SENATE DOCKET, NO. 68 FILED ON: 1/13/2015

SENATE . . . . . No. 1078

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:
Ryan C. Fattman	*Worcester and Norfolk*
Joseph D. McKenna	*18th Worcester*

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SENATE . . . . . No. 1078

By Mr. Fattman, a petition (accompanied by bill, Senate, No. 1078) of Ryan C. Fattman and Joseph D. McKenna for legislation relative to the charter of the town of Sutton. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

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

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:

Chapter 308 of the acts of 2000 is hereby amended by striking out articles 1 to 8, inclusive, and inserting in place thereof the following 8 articles:-

ARTICLE 1

INCORPORATION; SHORT TITLE; POWERS

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 only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the Commonwealth of Massachusetts, it is the intent and 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 of Massachusetts.

SECTION 1-4: DIVISION OF POWERS

The administration of all 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 all 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 any particular power is not intended to limit in any way the general powers of the Town of Sutton as stated in Section 1-3.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirements of any provision of the constitution or laws of the Commonwealth of Massachusetts, the Town of Sutton may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States government or any one or more agencies thereof.

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 all Voters.

SECTION 2-2: PRESIDING OFFICIAL

The Town Moderator shall preside at all 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 all questions of order, make public declaration of all votes and may exercise such additional powers and duties as may be authorized by the General Laws, this Charter, Bylaw or vote of the Town Meeting.

Until such time as the Town Meeting may act by Bylaw 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 the provisions of this Charter and such Bylaws or other Town Meeting votes regarding committees, the Town Moderator shall appoint members of such special

53 or standing committees of the Town Meeting, as may from time to time be established. In
54 addition to such specific powers, duties and responsibilities as may be assigned to a Town
55 Meeting committee by the Bylaw or vote establishing it, each such committee when acting
56 within the scope of its authority shall have a right to the pertinent records of any town agency
57 and to consult with, at reasonable times, any Town Official, employee or agent.

58 (b) Finance and Warrant Advisory Committee - There shall be a Finance and Warrant
59 Advisory Committee, the members of which shall be appointed by the Town Moderator. The
60 number of members, the term of office and any other conditions of appointment or service

61 as may be deemed necessary or desirable shall be established by Bylaw. The subject
62 matter of all proposals to be submitted to a Town Meeting by warrant articles shall be referred to
63 the Finance and Warrant Advisory Committee by the Board of Selectmen at the earliest
64 practicable time following their receipt by the Board of Selectmen. The Finance and Warrant
65 Advisory Committee shall report its written recommendations on every article contained in a
66 Town Meeting warrant, together with a brief statement of the reasons for each such
67 recommendation. Before preparing its recommendations, the Finance and Warrant Advisory
68 Committee shall hold one or more public hearings to permit public discussion of the subject
69 matter of all articles contained in the warrant. The Finance and Warrant Advisory Committee
70 shall have such additional powers and duties as provided by the General Laws, this Charter,
71 Bylaw or vote of Town Meeting.

72 (c) Associate Members - Notwithstanding any general or special law to the contrary,
73 there shall be not more than 3 associate members of each Multiple-member Body appointed
74 under this Charter, including under this Section 2-3(C), Section 3-2(C), Section 4-2(b) and

Section 7-7, who shall be eligible to participate in all matters before said 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 any member of such 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 any vacancies arising in said 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 at least twice in each calendar year. The first such meeting, will be held during May or June, on a date fixed by Bylaw. 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 such meeting will be held during the last four calendar months, on a date fixed by Bylaw and shall be considered an "annual town meeting" for the purposes of the General Laws.

SECTION 2-5: SPECIAL MEETINGS

Special Town Meetings may be held at the call of the Board of Selectmen at such times as they deem necessary, or desirable, in order to transact the legislative business of the town in an orderly manner. Special Town Meetings may also be held on the petition of 200 or more Voters, in the manner provided by law.

SECTION 2-6: WARRANTS

Every 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 every Town Meeting shall be in accordance with Town Bylaws governing such matters.

SECTION 2-7: INITIATION OF WARRANT ARTICLES

(a) Initiation - The Board of Selectmen shall receive at any time all petitions addressed to it and which request the submission of any matter to the Town Meeting and which are filed by (1) any Multiple-member Body acting by a majority of its members, (2) the Town Moderator, or (3) any 10 Voters for a regular Town Meeting or any 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 all petitions which have been received by the Board of Selectmen or Town Clerk 60 or more 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 Bylaws. The Board of Selectmen shall include in the warrant for such special Town Meeting the subject matter of all petitions which are received at its office on or before five o'clock in the afternoon of the fifth business day following such publication.

(c) Referral - Following the approval of the warrant, (1) 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 (2) the Town Clerk shall post the warrant in accordance with the Bylaws.

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

Every Town Official shall attend all sessions of a Town Meeting for the purpose of providing information pertinent to matters appearing in the warrant.

In the event any Town Official is to be absent due to illness or other reasonable cause, such person shall designate a deputy to attend to represent the office, Multiple-member Body, department or division. If any person designated to attend the Town Meeting under this Section is not a Voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with 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 such additional duties in connection therewith as provided by the General Laws, this Charter, Bylaw or other Town Meeting vote.

