

FRANKLIN CHARTER COMMISSION



FINAL REPORT

JANUARY 18, 1995

Franklin Charter Commission

Final Report

**Presented to the Town Council
January 18, 1995**

Introduction

The Franklin Charter Commission was elected at the annual town election on April 5, 1994, by an overwhelming 4:1 vote of the people. Specifically, the voters were asked: "Shall a Commission be elected to revise the Charter of the Town of Franklin?" The Commission's purpose has been to review and examine the structure and organization of our town government.

The initiative for a charter review for the most part focused on the perceived need for a more representative, accountable, and well functioning town council. In order to clearly identify the true concerns and issues of the citizenry with respect to the workings of our local government, the Commission sought as much public input as possible in the charter study process. To identify these issues of concern, the Commission conducted a preliminary public hearing on May 16, 1994, invited numerous past and current local officials to present their issues, consistently invited the public to attend meetings and participate in the citizen comment segment of the meetings, the Commission conducted a cable TV telephone call in show for the public, and held a final public hearing on December 6, 1994.

The public participation process of our study identified many issues with respect to our local government. These included the size of the council, the effectiveness of the council in policy making, the term of the council, the perceived need for an elected executive/mayor, conflicts of interest, the need for increased citizen participation in our local government, the need for increased participation on election day, the need for a library board of trustees with greater budget and personnel authority, and the desire to check and balance the power of the administrator.

The Commission then evaluated all of these issues in depth during the late summer and early autumn. During the month of October the Commission sought to achieve a consensus on a new government structure. On several aspects of change the Commission is in agreement; on others the Commission is divided owing to very different philosophies of government and to the basic structural principles of government that should prevail.

The Commission has listened to the concerns, ideas and issues of the citizenry and has conducted its own research of local government structure. Many commissioners have applied sound principles of government -- including accountability, checks and balances, clear division of responsibilities, independence of the legislature, and others to recommend a government structure that meets the demands of as many of the citizens as possible while conforming with principles of good government.

The Commission has completed its work after twenty-five public meetings and will spend the next months presenting its recommendations to the people of Franklin. The following sections of our final report present the recommendations of the majority commissioners and their reasons for these most important and needed changes for an effective government. The final report also includes the report of the minority commissioners and their issues with the recommended changes to the current government.

Franklin Charter Commission

Ballot Question and Summary

BALLOT QUESTION: THE WORDING TO BE USED IS
"SHALL THIS TOWN APPROVE THE CHARTER REVISION
RECOMMENDED BY THE CHARTER COMMISSION,
SUMMARIZED BELOW?

YES	
NO	

BALLOT SUMMARY: The wording to be used is:
"This home rule charter proposes a nine member
town council elected at large for a two year
concurrent term of office. The town election
will be a biennial town election held on the
first Tuesday after the first Monday in
November of the odd numbered year. The school
committee will serve also for a two year
concurrent term. All other town officials
will serve for a four year term; the
administrative boards: planning, assessors
and health will be elected on a staggered
basis."

Majority Report

The work of the Charter Commission has been an important effort for our town and the majority commissioners believe that they have structured a sound, open, and accountable government. No change to Franklin government will be made without the endorsement of the majority of the voters on April 4, 1995. We encourage all residents and registered voters to closely review our recommendations for change.

Recommendations

The People/The Voters

The individual Franklin resident casting a ballot for those who will represent them is the most essential action in the workings of an effective, responsive, and democratic local government. On election day each voter is equal and each has an equal voice in the election process. This important civic privilege serves as the most fundamental means for the citizen to direct and control those who will represent the people.

First and foremost, the majority of the Franklin Charter Commission has sought to enhance the role of the most important player in town government -- the voter. To this end, the Charter Commission has recommended that the town election be held on the first Tuesday after the first Monday in November, in the odd-numbered year. This is known nationally as Election Day, not only for state and federal elections, but also for local elections in the vast majority of states and localities throughout the United States.

Conducting local elections according to the national standard for local elections is intended to welcome as many people as possible, into the local government decision making process. The election will be a biennial election (every two years) with no state or federal candidates/issues on the ballot. The majority believes that it is most important to focus the voter on local candidates and local issues in the odd year and on federal and state candidates and issues in the even-numbered year. The majority commissioners firmly believe that the biennial election will also enhance voter turnout, as residents will only be called upon once every two years (versus every year); and they will have more of an incentive to vote for the representatives/officials who will serve them for the next two years.

The Legislature/The Town Council

The Franklin town council, the local legislature and representatives of the people, is the second most important player in town government after the people. To this end, the Franklin Charter Commission has focused the most significant portion of its research, debate, and deliberations to strengthening the legislative body; while at the same time making it accountable to the people. The Commission has striven to structure an independent, representative, accountable, and functional legislature. Accordingly, this charter recommends major structural changes to the size, basis of representation, and the term of the council.

Council - Size

The size of the town council is clearly a critical factor in its effectiveness in formulating town policies and bylaws. We believe that a council of nine members will allow more individual participation by councilors in debate and also will enhance the importance of membership on the town council. The majority sees a smaller council as crucial, not only to effective policy making, but also to enhanced direction to and control of the appointed executive: the town administrator.

Council - Term

Another crucial structural change is the term of service of the council. Since the beginning of council government in Franklin in 1978, all councilors have been elected for two-year staggered terms; as such the individual councilors serve for two years but the town has a one-year legislature, with only brief time to accomplish policy change as a legislative body. This problem is heightened by the fact that the council is elected at the worst possible time of the year (the spring), which is the waning weeks of the annual budget and public policy cycle. Newly elected councilors are weakened, or ineffective players, in representing their constituents during the budget hearings. Alternatively, long standing councilors who may resign or do not run for election, do so only weeks before they would have been able to vote on important budget and policy decisions that they participated in all year.

