

Sutton Home Rule Charter



Charter and Bylaw Review Committee 2012-2014

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ARTICLE 1

INCORPORATION; SHORT TITLE; POWERS; DEFINITIONS

SECTION 1-1: INCORPORATION

The inhabitants of the town of Sutton, within the corporate limits as established by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Sutton".

SECTION 1-2: SHORT TITLE

This instrument shall be known and may be cited as the Sutton Home Rule Charter.

SECTION 1-3: POWERS OF THE TOWN

Subject to express limitations on the exercise of a power or function by a municipality in the constitution or laws of the commonwealth, it is the purpose of the voters to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the constitution and laws of the commonwealth.

SECTION 1-4: DIVISION OF POWERS

The administration of the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a board of selectmen. The legislative powers of the town shall be vested in a town meeting open to the voters.

SECTION 1-5: CONSTRUCTION

The powers of the town of Sutton under this charter are to be construed liberally in its favor and the specific mention of a particular power is not intended to limit the general powers of the town under section 1-3.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirements of the constitution or laws of the commonwealth, the town of Sutton may exercise its powers or perform its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with a state, a civil division or an agency of a state, the United States government or an agency of the United States government.

SECTION 1-7: DEFINITIONS

As used in this charter, the following words shall have the following meanings, unless the context clearly requires otherwise:

"Charter", this charter as the same may hereafter be amended or restated.

"Days", calendar days including Saturday, Sunday and holidays.

"Emergency", a sudden, unexpected or unforeseen happening, occurrence, event or condition that necessitates immediate action.

“General Laws”, laws that apply alike to all cities and towns, to all towns or to a class of municipalities of which Sutton is a member, specifically including the General Laws of the commonwealth.

“Local media”, the town’s website, a local cable television station and a daily or weekly newspaper of general circulation in the town.

“Majority vote”, a majority of those present and voting, provided that a quorum of the body is present when the vote is taken, unless a higher number is required by law.

“Multiple-member body”, a town body consisting of not less than 3 positions, whether titled board, commission, committee, subcommittee or otherwise and whether elected, appointed or otherwise constituted.

“Quorum”, unless otherwise required by law or this charter, a majority of the members of a multiple-member body then in office, excluding a vacancy that might then exist.

“Town”, the town of Sutton.

“Town agency”, a department, division or office of the town government.

“Town bulletin board”, the bulletin board in or on the town hall on which official town notices are posted and such other locations within the town that may from time to time be designated as town bulletin boards by by-law or by vote of the board of selectmen.

“Town official”, when used without further qualification or description, a person having charge of a town agency or a multiple-member body of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

“Voters”, registered voters of the town.

ARTICLE 2

LEGISLATIVE BRANCH

SECTION 2-1: TOWN MEETING

The legislative powers of the town shall continue to be exercised by a town meeting open to the voters.

SECTION 2-2: PRESIDING OFFICIAL

The town moderator shall preside at town meetings. At the commencement of the annual spring town meeting, the town moderator shall appoint a deputy moderator to serve as acting town moderator in the event of the temporary absence or disability of the town moderator. The deputy moderator shall serve until a successor is appointed by the town moderator.

The town moderator shall regulate the proceedings at town meetings, decide questions of order, make public declaration of all votes and may exercise additional powers and duties as may be authorized by the General Laws, this charter, by-law or vote of the town meeting.

Until such time as the town meeting may act by by-law to adopt another manual or guide, the town meeting shall be governed by the rules of procedure in the most recent edition of "Town Meeting Time: A Handbook of Parliamentary Law" published by the Massachusetts Moderators Association.

SECTION 2-3: SPECIAL OR STANDING COMMITTEES

(a) In General - Subject to this charter and by-laws or other town meeting votes regarding committees, the town moderator shall appoint members of the special or standing committees of the town meeting as may from time to time be established. In addition to the specific powers, duties and responsibilities as may be assigned to a town meeting committee by the by-law or vote establishing it, a committee, when acting within the scope of its authority, shall have a right to the pertinent records of a town agency and to consult with, at reasonable times, a town official, employee or agent.

(b) Finance and Warrant Advisory Committee - There shall be a finance and warrant advisory committee, the members of which shall be appointed by the town moderator. The number of members, the term of office and other conditions of appointment or service as may be deemed necessary or desirable shall be established by by-law. The subject matter of a proposal to be submitted to a town meeting by a warrant article shall be referred to the finance and warrant advisory committee by the board of selectmen at the earliest practicable time following receipt by the board of selectmen. The finance and warrant advisory committee shall report its written recommendations on every article contained in a town meeting warrant, together with a brief statement of the reason for each recommendation. Before preparing its recommendations, the finance and warrant advisory committee shall hold at least 1 public hearing to permit public discussion of the subject matter of the articles contained in the warrant. The finance and warrant advisory committee shall have the additional powers and duties provided by the General Laws, this charter, by-law or vote of the town meeting.

