

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:
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>

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:

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

3 ARTICLE 1

4 INCORPORATION; SHORT TITLE; POWERS

5 SECTION 1-1: INCORPORATION

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

9 SECTION 1-2: SHORT TITLE

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

11 SECTION 1-3: POWERS OF THE TOWN

12 Subject only to express limitations on the exercise of any power or function by a
13 municipality in the constitution or laws of the Commonwealth of Massachusetts, it is the intent
14 and the purpose of the Voters to secure through the adoption of this Charter all of the powers it is
15 possible to secure for a municipal government under the constitution and laws of the
16 Commonwealth of Massachusetts.

17 SECTION 1-4: DIVISION OF POWERS

18 The administration of all of the fiscal, prudential and municipal affairs of the town shall
19 be vested in an executive branch headed by a Board of Selectmen. The legislative powers of the
20 town shall be vested in a Town Meeting open to all Voters.

21 SECTION 1-5: CONSTRUCTION

22 The powers of the Town of Sutton under this Charter are to be construed liberally in its
23 favor and the specific mention of any particular power is not intended to limit in any way the
24 general powers of the Town of Sutton as stated in Section 1-3.

25 SECTION 1-6: INTERGOVERNMENTAL RELATIONS

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

31 ARTICLE 2

32 LEGISLATIVE BRANCH

33 SECTION 2-1: TOWN MEETING

34 The legislative powers of the town shall continue to be exercised by a Town Meeting
35 open to all Voters.

36 SECTION 2-2: PRESIDING OFFICIAL

37 The Town Moderator shall preside at all Town Meetings. At the commencement of the
38 annual spring Town Meeting the Town Moderator shall appoint a Deputy Moderator to serve as
39 acting Town Moderator in the event of the temporary absence or disability of the Town
40 Moderator. The Deputy Moderator shall serve until a successor is appointed by the Town
41 Moderator.

42 The Town Moderator shall regulate the proceedings at Town Meetings, decide all
43 questions of order, make public declaration of all votes and may exercise such additional powers
44 and duties as may be authorized by the General Laws, this Charter, Bylaw or vote of the Town
45 Meeting.

46 Until such time as the Town Meeting may act by Bylaw to adopt another manual or
47 guide, the Town Meeting shall be governed by the rules of procedure in the most recent edition
48 of "Town Meeting Time, A Handbook of Parliamentary Law", published by the Massachusetts
49 Moderators' Association.

50 SECTION 2-3: SPECIAL OR STANDING COMMITTEES

51 (a) In General - Subject to the provisions of this Charter and such Bylaws or other Town
52 Meeting votes regarding committees, the Town Moderator shall appoint members of such special

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

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

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

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

75 Section 7-7, who shall be eligible to participate in all matters before said Multiple-member Body.
76 The chairman of the appointed Multiple-member Body may designate the associate members to
77 sit on the Multiple-member Body in the case of absence, inability to act, or conflict of interest,
78 on the part of any member of such appointed body or in the event of a vacancy on the appointed
79 Multiple-member Body. The associate members shall be appointed for 3-year staggered terms
80 by the board or officer responsible for appointing the Multiple-member Body itself, and any
81 vacancies arising in said associate position shall be filled in the same manner as the original
82 appointment for the remainder of the unexpired term.

83 SECTION 2-4: TIME OF REGULAR MEETINGS

84 The Town Meeting shall meet in regular session at least twice in each calendar year. The
85 first such meeting, will be held during May or June, on a date fixed by Bylaw. It shall be
86 primarily concerned with the determination of matters involving the expenditure of Town funds,
87 including, but not limited to, the adoption of an annual operating budget, and for the
88 determination of all other matters to be decided by the Voters. The second such meeting will be
89 held during the last four calendar months, on a date fixed by Bylaw and shall be considered an
90 “annual town meeting” for the purposes of the General Laws.

91 SECTION 2-5: SPECIAL MEETINGS

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

96 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

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

121 In the event any Town Official is to be absent due to illness or other reasonable cause,
122 such person shall designate a deputy to attend to represent the office, Multiple-member Body,
123 department or division. If any person designated to attend the Town Meeting under this Section
124 is not a Voter, such person shall, notwithstanding, have a right to address the meeting for the
125 purpose of compliance with this Section.

126 SECTION 2-9: CLERK OF THE MEETING

127 The Town Clerk shall serve as clerk of the Town Meeting, record its proceedings, and
128 perform such additional duties in connection therewith as provided by the General Laws, this
129 Charter, Bylaw or other Town Meeting vote.

130 SECTION 2-10: RULES OF PROCEDURE

131 The Town Meeting may, by Bylaw, establish, amend, revise, or repeal rules to govern the
132 conduct of Town Meetings.