In order to improve the important policy making function of the council, the majority has recommended that the council be strengthened by allowing them to serve as a nine-member body for a two-year concurrent term. In this manner, all nine councilors will work together for two years through two complete budget cycles to accomplish the mandate of the people on Election Day.

It is important to point out that continuity in the administration of town affairs will never be at risk as Franklin has a full-time professional administrator, department heads and staff that oversee the day-to-day business affairs of the town much like boards of selectmen do in other towns. As in any town government, the legislature -- the representative town meeting or town council -- are the policy makers and representatives of the people; and they make the policy decisions, while the administrative staff carry out their decisions for the residents. If the voters wish to continue policies favored by certain councilors, then the councilors will continue in office. Continuity of policy should be decided when the people vote for nine town councilors; it should not be automatically built in by staggered terms.

The two-year concurrent town council will be composed of councilors who will continue in office as long as they are responsive to the people. A good legislator will continue in office for several terms, as is the case today. Most importantly, the two-year concurrent council will place greater responsibility with the people of Franklin to continue quality representation; or, when necessary to regenerate the membership of the town council when it needs change.

Council - Basis of Representation

Since 1978, the Franklin town council has had a combination of at-large and precinct councilors to represent the people. The proposed charter recommends at-large representation only. The majority believes that councilors should serve and vote for the interests of the town as a whole. Virtually all councilors who appeared before the Commission firmly stated that they vote for the interests of the town, not the precinct. As importantly, the Commission does not see any distinct or unique interest in any one precinct that is not common to the town as a whole and which, therefore cannot be represented by at-large councilors. If there were unique demographic, social, or cultural interests specific to a precinct, there would be merits to preserving precinct representation. In the absence of this situation, the Commission believes that all legislators should be elected by the town as a whole, and that they should serve the town as a whole.

Council - Prohibitions/Conflicts of Interest

The majority of the Charter Commission believes that our local government should be free from conflicts of interest, or the appearance of conflicts of interest, in decision making for our town. Accordingly, the proposed charter provides that no active town employee may serve on the town council unless they were to take a leave of absence from their position in the administration. The Charter Commission believes that this is the most basic initiative in setting a standard to eliminate real or perceived conflicts of interests by any individual serving on the town council so that their private interests do not conflict with their important public obligation.

School Committee

The second policy making body in town government is the school committee. They have responsibility for all management policy decisions relating to the school system. The majority of the Charter Commission recommends that the school committee continue to have seven members elected at-large but recommends that they serve in the future for a two-year concurrent term. This is consistent with the recommendation for a two-year concurrent term for the town council. The term structure for the school committee is intended to facilitate and strengthen their role as policy makers, to enhance their accountability to the voters, and to promote their direction to the superintendent of schools.

Other Local Officials

The Charter Commission has retained some of the historic aspects of town government in Franklin -- the election of many boards and officials. The Commission recommends the retention of an elected planning board, an elected board of assessors, and an elected board of health. As these are all administrative boards, the Commission has recommended that they serve for a four-year term, with half of their membership elected on a staggered basis every two years.

Two administrative officials who serve at the level of department head will continue to be elected: the treasurer-collector and the clerk. The Commission has recommended four-year terms for these officials as this will increase the continuity of the administrative functions and responsibilities of these offices.

The Commission recommends that the appointed finance committee be appointed on at-large basis, versus the current precinct basis. This change is consistent with the decision to choose our town council on an at-large basis. The opportunity to appoint finance committee members from across the whole town

is intended to facilitate the appointment of the most qualified and interested residents to this important advisory committee.

Recall of Local Officials

The proposed charter retains the same percentage requirements for petition signatures and for recall votes to remove any elected official from office. The significant change that the majority has recommended in the proposed charter is to combine the recall election of the first official with the replacement candidate. The purpose of this change is to prevent vacancies in office and to prevent a second special election.

Transition

If a majority of the voters approve this charter, the town would transfer to the new government on Election Day, November 7, 1995. On that date, the terms of local officials would expire, and the electorate would vote for the new council and other local officials. The majority of the Commission agreed that if it is the will of the voters to adopt the new charter, then the transition should take place in an efficient and orderly manner that would provide the voters and the candidates with a clear understanding of the process.

Summary

In brief, the majority of the Commission has recommended the following changes in comparison to our current government:

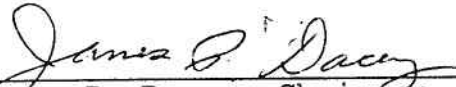
Council Size:	9 members instead of 17
Council Representation:	All at-large instead of 2 from each of 6 precincts and 5 at-large
Council Term:	2 years concurrent instead of 2 years staggered
Council Prohibitions/ Conflict of Interest:	No active town employee may serve on the town council in the future whereas currently they can serve
Date of Election:	Election Day in November of the odd-numbered year instead of the first Tuesday in April of every year
School Committee Terms:	2 years concurrent instead of three years staggered
Terms of Elected Boards:	4 years staggered instead of 3 years staggered
Terms of Elected Officials: (Treasurer-Collector, Clerk and Constables)	4 years instead of 3 years
Representation of Finance Committee:	All at-large instead of by precincts
Recall:	Combined recall of official and the possible election of a replacement into one election instead of two separate elections


Conclusion

The Town of Franklin will face more complex -- and an increasing number of public safety, public works, education, human services, public health, land use control, housing and resource allocation -- issues as the town enters the twenty-first century. The major structural changes to our government as proposed by the Charter Commission are done for the purpose of the creation of an independent council accountable to the voters. This structure is intended to promote the council's ability to legislate for

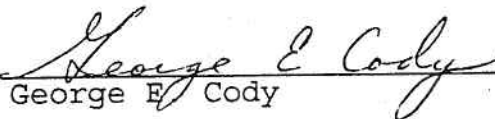
the common good, to allow the people to more easily measure and monitor their legislature, and most importantly, to position the nine legislators to **lead the way** for the town in the years ahead.