(c) Associate Members - Notwithstanding any general or special law to the contrary, there shall be not more than 3 associate members of each multiple-member body appointed under this charter, including under this subsection, subsection (c) of section 3-2, subsection (b) of section 4-2 and section 7-4, who shall be eligible to participate in all matters before a multiple-member body. The chairman of the appointed multiple-member body may designate the associate members to sit on the multiple-member body in the case of absence, inability to act or conflict of interest on the part of a member of an appointed body or in the event of a vacancy on the appointed multiple-member body. The associate members shall be appointed for 3-year staggered terms by the board or officer responsible for appointing the multiple-member body itself and a vacancy arising in an associate position shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

SECTION 2-4: TIME OF REGULAR MEETINGS

The town meeting shall meet in regular session not less than twice in a calendar year. The first meeting shall be held during May or June on a date fixed by by-law. It shall be primarily concerned with the determination of matters involving the expenditure of town funds including,

but not limited to, the adoption of an annual operating budget, and for the determination of all other matters to be decided by the voters. The second meeting will be held during the last 4 calendar months on a date fixed by by-law and shall be considered an "annual town meeting" under the General Laws.

SECTION 2-5: SPECIAL MEETINGS

A special town meeting may be held at the call of the board of selectmen at a time the board of selectmen deems necessary or desirable in order to transact the legislative business of the town in an orderly manner. A special town meeting may also be held on the petition of not less than 200 voters in the manner provided by law.

SECTION 2-6: WARRANTS

A town meeting shall be called by a warrant issued by the board of selectmen, which shall state the time and place at which the meeting is to convene and, by separate articles, the subject matters to be acted upon. The publication of the warrant for a town meeting shall be in accordance with town by-laws governing such matters.

SECTION 2-7: INITIATION OF WARRANT ARTICLES

(a) Initiation - The board of selectmen shall receive, at any time, a petition addressed to it that requests the submission of a matter to the town meeting and that is filed by: (i) a multiple-member body acting by a majority of its members; (ii) the town moderator; or (iii) 10 voters for a regular town meeting or 100 voters for a special town meeting.

(b) Inclusion on the Warrant - The board of selectmen shall include on the warrant for a regular town meeting the subject matter of the petitions that have been received by the board of selectmen or town clerk not less than 60 days prior to the date of the town meeting. Whenever a special town meeting is to be called, the board of selectmen shall give notice by publication in the local media and shall notify town officials in accordance with the by-laws. The board of selectmen shall include in the warrant for a special town meeting the subject matter of the petitions that are received at its office not later than 5 o'clock in the afternoon on the fifth business day following such publication.

(c) Referral - Following the approval of the warrant, the board of selectmen shall provide a copy of the signed warrant to the town moderator and chairperson of the finance and warrant advisory committee and the town clerk shall post the warrant in accordance with the by-laws.

SECTION 2-8: AVAILABILITY OF TOWN OFFICIALS AT TOWN MEETINGS

Every town official shall attend all sessions of a town meeting in order to provide information pertinent to matters appearing in the warrant.

If a town official is to be absent due to illness or other reasonable cause, that official shall designate a deputy to attend to represent the office, multiple-member body, department or division. If a person designated to attend the town meeting under this section is not a voter, that person shall have a right to address the meeting under this section.

SECTION 2-9: CLERK OF THE MEETING

The town clerk shall serve as clerk of the town meeting, record its proceedings and perform additional duties in connection with the town meeting as provided by the General Laws, this charter, by-law or other town meeting vote.

SECTION 2-10: RULES OF PROCEDURE

The town meeting may, by by-law, establish, amend, revise or repeal rules to govern the conduct of town meetings.

ARTICLE 3 ELECTED OFFICIALS

SECTION 3-1: IN GENERAL

(a) Elective Offices - The offices to be filled by the voters shall be the board of selectmen, school committee, 3 members of the planning board, the board of library trustees, the town moderator, 3 members of the housing authority and other officials or representatives to regional authorities or districts as may be established by by-law.

(b) Eligibility - A voter shall be eligible to hold any elective town office; provided, however, that a person shall not concurrently hold more than 1 elected town office as defined in this section.

(c) Annual Town Election - The annual election shall occur in accordance with the by-laws.

(d) Compensation - An elected town official shall receive the compensation for the official's service as may be annually appropriated for that purpose.

(e) Availability - Notwithstanding being elected by the voters, a town official named in this section shall be subject to the call of the board of selectmen or of the town manager, at all reasonable times, for consultation, conference and discussion on a matter relating to the town official's office.

(f) Filling of Vacancies

(1) Multiple-member Body - If there is a vacancy in an elected multiple-member body, other than the board of selectmen, the remaining members shall immediately give written notice to the board of selectmen of the existence of the vacancy. Seven days after the public notice is posted on the town bulletin board, the board of selectmen, together with the remaining members of the multiple-member body, shall fill the vacancy by a joint roll call vote. If the multiple-member body does not give notice to the board of selectmen within 30 days following the date on which the vacancy occurs, the board of selectmen shall, not sooner than 7 days following posting of the notice, fill the vacancy without participation by the remaining members of the multiple-member body.

