

SENATE No. 1131

The Commonwealth of Massachusetts

PRESENTED BY:

Ryan C. Fattman

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

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

An Act relative to the charter of the town of Sutton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/26/2017</i>

SENATE No. 1131

By Mr. Fattman, a petition (accompanied by bill, Senate, No. 1131) of Ryan C. Fattman and Joseph D. McKenna (by vote of the town) for legislation relative to the charter of the town of Sutton. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2502 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the charter of the town of Sutton.

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

1 SECTION 1. The charter of the town of Sutton, which is on file in the office of the
2 archivist of the Commonwealth, as provided in section 12 of chapter 43B of the General Laws, is
3 hereby amended by striking out articles 1 to 8, inclusive, and inserting in place thereof the
4 following 8 articles:-

5 ARTICLE 1

6 INCORPORATION; SHORT TITLE; POWERS; DEFINITIONS

7 SECTION 1-1: INCORPORATION

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

11 SECTION 1-2: SHORT TITLE

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

13 SECTION 1-3: POWERS OF THE TOWN

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

18 SECTION 1-4: DIVISION OF POWERS

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

22 SECTION 1-5: CONSTRUCTION

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

26 SECTION 1-6: INTERGOVERNMENTAL RELATIONS

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

32 SECTION 1-7: DEFINITIONS

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

35 “Charter”, this charter as the same may hereafter be amended or restated.

36 “Days”, calendar days including Saturday, Sunday and holidays.

37 “Emergency”, a sudden, unexpected or unforeseen happening, occurrence, event or
38 condition that necessitates immediate action.

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

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

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

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

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

51 “Town”, the town of Sutton.

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

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

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

59 “Voters”, registered voters of the town of Sutton.

60 ARTICLE 2

61 LEGISLATIVE BRANCH

62 SECTION 2-1: TOWN MEETING

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

65 SECTION 2-2: PRESIDING OFFICIAL

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

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

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

77 SECTION 2-3: SPECIAL OR STANDING COMMITTEES

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

85 (b) Finance and Warrant Advisory Committee - There shall be a finance and warrant
86 advisory committee, the members of which shall be appointed by the town moderator. The
87 number of members, the term of office and other conditions of appointment or service as may be
88 deemed necessary or desirable shall be established by by-law. The subject matter of a proposal to
89 be submitted to a town meeting by a warrant article shall be referred to the finance and warrant
90 advisory committee by the board of selectmen at the earliest practicable time following receipt
91 by the board of selectmen. The finance and warrant advisory committee shall report its written
92 recommendations on every article contained in a town meeting warrant, together with a brief
93 statement of the reason for each recommendation. Before preparing its recommendations, the
94 finance and warrant advisory committee shall hold not less than 1 public hearing to permit public
95 discussion of the subject matter of the articles contained in the warrant. The finance and warrant
96 advisory committee shall have the additional powers and duties provided by the General Laws,
97 this charter, by-law or vote of the town meeting.

98 (c) Associate Members - Notwithstanding any general or special law to the contrary,
99 there shall be not more than 3 associate members of each multiple-member body appointed under
100 this charter, including under this subsection, subsection (c) of section 3-2, subsection (ii) of
101 section 4-2 and section 7-4, who shall be eligible to participate in all matters before a multiple-
102 member body. The chairman of the appointed multiple-member body may designate the
103 associate members to sit on the multiple-member body in the case of absence, inability to act or
104 conflict of interest on the part of a member of an appointed body or in the event of a vacancy on
105 the appointed multiple-member body. The associate members shall be appointed for 3-year
106 staggered terms by the board or officer responsible for appointing the multiple-member body

107 itself and a vacancy arising in an associate position shall be filled in the same manner as the
108 original appointment for the remainder of the unexpired term.

109 SECTION 2-4: TIME OF REGULAR MEETINGS

110 The town meeting shall meet in regular session not less than twice in a calendar year. The
111 first meeting shall be held during May or June on a date fixed by by-law. It shall be primarily
112 concerned with the determination of matters involving the expenditure of town funds including,
113 but not limited to, the adoption of an annual operating budget, and for the determination of all
114 other matters to be decided by the voters. The second meeting will be held during the last 4
115 calendar months on a date fixed by by-law and shall be considered an “annual town meeting”
116 under the General Laws.

