

TOWN OF FRANKLIN CHARTER



NOVEMBER 2, 2010

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 Forms 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 second 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 Chair and Clerk

2-3-1 At the first Council meeting following each regular Town election, the Council shall choose from its membership a Chairman, Vice-Chairman and Clerk, each of whom shall serve for a 1-year term. The Council may reorganize itself at any time during the year by a 2/3 vote of its membership. The Chairman shall preside at meetings of the Council and shall perform such other duties as provided by this Charter, by bylaw, or Council vote. The Vice-Chairman shall act as Chairman during the absence or disability of the

Chairman. The Clerk shall ensure that proper notice of all Council meetings is provided to its members and to the public, that all votes of the Council are recorded and that minutes of all Council proceedings are kept and shall perform such other duties as may be assigned by this Charter by bylaw or by vote of the Council.

2-3-2 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 minutes 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 once 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, however, that for special meeting, at least 48 hours personal notice shall be given to each Council member, except in case of an emergency. All Council meetings shall be conducted in accordance with the open meeting provisions of the General Laws.

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 of this Charter, shall be necessary for the final passage of any bylaw resolution, or other action.

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

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 concurrent 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 elected 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 seemed 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 executive and 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 not hold any other elective or appointive Town office, but may be appointed by the Council to serve on committees, both standing and ad hoc. The Administrator shall devote full-time to the duties of the office and shall not engage in any 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 all aspects of the personnel system, (h) serve as chief procurement officer; (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 may appoint, on the basis of merit and fitness alone: (a) a Fire Chief, a Police Chief, a Director of Public Works, a Town Comptroller, a Town Counsel, a Library Director, and 3 registrars of voters; (b) 5

members of a board of library trustees, 9 members of a Council on Aging, 7 members of a Conservation Commission, 7 members of an Historic Commission and 3 members of a Zoning Board of Appeals, the members of which shall serve for 3-year overlapping terms within their respective board, council or commission; (c) 5 members of a Housing Authority, 4 of whom shall serve for 5-year overlapping terms and 1 of whom shall be appointed under the authority of the Commonwealth; and (d) members of such other boards, commissions and committees as are authorized by the General Laws, this Charter or bylaws 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 Administrator may designate a qualified person to serve as Acting Town Administrator and to perform the duties of the office for up to 21 days on account of the temporary absence or unavailability of the Town Administrator.

4-4-2 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, or unavailability for more than 21 days, or because of the illness, suspension, removal or resignation of the Town Administrator. The appointment shall be for not more than 180 days, but such appointment may be extended for 2 additional 90-day periods 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 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 no 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 9 members shall be appointed by the Town Council for staggered 3-year terms. The Finance Committee shall elect from its membership for one-year terms of office, a Chairman, a Vice-Chairman, and a Clerk. The Town Comptroller 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 For its initial appointment of a Finance Committee, the Town Council shall appoint 3 members for 3-year terms, 3 members for 2-year terms and 3 members for 1-year terms and thereafter the Town Council shall annually appoint 3 members for 1-year terms. 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 Department budget for the ensuing year. Except for the school budget or as may be required by law, the proposed budget shall be in such form as the Town Administrator deems desirable.

6-5-2 In submitting the proposed budget, the Town Administrator shall utilize modern fiscal principles 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 proposed expenditures for both current operations and capital projects during the ensuing year, detailed by department, purpose and position, together with proposed financing methods.

Section 6 Action on the Proposed Budget

6-6-1 The Town Council shall conduct at least two (2) public hearings on the Town Administrator's 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 The Town Administrator shall submit to the Town Council and file copies with the Finance Committee of a 5-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 5 fiscal years, together with supporting data; (c) cost estimates, method 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 minutes of its 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 (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

ARTICLE EIGHT TRANSITIONAL PROVISIONS

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 or assumed by another town office, board, commission or agency.