

TOWN CHARTER

[HISTORY: Adopted by the Town of Middleton 5-20-1974. Amendments noted where applicable.]

INTRODUCTION

Presented herewith is the final report of your Charter Commission. This Commission, which has probably taken a greater in-depth look at the total workings of our town government than any other body ever has within recent decades, feels we all, as a Town, have very little about which to complain. We all should be extremely grateful to those people who have occupied our key positions and given of themselves unselfishly. We are likewise fortunate to have availed ourselves of many able and public-minded persons serving without compensation on numerous boards and committees. To them all, we say "thanks" for such excellent performances, in what are frequently thankless tasks.

Our studies have, nevertheless, revealed a few areas about which we all should be deeply concerned. First, we can look forward to a great likelihood of a population explosion — one or two years hence — amounting to possibly as much as 25 percent and perhaps as much as 50 percent increase in the number of registered voters. This could change the entire complexion of our somewhat close-knit community.

Secondly, although the Home Rule Amendment, recently enacted, guarantees the towns the power to control their own dictates through their own governmental processes, nevertheless there appears to be an increasing encroachment on the part of the Commonwealth into the internal workings of local governments. The adoption of a charter acts as a shield or umbrella and helps to defend the continuance of our own rules and regulations under which we have chosen to live.

Thirdly, and perhaps most importantly, it is the first complete document that expresses fully, clearly and openly the powers and limitations of our town government. The document is open for all citizens to see, and is easily understood. There are no hidden powers or undisclosed rules or secret privileges.

This Charter is probably the most important issue you have been asked to vote on in Middleton in many years. We strongly urge you to analyze it thoroughly.

EXPLANATION

Under the Home Rules Procedures Act of 1966, each community in Massachusetts is expected to have adopted a charter by 1976. It is the ultimate authority for any community and is to the town what the Constitution is to the Federal Government. It is skeletal in nature and is designed to be supplemented by By-laws, codes and votes of Town Meetings. To phrase "a reasonable approach" best describes the overall provisions.

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Briefly stated, the most significant points are:

- a. The open form of Town Meeting is retained.
- b. The traditional practice of electing many of our Town Officers is for the most part retained.
- c. It establishes the position of Town Administrator, who will be appointed by the Selectmen and responsible for the day-to-day administration of Town affairs.
- d. It provides for an increase in the number of Selectmen to be elected.
- e. It establishes and defines clearly a Department of Public Works.
- f. Recall of elected officials is provided for.
- g. A Capital Improvement Program is outlined.
- h. Provisions are made for a periodic review and upgrading of our Town By-Laws.

BRIEF SUMMARY OF THE CHAPTERS

Chapter 1

Contains the legal language required to insure the Town all the opportunities granted by the Home Rule Amendment.

Chapter 2

Establishes the continuation of our present practice of holding open town meetings.

Chapter 3

Provides for the continuation of our present election procedures and adds rules and requisites necessary to remove an elected official from public office, providing, nevertheless, adequate safeguards to preclude any unnecessary harassment of an elected officer at the hands of a small hostile faction.

Chapter 4

Provides for increasing the number of elected selectmen from three to five. Since our Town now has become big business, involving millions of dollars each year, it is felt part-time absentee management is best served in matters of policy and executive authority by a board of five men rather than three.

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Chapter 5

Enumerates a slight reduction in the number of elected offices; principally in the area of our presently related, but separate, functions, which will come under the single division of Public Works. The ultimate combining of our part-time Tax Collector and part-time Treasurer is also provided.

Chapter 6

Lists those offices subject to appointment by the Board of Selectmen, together with the procedure for removals and suspensions. The qualifications, duties, authority, removal procedures, etc., are spelled out covering the very important new position of Town Administrator. A measure of job security is established for our Police Chief and our Fire Chief.

Chapter 7

Makes little change from our present procedure covering money matters, except it now provides for the citizens to be more fully informed by the budget message, especially in the area of the impact of the total budget upon the ensuing tax rate. It establishes a Capital Improvements Program to view our total capital requirements — both short term and long term.

Chapter 8

Provides for a continuation of our present procedures in matter of environment.

Chapter 9

Establishes a Division of Public Works and a Division of Zoning Enforcement and Inspection. All of the functions of these two divisions are presently being performed and will continue. This combines some 12 or 14 separate, but related activities into two responsible divisions. The personnel system offers no substantial change from our present procedure.

Chapter 10

Like Chapter 1, is mostly legal language necessary to insure the Charter's effectiveness and provides for amending or upgrading it as the need may arise. It does, however, also make mandatory a By-laws Study Committee once every five years to keep our By-laws up to date commensurate with changing circumstances.