The majority of the Charter Commission asks you, the voter, for your serious consideration of these proposed enhancements to our town government and for your vote in favor of the proposed charter on April 4, 1995.


James P. Dacey, Chairman

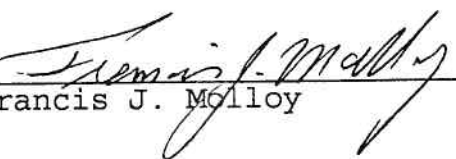

Kathryn M. Griffin, Vice-Chairman

Deborah L. Pellegrini, Clerk


George E. Cody

Mario J. DeBaggis

Walter G. Jackson


Francis J. Molloy

Neil J. Roche


Michael S. Westerman

MINORITY REPORT

This report is brief (since by law it is limited) and is endorsed by four of nine members of the Commission, because we firmly believe the majority of five does not propose a realistic, practical and workable revision of our present charter.

Events over the past sixteen years clearly indicate that Franklin has a government which, as administered, is far superior to most governments in Massachusetts. It has worked well; it is efficient, despite reports to the contrary; it responds effectively to its citizens; and it needs some improvements. In particular, the membership and make-up of the Town Council must be revised.

In addition, our approach to revising the charter was to completely ignore personalities and not consider specific individuals who presently occupy positions in our local government, thereby keeping the process free of politics.

We sincerely believe the overwhelming mandate of the voters was to propose changes to the membership of the Town Council and no other elected office. While we have considered virtually every aspect of our present charter, our approach was to propose a few changes acceptable to the voters and not to offer radical, wide-sweeping revisions, which can only serve to

create unnecessary turmoil and chaos, adversely affecting the efficiency of our local government.

We support a reduction of the Town Council to a constant and smaller number, perhaps nine or eleven, which may also include precinct councillors. Councillors would be elected on a staggered basis, as present, like all other elected town boards. We do not propose any other material changes, certainly not elections in odd-numbered years, certainly not electing a council and school committee every two years, and certainly not providing for elections for every elected position in November, 1995.

The major criticism of the Council is that it is unwieldy because of its size. Unless changes are made, the Council could increase to twenty-one members by the end of the century. The minority believes that the legislative business of the town could be more effectively conducted by a smaller number, perhaps nine persons, all elected at large. As a matter of compromise, since many persons appearing before the Commission favored retention of precinct representation, we could be persuaded to propose an eleven-member body, with one precinct councillor for each of the six precincts and five at large, with a provision for reducing at-large members as additional precincts are added, thereby retaining an eleven member body.

It is our firm belief that Council positions must be staggered on a two or three-year basis. It serves no useful purpose and it is counter-productive to propose that such an important body be elected every two years. There must be stability and continuity. The experience and understanding of members must pass on to future Councils elected annually. There is no sound reason to elect a seven-member school committee every two years. That body is more than a policy-making one and responsible for nearly sixty percent of the annual budget.

Contrary to the majority's submission, continuity in administration will certainly be at risk. The Council hires and fires the Administrator. The role of the councillor will be unnecessarily politicized. The entire Council, or a substantial majority, could change every two years, not an enviable situation.

While we have no specific proposal for the timing of elections, and for purposes of budget considerations we would certainly consider elections other than in April, it is naive and irresponsible to propose November elections every two years in odd numbered years. There is no evidence that this arrangement would result in an increase in voter participation.

The first Monday in November in odd-numbered years is not known in Massachusetts as "Election Day". Statistics show quite clearly to the contrary. There are forty cities in Massachusetts, all have mayors, and most vote in November in odd-numbered years. However, 304 of 311 towns hold annual elections in the months of February through June. Two towns (Westwood and Wales) hold annual elections in September and November, respectively. Only five towns hold elections in odd-numbered years (Agawam, Barnstable, Methuen, Watertown and Saugus).

We are not concerned with how elections are held outside of the Commonwealth. Spring elections have been traditional throughout the Commonwealth. Voter turnout increases with the importance of the issues before the voters, i.e. school construction, and not necessarily the time of the year. Our experience is that Franklinites want to vote every year.

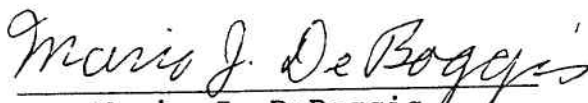
We asked the majority of five to consider giving the voters the choice of voting on alternative Charter revisions. The response was negative and insulting to the voters--stated by the majority to be "the most important player in the town government". The voter either accepts or rejects their proposal. If it is rejected, revisions can only be made by the election of another Charter Commission in 1996 (and placed on the ballot in 1997), an inexcusable delay. If the voters had

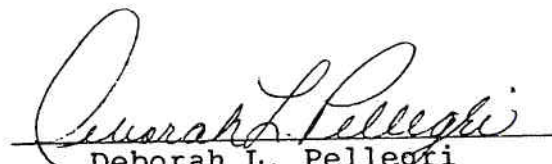
an alternative, which has been the case in several towns, our proposal could very well be accepted and the business of efficient government could be conducted without this delay.