(2) Board of Selectmen - If there is a failure to elect or if a vacancy occurs in the office of a selectman and not less than 6 months will elapse before the next annual town election, the remaining selectmen shall immediately call a special election to fill the vacancy. If a vacancy

occurs in the office of a selectman and more than 3 but less than 6 months will elapse before the next annual town election, the remaining selectmen may call a special election to fill the vacancy or, upon the written request of not less than 200 voters, the board of selectmen shall immediately call a special election.

(g) Recall of Elected Officials

(1) Application - A person who holds an elected town office with more than 6 months remaining in the term of office may be recalled from the office by the voters in the manner provided in this section.

(2) Recall Petitions - A recall affidavit, signed by not less than 50 voters in each of the precincts into which the town is divided, shall be filed with the town clerk containing the name of the official whose recall is sought. The board of registrars of voters shall immediately, and not more than 7 days after the filing of the affidavit, certify the names of voters whose signatures are affixed to the affidavit. The town clerk, not more than 7 days after such certification, shall issue petition blanks demanding a recall, as further described below, by notifying the 10 voters first named on the affidavit or otherwise identified as the "lead petitioners" of the availability of the petition blanks. The town clerk shall keep printed petition blank forms available. The petition blanks shall be addressed to the board of selectmen, contain the typewritten or printed names of the 10 voters first named on the petition blanks or otherwise identified as the "lead petitioners". The petition blanks shall demand the election of a successor to the office and shall be dated and signed by the town clerk, whether by hand or electronically. A copy of the petition blanks shall be entered into the record book to be kept in the office of the town clerk.

The recall petitions shall be returned to the office of the town clerk not later than 14 days following the date they are issued, signed by not less than 20 per cent of the qualified voters of the town as of the date that the affidavit was filed with the town clerk.

The town clerk shall, within 5 days following the filing, submit the petitions to the board of registrars of voters who shall, within 5 days after receiving the petitions, certify the names of voters affixed to them.

(3) Recall Elections - If the petitions are certified by the board of registrars of voters as having a sufficient number of signatures of voters, the town clerk shall immediately submit the petitions with a certificate to the board of selectmen. Upon its receipt of the certified petitions, the board of selectmen shall immediately give written notice of the petitions to the official whose recall is sought. If the official does not resign from office within 5 days following delivery of the notice, the board of selectmen shall order a special election. This special election shall be held not less than 64 days nor more than 90 days after the election is called. If a regular annual town election is to be held within 90 days following the date of the certification, the recall election shall be held in conjunction with that election and not at a special election. If a vacancy occurs in the position from which the official is being recalled after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(4) Nomination of Candidates - An official whose recall is sought will be a candidate to succeed to the same office. Unless the official requests otherwise in writing, the town clerk shall place the name of the official on the ballot without nomination. Unless otherwise provided in this section, the nomination of other candidates, the publication of the warrant for the recall election and the conduct of the election shall be in conformity with the laws relating to town elections generally.

(5) Propositions on the Ballot -

(a) Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of (name of official)

Against the recall of (name of official)

Adjacent to each proposition shall be a place to vote for either of the propositions. If a majority of the votes cast is in favor of the recall and not less than 25 per cent of the total number of voters as of the date of the most recent town election have participated in the recall election, the official shall be deemed to be recalled.

(b) After the propositions shall appear the word "candidates" and the names arranged alphabetically. If the official is recalled, the ballots for candidates shall then be counted and the candidate receiving the highest number of votes shall be declared elected.

(6) Officeholder - The incumbent shall continue to hold office and perform the duties of the office until the recall election. If not then recalled, the official shall continue in office for the remainder of the unexpired term, subject to recall as provided in paragraph (7).

If the official is recalled, the office shall be deemed vacant upon the certification of the election results and the candidate who receives the highest number of votes shall then serve for the balance of the unexpired term.

(7) Repeat of Recall Petition - No recall affidavit shall be filed:

(i) against an official within 6 months after taking office; or

(ii) in the case of an official previously subject to a recall election and not recalled by such election, until not less than 6 months after the election at which the recall was submitted to the voters.

SECTION 3-2: BOARD OF SELECTMEN

(a) Composition, Term of Office - There shall be a board of selectmen consisting of 5 members elected for terms of 3 years, each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The executive powers of the town shall be vested in the board of selectmen, which shall be the chief executive office. The board of selectmen shall have all of the executive powers it is possible for a board of selectmen to have and to exercise. The board of selectmen shall serve as the chief policy making authority. The board of selectmen shall be responsible for the issuance of policy directives and guidelines to be followed by the town agencies serving under it. The board of selectmen shall work in conjunction with other town officials to develop and to promulgate policy guidelines designed to bring town agencies into harmony; provided, however, that this section shall not authorize a member of the board of selectmen, nor a majority of them, to become involved in the day-to-day administration of a town agency. The board of selectmen shall act only through the adoption of broad policy guidelines to be implemented by town officials and employees appointed by or under its authority.