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Chapter 11

Is pretty much self-explanatory and provides for tying up the loose ends during the change over from "no Charter" to "Charter," and insures the continuation of employment of those offices enumerated.

R. Lionel Barrows, Chairman
George E. Dow, Sr., Vice-Chairman
John B. Caulfield, Clerk
Shirley Raynard
William Dearborn
John Goodwin
Robert Kelley
Robert W. Fox

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PREAMBLE

We, the people of the Town of Middleton, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the Home Rule Amendment of the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this town.

CHAPTER 1 POWERS OF THE TOWN

Section 1 Incorporation

1-1-1 The present Town of Middleton, Massachusetts, within its corporate limits as now established shall continue to be a body politic and corporate under the name, Town of Middleton.

Section 2 Scope of Town Powers

1-2-1 The Town shall possess and exercise all powers possible under the Constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this Charter.

Section 3 Form of Government

1-3-1 This Charter provides for the open town meeting-selectmen form of government.

Section 4 Construction of Charter

1-4-1 The powers of the town under this Charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any measure the general powers of the town as stated in this charter.

Section 5 Intergovernmental Relations

1-5-1 The Town may exercise consistent with the provisions of law, 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 municipalities, civil divisions, sub-divisions, or agencies of the Commonwealth, other states, or of the United States Government.

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CHAPTER 2 TOWN MEETING

Section 1 Definitions

2-1-1 The Annual Town Meeting is defined as that session of the voters of the town provided for by section 2-4-1 of this Charter.

2-1-2 A special town meeting is defined as any session of the voters of the town not expressly scheduled by this Charter.

2-1-3 It is the intent of this Charter that any provisions of the Constitution or General Laws embodying the term "Annual Town Meeting" and which pertains to the legislative affairs of the Town, pertains to the Town Meeting expressly provided for by section 2-4-1 of this Charter.

Section 2 Composition, Quorum, Adjournment

2-2-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the Town.

2-2-2 The quorum necessary for the conduct of business may be established through by-law, but may not be less than 100 registered voters of the Town. [Amended 5-12-1981 ATM by Art. 5, approved 5-17-1982]

2-2-3 When the number of voters in attendance at a Town Meeting is determined to be less than the established quorum, the meeting shall be adjourned forthwith to a stated date, time, and place.

Section 3 Powers and Responsibilities

2-3-1 The Town Meeting shall consider and act upon all proposed By-laws.

2-3-2 The Town Meeting shall consider and act upon, with or without amendments, all proposed operating and capital budgets, bond issues, and other financial proposals of the Town.

2-3-3 All Town officers, or their representatives, members of boards and commissions, and department heads including non-residents shall attend any Town Meeting and be permitted to speak on articles or issues that affect their department, office, or function. The absence of any such person shall not invalidate the actions of the Town Meeting. [Amended 5-8-1984 ATM by Art. 50, approved 5-20-1985]

~~2-3-4 The Town Meeting may investigate the affairs of any Town division, department, board, commission, committee, office or function.~~

~~2-3-52-3-4~~ The Town Meeting shall possess and exercise all powers possible under General

Law. Section 4 Procedures

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2-4-1 The Town Meeting shall meet regularly on the second Tuesday in May to consider and adopt an annual operating and capital budget, and to act on other financial matters, to consider and act on matters of planning, zoning, subdivision control, building codes, and all other matters of a By-law nature, as well as to consider and act upon such other business as may properly come before the meeting.

2-4-2 In all procedural matters, the Town Meeting shall follow the latest edition of "Robert's Rules of Order," except as provided by General Law, this Charter, or by By-law.

2-4-3 The Warrant for each Town Meeting shall be prepared by the Board of Selectmen.

2-4-4 All warrants for Town Meeting shall be served by posting up attested copies thereof, in at least three public places in the Town and at such places as the Selectmen may designate, at least seven days before the time of holding such meeting.

2-4-5 A copy of the Warrant for any Town Meeting shall be made available to each residence in the Town at least seven days prior to the commencement of said meeting.

2-4-6 The order of consideration of the articles on the Warrant may be changed only by a four-fifths vote of the Town Meeting.

2-4-7 All proposed operating expenditures shall be included in a single, omnibus-type article in the Town Warrant.

2-4-8 The Town Meeting shall not consider financial matters without Finance Committee recommendations.

2-4-9 Articles involving planning, zoning, subdivision control, land acquisition, conservation, extension of sewer lines, and all other matters relating to the environment shall not be voted on by the Town Meeting unless they have been considered previously and a recommendation issued thereon by the Planning Board.

2-4-10 The substance of any article defeated at a Town Meeting shall not again be placed on the warrant for the period of one year, except and unless in compliance with General Laws, Chapter 39, Section 10 as amended.