We also vigorously oppose the transition position of the majority. Although barely legal, but completely unwise and unfair, if the proposed Charter revision is accepted, every elected position will be placed on the ballot in November, 1995. All persons elected in 1994 for more than a one-year term and all persons elected in April, 1995 will have their terms abbreviated.

Another item advanced by the majority is an unnecessary conflict of interest provision. General Laws, Chapter 268A has been on the books since 1963 and has been effective. To exclude every town employee from serving on the Council on this basis is not in the true spirit of democracy.

We thank all persons who assisted us in our deliberations. For the foregoing reasons, we earnestly ask the voters to reject the majority proposal.


Mario J. DeBaggis


Deborah L. Pellegri


Walter G. Jackson


Neil J. Roche

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TOWN OF FRANKLIN, MASSACHUSETTS

HOME RULE CHARTER

PREAMBLE

We, the people of the Town of Franklin, Massachusetts, in order to form a more perfect community, reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and take fullest advantage of the Home Rule Amendment to the Constitution of the Commonwealth, do ordain and adopt this Home Rule Charter for our Town.

ARTICLE ONE POWERS OF THE TOWN

Section 1 Incorporation

1-1-1 The inhabitants of the Town of Franklin, within the Town's corporate limits as established by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Franklin."

Section 2 Form of government and title

1-2-1 This Charter provides for a Town Council - Town Administrator form of town government, and it shall be known by the title "Franklin Home Rule Charter."

Section 3 Scope and interpretation of town powers

1-3-1 The town shall possess, exercise and enjoy all local government powers, rights and privileges under the Constitution and laws of Massachusetts as completely and fully as though they were expressly enumerated herein.

1-3-2 The powers of the Town under this Charter shall be construed liberally in its favor, and no specific Charter grant of particular powers is intended to limit in any measure its general grant of power.

Section 4 Intergovernmental cooperations

1-4-1 In the exercise of its powers and functions, the Town may enter into intergovernmental agreements with other units or agencies of government by any appropriate means.

**ARTICLE TWO
THE TOWN COUNCIL**

Section 1 Composition and membership

2-1-1 The legislative body of the Town shall be a Town Council whose members shall be elected to meet, deliberate, act and vote in exercise of the corporate powers of the Town.

2-1-2 Nine (9) council members shall be nominated and elected from the Town at large, all for two year concurrent terms of office.

2-1-3 Town Council members shall receive no compensation for service but may be allowed expenses incurred in the performance of their official duties.

2-1-4 The term of office of the Town Council shall begin on the first Wednesday following the election and continuing until their successors are qualified.

Section 2 Eligibility

2-2-1 Any registered voter of the Town shall be eligible for election to Town Council membership. However, no person holding an elective office of the Town as established in general law, Article Three of this charter, or bylaw, shall take the oath or affirmation of office as a Town Councillor.

2-2-2 No town councillor shall, while a member of the town council, hold any other compensated town office or position. No former councillor shall hold any compensated appointive office or employment until one year after the expiration of service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or employment following service as a member of the town council.

Section 3 Chairman, Vice Chairman and Clerk

2-3-1 At the first Council meeting following each regular town election, the Council shall choose from its membership a Chairman and Vice-Chairman each to serve for a one-year term of office. The Chairman shall preside at meetings of the Council and perform such other duties as provided by this Charter, by-law, or Council vote. The Vice-Chairman shall act as Chairman during the absence or disability of the Chairman.

2-3-2 The Council shall also appoint a Clerk of the Council, who shall give notice of all Council meetings to its members and to the public, maintain a journal of all Council proceedings and perform such other duties as may be assigned by this Charter, bylaw or

other vote of the Council.

2-3-3 Vacancies which occur in the offices of Chairman, Vice Chairman or Clerk shall be filled at the next regular Council meeting following the vacancy. All appointments to fill vacancies in Council offices shall be for the remainder of the original one-year term of office.

Section 4 General powers and duties

2-4-1 Except as otherwise may be provided by this Charter, all general, corporate, legislative and appropriations powers of the Town shall be vested in the Town Council.

2-4-2 The Council may enact bylaws, rules, regulations, and other orders, not inconsistent with this Charter, governing its own proceedings, town functions, and all matters bearing on the exercise of its powers and duties.

2-4-3 The Council shall provide for a journal of its proceedings to be kept and maintained as a public record in the office of the town clerk.

2-4-4 The Council shall have the power to appoint the following: (a) a Town Administrator, as provided in Article Four; (b) a Chairman and Vice Chairman of the Council, as provided in Section 2-3-1; (c) a Clerk of the Council, as provided in Section 2-3-2; (d) a Finance Committee, as provided in Article Six; and (e) special study committees the composition of which shall be determined by the Council.

Section 5 Procedures

2-5-1 The Town Council shall meet regularly at least twice in each month. Special meetings may be held at any time if called by the Chairman or by four (4) members of the Council, provided that for any special meeting at least twenty-four (24) hours personal notice shall be given to each Council member. All Council meetings shall be conducted in accordance with the open meeting provisions of general law.

2-5-2 A majority of the full Council membership shall constitute a quorum for the purpose of conducting business.

2-5-3 Except as otherwise may be provided by general law provisions respecting closed sessions, all meetings of the Council shall be open to the public, and residents and employees of the Town shall have a reasonable opportunity to be heard at any such meeting.

