissioners or the County Administrator and shall coordinate through the County Administrator with other county departments as necessary or desirable for the County to exercise the powers and perform the duties given by this Charter.

#### (b) Clerk to the Five members performing the functions of County Commissioners

The Clerk to the five members performing the functions of County Commissioners shall be the Clerk of the Nantucket Superior Court.

#### (c) Other County Officials

Nantucket County offices which have counterpart Town offices as part of the Town of Nantucket shall be deemed to be filled ex officio by the person holding the counterpart Town office, including:

The Director of County Finance who shall be that person duly appointed and serving as Director of Municipal Finance for the Town of Nantucket.

The County Treasurer who shall be that person duly appointed and serving as the Town Treasurer of the Town of Nantucket.

The County Clerk created and established in Section 3.5 of this Charter shall be that person duly elected or appointed and serving as the Town Clerk of the Town of Nantucket. The Assistant County Clerk shall be that person duly elected or appointed and serving as the Assistant Town Clerk of the Town of Nantucket.

County Counsel shall be that person duly appointed and serving as Town Counsel for the Town of Nantucket.

### Section 3.4 – Executive: Department of County Finance

The Department of County Finance shall be headed by the Director of County Finance. The Director may draw upon as needed the personnel and equipment of the office of Municipal

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Finance of the Town of Nantucket, and shall be responsible for the management of all financial aspects of County government, including:

- (a) the preparation of financial statements and reports, including periodic reporting to appropriate agencies on the status of accounts;
- (b) the receipt of all funds due the County or to be held by the County for other agencies;
- (c) the management, investment and control of County funds;
- (d) the expenditure of all such funds;
- (e) the preparation of budgets for all County departments;
- (f) the assistance to all other County departments and officials in any matter related to financial affairs;
- (g) the supervision of all purchases of goods, materials, supplies and equipment and of contract administration, and to the extent that the Director deems necessary, maintenance of inventory controls;
- (h) supervision of all data processing facilities; and
- (i) such other matters as may be determined necessary by the five members performing the functions of County Commissioners.

### Section 3.5 – Executive: County Clerk

There is hereby established the position and office of County Clerk, separate and distinct from the Clerk of the Courts and Clerk to the five members performing the function of County Commissioners, with the duties set forth in this Charter. The County Clerk shall have jurisdiction over all County records and, unless otherwise provided by law not to be a public record, shall assure that the same are available to the general public to the same extent as records of the Town of Nantucket. The County Clerk shall have jurisdiction over and may impress the County seal.

### Section 3.6 – Executive: County Personnel Board

The Personnel Board of the County of Nantucket shall consist of those persons then serving as the Personnel Board of the Town of Nantucket in accordance with Chapter 264 of the Acts of 1979, which the General Laws of the Commonwealth; provided, however, that notwithstanding such law or any law to the contrary, the employees of the Sheriff's department shall be served by such statewide sheriffs' personnel board as may hereafter be designated by the General Court for sheriffs' employees statewide. Until such agency is designated, the five members serving the functions of County Commissioners shall act as the sheriff's personnel board for the employees of the County Sheriff's department.

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### ARTICLE IV

#### **Personnel: Elections, Appointments and Dismissals**

##### Section 4.1 – Elections

The regular elections of those County officers who are elected to their positions shall be held in conjunction with Town elections except to the extent State law requires they be held in conjunction with biennial State elections. Nothing in this Charter, except as may be provided generally for county governments by the General Laws, shall grant any power to remove or dismiss any elected County official.

##### Section 4.2 – Dismissal or Removal of Appointed Executive Branch Officials and Employees

(a) No member who performs the function of County Commissioner shall individually or collectively seek to influence the executive branch to dismiss any person from or to appoint or to promote any person to any position in the executive branch of County government, except that the five members may, by a resolution of disapproval adopted by a majority vote of those present and voting, prevent the dismissal or suspension or other discipline of County officials and employees as set forth in Section 4.2(b).

(b) Nantucket County, by legislative ordinance, may adopt an employee personnel grievance procedure providing for progressive discipline and a hearing on dismissals, suspensions or other discipline. Unless and until so adopted, the procedures set forth as follows shall apply:

(i) Suspensions, dismissals and other discipline will take effect immediately upon personal service of notice setting forth the order of suspension, dismissal or other discipline. However, if within seven days of such service the officer or employee in writing requests a public hearing on his dismissal, suspension, or discipline, the action taken shall be deemed to be a temporary suspension with pay until the individual to be suspended, disciplined or dismissed is given a public hearing before the five members who perform the functions of County Commissioners.