SECTION 2-10: RULES OF PROCEDURE

The Town Meeting may, by Bylaw, 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 a Board of Selectmen, a School Committee, three members of a Planning Board, a Board of Library Trustees, a Town

Moderator, four members of a Housing Authority and such other officials or representatives to regional authorities or districts as may be established by Bylaw.

(b) Eligibility - Any Voter shall be eligible to hold any elective town office; provided that no person shall concurrently hold more than one elected town office as defined in this Section.

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

(d) Compensation - Elected Town Officials shall receive such compensation for their services as may be annually appropriated for such purpose.

(e) Availability - Notwithstanding their election by the Voters, the Town Officials 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 any matter relating to their respective offices.

(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 forthwith give written notice to the Board of Selectmen of the existence of any such vacancy. Seven days after the public notice was posted on the town bulletin board, the Board of Selectmen together with the remaining members or member of such Multiple-member Body shall fill such vacancy by a joint roll call vote. If the Multiple-member Body does not give such notice to the Board of Selectmen within 30 days following the date on which said vacancy occurs, the Board of Selectmen shall, not

159 sooner than seven days following posting of such notice, fill such vacancy without participation
160 by the remaining members or member of the Multiple-member Body.

161 (2) Board of Selectmen - If there is a failure to elect, or if a vacancy occurs in the office
162 of Selectmen and six months or more will elapse before the next annual town election, the
163 remaining Selectmen shall, forthwith, call a special election to fill the vacancy. If a vacancy
164 occurs in the office of Selectmen and more than three but less than six months will elapse before
165 the next annual town election, the remaining Selectmen may call a special election to fill the
166 vacancy or, upon the written request of not less than 200 Voters, the Board of Selectmen shall
167 forthwith call such special election.

168 (g) Recall of Elected Officials

169 (1) Application - Any person, who holds an elected town office, with more than six
170 months remaining in the term of office, may be recalled from the office by the Voters in the
171 manner provided in this Section.

172 (2) Recall Petitions - A recall affidavit, signed by at least 50 Voters in each of the
173 precincts into which the town is divided, shall be filed with the Town Clerk containing the name
174 of the official whose recall is sought. The Board of Registrars of Voters shall forthwith and no
175 later than seven days following the filing of such affidavit certify the names of Voters whose
176 signatures are affixed thereto. The Town Clerk, within seven days following such certification,
177 shall issue petition blanks demanding such recall, as further described below, by notifying the 10
178 persons first named on such affidavit, or otherwise identified as the "lead petitioners," of the
179 availability of the petitions. The Town Clerk shall keep available printed petition forms. The
180 petitions shall be addressed to the Board of Selectmen, contain the typewritten or printed names

181 of the 10 persons first named on such petitions or otherwise identified as the "lead petitioners."
182 The petitions shall demand the election of a successor to the office and shall be dated and signed
183 by the Town Clerk, whether by hand or electronically. A copy of the petitions shall be entered
184 into the record book to be kept in the office of the Town Clerk.

185 The recall petitions shall be returned to the office of the Town Clerk no later than 14 days
186 following the date they are issued, signed by at least 50 percent of the total number of persons
187 who voted at the most recent annual town election.

188 The Town Clerk shall, within five days following such filing, submit the petitions to the
189 Board of Registrars of Voters who shall, within five days, thereafter, certify the names of Voters
190 affixed thereto.

191 (3) Recall Elections - If the petitions are certified by the Board of Registrars of Voters as
192 having a sufficient number of signatures of Voters, the Town Clerk shall forthwith submit the
193 petition with a certificate to the Board of Selectmen. Upon its receipt of the certified petition, the
194 Board of Selectmen shall forthwith give written notice of said petition to the official whose recall
195 is sought. If said official does not resign from office within five days following delivery of said
196 notice, the Board of Selectmen shall order a special election. This special election shall be held
197 not less than 64 nor more than 90 days after the election is called. If a regular annual town
198 election is to be held within 90 days following the date of said certification the recall election
199 shall be held in conjunction therewith and not at a special election. If a vacancy occurs in the
200 position from which the official is being recalled after a recall election has been ordered, the
201 election shall nevertheless proceed as provided in this Section.

202 (4) Nomination of Candidates - An official whose recall is sought will be a candidate to
203 succeed to the same office. Unless the official requests otherwise in writing, the Town Clerk
204 shall place the name of the official on the ballot without nomination. Unless otherwise provided
205 in this Section the nomination of other candidates, the publication of the warrant for the recall
206 election, and the conduct of the election shall all be in conformity with the provisions of law
207 relating to town elections generally.

208 (5) Propositions on the Ballot -

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

210 For the recall of (name of official)

211 Against the recall of (name of official)

212 Adjacent to each proposition shall be a place to vote for either of said propositions. If a
213 majority of the votes cast is in favor of the recall, and provided at least 25 per cent of the total
214 number of Voters as of the date of the most recent town election have participated in such recall
215 election, the official shall be deemed to be recalled.

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

219 (6) Officeholder - The incumbent shall continue to hold office and perform the duties
220 until the recall election. If not then recalled, the official shall continue in office for the remainder
221 of the unexpired term, subject to recall as provided in paragraph (7) of this Section 3-1(g).