The board of selectmen shall cause a record of its official acts to be kept. To aid in the performance of its duties, the board of selectmen shall appoint a town manager as provided in article 4.

Except as otherwise provided by the General Laws, this charter or by-law or expressly voted by town meeting, a member of the board of selectmen shall not be a member of another town board or committee, except in an ex-officio capacity.

(c) Appointment Powers - The board of selectmen shall appoint a town manager, other town officials and members of multiple-member bodies and other positions as provided by by-law or by vote of the town meeting.

(d) Licensing Authority - The board of selectmen shall be the licensing board for the town and shall have the power to issue licenses authorized by law. It shall also make the necessary rules and regulations regarding the issuance of a license, attach conditions and impose restrictions on a license as it deems to be in the public interest and enforce laws relating to businesses for which it issues a license.

SECTION 3-3: SCHOOL COMMITTEE

(a) Composition, Term of Office - There shall be a school committee consisting of 5 members elected for terms of 3 years, each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The school committee shall have the powers and duties that are given to school committees by the General Laws, this charter, by-law and a town meeting vote.

SECTION 3-4: LIBRARY TRUSTEES

(a) Composition, Term of Office - There shall be a board of library trustees with 3 members, elected for terms of 3 years each and arranged so that the terms of 1 member shall expire each year.

(b) Powers and Duties - The board of library trustees shall be responsible for the management and supervision of the free public libraries of the town. The board of library trustees shall have the other powers and duties that are given to library trustees by the General Laws, this charter, by-law and a town meeting vote.

(c) Library Director - Notwithstanding any special or general law to the contrary, the board of library trustees shall appoint the library director. The appointment shall become effective on the fifteenth day following the day on which notice of appointment is filed by the town manager, unless the town manager shall within that period reject the appointment or has sooner voted to affirm it. A copy of the notice of a proposed appointment shall be posted on the town bulletin board when submitted by the town manager.

SECTION 3-5: TOWN MODERATOR

(a) Term of Office - There shall be a town moderator elected for a term of 3 years.

(b) Powers and Duties - The town moderator shall be the presiding official of the town meeting, regulate its proceedings and perform other duties as provided by the General Laws, this charter, by-law or a town meeting vote.

The town moderator shall appoint the finance and warrant advisory committee and shall appoint such members of a multiple-member body in accordance with the by-laws and a vote of town meeting.

SECTION 3-6: PLANNING BOARD

(a) Composition, Term of Office - There shall be a planning board consisting of 5 members of whom 3 shall be elected for terms of 3 years each, so arranged that the term of 1 member shall expire each year and the remaining 2 members shall be appointed by the board of selectmen for terms of 3 years each, so arranged that the terms expire in different years.

(b) Powers and Duties - The planning board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The planning board shall make a comprehensive or master plan, setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The planning board shall regulate the subdivision of land within the town by adopting rules and regulations governing the development and the administration of the rules and regulations. The planning board shall make recommendations to the town meeting on the matters affecting land use and development, including the zoning and earth removal by-laws of the town. The planning board shall recommend to the town manager the appointment of a planning director and shall supervise the duties of the planning director.

The planning board shall make an annual report giving information regarding the condition of the town, plans or proposals for its development and estimates of the cost of the plans and proposals. The planning board shall have the other powers and duties provided by the General Laws, this charter, by-law and vote of a town meeting.

SECTION 3-7: SUTTON HOUSING AUTHORITY

(a) Composition, Term of Office - There shall be a housing authority that shall consist of 5 members serving for terms of 5 years each, so arranged that the term of 1 member shall expire each year. Three members shall be elected by the voters, 1 member shall be a tenant of the housing authority appointed by the board of selectmen and 1 member shall be appointed by the department of housing and community development.

(b) Powers and Duties - The housing authority shall make studies of the housing needs of the community and shall provide programs to make housing available for families and the elderly with a low income. The housing authority shall have the other powers and duties assigned to housing authorities by the General Laws.

SECTION 3-8: BLACKSTONE VALLEY REGIONAL VOCATIONAL SCHOOL DISTRICT COMMITTEE (SUTTON REPRESENTATIVE)

(a) Composition, Term of Office - The voters shall elect the members of the Blackstone Valley Regional Vocational School District committee for the terms provided under the agreement and laws establishing such committee.

(b) Powers and Duties - The members of the Blackstone Valley Regional Vocational School committee shall, along with members of the committee from other municipalities participating therein, be responsible for the management and supervision of the Blackstone Valley Regional Vocational School according to the agreement and laws governing such a school.