Section 6 Town bylaws

2-6-1 Proposed bylaws shall deal with one (1) subject only and shall be introduced in writing and in the form necessary for final adoption.

2-6-2 Any bylaw which amends or repeals a portion of the Town bylaws shall set out in full the portion to be so amended or repealed, by the use of strikeout type, brackets or underscoring.

2-6-3 Prior to final passage, each introduced bylaw shall be read at two (2) separate Council meetings, except in cases of special emergency involving the health or safety of the people or their property. No bylaw shall be declared an emergency unless such an emergency is defined and declared in a preamble thereto, separately voted on and receiving the affirmative vote of at least two-thirds (2/3) of the full Council membership.

2-6-4 The affirmative vote of a majority of the full Council membership, except as otherwise provided by general law or this Charter, shall be necessary for the final passage of any bylaw.

2-6-5 All votes on regular and emergency bylaws shall be taken by roll call and shall be recorded in the journal.

Section 7 Action requiring a bylaw

2-7-1 In addition to other acts required by statute or this Charter to be accomplished through bylaw, those acts of the Town Council shall be through bylaw which: (a) adopt or amend administrative bylaws or establish, alter, or abolish any town department, office or agency; and (b) provide for a fine or other penalty, or establish a rule or regulation for the violation of which a fine or other penalty is imposed; and (c) establish all fees which are not set by general law.

Section 8 Vacancy

2-8-1 Unless recalled in accordance with Article Five, Section 4 of this charter, a vacancy in the office of Councillor at Large shall be declared by the Town Clerk following notification of the death, permanent disability to serve, resignation, and/or failure to maintain a permanent residency within the Town of Franklin.

2-8-2 Vacancies shall be filled by special election to be called within ninety (90) days of said vacancy unless a regular or special town election shall occur within one hundred twenty (120) days.

**ARTICLE THREE
ELECTED TOWN BOARDS AND OFFICERS**

Section 1 General provisions

3-1-1 Members of town boards to be elected by the qualified voters of the Town shall be, in addition to the Town Council: (a) seven members of a School Committee elected for terms of two years, (b) three members of a Board of Assessors, (c) three members of a Board of Health, and (d) five members and one associate of a Planning Board all to be elected from the Town at large for four-year overlapping terms of office so arranged that the terms of as nearly half of the members of such boards and committees shall expire at each biennial town election.

3-1-2 Officers of the Town to be elected at large for four-year terms of office shall be: (a) Town Clerk, (b) a Town Treasurer-Collector, and (c) three Constables.

3-1-3 Officers and members of elective boards established under this Article shall receive such compensation as may be authorized by the Town Council within limits of an appropriation made for that purpose.

3-1-4 Officers and members of boards established under this Article shall exercise such powers and duties as are, and may be, provided by general law, this Charter, bylaw and order of the Town Council.

Section 2 Special Provisions

3-2-1 The School Committee established under this Article shall have general charge of the public schools of the town. The school committee shall have the power to select and to terminate a superintendent of schools, establish educational goals and policies for the schools consistent with the requirements of the laws of the commonwealth and standards established by the commonwealth. The school committee shall have all the powers and duties given to school committees by the laws of the commonwealth.

Section 3 Vacancies

3-3-1 Unless recalled in accordance with Article Five, Section 4 of this charter, vacancies in boards established under this Article shall be filled by the Town Council jointly with the remaining members of the respective board until the next regular Town election.

3-3-2 Unless recalled in accordance with Article Five, Section 4 of this charter, a vacancy in the office of Town Clerk, Town Treasurer-Collector or Constable shall be filled in accordance with the provisions of general law.

**ARTICLE FOUR
THE TOWN ADMINISTRATOR**

Section 1 Appointment and qualifications

4-1-1 The Town Council, by a majority vote of its full membership, shall appoint a Town Administrator who shall administer and implement the directives and policies adopted by the Town Council. The Council shall fix the Administrator's compensation within the limits of an appropriation adopted for that purpose. The salary, benefits, and terms and conditions of employment and the procedures for dismissal shall be negotiated between the Town Council and the Administrator.

4-1-2 In seeking candidates for the Administrator's post, the Town Council shall advertise in appropriate professional journals and other suitable publications as deemed necessary. The Town Administrator need not be a resident of the town at the time of appointment but shall establish residence within the town within one year following appointment, unless the town council shall waive such residency requirement. If a resident of the Town, the successful candidate shall have held no elective town office for a period of one year prior to appointment.

4-1-3 The Administrator shall be appointed on the basis of educational, executive and administrative qualifications and experience, including at least a bachelor's degree in an appropriate field of study from an accredited four-year college or university. Professional experience shall consist of at least three (3) years of full-time, compensated service in town or town administration or related administrative activity.

Section 2 Powers and duties

4-2-1 The Town Administrator shall be the chief administrative officer of the Town and shall be responsible to the Council for the effective administration of all town affairs placed in his charge by or under this Charter.

4-2-2 The Administrator shall hold no elective or other appointive town office, shall devote full-time to the duties of the office and shall engage in no other business or occupation without the advance written authorization of the Council.