2-4-11 The substance of any article entailing planning, zoning, subdivision control, which has been defeated at any town meeting shall not again be voted on by the Town Meeting for a period of two years thereafter, unless the planning board shall have recommended resubmission of the article.

2-4-12 The date, time, and place for any emergency Town Meeting shall be established by the Board of Selectmen, but, the calling of such shall be in accordance with the General Law provisions for calling a Special Town Meeting.

2-4-13 Any ten voters of the Town may secure by written petition to the Board of Selectmen, the inclusion of an article for the warrant of any duly scheduled Annual Town Meeting, and at

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least one hundred registered voters may secure the same for any duly scheduled Special Town Meeting.

Section 5 Presiding Officer

2-5-1 A Moderator shall be elected for a 3-year term at the regular election of Town officials. The Moderator shall not hold any other office or accept Town employment during the term for which the Moderator is elected. **[Amended by Ch. 31 of the Acts of 2018]**

2-5-2 The Moderator shall preside at all Town Meetings and shall swear in the Town Clerk. He shall enforce procedural rules as set forth in General Law, this Charter, and By-law.

2-5-3 The Moderator shall appoint the Finance Committee in accordance with Chapter 7, Section 3 of this Charter.

2-5-4 The Moderator shall appoint any ad hoc committee created by the Town Meeting, unless another appointive authority shall be specified in the language of the article establishing such committee.

CHAPTER 3 ELECTIONS

Section 1 Town Elections

3-1-1 The regular election for all Town offices shall be by official ballot held on the third Tuesday in May of each year. **[Amended by Ch. 31 of the Acts of 2018]**

3-1-2 Any person duly elected to any office or board shall take up the duties of his office immediately, provided that he first shall have been sworn to the faithful performance of his duties.

3-1-3 All General Law provisions with regard to Town elections shall apply.

Section 2 Elections to be Nonpartisan

3-2-1 All elections for Town officers shall be nonpartisan, and election ballots for Town officers shall be printed without any political party mark, emblem, vignette, or designation whatsoever.

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Section 3 Eligibility of Town Voters

3-3-1 Any registered voter of the Town shall be eligible for election to any elective office or Board of the Town.

Section 4 Recall of Elective Officers

3-4-1 An elected officer of the Town may be recalled and removed from public office by the voters of the Town as herein provided. Any voter of the Town may file with the Board of Selectmen a petition containing the name and title of the elective officer whose removal is sought together with a statement of the grounds for his removal. Said petition shall be filed withsaid Board and shall be signed in ink or indelible pencil by qualified voters of the Town equalin number to at least twenty percent of the voters registered at the last regular municipal election, provided that no recall petition may be filed against any officer until he shall have heldhis office for at least six months. Said petition shall be accompanied by affidavits as toauthenticity of signatures, signed and sworn to by each circulator, and certified by the Board of Registrars or Town Clerk.

3-4-2 If, within five days after receipt of the petition the Board of Selectmen shall determine the petition and affidavits to be sufficient, a recall vote shall be taken within one hundred and ten days but not sooner than ninety days after such final determination, provided that no such vote shall be taken if the term of office of such elective official shall expire within one hundred and fifty days after such determination, or if such elective officer shall resign from such office before the taking of such vote. Said recall vote shall be called and conducted in the same manner as is provided by general law for the call and conduct of a special election.

3-4-3 The form of the question to be voted upon shall be substantially as follows: "Shall (here insert the name and title of the elective officer whose recall is sought) be recalled?" A majority vote of the voters to recall such elective officer shall not be effective unless a total of at least thirty percent of the electorate entitled to vote on the question shall have voted. Recall of such elective officer shall become effective upon certification of the results of the voting thereon, regardless of any technical deficiency in the recall petition. If any elective officer shall be recalled, the vacancy created thereby shall be filled in accordance with the provisions of this charter and of general law.

3-4-4 No person, having been recalled or having resigned from office while recall proceedings were pending against him, shall be appointed to any Town office within two years following said recall or resignation.

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CHAPTER 4 BOARD OF SELECTMEN

Section 1 The Board of Selectmen

4-1-1 A Board of Selectmen of five members shall be elected for three year overlapping terms. The regular election for the office of Selectman shall be held in accordance with Chapter 3 of this Charter.

4-1-2 Vacancies in the office of Selectman shall be filled by special election in accordance with the provisions of General Law.

Section 2 General Powers

4-2-1 All executive powers of the Town, except as otherwise provided in this Charter, shall be vested in the Board of Selectmen. It is the intent of this section that the Board shall exercise control over Town affairs by recommending major courses of action to the Town Meeting and by setting policies to be carried out by the Town Administrator and other officers, boards, and commissions appointed by the Board of Selectmen.