ARTICLE 4 TOWN MANAGER

SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

The town manager shall be appointed solely on the basis of demonstrated executive, administrative and educational qualifications in accordance with the process set forth for the same in the by-laws, if any. The board of selectmen shall appoint the town manager and shall fix the term and compensation for the town manager. The town manager shall be a person qualified by education and experience.

The town manager shall devote full-time to the office and shall not hold another elected or appointed town office or engage in another business or occupation during service as town manager, unless approved in advance and in writing by the board of selectmen.

Each member of the board of selectmen shall complete an annual written review of the job performance of the town manager. A summary of the overall evaluation shall be a public record.

SECTION 4-2: POWERS AND DUTIES

The town manager shall be the chief administrative official of the town, directly responsible to the board of selectmen for the administration of town affairs for which the office of town manager is given responsibility under this charter. The powers and duties of the town manager shall include, but shall not be limited to:

- (a) supervising, directing and being responsible for the efficient administration of the functions and activities for which the office of town manager is given authority responsibility or control;
- (b) appointing, subject to the civil service law and a collective bargaining agreement, if applicable, town officials, for whom another method of selection is not provided by this charter; provided, however, that an appointment shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within that 15-day period by a majority of its members, vote to reject the appointment or has sooner voted to affirm it; provided further, that a copy of the notice of a proposed appointment shall be posted on the town bulletin board when submitted to the board of selectmen; and provided further, that except as otherwise provided in this section, the town manager shall hire the employees of the town other than employees of the library and school department and seasonal employees appointed by the recreation commission;
- (c) removing or suspending in appropriate circumstances appointed officials and employees pursuant to section 7-5;
- (d) acting as the administrator of a town personnel system including, but not limited to, personnel policies and practices, rules and regulations, including provisions for an annual employee performance review, personnel by-laws and collective bargaining agreements entered into by the town; provided, however, that the town manager shall also prepare and periodically review, at least every 5 years, a plan establishing the personnel staffing and job classification for each town agency and positions therein, except the school department;
- (e) attending the regular and special meetings of the board of selectmen, unless unavailable for reasonable cause;

- (f) maintaining full and complete records of the financial and administrative activities of the town; provided, however, that the town manager shall render a quarterly report of such activities to the board of selectmen;
- (g) keeping the board of selectmen fully advised as to the needs of the town and to recommend to the board of selectmen, and to other elected town officials, action to be considered or required by them or by the town meeting;
- (h) having full jurisdiction over the rental and use of town facilities and property, except property under the control of the school committee or the conservation commission and be responsible for the maintenance and repair of town buildings and facilities placed under the town manager's control;
- (i) preparing and presenting, in the manner provided in article 6, an annual operating budget for the town, a staffing plan pursuant to the administrative code as defined in subsection (c) of section 5-1 that conforms with subsection (d) of this section and a proposed capital outlay program for the 5 fiscal years next ensuing;
- (j) maintaining a complete inventory of the real and personal property of the town, including the property under the jurisdiction of the school committee;
- (k) negotiating contracts involving a subject within the jurisdiction of the office of town manager, including contracts with town employees, except employees of the school department, involving wages, hours and other terms and conditions of employment;
- (l) being responsible for purchasing the supplies, material and equipment for the departments and activities of the town, except those necessary for the operation of the school department; provided, however, that the town manager shall examine, or cause to be examined, the quantity, quality and condition of the supplies, material and equipment delivered to or received by a town agency, except those delivered to or received by schools; and provided further, that the town manager shall be responsible for the disposal of supplies, material and equipment that has been declared surplus by a town agency;
- (m) seeing that the General Laws, this charter, town by-laws, other votes of the town meeting and votes of the board of selectmen that require enforcement by the town manager, or officials subject to the direction and supervision of the town manager, are faithfully executed, performed or otherwise carried out;
- (n) inquiring at any time into the conduct and operation of office or performance of duties of a town official or employee;
- (o) attending the sessions of town meetings and answering questions raised by voters that relate to warrant articles and to matters over which the town manager has responsibility;
- (p) reorganizing, consolidating or abolishing, in the manner provided in article 5, a town agency serving under the supervision of the town manager, in whole or in part, to provide for a new town agencies and to provide for a reassignment of powers, duties and responsibilities among agencies so established or existing;
- (q) coordinating the activities of the town agencies serving under the office of town manager and the office of board of selectmen with those under the jurisdiction of other officials and multiple-member bodies elected directly by the voters; provided, however, that for this purpose, the town manager shall have authority to require a person so elected, or that person's representative, to

meet with the town manager at reasonable times to effect coordination and cooperation of town agencies; and

(r) performing such other duties as are required to be performed by the town manager by by-law, administrative code, vote of a town meeting or vote of the board of selectmen.

SECTION 4-3: DELEGATION OF AUTHORITY

The town manager may, with the approval of the board of selectmen, authorize a subordinate town official or employee to exercise a power or perform a function or duty that is assigned to the office of the town manager; provided, however, that the acts performed under the delegation shall be deemed to be the acts of the town manager.