117 SECTION 2-5: SPECIAL MEETINGS

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

122 SECTION 2-6: WARRANTS

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

127 SECTION 2-7: INITIATION OF WARRANT ARTICLES

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

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

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

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

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

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

150 SECTION 2-9: CLERK OF THE MEETING

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

154 SECTION 2-10: RULES OF PROCEDURE

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

157 ARTICLE 3

158 ELECTED OFFICIALS

159 SECTION 3-1: IN GENERAL

160 (a) Elective Offices - The offices to be filled by the voters shall be the board of
161 selectmen, school committee, 3 members of the planning board, the board of library trustees, the
162 town moderator, 4 members of the housing authority and other officials or representatives to
163 regional authorities or districts as may be established by by-law.

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

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

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

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

175 (f) Filling of Vacancies

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

185 (2) Board of Selectmen - If there is a failure to elect or if a vacancy occurs in the office of
186 a selectman and 6 months or more will elapse before the next annual town election, the
187 remaining selectmen shall immediately call a special election to fill the vacancy. If a vacancy
188 occurs in the office of a selectman and more than 3 but less than 6 months will elapse before the
189 next annual town election, the remaining selectmen may call a special election to fill the vacancy

190 or, upon the written request of not less than 200 voters, the board of selectmen shall immediately
191 call a special election.

192 (g) Recall of Elected Officials

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

196 (2) Recall Petitions - A recall affidavit, signed by at least 50 voters in each of the
197 precincts into which the town is divided, shall be filed with the town clerk containing the name
198 of the official whose recall is sought. The board of registrars of voters shall immediately, and not
199 later than 7 days following the filing of the affidavit, certify the names of voters whose
200 signatures are affixed to the affidavit. The town clerk, within 7 days following such certification,
201 shall issue petition blanks demanding a recall, as further described below, by notifying the 10
202 voters first named on the affidavit or otherwise identified as the “lead petitioners” of the
203 availability of the petition blanks. The town clerk shall keep printed petition blank forms
204 available. The petition blanks shall be addressed to the board of selectmen, contain the
205 typewritten or printed names of the 10 voters first named on the petition blanks or otherwise
206 identified as the “lead petitioners”. The petition blanks shall demand the election of a successor
207 to the office and shall be dated and signed by the town clerk, whether by hand or electronically.
208 A copy of the petition blanks shall be entered into the record book to be kept in the office of the
209 town clerk.

210 The recall petitions shall be returned to the office of the town clerk not later than 14 days
211 following the date they are issued, signed by at least 50 per cent of the total number of persons
212 who voted at the most recent annual town election.

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

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

227 (4) Nomination of Candidates - An official whose recall is sought will be a candidate to
228 succeed to the same office. Unless the official requests otherwise in writing, the town clerk shall
229 place the name of the official on the ballot without nomination. Unless otherwise provided in this
230 section, the nomination of other candidates, the publication of the warrant for the recall election

231 and the conduct of the election shall be in conformity with the laws relating to town elections
232 generally.

233 (5) Propositions on the Ballot -

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

235 For the recall of (name of official)

236 Against the recall of (name of official)

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

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

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

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

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

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

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

256 SECTION 3-2: BOARD OF SELECTMEN

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

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

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

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

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

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

286 SECTION 3-3: SCHOOL COMMITTEE

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

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

292 SECTION 3-4: LIBRARY TRUSTEES

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

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

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

306 SECTION 3-5: TOWN MODERATOR

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

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

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

314 SECTION 3-6: PLANNING BOARD

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

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

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

333 SECTION 3-7: SUTTON HOUSING AUTHORITY

334 (a) Composition, Term of Office - There shall be a housing authority that shall consist of
335 5 members serving for terms of 5 years each, so arranged that the term of 1 member shall expire

336 each year. Four of these members shall be elected by the voters and the fifth member shall be
337 appointed by the department of housing and community development.

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

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

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

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

352 ARTICLE 4

353 TOWN MANAGER

354 SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

355 The town manager shall be appointed solely on the basis of demonstrated executive,
356 administrative and educational qualifications in accordance with the process set forth for the

357 same in the by-laws, if any. The board of selectmen shall appoint the town manager and shall fix
358 the term and compensation for the town manager. The town manager shall be a person qualified
359 by education and experience.