4-2-2 The Board shall have the power to enact rules and regulations relating to the conduct of Town elections and for the establishment of Town policies, not otherwise governed by Statute, this Charter, or By-law, provided however, that whenever an appropriation shall be necessary to implement such action, the vote of the Board shall be effective only if such appropriation shall be made by the Town Meeting.

Section 3 Powers of Appointment

4-3-1 The Board shall have the powers of appointment as provided in Chapter six of this Charter.

Section 4 Powers of Investigation

4-4-1 The Board of Selectmen may make investigations and may authorize the Town Administrator or other agent to investigate the affairs of the Town and the conduct of any Town department, office or agency, including any doubtful claims against the Town. For this purpose the board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of such investigation shall be placed on file in the office of the Town Clerk and a report of such investigation shall be printed in the next Annual Town Report.

Section 5 Administrative Reorganization

4-5-1 Subject only to express prohibitions in the Constitution and General Laws and provisions of the Charter, the Town Meeting may, by By-law, reorganize, consolidate, or abolish any Town agency, in whole or in part; establish such new Town agencies as it deems necessary or advisable and may prescribe the functions of any such Town agency; provided, however, that no function assigned by the Charter to a particular Town agency may be discontinued except by Charter amendment.

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CHAPTER 5 OTHER ELECTED TOWN BOARDS

Section 1 General Provisions

5-1-1 Beginning with the first Town Election held after the adoption of this Charter, the other Town Boards to be elected by vote of the Town shall be: An Elementary School Committee, a Regional School Committee, a Planning Board, a Board of Assessors, a Board of Library Trustees, a Town Clerk, a Housing Authority, Electric Light Commissioners and a Constable.

5-1-2 Boards and commissions established under this Charter shall perform their functions and duties in accordance with the Constitution, General Law, this Charter, or By-law.

5-1-3 During the term for which he is elected, and for one year following expiration of his term, no member of any board or commission established under this Charter shall be eligible to accept any appointed paid full-time Town position.

5-1-4 Members of boards and commissions established under this Charter who serve without compensation may receive actual and necessary expenses incurred in the performance of their duties, within limits of an appropriation made for that purpose.

Section 2 Vacancies

5-2-1 Vacancies in the Town Boards or offices established under this Charter shall be filled by the Board of Selectmen together with the remaining members of the respective board, in accordance with the provisions of General Law.

Section 3 School Committee

5-3-1 An elementary School Committee of five members shall be elected for three year overlapping terms.

5-3-2 A regional School Committee membership of three shall be elected for three year overlapping terms.

5-3-3 At least two weeks prior to submitting a budget to the Town Accountant, the school committee shall conduct a public hearing on the school budget. Said committee shall have preliminary summaries of its recommendations available at said hearing, which shall be distributed to those who request them.

Section 4 Planning Board

5-4-1 A Planning Board of five members shall be elected for five year overlapping terms.

5-4-2. Two alternate members shall be appointed jointly by the board of selectmen and the planning board for one-year terms. The chairperson of the planning board may designate an alternate member to sit on the planning board to vote and act on all matters in the event of a board member's absence, inability to act, conflict of interest or a vacancy on the board. **[Added by Ch. 375 of the Acts of 2014]**

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Section 5 Board of Assessors

5-5-1 A Board of Assessors of three members shall be elected for three-year overlapping terms.

Section 6 Library Trustees

5-6-1 A Board of Library Trustees of five members shall be elected for three year overlapping terms.

5-6-2 The Board shall be responsible for the administration and operation of the Town Library.

Section 7 Electric Light Commissioners

5-7-1 A Board of five Commissioners shall be elected for three-year overlapping terms. [Amended 5-12-1987 ATM by Art. 74, approved 5-16-1988]

Section 8 Town Clerk

5-8-1 A Town Clerk shall be elected for a three year term.

Section 9 Constable

5-9-1 A constable shall be elected for a three year term.

CHAPTER 6 APPOINTMENTS BY THE BOARD OF SELECTMEN

Section 1 Powers to Appoint Town Officers

6-1-1 The Board of Selectmen shall have the power to appoint:

- (a) The following officers each for a term of three years; a Town Counsel, a Town Accountant.
- (b) The following officers for a term or succession of terms, no one term of which shall be in excess of three years; a Town Administrator, a Superintendent of Public Works, a Treasurer-Collector, all division and/or department heads.
- (c) The following officers for an indefinite term: a Police Chief, a Fire Chief.

Section 2 Duties

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6-2-1 Officers appointed under this chapter shall perform their duties in accordance with General Law, this Charter, and By-law.