(ii) If, within thirty-five days of receiving such written request, the five members shall pass a resolution of disapproval by a majority vote of those present and voting, all proceedings, and any suspension, discipline or dismissal of the individual, shall be voided, and for purposes of pay, seniority and civil service standing, the action shall be deemed never to have transpired. If no resolution of disapproval is passed, the suspension, discipline or dismissal shall take final effect.

##### Section 4.3 – Indemnification of County Officials

The County shall indemnify and hold harmless all County officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, to the same extent as municipal officials of the Town of Nantucket are indemnified and held harmless by the Town of Nantucket pursuant to Chapter 258, Section 13 of the General Laws. More particularly, the County shall indemnify and hold harmless all such County officers from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission, except for an intentional violation of the civil rights of any

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person, if the official at the time of such act or omission was acting within the scope of his official duties or employment.

### ARTICLE V General Provisions

#### Section 5.1 – Application of General Laws of the Commonwealth

The provisions of this Charter shall govern notwithstanding any law to the contrary; where not contrary to or inconsistent with the provisions of this Charter, Nantucket County shall remain subject to the General Laws.

#### Section 5.2 – Fiscal Procedures

Unless otherwise required by General Law of the Commonwealth, the fiscal year of the County shall begin on July 1 of the prior calendar year and end one year later on June 30.

For each fiscal year the financial statements of the County shall be prepared and shall be annually audited by independent certified public accountants who shall be engaged for that purpose upon recommendation of the County Administrator and approved by the five members who perform the functions of County Commissioners. Such accountants may, but are not required to be, the same accountants engaged by the Town of Nantucket.

#### Section 5.3 – Repeal of special laws pertaining to the County

Chapter 71 of the Acts of 1838 and Section 33 of Chapter 20 of the 1902 Revised Laws of Massachusetts, shall be repealed and Chapter 264 of the Acts 1979 shall be modified, to the extent inconsistent with the provisions of this Charter.

#### Section 5.4 – Transfers of records and property

All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another county agency, shall be transferred forthwith to such agency. All public County records under the jurisdiction of the County Clerk shall, upon written request, be transferred to and thereafter maintained in the office of the County Clerk, which records shall include the original of this Charter and any amendments thereto.

#### Section 5.5 – Specific prevails over general

To the extent any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

#### Section 5.6 – Amendment of charter

This Charter may be revised or amended in accordance with the procedure set forth in either Chapter 34A of the General Laws or in Chapter 328 of the Acts of 1992, and may also be amended in accordance with the provisions of this Section.

The five members who perform the functions of County Commissioners may, by a two-thirds vote, provide for the submission of any proposed amendment of this Charter to the voters. Amendments proposed by the five members shall become effective if approved by a

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majority of the voters voting thereon at the next regular annual Town election held more than one hundred and fifty days following the date of the vote of the five members.

Nothing in this Section or in Section 1.3(b) or in this Charter taken as a whole shall be deemed to grant the power to effect any alteration, amendment or abolition of (i) the existence of Nantucket County as a county, (ii) the offices of the County Sheriff, Register of Probate, Clerk of Courts or the County Register of Deeds, or (iii) the composition, mode of election or terms of office of the legislative body or of the County Chair or Vice-Chair.

### Section 5.7 – Time of taking effect

This Charter shall become effective on the first day of January or of July, whichever next follows ratification of this charter by the voters of Nantucket County. All County agencies shall continue to perform their duties until re-appointed or re-elected or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another; provisions of this Charter which differ materially from the present administrative practices affecting elected County department heads and their employees shall come into effect upon the respective end of the current term of the elected incumbent department head.

Any person holding a County office or employment under the County shall continue to retain such office or such employment and shall continue to perform the duties of the office or of the employment until such time as provisions shall have been made in accordance with this Charter for the performance of such duties by another person or agency. No person in the permanent, full time service or employment of the County shall forfeit pay grade or time in service by reason solely of the adoption of this Charter. All such persons, unless removed in accordance with this Charter, shall be retained in an employment capacity as similar to their former employment capacity as is feasible.

SECTION 5. Chapter 7 of the Acts of 1838 is hereby repealed.

SECTION 6. Chapter 20, Section 33, of the 1902 Revised Laws of Massachusetts is hereby repealed.

SECTION 7. To the extent that any provision of this Act is inconsistent with any of the provisions of Chapter 264 of the Acts of 1979, the provisions of this Act shall apply.

Ratified April 8, 1997