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

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

366 SECTION 4-2: POWERS AND DUTIES

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

371 (i) supervising, directing and being responsible for the efficient administration of the
372 functions and activities for which the office of town manager is given authority responsibility or
373 control;

374 (ii) appointing, subject to the civil service law and a collective bargaining agreement, if
375 applicable, town officials, for whom another method of selection is not provided by this charter;
376 provided, however, that an appointment shall become effective on the fifteenth day following the
377 day on which notice of the appointment is filed with the board of selectmen, unless the board of

378 selectmen shall, within that 15-day period by a majority of its members, vote to reject the
379 appointment or has sooner voted to affirm it; provided further, that a copy of the notice of a
380 proposed appointment shall be posted on the town bulletin board when submitted to the board of
381 selectmen; and provided further, that except as otherwise provided in this section, the town
382 manager shall hire the employees of the town other than employees of the library and school
383 department and seasonal employees appointed by the recreation commission;

384 (iii) removing or suspending in appropriate circumstances, appointed officials and
385 employees pursuant to section 7-5;

386 (iv) acting as the administrator of a town personnel system including, but not limited to,
387 personnel policies and practices, rules and regulations, including provisions for an annual
388 employee performance review, personnel by-laws and collective bargaining agreements entered
389 into by the town; provided, however, that the town manager shall also prepare and periodically
390 review, at least every 5 years, a plan establishing the personnel staffing and job classification for
391 each town agency and positions therein, except the school department;

392 (v) attending the regular and special meetings of the board of selectmen, unless
393 unavailable for reasonable cause;

394 (vi) maintaining full and complete records of the financial and administrative activities of
395 the town; provided, however, that the town manager shall render a quarterly report of such
396 activities to the board of selectmen;

397 (vii) keeping the board of selectmen fully advised as to the needs of the town and to
398 recommend to the board of selectmen, and to other elected town officials, action to be
399 considered or required by them or by the town meeting;

400 (viii) having full jurisdiction over the rental and use of town facilities and property,
401 except property under the control of the school committee or the conservation commission and
402 be responsibility for the maintenance and repair of town buildings and facilities placed under the
403 town manager's control;

404 (ix) preparing and presenting, in the manner provided in article 6, an annual operating
405 budget for the town, a staffing plan pursuant to the administrative code as defined in subsection
406 (c) of section 5-1 that conforms with subsection (iv) of this section and a proposed capital outlay
407 program for the 5 fiscal years next ensuing;

408 (x) maintaining a complete inventory of the real and personal property of the town,
409 including the property under the jurisdiction of the school committee;

410 (xi) negotiating contracts involving a subject within the jurisdiction of the office of town
411 manager, including contracts with town employees, except employees of the school department,
412 involving wages, hours and other terms and conditions of employment;

413 (xii) being responsible for purchasing the supplies, material and equipment for the
414 departments and activities of the town, except those necessary for the operation of the school
415 department; provided, however, that the town manager shall examine, or cause to be examined,
416 the quantity, quality and condition of the supplies, material and equipment delivered to or
417 received by a town agency, except those delivered to or received by schools; and provided
418 further, that the town manager shall be responsible for the disposal of supplies, material and
419 equipment that has been declared surplus by a town agency;

420 (xiii) seeing that the General Laws, this charter, town by-laws, other votes of the town
421 meeting and votes of the board of selectmen that require enforcement by the town manager, or

422 officials subject to the direction and supervision of the town manager, are faithfully executed,
423 performed or otherwise carried out;

424 (xiv) inquiring at any time into the conduct and operation of office or performance of
425 duties of a town official or employee;

426 (xv) attending the sessions of town meetings and answering questions raised by voters
427 that relate to warrant articles and to matters over which the town manager has responsibility;

428 (xvi) reorganizing, consolidating or abolishing, in the manner provided in article 5, a
429 town agency serving under the supervision of the town manager, in whole or in part, to provide
430 for a new town agencies and to provide for a reassignment of powers, duties and responsibilities
431 among agencies so established or existing;

432 (xvii) coordinating the activities of the town agencies serving under the office of town
433 manager and the office of board of selectmen with those under the jurisdiction of other officials
434 and multiple-member bodies elected directly by the voters; provided, however, that for this
435 purpose, the town manager shall have authority to require a person so elected, or that person's
436 representative, to meet with the town manager at reasonable times to effect coordination and
437 cooperation of town agencies; and

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

440 SECTION 4-3: DELEGATION OF AUTHORITY

441 The town manager may, with the approval of the board of selectmen, authorize a
442 subordinate town official or employee to exercise a power or perform a function or duty that is

443 assigned to the office of the town manager; provided, however, that the acts performed under the
444 delegation shall be deemed to be the acts of the town manager.