Section 3 Power to Appoint Town Boards and Commissions 6-3-

1 The Board of Selectmen shall have the power to appoint:

- (a) Five members of a Zoning Board of Appeals for five year overlapping terms, and two alternate members for one year terms.
- (b) Five members of a Board of Health, for three year overlapping terms. [Amended 5-13-1986 ATM by Art. 64, approved 5-18-1987]
- (c) Three members of a Board of Registrars of Voters for three year overlapping terms.
- (d) A Personnel Board, a Conservation Commission, a Recreation Commission, an Historical Commission, such boards to be composed of five members each, who shall be appointed for three year overlapping terms.

Section 4 Other Appointive Powers

6-4-1 The Board shall have the power to appoint such individual Town officers and members of Boards and Commissions as are authorized by General Law, this Charter, or By-law, and for whom appointment is not otherwise provided.

Section 5 Removals and Suspensions

6-5-1 Any appointed officer or full-time salaried employee of the Town, not subject to the provisions of the state Civil Service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term good cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

6-5-2 Any appointed officer or full-time salaried employee of the Town may be suspended from office by the appointing authority if such action is deemed to them to be necessary to protect the interests of the Town. However, no suspension shall be for more than fifteen days. Suspension may be conterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

6-5-3 The appointing authority when removing any such officer or employee shall act in accordance with the following procedure:

- a. A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered by registered mail to the last known address of the person sought to be removed.

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- b. Within five days of delivery of such notice the officer or employee may request a public hearing at which he may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.
- c. Between one and ten days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six and fifteen days after delivery of the notice of the intent to remove, the appointing authority shall take final action either removing the officer or employee or notifying him that the notice is rescinded.

6-5-4 Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when his original term expires.

~~6-5-5 Said power should not apply to the Zoning Board of Appeals, nor to any other body which the Town Counsel has determined to be quasi-judicial.~~

Section 6 Qualifications of Town Administrator

6-6-1 The Town Administrator shall have executive and administrative qualifications and shall have education by training, experience or scholastic achievement to perform the duties of the office.

Section 7 Duties of the Town Administrator

6-7-1 The Town Administrator shall be directly responsible to the Board of Selectmen for the performance of his duties, and shall be the principal full-time administrative officer of the Town.

6-7-2 He shall represent the Town, in the absence of the Selectmen, at all Federal, State, Regional, or Municipal meetings which may affect the present or future status of the Town.

6-7-3 He shall attend all meetings of the Board of Selectmen except when excused and shall have the right to speak, but not to vote.

6-7-4 He shall assemble and present to the Board of Selectmen the annual budget of the town and shall also be responsible for the development and annual revision of the capital improvements program, in accordance with chapter seven of this Charter.

6-7-5 He shall keep the Board of Selectmen fully informed regarding all departmental operations, fiscal affairs, problems, and administrative actions, and to this end, shall submit quarterly reports to the Board of Selectmen.

6-7-6 He shall keep the Board of Selectmen fully informed on the long range needs of the Town and shall provide the Board with data to support suggested alternative courses of action.

6-7-7 He shall be responsible for purchasing all material, equipment, and supplies for the Town except as otherwise provided for by law. He shall award all contracts for the Town except those which Town Bylaw requires competitive bids. A vote of the Board of Selectmen is

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required to award a contract other than to the lowest bidder. [Amended 5-8-1984 ATM by Art. 52, approved 5-10-1985]

6-7-9 He shall keep a full and complete inventory of Town property both real and personal.

6-7-10 He shall perform such other duties as may be required by this Charter, By-law, vote of the Town, or vote of the Board of Selectmen.

Section 8 Removal of the Town Administrator

6-8-1 The Town Administrator may be removed in the course of his term, in accordance with the following procedures.

6-8-2 The removal of the Town Administrator shall be by a resolution of the Board of Selectmen to this effect, provided that no such resolutions shall be adopted within sixty days after any Town election that shall have caused a change in the composition of the Board.

6-8-3 The adoption of said resolution shall serve to suspend the Administrator for a period of not more than forty-five days, during which his salary shall continue to be paid. A copy of such resolution shall be delivered to the Town Administrator who shall have five days in which to request a public hearing. If a hearing shall be requested, the Board shall schedule it within two weeks, to be held in a public place. The Board shall advertise the hearing in a newspaper of local circulation and cite its purpose, location, time and date.

~~6-8-4 The Moderator, or if he is unable to be present, such person as he shall designate, shall preside at such hearing.~~

~~6-8-5~~ At any such hearing, the reasons for the removal shall first be read aloud. The Town Administrator shall then be allowed to respond, either personally or through counsel. The Board of Selectmen and the Town Administrator shall be allowed to call witnesses, and to subpoena any and all Town records.