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

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

226 (a) against an official within six months after taking office; or

227 (b) in the case of an official subjected to a recall election and not recalled thereby, until at
228 least six months after the election at which the recall was submitted to the Voters.

229 SECTION 3-2: BOARD OF SELECTMEN

230 (a) Composition, Term of Office - There shall be a Board of Selectmen consisting of five
231 members elected for terms of three years each, so arranged that the terms of as nearly an equal
232 number of members as is possible shall expire each year.

233 (b) Powers and Duties - The executive powers of the town shall be vested in the Board of
234 Selectmen which shall be the chief executive office. The Board of Selectmen shall have all of the
235 executive powers it is possible for a Board of Selectmen to have and to exercise. The Board of
236 Selectmen shall serve as the chief policy making authority. It shall be responsible for the
237 issuance of policy directives and guidelines to be followed by all Town Agencies serving under
238 it. The Board of Selectmen shall work in conjunction with other Town Officials to develop and
239 to promulgate policy guidelines designed to bring all Town Agencies into harmony; provided,
240 however, that nothing in this Section shall be construed to authorize any member of the Board of
241 Selectmen, nor a majority of them, to become involved in the day-to-day administration of any
242 Town Agency. It is the intention of this provision that the Board of Selectmen shall act only

through the adoption of broad policy guidelines which are to be implemented by Town Officials and employees appointed by or under its authority.

The Board of Selectmen shall cause a record of all 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 specified by Bylaw, or expressly voted by Town Meeting, no member of the Board of Selectmen shall be a member of any other town board or committee, except in an ex-officio capacity.

(c) Appointment Powers - The Board of Selectmen shall appoint a Town Manager. The Board of Selectmen shall appoint other Town Officials and members of Multiple-member Bodies, and such other positions as provided by Bylaw or by vote of Town Meeting.

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

SECTION 3-3: SCHOOL COMMITTEE

(a) Composition, Term of Office - There shall be a School Committee consisting of five members elected for terms of three 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 all of the powers and duties which are given to school committees by the General Laws, this Charter, Bylaw and Town Meeting vote.

SECTION 3-4: LIBRARY TRUSTEES

(a) Composition, Term of Office - There shall be a Board of Library Trustees of three members, elected for terms of three years each and arranged such that the terms of one 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 all other powers and duties which are given to library trustees by the General Laws this Charter, Bylaw and 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. Such 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 such appointment or has sooner voted to affirm it. Copies of the notices of all such proposed appointments 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 three years.

282 (b) Powers and Duties - The Town Moderator shall be the presiding official of the Town
283 Meeting, regulate its proceedings and perform such other duties as provided by the General
284 Laws, this Charter, Bylaw or Town Meeting vote.

285 The Town Moderator shall appoint the Finance and Warrant Advisory Committee and
286 shall appoint such members of Multiple-member Bodies in accordance with the Bylaws and vote
287 of Town Meeting.

288 SECTION 3-6: PLANNING BOARD

289 (a) Composition, Term of Office - There shall be a Planning Board consisting of five
290 members of whom three shall be elected for terms of three years each, so arranged that the term
291 of one member shall expire each year and the remaining two members shall be appointed by the
292 Board of Selectmen for terms of three years each, so arranged that the terms expire in different
293 years.

294 (b) Powers and Duties - The Planning Board shall make careful studies of the resources,
295 possibilities and needs of the town and shall make plans for the development of the town. The
296 Planning Board shall make a comprehensive or master plan, setting forth in graphic and textual
297 form policies to govern the future growth and development of the entire town. The Planning
298 Board shall regulate the subdivision of land within the town by adoption of rules and regulations
299 governing such development and the administration of such rules and regulations. The Planning
300 Board shall make recommendations to the Town Meeting on all matters affecting land use and
301 development, including the zoning and earth removal bylaws of the Town. The Planning Board
302 shall recommend to the Town Manager the appointment of a Planning Director, and shall
303 supervise the duties of the Planning Director.

The Planning Board shall make an annual report, giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs. The Planning Board shall have all of the other powers and duties as provided by the General Laws, this Charter, Bylaw and vote of Town Meeting.

SECTION 3-7: SUTTON HOUSING AUTHORITY

(a) Composition, Term of Office - There shall be a Housing Authority which shall consist of five members serving for terms of five years each, so arranged that the term of one member shall expire each year. Four of these members shall be elected by the Voters, and the fifth member shall be appointed by the department of housing and community development of the Commonwealth of Massachusetts.

(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 elderly persons of low income. The Housing Authority shall have such other powers and duties as are 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 such members of the Blackstone Valley Regional Vocational School District Committee for such terms as provided under the agreement and laws establishing the same.

(b) Powers and Duties - The members of the Blackstone Valley Regional Vocational School Committee shall, along with members of the committee from other municipalities

325 participating therein, be responsible for the management and supervision of the said school
326 according to the agreement and laws governing the same.