445 SECTION 4-4: ACTING TOWN MANAGER

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

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

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

459 SECTION 4-5: REMOVAL

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

462 (a) The board of selectmen shall adopt, by the affirmative vote of a majority of its
463 members, a preliminary resolution of removal that shall state the reason for removal. This

464 preliminary resolution may suspend the town manager for a period not to exceed 45 days. A
465 copy of the resolution shall be delivered to the town manager immediately.

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

473 (c) The board of selectmen may adopt a final resolution of removal, which may be made
474 effective immediately, by the affirmative vote of a majority of its members not less than 10 days
475 nor more than 21 days following the date of delivery of a copy of the preliminary resolution to
476 the town manager if the town manager has not requested a public hearing or, if the town manager
477 has requested a public hearing, not more than 10 days following the close of the public hearing.
478 Failure to adopt a final resolution of removal within the time periods provided shall nullify the
479 preliminary resolution of removal and the town manager shall, at the expiration of the time
480 period, immediately resume the duties of the office. The town manager shall continue to receive
481 a salary until the effective date of a final resolution of removal.

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

484 ARTICLE 5

485 ADMINISTRATIVE ORGANIZATION

486 SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

487 (a) The organization of town agencies for the provision of services and the
488 administration of the government may be accomplished through 1 of the following methods.

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

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

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

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

511 The town manager may, through the administrative code, and subject to express
512 prohibitions in the General Laws or this charter, reorganize, consolidate or abolish a town
513 agency, in whole or in part. The town manager may establish a new town agency as is deemed
514 necessary to the same extent as under subsection (b). The town manager may for such purpose
515 transfer the duties and powers and, so far as is consistent with the use for which the funds were
516 voted by the town, transfer the appropriation of 1 town agency to another, but no function
517 assigned by this charter to a particular town agency may be discontinued or, unless this charter
518 specifically so provides, assigned to another town agency.

519 SECTION 5-2: MERIT PRINCIPLE

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

523 ARTICLE 6

524 FINANCE AND FISCAL PROCEDURES

525 SECTION 6-1: FISCAL YEAR

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

528 SECTION 6-2: SCHOOL COMMITTEE BUDGET

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

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

542 SECTION 6-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE

543 Within the time fixed by by-law, the town manager, after consultation with the board of
544 selectmen, shall submit to the finance and warrant advisory committee a proposed operating
545 budget for the ensuing fiscal year, with an accompanying budget message and supporting
546 documents. The town manager shall simultaneously provide for the publication in the local
547 media of a general summary of the proposed budget. The summary shall specifically indicate any
548 major variations from the current operating budget and the reason for such changes and indicate
549 the places at which complete copies of the proposed operating budget are available for

550 examination by the public. The summary shall also include the date, time and place when and
551 where a public hearing will be held on the proposed budget.

552 SECTION 6-4: BUDGET MESSAGE

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

559 SECTION 6-5: THE BUDGET

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

567 (i) Proposed expenditures for current operations during the ensuing fiscal year, detailed
568 by town agency;

569 (ii) Proposed capital expenditures during the ensuing fiscal year, detailed by town
570 agency; and

571 (iii) Estimated surplus revenue and free cash at the end of the current fiscal year and
572 estimated balances in enterprise accounts and other special accounts established for specific
573 purposes.

574 SECTION 6-6: ACTION ON THE BUDGET

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

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

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

593 SECTION 6-7: CAPITAL PLANNING PROGRAM

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

596 (i) a list of the capital improvements proposed to be undertaken during each of the
597 ensuing 5 years, with supporting information as to the need for each capital improvement;

598 (ii) cost estimates, proposed methods of financing and recommended time schedules for
599 each improvement; and

600 (iii) the estimated annual cost of operating and maintaining each facility and piece of
601 major equipment involved.

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

604 SECTION 6-8: APPROVAL OF PAYROLL AND EXPENSE WARRANTS

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

611 ARTICLE 7

612 GENERAL PROVISIONS

613 SECTION 7-1: CHARTER CHANGES

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

616 SECTION 7-2: SPECIFIC PROVISIONS TO PREVAIL

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

619 SECTION 7-3: RULES AND REGULATIONS

620 A copy of a rule or regulation adopted by a town agency shall be filed in the office of the
621 town clerk before the rule or regulation shall become effective and a copy shall be made
622 available for review by a person who requests such information. No rule or regulation adopted by
623 a town agency shall become effective until 10 days following the date it has been so filed in the
624 office of the town clerk.