~~6-8-6~~ Final removal of the Town Administrator shall be effected by the affirmative vote of the Board of Selectmen, at a public meeting of the Board held within seven days of such public hearing, if the Town Administrator shall have requested one. Or, if he shall not have requested one, final removal may be effected by the affirmative vote of three members of the Board held not sooner than fourteen days after the vote initiating the removal. The salary of the Town Administrator shall continue to be paid for a period of thirty days after the vote effecting his removal from office.

Section 9 Acting Town Administrator

6-9-1 In the event of temporary absence, disability, suspension, or vacancy in the office of the Administrator, the Board of Selectmen by an affirmative vote of at least three members may appoint an acting Town Administrator. The term of the acting Administrator shall not exceed 90 days. If necessary the Board of Selectmen by an affirmative vote of at least three members may extend the temporary appointment for an additional term not to exceed 90 days. An acting Administrator appointed under this section shall receive compensation as set by the affirmative

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vote of at least three selectmen, but, it shall not exceed the rate of compensation, approved for the Administrator by the town meeting.

CHAPTER 7 FINANCES AND FISCAL PROCEDURES

Section 1 Fiscal Year

7-1-1 The fiscal year of the Town shall be as required by the General Laws.

Section 2 Annual Audit

7-2-1 At least ninety days before the end of each fiscal year, the Board of Selectmen shall request the auditing agency of the Commonwealth to conduct an audit of all accounts, books, records, and financial transactions of every department, board, and commission of the Town government, including the school department.

7-2-2 All auditor's reports shall be public records and shall be filed with the Town Administrator, Town Clerk, and a summary thereof shall be published in the next Annual Town Report.

Section 3 Finance Committee

7-3-1 A Finance Committee of seven members shall be appointed by the Moderator for three year overlapping terms. Appointments shall be made annually, within 30 days after the Town elections.

7-3-2 Vacancies in the committee shall be filled for the unexpired portion of the term by the Moderator, within 30 days thereafter.

7-3-3 The Moderator shall have the power to rescind, for cause, any appointment made by him to the Finance Committee, provided that the appointee shall first have been served with a written notice specifying the Moderator's intention, specifying his reasons therefore, and informing the appointee of his right to be heard at a public hearing, if requested.

Section 4 Submission of Budget and Budget Message

7-4-1 At least 120 days prior to the Annual Town Meeting, every Department, Board, Commission and Committee shall prepare and submit to the Town Accountant, operating budget estimates for the ensuing fiscal year.

7-4-2 The Town Accountant shall, within 14 days present to the Town Administrator the operating budget estimates.

7-4-3 At the next regular meeting of the Board of Selectmen, the Town Administrator shall submit to the Board of Selectmen the proposed budgets for the ensuing fiscal year.

7-4-4 Not later than 14 days after the receipt from the Town Administrator the Selectmen shall submit the budget for the ensuing year to the Finance Committee.

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7-4-5 The Finance Committee shall prepare and present the budget message at the Annual Town Meeting. The budget message shall also be included in the annual Town Report.

7-4-6 The budget message shall explain the budget both in fiscal terms and in terms of work programs. It shall: (1) outline the proposed financial policies of the Town for the ensuing fiscal year; (2) describe the features of the budget; (3) indicate any major changes from the current year in financial policies; expenditures, and revenues together with the reasons for such changes; (4) summarize the Town's debt position; (5) estimate the impact of the total budget upon the ensuing tax rate; (6) include such other material as the Finance Committee shall deem desirable.

Section 5 Capital Improvements Program

7-5-1 The Town Administrator shall submit a capital improvement program to the Board of Selectmen and the Finance Committee at least one hundred fifty days before the start of each fiscal year. It shall be based on material prepared by the Capital Planning Committee of the Town, including (1) a clear concise general summary of its contents; (2) a list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need for each such capital improvements; (3) cost estimates, methods of financing and recommended time schedules for each improvement; and, (4) 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 Capital Planning Committee with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

~~7-5-2 The Capital Planning Committee shall be composed of the Town Administrator and the Town Accountant, ex officio, one member of the Finance Committee appointed by and from it, one member of the Planning Board appointed by and from it and three additional members to be appointed by the Moderator. The members from the Finance Committee and Planning Board shall be appointed for one year terms. The other members shall be appointed for three year terms, such that one will expire each year. Vacancies shall be filled for the unexpired terms and in the manner of the original appointments.~~

Section 6 Action on Proposed Budgets

7-6-1 The Finance Committee shall publish, in one or more newspapers of general circulation in the Town, a notice stating: (1) the time and places where copies of the operating budgets and capital improvements program are available for inspection; and (2) the date, time and place, not less than seven days after such publication, when the Finance Committee and the Board of Selectmen jointly shall conduct one or more public hearings on the proposed operating budget and the capital improvements program.