327 ARTICLE 4

328 TOWN MANAGER

329 SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

330 The Town Manager shall be appointed solely on the basis of demonstrated executive,
331 administrative and education qualifications in accordance with the process set forth for the same
332 in the General Bylaws, if any. The Board of Selectmen shall appoint the Town Manager and
333 shall fix the term and compensation for such person. The Town Manager shall be a person
334 qualified by education and experience

335 The Town Manager shall devote full time to the office and shall not hold any other
336 elected or appointed town office, or engage in any other business or occupation during such
337 service, unless approved in advance and in writing by the Board of Selectmen.

338 Each member of the Board of Selectmen shall complete an annual written review of the
339 job performance of the Town Manager. A summary of the overall evaluation shall be a public
340 record.

341 SECTION 4-2: POWERS AND DUTIES

342 The Town Manager shall be the chief administrative official of the town, directly
343 responsible to the Board of Selectmen for the administration of all town affairs for which the
344 office of Town Manager is given responsibility under this Charter. The powers and duties of the
345 Town Manager shall include, but are not limited to, the following:

346 (a) To supervise, direct, and be responsible for the efficient administration of all
347 functions and activities for which the office of Town Manager is given authority, responsibility,
348 or control.

349 (b) To appoint, subject to the provisions of the civil service law and collective bargaining
350 agreements, if applicable, all Town Officials, for whom no other method of selection is provided
351 by this Charter. Such appointments shall become effective on the fifteenth day following the day
352 on which notice of the appointment is filed with the Board of Selectmen, unless the Board of
353 Selectmen shall within that period by a majority of all of its members vote to reject such
354 appointment or has sooner voted to affirm it. Copies of the notices of all such proposed
355 appointments shall be posted on the town bulletin board when submitted to the Board of
356 Selectmen. Except as otherwise provided above, the Town Manager shall hire all employees of
357 the Town, other than employees of the Library and School Department and seasonal employees
358 appointed by the Recreation Commission.

359 (c) To remove or suspend in appropriate circumstances appointed officials and employees
360 pursuant to Section 7-8 of Article 7.

361 (d) To be the administrator of a town personnel system including, but not limited to,
362 personnel policies and practices, rules and regulations including provisions for an annual
363 employee performance review, personnel bylaw and collective bargaining agreements entered
364 into by the town. The Town Manager shall also prepare and periodically review at least every
365 five years a plan establishing the personnel staffing and job classification for each Town Agency
366 and positions therein, except the school department.

367 (e) To attend all regular and special meetings of the Board of Selectmen, unless
368 unavailable for reasonable cause.

369 (f) To maintain full and complete records of the financial and administrative activities of
370 the town. The Town Manager shall render a quarterly report of such activities to the Board of
371 Selectmen.

372 (g) To keep the Board of Selectmen fully advised as to the needs of the Town and to
373 recommend to the Board of Selectmen, and to other elected Town Officials, action to be
374 considered or required by them or by the Town Meeting.

375 (h) To have full jurisdiction over the rental and use of all town facilities and property
376 except property under the control of the School Committee or the conservation commission. The
377 Town Manager shall be responsible for the maintenance and repair of all town buildings and
378 facilities placed under the Town Manager's control.

379 (i) To prepare and present, in the manner provided in Article 6, an annual operating
380 budget for the Town, a staffing plan pursuant to the Administrative Code as defined in
381 subsection (b) of Section 5-1 of Article 5 and conforming with subsection (d) of Section 4-2 of
382 this Article, and a proposed capital outlay program for the five fiscal years next ensuing.

383 (j) To maintain a complete inventory of all real and personal property of the Town
384 including all property under the jurisdiction of the School Committee.

385 (k) To negotiate all contracts involving any subject within the jurisdiction of the office of
386 Town Manager, including contracts with town employees, except employees of the school
387 department, involving wages, hours, and other terms and conditions of employment.

388 (l) To be responsible for purchasing all supplies, material, and equipment for all
389 departments and activities of the Town except those necessary for the operation of the school
390 department. The Town Manager shall examine, or cause to be examined the quantity, quality
391 and condition of all supplies, material and equipment delivered to or received by any Town
392 Agency except schools. The Town Manager shall be responsible for the disposal of all supplies,
393 material, and equipment which have been declared surplus by any town agency.

394 (m) To see that all of the provisions of the General Laws, this Charter, town Bylaws,
395 other votes of the Town Meeting and votes of the Board of Selectmen which require enforcement
396 by the Town Manager or officials subject to the direction and supervision of the Town Manager
397 are faithfully executed, performed or otherwise carried out.

398 (n) To inquire at any time into the conduct and operation of office or performance of
399 duties of any Town Official or employee.

400 (o) To attend all sessions of all Town Meetings and answer questions raised by Voters
401 which relate to warrant articles and to matters over which the Town Manager has responsibility.

402 (p) To reorganize, consolidate or abolish, in the manner provided in Article 5 Town
403 Agencies serving under the supervision of the Town Manager, in whole or in part, and to provide
404 for new Town Agencies, and to provide for a reassignment of powers, duties and responsibilities
405 among such agencies so established or existing.