4-2-3 The Administrator shall: (a) attend all meetings of the Council except when excused and have the right to speak but not to vote; (b) keep the Council fully informed regarding Town and departmental operations, fiscal affairs, general problems and administrative actions and submit appropriate periodic reports; (c) keep the Council fully informed as to the long-range needs of the Town, the practices and governmental trends of other communities and the laws and regulations of the Commonwealth and make such

recommendations to the Council as deemed necessary and appropriate; (d) prepare, assemble and present to the Council the annual Town operating and capital budgets and cooperate with the Finance Committee in all financial matters; (e) serve as general ombudsman for the Town; (f) maintain an inventory of all town real and personal property; (g) be responsible for the daily administration of the personnel system, including the maintenance of personnel records and enforcement of personnel rules and regulations; (h) serve as central purchasing agent; (i) be responsible for the maintenance of all buildings and property owned or leased by the Town, except that under the jurisdiction of the School Committee; and (j) perform such other duties as may be required by this Charter, bylaw or order of the Council.

4-2-4 The Administrator may, with the approval of the Council, within the departments and agencies under his jurisdiction, establish, reorganize or consolidate any department, board, commission or office.

4-2-5 Subject to ratification by the Town Council, the Administrator shall have the power to appoint; on the basis of merit and fitness alone: (a) a Fire Chief, a Police Chief, a Director of Public Works, a Town Accountant, a Town Counsel, a Director of Civil Defense, a Library Director, all inspectors except as otherwise provided by general law and three (3) registrars of voters; (b) nine (9) members of a Council on Aging, seven (7) members of a Conservation Commission, seven (7) members of an Historic Commission and three (3) members of a Zoning Board of Appeals, all for three-year overlapping terms of office; (c) fifteen (15) members of an Industrial and Development Commission and five (5) members of an Industrial Development Financing Authority, all for five-year overlapping terms of office; (d) five (5) members of a Personnel Board for terms as fixed through bylaw; (e) four (4) members of a Housing Authority and four (4) members of a Redevelopment Authority, all for five-year overlapping terms of office with the fifth member of each board to be appointed under the authority of the Commonwealth; and (f) members of such other boards, commissions and committees and individual town officers and employees as are authorized by general law, this Charter or bylaw and for whom appointment is not otherwise provided.

Section 3 Removal of the Town Administrator

4-3-1 Final removal of any town administrator shall be effected by a majority vote of the full town council at an open council meeting.

Section 4 Acting Town Administrator

4-4-1 The Town Council may designate a qualified person to serve as Acting Town Administrator and to perform the duties of the office during the period of any vacancy caused by the Administrator's

absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed one hundred twenty (120) days, but such appointment may be extended an additional sixty (60) days by vote of the Council.

ARTICLE FIVE TOWN ELECTIONS

Section 1 Biennial Town Election

5-1-1 The regular biennial election for all town offices and Town Council members shall be by official ballot held on the first Tuesday following the first Monday in November of each odd numbered year. All elections of town officers and Town Council members shall be nonpartisan, and all election ballots shall be printed without any party mark or other political emblem.

5-1-2 The order of candidate names on the official ballot shall be such that incumbents are listed first, followed by other candidates in alphabetical order.

5-1-3 Any person elected to any office, board or the Council shall take up the duties thereof immediately upon taking the oath or affirmation of office.

5-1-4 Except as otherwise provided by this Charter, the provisions of general law with respect to nominations and elections to town offices shall apply.

5-1-5 The nomination of candidates for election and reelection as Town Council members shall be made by nomination papers filed with the Town Clerk not later than the last day on which nomination papers of candidates for other town offices must be filed. For the office of Town Councillor, such papers shall be signed by at least one hundred (100) qualified voters of the Town. Nomination papers shall not be valid for any candidate whose written acceptance is not attached thereto when filed.

Section 2 Initiative

5-2-1 The voters of the Town shall have the power to propose and act upon any legislative matter falling within the authority of the Town Council so to act, except emergency measures as provided in Sections 2-6-3 and 6-8-1 of this Charter.

5-2-2 Initiative legislation may be proposed by submission to the Town Clerk of a petition signed by the qualified voters of the Town equal in number to not fewer than five percent (5%) of those registered at the last regular town election. Each copy of the petition shall clearly state the question or questions to be voted on.

5-2-3 If, within seven days following receipt of the petition the Town Clerk shall determine it to contain a sufficient number of valid signatures, provision shall be made for a special initiative election to be conducted within thirty-five (35) days thereafter for the sole purpose of voting on the petitioned question or questions.

5-2-4 Each question to be voted on the special initiative election shall be in the same form and language as stated on the initiative petition.

5-2-5 No special initiative election shall be valid unless at least twenty-five percent (25%) of the qualified voters of the Town shall cast a ballot on each question submitted.

Section 3 Referendum

5-3-1 No bylaw, order or other measure adopted by the Town Council, except a vote: (a) to appropriate a sum of money less than fifty thousand dollars (\$50,000.) or (b) to enact an emergency measure as detailed in Sections 2-6-3 and 6-8-1 of this Charter, shall become operative until the expiration of fourteen (14) days following the Council's final vote thereon.

5-3-2 If within such fourteen-day period a petition signed by the qualified voters of the Town equal in number to not fewer than five percent (5%) of those registered at the last regular town election is filed with the Town Clerk, asking that any question involved in such a vote be submitted to the voters, then a referendum shall be held for the sole purpose of presenting the question or questions to the voters of the Town.

5-3-3 If, within seven days following receipt of the petition the Town Clerk shall determine it to contain a sufficient number of valid signatures, provision shall be made for a referendum to be held within thirty-five (35) days thereafter.

5-3-4 Each question to be voted on in the referendum shall be submitted to the voters in the same form and language as when finally voted on by the Town Council.

5-3-5 All procedures for voting upon referendum questions shall be in the same manner as provided by general law for the conduct of town elections.