SECTION 4-4: ACTING TOWN MANAGER

(a) Temporary Absence - By letter filed with the town clerk not later than July 1 of each year or at any time thereafter, the town manager shall designate a qualified town official or employee to exercise the powers and perform the duties of town manager during a temporary absence. During a temporary absence, the board of selectmen may revoke the designation and appoint another qualified person to serve until the town manager shall return or the position is declared vacant.

(b) Vacancy - A vacancy in the office of town manager shall be filled by the board of selectmen under section 4-1. Pending an appointment under said section 4-1, the board of selectmen shall appoint a qualified person to perform the duties of the office on an acting basis. The board of selectmen shall set compensation for the person so appointed.

(c) Powers and Duties - The powers and duties of an acting town manager shall be determined by the board of selectmen and consistent with the powers and duties itemized in section 4-2.

SECTION 4-5: REMOVAL

The board of selectmen may, by a majority vote of the full board, terminate and remove the town manager from office in accordance with the procedure in this section.

(a) The board of selectmen shall adopt, by the affirmative vote of a majority of its members, a preliminary resolution of removal that shall state the reason for removal. This preliminary resolution may suspend the town manager for a period of not more than 45 days. A copy of the resolution shall be delivered to the town manager immediately.

(b) Not more than 5 days after receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for a hearing with the board of selectmen. This hearing shall be held at a meeting of the board of selectmen not less than 20 days nor more than 30 days after the public hearing request is filed. The town manager may file with the board of selectmen a written statement responding to the reasons stated in the preliminary resolution if it is received at the board of selectmen's office not less than 48 hours in advance of the public hearing.

(c) The board of selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of its members not less than 10 days nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the town manager if the town manager has not requested a public hearing or, if the town manager has requested a public hearing, not more than 10 days following the close of the public hearing.

Failure to adopt a final resolution of removal within the time periods provided shall nullify the preliminary resolution of removal and the town manager shall, at the expiration of the time period, immediately resume the duties of the office. The town manager shall continue to receive a salary until the effective date of a final resolution of removal.

The action of the board of selectmen under this section shall be final and all authority and responsibility for this action is vested and fixed in the board of selectmen.

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

(a) The organization of town agencies for the provision of services and the administration of the government may be accomplished by by-law or administrative code as provided in this section.

(b) By-laws - Subject to express prohibitions in the General Laws or this charter, the town meeting may, by by-law, reorganize, consolidate, merge, divide or abolish a town agency, in whole or in part. The town meeting may also establish a new town agency that it deems necessary or advisable, determine the manner of selection and the term of office of such an entity and prescribe the functions of such an entity; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or, unless this charter specifically so provides, assigned to another town agency.

(c) Administrative Code - The town manager, after consultation with the board of selectmen, may from time to time prepare and submit to the town meeting plans of organization or reorganization that establish town agencies for the orderly, efficient or convenient conduct of the business of the town.

Whenever the town manager prepares a plan, the board of selectmen shall hold at least 1 public hearing on the proposal. The board of selectmen shall give notice by publication in the local media that describes the scope of the proposal and the time and place at which the hearing will be held, which shall be not less than 7 days nor more than 14 days following said publication. Following a public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the town meeting by an appropriate warrant article.

The town meeting may vote only to approve or to disapprove an organization or reorganization plan and shall not vote to amend it. An approved plan shall become effective at the expiration of 60 days following the date of adjournment of the town meeting at which the plan is submitted or at another date determined by the town meeting.

The town manager may, through the administrative code, and subject to express prohibitions in the General Laws or this charter, reorganize, consolidate or abolish a town agency, in whole or in part. The town manager may establish a new town agency as is deemed necessary to the same extent as under subsection (b). The town manager may for such purpose transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of 1 town agency to another; provided, however, that a function

assigned by this charter to a particular town agency shall not be discontinued or, unless this charter specifically so provides, assigned to another town agency.

SECTION 5-2: MERIT PRINCIPLE

An appointment or promotion of a town official or employee shall be made on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.

ARTICLE 6 FINANCE AND FISCAL PROCEDURES

SECTION 6-1: FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on June 30, unless another period is required by the General Laws.

SECTION 6-2: SCHOOL COMMITTEE BUDGET

(a) Public Hearing - Not less than 7 days before the meeting at which the school committee is to vote on its final budget request, the school committee shall cause to be published in the local media a general summary of its proposed budget. The summary shall specifically indicate major variations from the current budget and the reasons for the changes. The summary shall indicate the places at which complete copies of the proposed operating budget are available for examination by the public and include the date, time and place when and where a public hearing will be held on the proposed budget. The school committee shall take its final vote on its proposed budget not sooner than at its next regularly scheduled meeting following the public hearing.

(b) Submission to Town Manager - The budget as adopted by the school committee shall be submitted to the town manager within the time fixed by by-law to enable the town manager to consider the effect of the school department's requested appropriation upon the total town operating budget.