133 ARTICLE 3

134 ELECTED OFFICIALS

135 SECTION 3-1: IN GENERAL

136 (a) Elective Offices - The offices to be filled by the Voters shall be a Board of Selectmen,
137 a School Committee, three members of a Planning Board, a Board of Library Trustees, a Town

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

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

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

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

147 (e) Availability - Notwithstanding their election by the Voters, the Town Officials named
148 in this Section shall be subject to the call of the Board of Selectmen or of the Town Manager, at
149 all reasonable times, for consultation, conference and discussion on any matter relating to their
150 respective offices.

151 (f) Filling of Vacancies

152 (1) Multiple-member Body - If there is a vacancy in an elected Multiple-member Body,
153 other than the Board of Selectmen, the remaining members shall forthwith give written notice to
154 the Board of Selectmen of the existence of any such vacancy. Seven days after the public notice
155 was posted on the town bulletin board, the Board of Selectmen together with the remaining
156 members or member of such Multiple-member Body shall fill such vacancy by a joint roll call
157 vote. If the Multiple-member Body does not give such notice to the Board of Selectmen within
158 30 days following the date on which said vacancy occurs, the Board of Selectmen shall, not

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

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

(g) Recall of Elected Officials

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

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

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

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

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

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

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

(5) Propositions on the Ballot -

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

For the recall of (name of official)

Against the recall of (name of official)

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

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

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

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

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

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

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

SECTION 3-2: BOARD OF SELECTMEN

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

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

245 The Board of Selectmen shall cause a record of all its official acts to be kept. To aid in
246 the performance of its duties, the Board of Selectmen shall appoint a Town Manager as provided
247 in Article 4.

248 Except as otherwise provided by the General Laws, this Charter, or specified by Bylaw,
249 or expressly voted by Town Meeting, no member of the Board of Selectmen shall be a member
250 of any other town board or committee, except in an ex-officio capacity.

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

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

259 SECTION 3-3: SCHOOL COMMITTEE

260 (a) Composition, Term of Office - There shall be a School Committee consisting of five
261 members elected for terms of three years each so arranged that the terms of as nearly an equal
262 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.

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

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

SECTION 3-6: PLANNING BOARD

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

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

The Planning Board shall make an annual report, giving information regarding the condition of the town 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

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

ARTICLE 4

TOWN MANAGER

SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

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

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

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

SECTION 4-2: POWERS AND DUTIES

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

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

(b) To appoint, subject to the provisions of the civil service law and collective bargaining agreements, if applicable, all Town Officials, for whom no other method of selection is provided by this Charter. Such appointments shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall within that period by a majority of all of its members vote to 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 to the Board of Selectmen. Except as otherwise provided above, the Town Manager shall hire all employees of the Town, other than employees of the Library and School Department and seasonal employees appointed by the Recreation Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) To coordinate the activities of all Town Agencies serving under the office of Town Manager and the office of Board of Selectmen with those under the jurisdiction of other officials and Multiple-member Bodies elected directly by the Voters. For this purpose the Town Manager 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.

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

SECTION 4-5: REMOVAL

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

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

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

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

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

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

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

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

(a) Bylaws - Subject to express prohibitions in the General Laws or the provisions of this Charter, the Town Meeting may, by Bylaw, reorganize, consolidate, merge, divide or abolish any Town Agency, in whole or in part. The Town Meeting may also establish such new town agencies as it deems necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such entities; provided, however, that no function assigned by this Charter to a particular Town Agency may be discontinued, or, unless this Charter specifically so provides, assigned to any other Town Agency.

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

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

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

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

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

SECTION 6-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE

Within the time fixed by Bylaw the Town Manager, after consultation with the Board of Selectmen, shall submit to the Finance and Warrant Advisory Committee a proposed operating budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. The Town Manager shall simultaneously provide for the publication in the local media of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. 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.

SECTION 6-4: BUDGET MESSAGE

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

SECTION 6-5: THE BUDGET

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

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

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

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

SECTION 6-6: ACTION ON THE BUDGET

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

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

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

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

SECTION 6-7: CAPITAL PLANNING PROGRAM

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

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

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

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

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

SECTION 6-8: APPROVAL OF PAYROLL AND EXPENSE WARRANTS

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

ARTICLE 7

GENERAL PROVISIONS

SECTION 7-1: CHARTER CHANGES

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

SECTION 7-2: SEVERABILITY

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

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

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

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

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

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

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

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

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

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

SECTION 7-9: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

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

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

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

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

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

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

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

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

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

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

SECTION 7-10: NOTICE OF VACANCIES

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

SECTION 7-11: LOSS OF OFFICE, EXCESSIVE ABSENCE

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

ARTICLE 8

744 TRANSITIONAL PROVISIONS

745 SECTION 8-1: CONTINUATION OF EXISTING LAWS

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