406 (q) To coordinate the activities of all Town Agencies serving under the office of Town
407 Manager and the office of Board of Selectmen with those under the jurisdiction of other officials
408 and Multiple-member Bodies elected directly by the Voters. For this purpose the Town Manager
409 shall have authority to require the persons so elected, or their representatives, to meet with the

410 Town Manager at reasonable times for the purpose of effecting coordination and cooperation of
411 all Town Agencies.

412 (r) To perform such other duties as are required to be performed by the Town Manager by
413 Bylaw, Administrative Code, vote of Town Meetings or vote of the Board of Selectmen.

414 SECTION 4-3: DELEGATION OF AUTHORITY

415 The Town Manager may, with the approval of the Board of Selectmen, authorize any
416 subordinate Town Official or employee to exercise any power or perform any function or duty
417 which is assigned to the office of Town Manager, provided that all acts performed under any
418 such delegation shall at all times be deemed to be the acts of the Town Manager.

419 SECTION 4-4: ACTING TOWN MANAGER

420 (a) Temporary Absence - By letter filed with the Town Clerk on or before July 1st of
421 each year or at anytime thereafter, the Town Manager shall designate a qualified Town Official
422 or employee to exercise the powers and perform the duties of Town Manager during a temporary
423 absence. During a temporary absence the Board of Selectmen may revoke such designation and
424 appoint another qualified person to serve until the Town Manager shall return or the position is
425 declared vacant.

426 (b) Vacancy - Any vacancy in the office of Town Manager shall be filled by the Board of
427 Selectmen under Section 4.1. Pending such regular appointment, the Board of Selectmen shall
428 appoint a qualified person to perform the duties of the office on an acting basis. The Board of
429 Selectmen shall set compensation for such person.

430 (c) Powers and Duties - The powers and duties of an acting Town Manager, shall be
431 determined by the Board of Selectmen and consistent with the powers and duties enumerated in
432 Section 4-2.

433 SECTION 4-5: REMOVAL

434 The Board of Selectmen may, by a majority vote of the full board terminate and remove
435 the Town Manager from office in accordance with the following procedure.

436 (a) The Board of Selectmen shall adopt by the affirmative vote of a majority of all its
437 members a preliminary resolution of removal that must state the reason or reasons for removal.
438 This preliminary resolution may suspend the Town Manager for a period not to exceed 45 days.
439 A copy of the resolution shall be delivered to the Town Manager forthwith.

440 (b) Within five days after receipt of the preliminary resolution the Town Manager may
441 request a public hearing by filing a written request for such hearing with the Board of Selectmen.
442 This hearing shall be held at a meeting of the Board of Selectmen not less than 20 days nor later
443 than 30 days after the public hearing request is filed. The Town Manager may file with the
444 Board of Selectmen a written statement responding to the reasons stated in the preliminary
445 resolution, provided the same is received at its office more than 48 hours in advance of the public
446 hearing.

447 (c) The Board of Selectmen may adopt a final resolution of removal, which may be made
448 effective immediately, by the affirmative vote of a majority of all of its members, not less than
449 10 nor more than 21 days following the date of delivery of a copy of the preliminary resolution
450 to the Town Manager, if the Town Manager has not requested a public hearing; or, within 10
451 days following the close of the public hearing. Failure to adopt a final resolution of removal

452 within the time periods as provided in this Section shall nullify the preliminary resolution of
453 removal and the Town Manager shall, at the expiration of said time, forthwith resume the duties
454 of the office. The Town Manager shall continue to receive a salary until the effective date of a
455 final resolution of removal.

456 The action of the Board of Selectmen under this Section shall be final, it being the
457 intention of this provision to vest all authority and fix all responsibility for such action solely in
458 the Board of Selectmen.

459 ARTICLE 5

460 ADMINISTRATIVE ORGANIZATION

461 SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

462 The organization of Town Agencies for the provision of services and the administration
463 of the government may be accomplished through either of the following methods provided in this
464 Article.

465 (a) Bylaws - Subject to express prohibitions in the General Laws or the provisions of this

466 Charter, the Town Meeting may, by Bylaw, reorganize, consolidate, merge, divide or
467 abolish any Town Agency, in whole or in part. The Town Meeting may also establish such new
468 town agencies as it deems necessary or advisable, determine the manner of selection, the term of
469 office and prescribe the functions of all such entities; provided, however, that no function
470 assigned by this Charter to a particular Town Agency may be discontinued, or, unless this
471 Charter specifically so provides, assigned to any other Town Agency.

472 (b) Administrative Code - The Town Manager, after consultation with the Board of
473 Selectmen, may from time to time prepare and submit to the Town Meeting plans of organization
474 or reorganization which establish Town Agencies for the orderly, efficient or convenient conduct
475 of the business of the town.

476 Whenever the Town Manager prepares such a plan, the Board of Selectmen shall hold
477 one or more public hearings on the proposal. The Board of Selectmen shall give notice by
478 publication in the local media, which notice shall describe the scope of the proposal and the time
479 and place at which the hearing will be held, not less than seven nor more than 14 days following
480 said publication. Following such public hearing, the proposal, which may have been amended
481 subsequent to the public hearing, shall be submitted to the Town Meeting by an appropriate
482 warrant article.