5-3-6 No referendum against any action of the Town Council shall be valid unless at least twenty-five percent (25%) of the qualified voters of the Town shall cast a ballot on each question submitted.

Section 4 Recall of elective officers

5-4-1 Any elective officer of the Town may be recalled and removed from office by the voters as herein provided. Any voter may file with the Town Clerk a petition containing the name and title of the elective officer whose removal is sought. For all elective officers such petition shall be signed by the qualified voters of the Town equal in number to at least five percent (5%) of those registered at the last regular Town election. Such recall petition must be filed within fourteen (14) days following its initial date of issuance.

5-4-2 If within seven (7) days following receipt of the petition the Town Clerk shall determine it to contain a sufficient number of valid signatures, provisions shall be made for a recall election to be held within sixty (60) days but not sooner than forty-five (45) days thereafter, provided that no such election shall take place if the regular Town election or another special election shall be held within ninety (90) days. All procedures for voting upon the recall question and filling any vacancy caused by the recall of an officer shall be in the same manner as provided by general law for the conduct of Town elections.

5-4-3 Any officer sought to be removed may be a candidate to succeed to the same office, and unless the officer requests otherwise in writing, the town clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections. Ballots used in a recall election shall ask if the officer sought to be recalled shall be recalled; and shall provide for the names of candidates seeking the office of the officer recalled.

5-4-4 If the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected provided that at least twenty-five percent (25%) of all those qualified to vote shall have voted.

ARTICLE SIX FINANCIAL PROVISIONS AND PROCEDURES

Section 1 Applicability of general law

6-1-1 In all matters concerning finances and financial procedures of the Town, the provisions of general law shall apply, together with such other requirements as are provided by this Charter and bylaw.

Section 2 Finance Committee

6-2-1 A Finance Committee of eleven members shall be appointed by the Town Council for one-year terms of office. The Finance Committee shall elect from its membership for one-year terms of office, a Chairman, a Vice-Chairman, and a Clerk. The Town Accountant and the Town Treasurer-Collector shall have ex-officio membership, without voting rights, on the Committee. No elected or appointed Town officer, or compensated Town employee who serves in more than part time employments, shall serve on the Committee. Committee members shall serve without compensation.

6-2-2 Vacancies on the Finance Committee shall be filled promptly by the Council for the unexpired term.

6-2-3 The Finance Committee shall carry out its duties in accordance with the provisions of general law, this Charter and bylaw, and it shall have regular and free access and inspection rights to all books and accounts of any Town department or office. The Committee shall carefully examine all budget and appropriations proposals and shall issue its recommendations thereon prior to consideration, debate and vote by the Town Council.

Section 3 Submission of budget and budget message

6-3-1 Within the period provided by general law, the Town Administrator shall submit to the Town Council and file copies with the Finance Committee a proposed budget for the ensuing fiscal year with an accompanying budget message and support documents.

Section 4 Budget message

6-4-1 The budget message shall explain the budget for all Town agencies in both fiscal and programmatic terms. It shall: (a) outline proposed financial policies of the Town for the ensuing fiscal year; (b) describe important features of the budget; (c) indicate any major variations from the current year in financial policies, expenditures and revenues, together with the reasons of such variations; (d) summarize the Town's debt position; and (e) include such other materials as the Town Administrator may deem desirable or the Finance Committee may require.

Section 5 Budget Proposal

6-5-1 The proposed budget shall provide a complete financial plan for all Town funds and activities, including the proposed School Committee budget of the ensuing year. Except for the school budget or may be required by general law, it shall be in such form as the Town Administrator deems desirable or the Finance Committee may require.

6-5-2 In submitting the proposed budget, the Town Administrator shall utilize modern fiscal principals so as to afford maximum information and financial control. The budget shall detail all estimated revenue from the property tax levy and other sources and all proposed expenditures, including debt service for the previous, current and ensuing years, and shall indicate separately: (a) proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, purpose and position, together with proposed financing methods; and (b) estimated surplus revenue and free cash available at the close of the fiscal year, including estimated balances in special accounts.

Section 6 Action on the proposed budget

6-6-1 The Town Council shall conduct at least two (2) public hearings on the proposed budget, and it shall publish, in one (1) or more newspapers of general circulation in the Town, a general summary of the budget and a notice stating: (a) the times and places where copies of the budget shall be available for inspection, and (b) the dates, times and places, not less than fourteen (14) days after such publication, when the public hearings on the budget proposal shall be conducted. The Finance Committee shall issue printed recommendations and make copies available at the time of the public hearings.

6-6-2 The Town Council shall adopt the budget, with or without amendments, prior to the close of the current fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein.

Section 7 Capital improvements program

6-7-1 Within the period provided by general law, the Town Administrator shall submit to the Town Council and file copies with the Finance Committee a six-year capital improvements program, which shall include: (a) a clear summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next six (6) fiscal years, together with supporting data; (c) cost estimates, methods of financing and recommended time schedules; and (d) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

6-7-2 Information requirements described above may be revised and extended annually with respect to capital improvements in the process of construction or acquisition. A capital improvement shall be defined by the Finance Committee, in consultation with the Town Administrator and other town officials, such definition to be changed from time to time as necessary to reflect current economic conditions.

Section 8 Emergency appropriations

6-8-1 The Town Council shall have the power to enact emergency appropriations orders to meet a public emergency affecting life, health, property or the public peace. Any such emergency order shall be so declared in an emergency preamble thereto, separately voted on and receiving the affirmative vote of at least two-thirds (2/3) of the full Council membership.