7-6-2 The Finance Committee shall have summaries of its preliminary recommendations available at said hearings which shall be distributed to those who request them.

7-6-3 The Finance Committee shall then issue its final recommendations in print on both the operating budget and the capital improvements program, together with the warrant as provided in 2-4-5; and make copies available to the voters at least fourteen days prior to the annual Town

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Meeting. In preparing its recommendations, the Finance Committee may require any Town department, board, or office to furnish it with appropriate financial reports and budgetary information.

Section 7 Financial Public Records

7-7-1 Statements summarizing the budget and the capital improvement program and related warrant articles, as adopted by the Town Meeting, shall be made available at the office of the Town Administrator and Town Clerk for examination by the public not more than twenty days after their adoption.

Section 8 Collections & Disbursements

7-8-1 All monies received by the Town or by any department or officer thereof, shall, upon their receipt by such department or officer, be paid forthwith into the town treasury except as provided otherwise by General Law, By-Law, or this Charter.

7-8-2 Warrants for the payment of town funds, prepared and signed by the Town Accountant in accordance with General Law procedures shall be submitted to the Board of Selectmen, and their approval thereof shall be sufficient authorization for payment by the Town Treasurer.

Section 9 Emergency Appropriations

7-9-1 To meet a public emergency affecting life, health, property, or the public peace, the Board of Selectmen may make emergency appropriations, to the extent that there shall be available unappropriated revenues to meet such appropriations, subject to provisions of G.L. 44Section 31, as amended.

Section 10 Lapse of Appropriations

7-10-1 Every appropriation, except an appropriation made by a separate warrant article, shall lapse at the close of the fiscal year to the extent that it shall not have been expended or encumbered by contract. An appropriation made by a separate warrant article shall continue in force until the purpose for which it was made shall have been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three years shall pass without any disbursement from or encumbrance by contract of the appropriation.

Section 11 Prohibitions

7-11-1 In addition to the prohibitions prescribed by law, the submission of a bid by any compensated town officer or employee on any contract to be awarded by the Town shall serve to vacate his office, unless otherwise authorized by General Law.

CHAPTER 8 ENVIRONMENTAL MATTERS

Section 1 Powers and Duties of Planning Board

CHARTER

8-1-1 The Planning Board established under Chapter 5, Section 4 of this Charter shall make recommendations to the Board of Selectmen on all matters concerning the physical, economic, and environmental development of the town, as prescribed by General Law, and this Charter.

8-1-2 The Board shall be responsible for the development and periodic updating of a comprehensive plan, which shall be utilized as the basis of all planning activities, procedures, and recommendations in the Town.

8-1-3 A copy of the comprehensive plan shall be kept available for inspection at the office of the Town Administrator, Town Clerk and Public Library.

Section 2 Condemnation Powers

8-2-1 The Board of Selectmen shall have the authority to condemn and compel to be removed, shacks and dilapidated buildings, or other undesirable, detrimental exposed material wherever the same mar the beauty of the Town, provided that such action shall be undertaken in accordance with due process of law, and that such resolution shall have been recommended previously by the Planning Board, or by the Town's chief inspecting officer.

CHAPTER 9 ADMINISTRATION

Section 1 Division & Departments Established

9-1-1 This Charter establishes the following divisions, each of which shall be under the supervision of the Board of Selectmen: (1) a Division of Public Works, (2) a Division of Zoning Enforcement and Inspection, (3) a Department of Police, (4) a Department of Fire.

9-1-2 Each division and/or department head shall be appointed by, and ultimately responsible to the Board of Selectmen unless otherwise provided by this Charter or General Laws.

Section 2 Division of Public Works

9-2-1 The Division of Public Works shall be responsible for: (1) the design, construction, maintenance, repair, cleaning and all essential duties affecting roads, sidewalks, storm drains, sewers, bridges and other public way related structures, (2) the maintenance, repair, and cleaning of all buildings owned or leased by the Town, except those of the School Department, (3) the development and maintenance of all cemeteries, parks and recreational facilities, (4) snow removal; (5) the supervision, care and replacement of trees, including those functions previously undertaken by the tree warden and the moth superintendent, (6) the custody, maintenance and repair of all equipment, tools, machinery and related devices necessary and incidental to the performance of the division's functions.

9-2-2 The Division of Public Works shall assume all of the duties and responsibilities and perform all of the functions including, but not limited to, those which prior to the adoption of this Charter, were performed by or under the authority of the Water and Sewer Commission.

Section 3 Division of Zoning Enforcement and Inspection

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9-3-1 The Division of Zoning Enforcement and Inspection shall be responsible for all inspecting functions, including building, wire, plumbing, and those functions assigned by law to all inspectors and to the Sealer of Weights and Measures.