483 The Town Meeting may vote only to approve or to disapprove an organization or
484 reorganization plan and shall not vote to amend it. An approved plan shall become effective at
485 the expiration of 60 days following the date of adjournment of the Town Meeting at which the
486 plan is submitted or at such other date as determined by the Town Meeting

487 The Town Manager may, through the Administrative Code, and subject to express
488 prohibitions in the General Laws, or this Charter, reorganize, consolidate or abolish any Town
489 Agency, in whole or in part. The Town Manager may establish such new town agencies as is
490 deemed necessary to the same extent as is provided in subsection (a) of Section 5-1. The Town
491 Manager may for such purpose transfer the duties and powers and, so far as is consistent with the
492 use for which the funds were voted by the town, transfer the appropriation of one town agency to

another, but no function assigned by this Charter to a particular town agency may be discontinued or, unless this Charter specifically so provides, assigned to any other Town Agency.

SECTION 5-2: MERIT PRINCIPLE

All appointments and promotions of Town Officials and employees 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 the last day of June, unless another period is required by the General Laws.

SECTION 6-2: SCHOOL COMMITTEE BUDGET

(a) Public Hearing - At least seven 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 any major variations from the current budget, and the reasons for such changes. Said summary shall (1) indicate the places at which complete copies of the proposed operating budget are available for examination by the public, and (2) also 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.

514 (b) Submission to Town Manager - The budget as adopted by the School Committee shall
515 be submitted to the Town Manager within the time fixed by Bylaw, to enable the Town Manager
516 to consider the effect of the school department's requested appropriation upon the total town
517 operating budget.

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

519 Within the time fixed by Bylaw the Town Manager, after consultation with the Board of
520 Selectmen, shall submit to the Finance and Warrant Advisory Committee a proposed operating
521 budget for the ensuing fiscal year, with an accompanying budget message and supporting
522 documents. The Town Manager shall simultaneously provide for the publication in the local
523 media of a general summary of the proposed budget. The summary shall specifically indicate any
524 major variations from the current operating budget and the reason for such changes. Said
525 summary shall (1) indicate the places at which complete copies of the proposed operating budget
526 are available for examination by the public, and (2) also include the date, time and place when
527 and where a public hearing will be held on the proposed budget.

528 SECTION 6-4: BUDGET MESSAGE

529 The budget message of the Town Manager shall explain the budget for all town agencies
530 both in programmatic and fiscal terms. It shall outline proposed financial policies of the town for
531 the ensuing fiscal year, including a description of important features of the budget, an indication
532 of any major variations from the current year in financial policies, expenditures and revenues
533 together with the reasons for such changes, summarize the town's debt position, and include
534 other material as the Town Manager deems desirable, or the Board of Selectmen may require.

535 SECTION 6-5: THE BUDGET

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

543 (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed
544 by town agency; and

545 (b) Proposed capital expenditures during the ensuing fiscal year, detailed by town
546 agency; and

547 (c) Estimated surplus revenue and free cash at the end of the current fiscal year, and
548 estimated balances in any enterprise accounts and other special accounts established for specific
549 purposes.

550 SECTION 6-6: ACTION ON THE BUDGET

551 (a) Public Hearing - Upon its receipt of the proposed budget, the Finance and Warrant
552 Advisory Committee shall provide for the publication in the local media of a notice stating the
553 time and place of the public hearing on the proposed budget as submitted. Such hearing shall not
554 be less than seven nor more than 14 days following such publication.

555 (b) Review - The Finance and Warrant Advisory Committee shall consider, in open
556 public meetings, the detailed expenditures proposed for each town agency and may confer with

557 representatives of each such agency in connection with its review and consideration. The Finance
558 and Warrant Advisory Committee may require the Town Manager, or any other town agency, to
559 furnish it with such additional information as it may deem necessary to assist it in its review and
560 consideration of the proposed operating budget, and shall require the attendance of a
561 representative of each town agency.

562 (c) Action by Town Meeting - The Finance and Warrant Advisory Committee shall file a
563 report containing its recommendations for actions on the proposed operating budget, which
564 report shall be available at least seven days before the date on which the Town Meeting acts on
565 the budget. When the budget proposed by the Town Manager is before the Town Meeting for
566 action it shall first be subject to amendments, if any, proposed by the Finance and Warrant
567 Advisory Committee before any other amendments may be proposed. Any amendment offered at
568 Town Meeting, shall include its funding source and shall not create a deficit in the proposed
569 budget.

570 SECTION 6-7: CAPITAL PLANNING PROGRAM

571 The Town Manager shall submit a capital planning program to the Board of Selectmen
572 and the Finance and Warrant Advisory Committee as part of the annual budget process
573 including:

574 (a) a list of all capital improvements proposed to be undertaken during each of the
575 ensuing five years, with supporting information as to the need for each capital improvement;

576 (b) cost estimates, proposed methods of financing, and recommended time schedules for
577 each improvement; and,

578 (c) the estimated annual cost of operating and maintaining each facility and piece of
579 major equipment involved.

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

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

583 The Town Manager shall be the chief financial official of the town. Warrants for the
584 payment of town funds prepared by the Town Accountant in accordance with the provisions of
585 the General Laws shall be submitted to the Town Manager. The approval of any such warrant by
586 the Town Manager shall be sufficient authority to authorize payment by the Town
587 Treasurer/Collector, but the Chairman of the Board of Selectmen shall approve all warrants in
588 the event of the absence of the Town Manager, or a vacancy in the office of Town Manager.