ARTICLE SEVEN GENERAL PROVISIONS

Section 1 Charter amendment

7-1-1 This Charter may be replaced, revised or amended in accordance with the provisions of the Constitution of the Commonwealth and general law.

Section 2 Specific provisions to prevail

7-2-1 To the extent that any specific provision of this Charter shall conflict with any general provision thereof, the specific provision shall prevail.

Section 3 Severability of Charter

7-3-1 The provisions of this Charter are severable. If any provision of this Charter is held invalid, the remaining Charter provisions shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 4 Town boards, commissions and committees

7-4-1 All boards, commissions and committees of the Town shall organize annually and elect a Chairman and other necessary officers, establish a majority quorum requirement for meetings, adopt rules of procedure and voting and maintain a journal of proceedings, copies of which shall be a public record signed by the Clerk of each board and filed regularly with the Town Clerk. All such boards shall conduct their meetings in accordance with the open meeting provisions of general law.

Section 5 Counting of days

7-5-1 In counting days under this Charter, every calendar day shall be counted, including Sundays and all holidays.

Section 6 Phasing of terms

7-6-1 Elections and appointments to boards, commissions and committees consisting of more than one (1) member and terms of office greater than one (1) year shall be made so that terms overlap. Terms of an equal, or as nearly equal as may be, number of board, commission or committee members shall expire each year.

Section 7 Suspensions and removals

7-7-1 Except as otherwise may be provided by this Charter, collective-bargaining agreements or applicable civil service and tenure provisions, appointing authorities under this Charter shall have the power to suspend or remove from office, for good cause, salaried officials and employees under their jurisdiction.

7-7-2 Good cause shall include, but shall not be limited to, incapacity other than temporary illness, inefficiency, insubordination or conduct unbecoming the officer.

7-7-3 Suspension shall be ordered by the appointing authority only if deemed necessary to protect the best interests of the Town and for no longer than fifteen (15) days.

7-7-4 Removal proceedings shall be as follows: (a) a written notice of intent to remove, together with a statement of the cause or causes therefor, shall be delivered by registered mail to the last known address of the person sought to be removed; (b) within seven (7) days following receipt of said written notice, the officer or employee shall have the right to request a public hearing before the appointing authority which shall be held within fourteen (14) days after such request is made; (c) at any such hearing, the officer or employee shall have the right to be represented by counsel, present evidence, call witnesses and question any witness; and (d) final action shall be taken by the appointing authority within five (5) days following the date of such public hearing or, if no hearing is requested, within five (5) days after delivery of the notice of intent to remove.

7-7-5 Nothing in this section shall be construed as granting hearing rights to any person holding a fixed-term appointment whose term has expired without reappointment.

**ARTICLE EIGHT
TRANSITIONAL PROVISIONS**

Section 1 Effective Date

8-1-1 This charter shall become fully effective upon ratification by the voters, except as provided in this Article:

The election to elect the first town officers under this charter shall be held on first Tuesday following the first Monday in November 1995.

At such election the terms of office of all members of the Town Council then serving shall expire notwithstanding the term for which they were elected. At such election a new nine member Town Council shall, as provided in this charter shall be elected. Forthwith following the election the town clerk shall call together persons elected to the Town Council for the purpose of taking their oaths of office and organizing in accordance with this charter.

At such election the terms of office of all members of the school committee shall expire notwithstanding the terms for which they were elected. At such election a new school committee, as provided in this charter shall be elected

At such election the terms of office of all members of the board of assessors shall expire notwithstanding the terms for which they were elected. At such election a new board of assessors shall be elected as follows: two candidates who received the highest number of votes shall be declared elected for a term of four years, and the candidate who received the next highest number of votes shall be declared elected for a term of two years. As terms of office of members so elected expire, successors shall be chosen as provided in Article 3 of this charter.

At such election the terms of office of all members of the board of health shall expire notwithstanding the terms for which they were elected. At such election a new board of health shall be elected as follows: two candidates who received the highest number of votes shall be declared elected for a term of four years, and the candidate who received the next highest number of votes shall be declared elected for a term of two years. As terms of office of members so elected expire, successors shall be chosen as provided in Article 3 of this charter.

At such election the terms of office of all members of the planning board shall expire notwithstanding the terms for which they were elected. At such election a new planning board shall be elected as follows: three candidates who received the highest number of votes shall be declared elected for a term of four years, and the two candidates who received the next highest number of votes shall be declared elected for a term of two years. The associate member

shall be elected for a term of two years. As terms of office of members so elected expire, successors shall be chosen as provided in Article 3 of this charter.

At such election the terms of office of Town Clerk, Town Treasurer-Collector, and the three Constables shall expire notwithstanding the terms for which they were elected. At such election the Town Clerk, and Town Treasurer-Collector, and the three Constables shall be elected for a term of four years in accordance with provisions of this charter.

Section 2 Continuation of Existing Laws

8-2-1 All bylaws, resolutions, rules, regulations, and votes of the Town Council which are in force at the time this charter is adopted, not inconsistent with the provisions of this charter, shall continue in full force until amended or repealed.

Where provisions of this charter conflict with provisions of town bylaws, rules, regulations, orders, and special acts and acceptances of general law, the charter provisions shall govern. All provisions of town bylaws, rules, regulations, orders and special acts not superseded by this charter shall remain in force.

Section 3 Existing Officials and Employees

8-3-1 Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit pay grade or time in service.

Section 4 Continuation of Government

8-4-1 All town officers, boards, commissions or agencies shall continue to perform their duties until re-appointed, or re-elected, or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.