SECTION 6-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE

Within the time fixed by by-law, the town manager, after consultation with the board of selectmen, shall submit to the finance and warrant advisory committee a proposed operating budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. The town manager shall simultaneously provide for the publication in the local media of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes and indicate the places at which complete copies of the proposed operating budget are available for examination by the public. The summary shall also include the date, time and place when and where a public hearing will be held on the proposed budget.

SECTION 6-4: BUDGET MESSAGE

The budget message of the town manager shall explain the budget for the town agencies both in programmatic and fiscal terms. It shall outline proposed financial policies of the town for the ensuing fiscal year, including a description of important features of the budget, an indication of major variations from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position and include other material as the town manager deems desirable or the board of selectmen may require.

SECTION 6-5: THE BUDGET

The proposed budget shall provide a complete financial plan for town funds and programs for the ensuing fiscal year. Except as otherwise required by the General Laws or this charter, it shall be in the form the town manager deems desirable. The budget shall show, in detail, the estimated income from the proposed property tax levy and other sources and proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenses for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (a) proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency;
- (b) proposed capital expenditures during the ensuing fiscal year, detailed by town agency; and
- (c) estimated surplus revenue and free cash at the end of the current fiscal year and estimated balances in enterprise accounts and other special accounts established for specific purposes.

SECTION 6-6: ACTION ON THE BUDGET

(a) Public Hearing - Upon its receipt of the proposed budget, the finance and warrant advisory committee shall provide for the publication in the local media of a notice stating the time and place of the public hearing on the proposed budget as submitted. The hearing shall not be less than 7 days nor more than 14 days following publication.

(b) Review - The finance and warrant advisory committee shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each agency in connection with its review and consideration. The finance and warrant advisory committee may require the town manager, or another town agency, to furnish it with additional information that it deems necessary to assist it in its review and consideration of the proposed operating budget and shall require the attendance of a representative of each town agency.

(c) Action by Town Meeting - The finance and warrant advisory committee shall file a report containing its recommendations for actions on the proposed operating budget, which shall be available not less than 7 days before the date on which the town meeting acts on the budget. When the budget proposed by the town manager is before the town meeting for action, it shall first be subject to amendments, if any, proposed by the finance and warrant advisory committee before any other amendments may be proposed. An amendment offered at town meeting shall include its funding source and shall not create a deficit in the proposed budget.

SECTION 6-7: CAPITAL PLANNING PROGRAM

The town manager shall submit a capital planning program to the board of selectmen and the finance and warrant advisory committee as part of the annual budget process that shall include:

- (a) a list of the capital improvements proposed to be undertaken during each of the ensuing 5 years, with supporting information as to the need for each capital improvement;
- (b) cost estimates, proposed methods of financing and recommended time schedules for each improvement; and
- (c) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be revised annually by the town manager with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

SECTION 6-8: APPROVAL OF PAYROLL AND EXPENSE WARRANTS

The town manager shall be the chief financial official of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the General Laws shall be submitted to the town manager. The approval of a warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer/collector, but the chairman of the board of selectmen shall approve the warrant in the event of the absence of the town manager or a vacancy in the office of town manager.

ARTICLE 7 GENERAL PROVISIONS

SECTION 7-1: CHARTER CHANGES

This charter may be amended, restated or replaced in accordance with its terms and pursuant to the constitution of the commonwealth and the General Laws.

SECTION 7-2: SPECIFIC PROVISIONS TO PREVAIL

To the extent that a specific provision of this charter shall conflict with a provision expressed in general terms, the specific provision shall prevail.

SECTION 7-3: RULES AND REGULATIONS

A copy of a rule or regulation adopted by a town agency shall be filed in the office of the town clerk before the rule or regulation shall become effective and a copy shall be made available for review by a person who requests such information. A rule or regulation adopted by a town agency shall not become effective until 10 days after the date it has been so filed in the office of the town clerk.

SECTION 7-4: CHARTER AND BY-LAW REVIEW

(A) Charter and By-law Review Committee

(1) Purpose - A charter and by-law review committee shall be established every 5 years to provide a review of the charter and by-laws, exclusive of zoning by-laws.

(2) Composition - The charter and by-law review committee shall consist of 5 members, 2 to be appointed by the town moderator and 3 to be appointed by the board of selectmen. Members of the charter and by-law review committee shall serve until discharged by the board of selectmen.

(3) Duties - The charter and by-law review committee shall:

- (i) review portions of the charter and general by-laws;
- (ii) submit a report to the board of selectmen; and
- (iii) meet with the board of selectmen regarding its review and suggested changes.

(B) Attorney General Approval - Subsequent to enactment by the town meeting of a charter amendment pursuant to section 10 of chapter 43B of the General Laws or adoption or amendment of a by-law, a copy thereof shall be forwarded to the attorney general for review and other steps required for such amendments to take effect shall be undertaken as required by the General Laws. Copies of the revised charter and by-laws shall be made available for distribution to the public.