625 SECTION 7-4: CHARTER AND BY-LAW REVIEW

626 (a) Charter and By-law Review Committee

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

629 (2) Composition - The charter and by-law review committee shall consist of 5 members,
630 2 to be appointed by the town moderator and 3 to be appointed by the board of selectmen.
631 Members of the charter and by-law review committee shall serve until discharged by the board
632 of selectmen.

- 633 (3) Duties - The charter and by-law review committee shall:
- 634 (i) Review portions of the charter and general by-laws;
- 635 (ii) Submit a report to the board of selectmen; and
- 636 (iii) Meet with the board of selectmen regarding its review and suggested changes.
- 637 (b) Attorney General Approval - Subsequent to enactment by the town meeting of a
- 638 charter amendment pursuant to section 10 of chapter 43B of the General Laws or adoption or
- 639 amendment of a by-law, a copy thereof shall be forwarded to the attorney general of the
- 640 commonwealth of Massachusetts for review and other steps required for such amendments to
- 641 take effect shall be undertaken as required by the General Laws. Copies of the revised charter
- 642 and by-laws shall be made available for distribution to the public.

643 SECTION 7-5: REMOVALS AND SUSPENSIONS

644 An appointed town official, member of a multiple-member body or employee of the town

645 that is not subject to the state civil service law or covered by a collective bargaining agreement

646 or employment agreement that provides a different method, and whether appointed for a fixed or

647 an indefinite term, may be suspended or removed from office, without compensation, by the

648 appointing authority for cause. The term "cause" shall include, but not be limited to, the

649 following: inefficiency, insubordination or conduct unbecoming the office.

650 The preceding paragraph shall not be interpreted to prevent an appointing authority from

651 immediately suspending an appointed town official, member of a multiple-member body or

652 employee of the town if the action is deemed by the appointing authority to be necessary to

653 protect the interests of the town.

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

661 SECTION 7-6: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

662 (a) Meetings and Agendas - A multiple-member body shall meet regularly at a time and
663 place within the town as it may by its own rules prescribe. Notice of a meeting shall be in
664 accordance with the open meeting law, under sections 18 to 25, inclusive, of chapter 30A of the
665 General Laws.

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

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

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

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

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

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

696 (f) Composition of Multiple-member Bodies - A multiple-member body, when
697 established, shall be composed of an odd number of members of not less than 3. Whenever the

698 term of office of a multiple-member body is for more than 1 year, the terms of office shall be so
699 arranged that as nearly an equal number of terms as is possible will expire each year.

700 SECTION 7-7: NOTICE OF VACANCIES

701 Whenever a vacancy occurs in a paid position by reason of a pending retirement or
702 expiration of a fixed term such that a vacancy can be anticipated, the appointing authority,
703 following a determination that the position should be filled, shall cause public notice of the
704 vacancy to be posted on the town bulletin board for not less than 10 days. The notice shall
705 contain a description of the duties of the position and a listing of the necessary or desirable
706 qualifications to fill the position. No permanent appointment to fill a position shall be effective
707 until 14 days following the date on which the notice was posted to permit reasonable
708 consideration of the applicants. This section shall not apply to positions covered by the civil
709 service law and rules or if in conflict with a contract or collective bargaining agreement.

710 SECTION 7-8: LOSS OF OFFICE, EXCESSIVE ABSENCE

711 If a person appointed to serve as a member of a multiple-member body shall fail to attend
712 not less than 4 consecutive meetings, or ½ or more of all of the meetings of the body held in 1
713 calendar year, the remaining members of the multiple-member body may, after consulting with
714 the appointing authority, by a majority vote of the body, declare the office to be vacant;
715 provided, however, that not less than 10 days prior to the date the vote is scheduled to be taken,
716 the body has given in hand, or mailed by registered or certified mail, with return receipt
717 requested, notice of the proposed or pending vote to the last known address of the person.

718 ARTICLE 8

719 TRANSITIONAL PROVISIONS

720 SECTION 8-1: CONTINUATION OF EXISTING LAWS

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