589 ARTICLE 7

590 GENERAL PROVISIONS

591 SECTION 7-1: CHARTER CHANGES

592 This Charter may be amended, restated or replaced in accordance with its terms and
593 pursuant to the state constitution and the General Laws.

594 SECTION 7-2: SEVERABILITY

595 The provisions of this Charter are severable. If any provision of this Charter is held to be
596 invalid or unenforceable, the other provisions of this Charter shall not be affected thereby. If the
597 application of any provision of this Charter to any person or circumstance is held to be invalid or

598 unenforceable, the application of this Charter and its provisions to other persons and
599 circumstances shall not be affected thereby.

600 SECTION 7-3: SPECIFIC PROVISIONS TO PREVAIL

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

603 SECTION 7-4: NUMBER AND GENDER

604 Words importing the singular number may extend and be applied to several persons or
605 things; words importing the plural number may include the singular; words importing the
606 feminine gender shall include the masculine gender; words importing the masculine gender shall
607 include the feminine gender.

608 SECTION 7-5: DEFINITIONS

609 Unless another meaning is clearly apparent from the context in which the word is used,
610 the following words as used in this Charter shall have the following meanings:

611 (a) Charter- The word "Charter" shall mean this Charter as the same may hereafter be
612 amended or restated.

613 (b) Days - The word "days" shall refer to calendar days, including Saturday, Sunday, and
614 holidays.

615 (c) Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen
616 happening, occurrence, event, or condition which necessitates immediate action.

617 (d) General Laws - The words "General Laws" shall mean laws which apply alike to all
618 cities and towns, to all towns, or to a class of municipalities of which Sutton is a member
619 specifically including the General Laws of the Commonwealth of Massachusetts, as amended.

620 (e) Local Media - The words "local media" shall mean the Town's website, a local cable
621 television station and a daily or weekly newspaper of general circulation in the Town.

622 (f) Majority Vote - The words "majority vote" shall mean a majority of those present and
623 voting, provided that a quorum of the body is present when the vote is taken, unless a higher
624 number is required by law.

625 (g) Multiple-member Body - The words "multiple-member body" shall mean any town
626 body consisting of three or more positions and whether titled board, commission, committee,
627 subcommittee, or otherwise, whether elected, appointed or otherwise constituted.

628 (h) Quorum - The word "quorum", unless otherwise required by law or this Charter, shall
629 mean a majority of the members of a Multiple-member Body then in office, excluding any
630 vacancies which might then exist.

631 (i) Town - The word "town" shall mean the Town of Sutton.

632 (j) Town Agency - The words "town agency" shall mean any department, division or
633 office of the town government.

634 (k) Town Bulletin Board - The words "town bulletin board" shall mean the bulletin board
635 in or on the town hall on which official town notices are posted and such other locations within
636 the town which may from time to time be designated as town bulletin boards by Bylaw, or by
637 vote of the Board of Selectmen.

(l) Town Official - The words "Town Official" when used without further qualification or description shall mean a person having charge of a Town Agency, 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.

(m) Voters - The word "Voters" shall mean registered Voters of the Town of Sutton.

SECTION 7-6: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the Town Clerk before any such rule or regulation shall become effective, and copies shall be made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall become effective until 10 days following the date it has been so filed in the office of the Town Clerk.

SECTION 7-7: CHARTER AND BYLAW REVIEW

A. Charter and Bylaw Review Committee

(1.) Purpose- A Charter and Bylaw Review Committee shall be established every five years to provide a review of the Charter and Bylaws, exclusive of Zoning Bylaws.

(2.) Composition- The Charter and Bylaw Review Committee shall consist of five members, two to be appointed by the Town Moderator and three to be appointed by the Board of Selectmen. Members of the Charter and Bylaw Review Committee shall serve until discharged by the Board of Selectmen.

(3.) Duties- The Charter and Bylaw Review Committee shall

658 • Review portions of the Charter and General Bylaws.

659 • Submit a report to the Board of Selectmen.

660 • Meet with the Board of Selectmen regarding its review and suggested changes.

661 B. Attorney General Approval- Subsequent to enactment by the Town Meeting of a G.L.
662 c.43B, §10 Charter amendment pursuant to section 10 of chapter 43B of the General Laws or
663 adoption or amendment of a Bylaw, copies thereof shall be forwarded to the attorney general of
664 the Commonwealth of Massachusetts for review, and all other steps required for such
665 amendments to take effect shall be undertaken, all as required by the General Laws. Copies of
666 the revised Charter and Bylaws shall be made available for distribution to the public.

667 SECTION 7-8: REMOVALS AND SUSPENSIONS

668 Any appointed Town Official, member of a Multiple-member Body or employee of the
669 town, not subject to the provisions of the state civil service law, or covered by the terms of a
670 collective bargaining agreement, or employment agreement which provides a different method,
671 and whether appointed for a fixed or an indefinite term, may be suspended or removed from
672 office, without compensation, by the appointing authority for cause. The term cause shall
673 include, but not be limited to the following: incapacity other than temporary illness, inefficiency,
674 insubordination or conduct unbecoming the office.