SECTION 7-5: REMOVALS AND SUSPENSIONS

An appointed town official, member of a multiple-member body or employee of the town that is not subject to the state civil service law or covered by a collective bargaining agreement or employment agreement that provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for cause. The term "cause" shall include, but shall not be limited to, the following: inefficiency, insubordination or conduct unbecoming the office.

The preceding paragraph shall not be interpreted to prevent an appointing authority from immediately suspending an appointed town official, member of a multiple-member body or employee of the town if the action is deemed by the appointing authority to be necessary to protect the interests of the town.

The appointing authority, when removing such an official, member of a multiple-member body or employee of the town, shall act in accordance with the procedure set forth in the town's personnel by-laws, if any. The official, member of a multiple-member body or employee of the town shall be provided with written notice of the intent to remove, including a statement of the reason for the removal, and may contest the removal at a public hearing. Nothing in this section shall grant a right to such notice when a person who has been appointed for a fixed term is not re-appointed when that term expires.

SECTION 7-6: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

(a) Meetings and Agendas - A multiple-member body shall meet regularly at a time and place within the town as it may by its own rules prescribe. Notice of a meeting shall be in accordance

with the open meeting law, under sections 18 to 25, inclusive, of chapter 30A of the General Laws.

Except in cases of emergency, a special meeting of a multiple-member body shall be held on the call of the respective chairman or the chairman's designee, or by $\frac{1}{3}$ of the members of the multiple-member body by written notice delivered to each member not less than 48 hours before the time set and in accordance with the open meeting law. A copy of the notice shall also be posted on the town bulletin board. A special meeting of a multiple-member body shall also be called not more than 7 days after the date of the filing with the town clerk of a petition, signed by at least 50 voters that states the purpose for which the meeting is to be called.

Except as authorized by law, a meeting of a multiple-member body shall be open and public. A meeting shall be held in a place to which members of the public have a convenient right of access.

(b) Rules and Minutes of Meetings - A multiple-member body shall determine its own rules and order of business unless otherwise provided by this charter or the General Laws and shall provide for keeping minutes of its proceedings. These rules and minutes shall be public records and certified copies shall be kept available in the office of the town clerk.

(c) Voting - Except on procedural matters, votes of a multiple-member body shall be taken by a call of the roll. The vote of a member shall be recorded in the minutes; provided, however, that if the vote is unanimous, only that fact need be recorded.

(d) Quorum - A majority of the members of the multiple-member body then in office shall constitute a quorum. However, a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple-member body. No action of a multiple-member body shall be taken in the absence of a quorum, except when acting as an authorized subcommittee, and an action shall not be valid or binding unless ratified by the affirmative vote of the majority of the full multiple-member body at a properly posted meeting of that body.

(e) Filling of Vacancies - Whenever a vacancy shall occur in the membership of an appointed multiple-member body, the remaining members shall immediately give written notice of the vacancy to the appointing authority. If, at the expiration of 30 days following the delivery of the notice to the appointing authority, the appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple-member body may fill the vacancy for the remainder of an unexpired term by majority vote of the remaining members.

(f) Composition of Multiple-member Bodies - A multiple-member body, when established, shall be composed of an odd number of members of not less than 3. Whenever the term of office of a multiple-member body is for more than 1 year, the terms of office shall be so arranged that as nearly an equal number of terms as is possible will expire each year.

SECTION 7-7: NOTICE OF VACANCIES

Whenever a vacancy occurs in a paid position by reason of a pending retirement or expiration of a fixed term such that a vacancy can be anticipated, the appointing authority, following a determination that the position should be filled, shall cause public notice of the vacancy to be posted on the town bulletin board for not less than 10 days. The notice shall contain a description of the duties of the position and a listing of the necessary or desirable qualifications to fill the

position. No permanent appointment to fill a position shall be effective until 14 days following the date on which the notice was posted to permit reasonable consideration of the applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with a contract or collective bargaining agreement.

SECTION 7-8: LOSS OF OFFICE, EXCESSIVE ABSENCE

If a person appointed to serve as a member of a multiple-member body shall fail to attend not less than 4 consecutive meetings, or $\frac{1}{2}$ or more of all of the meetings of the body held in 1 calendar year, the remaining members of the multiple-member body may, after consulting with the appointing authority, by a majority vote of the body, declare the office to be vacant; provided, however, that not less than 10 days prior to the date the vote is scheduled to be taken, the body has given in hand, or mailed by registered or certified mail, with return receipt requested, notice of the proposed or pending vote to the last known address of the person.

ARTICLE 8 TRANSITIONAL PROVISIONS

SECTION 8-1: CONTINUATION OF EXISTING LAWS

The General Laws, special laws, by-laws, votes, rules and regulations of or pertaining to the town that are in force when this charter takes effect and that are not specifically or by implication repealed directly or indirectly hereby shall continue in full force until amended or repealed by due course of law or expiration by their own limitation.