Section 4. Municipal Light Department.

9-4-1 The Municipal Light Department shall assume all the duties and responsibilities of operating and maintaining the functions of the Electric Light and Power Department under the provisions of the General Laws and the Department of Public Utilities.

Section 5 Personnel System

9-5-1 All appointments and promotions of Town officers and employees shall be made on the basis of merit and fitness demonstrated by examination or other evidence of competence.

9-5-2 The Personnel Board, shall propose, and the Town Meeting may adopt personnel rules relating to all Town positions, except those provided for by General Law. Such rules shall provide for: (1) the classification of all positions based on the duties, responsibility and authority of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances, (2) a salary and pay plan for all positions, (3) methods of determining the merit and fitness of candidates for appointment and promotion, (4) policies and procedures regulating the removal of employees, (5) hours of work, attendance regulations, and provisions for sick, vacation, military and other leave of absence, (6) policies and procedures governing persons holding provisional appointments, (7) policies and procedures governing relationships with employee organizations, (8) policies regarding in-service training programs, (9) grievance procedures, including procedures for the hearing of such grievances, and (10) such other practices and procedures as may be necessary for the administration of the personnel system.

CHAPTER 10 GENERAL PROVISIONS

Section 1 Amendment of Charter

10-1-1 This Charter may be replaced, revised, or amended in accordance with the provisions of the Constitution and General Law.

Section 2 Specific Provisions shall Prevail

10-2-1 To the extent that any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 3 Severability of Charter

10-3-1 If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter of any of its provisions to any person or circumstance shall be held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

CHARTER

Section 4 Revision and Publication of By-Laws

10-4-1 It shall be the responsibility of the Board of Selectmen to insure, through an appointed By-law Committee, that the By-laws of the Town shall be reviewed, codified, and republished at least every five years, and that copies shall be made available to all registered voters requesting them.

Section 5 General Responsibilities of Boards and Commissions

10-5-1 All boards, commissions, and committees of the Town shall: organize annually and elect a chairman and other necessary officers; establish a quorum requirement for their meetings; adopt rules of procedure and voting; maintain a journal of proceedings, copies of which shall be a public record.

Section 6 Executive Sessions

10-6-1 No meeting of any Town board, commission, committee, or subcommittee shall be held in executive session except by not less than a majority vote of those present.

~~10-6-2 Executive sessions may be held only for the purpose of discussing or voting on matters which cannot be made public by reason of law or federal grant in aid requirements, or which might adversely affect the public security, the financial interest of the Town (including matters relating to collective bargaining) and the reputation of any person (including normal personnel actions).~~

CHAPTER 11 TRANSITIONAL PROVISIONS

Section 1 Continuation of By-laws

11-1-1 All special acts, by-laws, resolutions, rules, regulations and votes of the Town Meeting in force on the effective date of this Charter not inconsistent with its provisions, shall continue in force until amended or repealed, including, if any, By-laws which shall have been passed and have been approved by the Attorney General but not published.

Section 2. Continuation of Government.

~~11-2-1 Appointed or elected Town officials holding office on the effective date of this Charter shall continue to serve until their successors have been qualified, unless the office and/or duties have been transferred, consolidated, or abolished.~~

~~11-2-2 Notwithstanding any conflicting provisions, the adoption of this Charter shall serve to grant tenure until age of seventy years to Allan G. Marshall and Ernest R. Gould, so long as they are willing and able to perform the duties of their respective offices as presently defined.~~

~~11-2-3 Notwithstanding any provisions to the contrary, the adoption of this Charter shall serve to grant tenure until age seventy to Patricia Jordan and Harold Tyler, so long as they are both willing and able to perform the duties of their respective offices as presently defined. In the~~

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~~event either shall become unwilling or unable to perform, the office of Treasurer Collector shall be offered to the remaining officer under the provisions of Section 6-1-1.~~

~~11-2-4 The incumbent Board of three selectmen shall cause a Special Election to be held on the second Monday of September, 1974 for the purpose of electing two additional members to the Board, one to serve until the next regular election in 1976 and one until the regular election in 1977. After the qualification of the two new members, the five man Board shall proceed to appoint the Town Administrator and take whatever other action is deemed necessary to implement the office.~~

Section 3 Transfer of Records and Property

11-3-1 All records, property, and equipment whatsoever of any office, department, or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency, shall be transferred forthwith to the office, department, or agency to which such powers and duties are assigned.

Section 4 Pending Actions and Proceedings

11-4-1 No action or proceedings, civil or criminal, in law or in equity, pending, at the time this Charter shall take effect, brought by or against the Town or any office, department, or other agency thereof, shall be affected or abated by the adoption of this Charter.