675 The preceding paragraph shall not be interpreted to prevent any appointing authority from
676 immediately suspending an appointed Town Official, member of a Multiple-member Body or
677 employee hereunder if such action is deemed by said appointing authority to be necessary to
678 protect the interests of the Town.

679 The appointing authority when removing any such official, member of a Multiple-
680 member Body or employee of the town, shall provide the individual with a written statement of
681 the reason(s) for said removal. Nothing in this section shall be construed as granting a right to
682 such notice when a person who has been appointed for a fixed term is not re-appointed when that
683 term expires.

684 SECTION 7-9: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

685 (a) Meetings and Agendas - All Multiple-member Bodies shall meet regularly at such
686 times and places within the town as they may by their own rules prescribe. Notices of all such
687 meetings shall be in accordance with the Open Meeting Law, codified as sections 18 to 25,
688 inclusive of chapter 30A of the General LawsG.L. c.30A, §§18-25.

689 Except in cases of emergency, special meetings of any Multiple-member Body shall be
690 held on the call of the respective chairman or their designee, or by one-third of the members
691 thereof by written notice delivered to each member at least 48 hours in advance of the time set
692 and in accordance with the Open Meeting Law. A copy of the said notice shall also be posted on
693 the town bulletin board. Special meetings of any Multiple-member Body shall also be called
694 within seven days after the date of the filing with the Town Clerk of a petition signed by at least
695 50 Voters and which states the purpose or purposes for which the meeting is to be called.

696 Except as authorized by law, all meetings of all Multiple-member Bodies shall be open
697 and public. All meetings shall be held in places to which members of the public have a
698 convenient right of access.

699 (b) Rules and Minutes of Meetings - Each Multiple-member Body shall determine its
700 own rules and order of business unless otherwise provided by this Charter or by General Laws

701 and shall provide for keeping minutes of its proceedings. These rules and minutes shall be public
702 records, and, certified copies shall be kept available in the office of the Town Clerk.

703 (c) Voting - Except on procedural matters all votes of all Multiple-member Bodies shall
704 be taken by a call of the roll. The vote of each member shall be recorded in the minutes; if the
705 vote is unanimous, only that fact need be recorded.

706 (d) Quorum - A majority of the members of the Multiple-member Body then in office
707 shall constitute a quorum. However, a smaller number may adjourn from time to time and may
708 compel the attendance of absent members in the manner and subject to the penalties prescribed
709 by the rules of the Multiple-member Body. No action of a Multiple-member Body shall be taken,
710 in the absence of a quorum, except when acting as an authorized subcommittee, and, in no event
711 shall any such action be valid or binding unless ratified by the affirmative vote of the majority of
712 the full Multiple-member Body at a properly posted meeting of that body.

713 (e) Filling of Vacancies - Whenever a vacancy shall occur in the membership of an
714 appointed Multiple-member Body, the remaining members shall immediately give written notice
715 of such vacancy to the appointing authority. If, at the expiration of 30 days following the
716 delivery of such notice to the appointing authority said appointing authority has not appointed
717 some person to fill the vacancy, the remaining members of the Multiple-member Body may fill
718 such vacancy for the remainder of any unexpired term by majority vote of the remaining
719 members.

720 (f) Composition of Multiple-member Bodies - All Multiple-member Bodies when
721 established shall be composed of an odd number of members, of not less than three. Whenever

722 the terms of office of a Multiple-member Body are for more than one year such terms of office
723 shall be so arranged that as nearly an equal number of terms as is possible will expire each year.

724 SECTION 7-10: NOTICE OF VACANCIES

725 Whenever a vacancy occurs in any paid position by reason of a pending retirement or
726 expiration of a fixed term such that a vacancy can be anticipated, the appointing authority,
727 following determination that such position should be filled, shall cause public notice of such
728 vacancy to be posted on the town bulletin board for not less than 10 days. Such notice shall
729 contain a description of the duties of the position and a listing of the necessary or desirable
730 qualifications to fill the position. No permanent appointment to fill such position shall be
731 effective until 14 days following the date such notice was posted to permit reasonable
732 consideration of all applicants. This Section shall not apply to positions covered by the civil
733 service law and rules or if in conflict with the provisions of any contract or collective bargaining
734 agreement.

735 SECTION 7-11: LOSS OF OFFICE, EXCESSIVE ABSENCE

736 If any person appointed to serve as a member of a Multiple-member Body shall fail to
737 attend four or more consecutive meetings, or one-half or more of all of the meetings of such
738 body held in one calendar year, the remaining members of the Multiple-member Body may, after
739 consulting with the appointing authority, by a majority vote of such body, declare the office to be
740 vacant, provided that not less than 10 days prior to the date said vote is scheduled to be taken, the
741 body has given in hand, or mailed by registered or certified mail, return receipt requested, notice
742 of such proposed or pending vote to the last known address of such person.

743 ARTICLE 8

TRANSITIONAL PROVISIONS

SECTION 8-1: CONTINUATION OF EXISTING LAWS

All General Laws, special laws, Town Bylaws, votes, rules and regulations of or pertaining to the Town which are in force when this charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force until amended or rescinded by due course of law or until they expire by their own limitation.