

Home Rule Charter

For the

Town of Sutton



Sutton Charter Revision Commission

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Home Rule Charter Town of Sutton



Preamble

We, the people of the Town of Sutton in the Commonwealth of Massachusetts, in order to assure the effectiveness of town government, facilitate the delivery of services, maintain our high quality of life, prepare for future growth, and encourage public participation in municipal affairs, all in accord with the Home Rule Amendment to the Constitution of the Commonwealth, do ordain and establish this Home Rule Charter for the Town of Sutton.

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ARTICLE 1

INCORPORATION; SHORT TITLE; POWERS

SECTION 1-1: INCORPORATION

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

SECTION 1-2: SHORT TITLE

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

SECTION 1-3: POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the commonwealth, it is the intent and the purpose of the voters to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the constitution and laws of the commonwealth.

SECTION 1-4: DIVISION OF POWERS

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

SECTION 1-5: CONSTRUCTION

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

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

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

ARTICLE 2

LEGISLATIVE BRANCH

SECTION 2-1: TOWN MEETING

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

SECTION 2-2: PRESIDING OFFICIAL

The Moderator, elected as provided in section 3-5, shall preside at all Town Meetings. At the commencement of the annual spring Town Meeting the Moderator shall appoint a Deputy Moderator to serve as acting Moderator in the event of the temporary absence or disability of the Moderator. The Deputy Moderator shall serve until a successor is appointed by the Moderator and ratified by Town Meeting.

The Moderator, at Town Meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes and may exercise such additional powers and duties as may be authorized by the General Laws, by this charter, by by-law or by vote of the Town Meeting, to the extent not inconsistent with the foregoing.

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

SECTION 2-3: COMMITTEES

(a) In General - Subject to the provisions of this charter and such by-laws or other Town Meeting votes regarding committees the Moderator shall appoint for fixed terms the members of such committees of the Town Meeting, special or standing, as may from time to time be established. In addition to such specific powers, duties and responsibilities as may be assigned to a Town Meeting committee by the by-law or vote establishing it, each such committee when acting within the scope of its authority shall have a right to the pertinent records of any town agency and to consult with, at reasonable times, any Town official, employee or agent.

(b) Finance and Warrant Advisory Committee - There shall be a Finance and Warrant Advisory Committee the members of which shall be appointed by the Moderator. The number of members, the term of office and any other conditions of appointment or service as may be deemed necessary or desirable shall be established by by-law. The subject matter of all proposals to be submitted to a Town Meeting by warrant articles shall be referred to the Finance and Warrant Advisory Committee by the Board of Selectmen at the earliest practicable time following their receipt by the Board of Selectmen. The Finance and Warrant Advisory Committee shall report its recommendations on every article contained in a Town Meeting warrant, in writing, together with a brief statement of the reasons for each such recommendation. Before preparing its recommendations the Finance and Warrant Advisory Committee shall hold one or more public hearings to permit public discussion of the subject matter of all articles contained in the warrant. The Finance and Warrant Advisory Committee shall have such additional powers and duties as may be provided by law or by by-law.

SECTION 2-4: TIME OF MEETING

The Town Meeting shall meet in regular session at least twice in each calendar year. The first such meeting, will be held during May or June, on a date fixed by by-law. It shall be primarily concerned with the determination of matters involving the expenditure of town funds, including, but not limited to, the adoption of an annual operating budget, and for the determination of all other matters to be decided by the voters. The second such meeting will be held during the last four calendar months, on a date fixed by by-law.

SECTION 2-5: SPECIAL MEETINGS

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

SECTION 2-6: WARRANTS

Every Town Meeting shall be called by a warrant issued by the Board of Selectmen which shall state the time and place at which the meeting is to convene and, by separate articles, the subject matter to be acted upon. The publication of the warrant for every Town Meeting shall be in accordance with town by-laws governing such matters.

SECTION 2-7: INITIATION OF WARRANT ARTICLES

(a) Initiation - The Board of Selectmen shall receive at any time all petitions addressed to it and which request the submission of any matter to the Town Meeting and which are filed by (1) any multiple member body acting by a majority of its members, (2) any elected town official not a member of a multiple member body, or (3) any ten voters for a regular Town Meeting and any 100 voters for a special Town Meeting.

(b) Inclusion on the Warrant - The Board of Selectmen shall include on the warrant for a regular Town Meeting the subject matter of all petitions which have been received by it 60 or more days prior to the date filed by by-law for the Town Meeting to convene. Whenever a special Town Meeting is to be called, the Board of Selectmen shall give notice by publication in a local newspaper, and shall notify by mail Town Officials and chairpersons of multiple member bodies. The Board of Selectmen shall include in the warrant for such special Town Meeting the subject matter of all petitions which are received at its office on or before five o'clock in the afternoon of the fifth business day following such publication.

(c) Referral - Following the approval of the warrant, the Board of Selectmen shall mail a copy of the signed warrant to the residences of the Moderator, chairperson of the Finance and Warrant Advisory Committee, and provide copies to be posted in such places as required by by-law.

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

Every Town Official, the chairperson of each multiple-member body, the head of each department and the head of each division within the said departments shall attend all sessions of a Town Meeting for the purpose of providing information pertinent to matters appearing in the warrant.

In the event any Town Official, chairperson of a multiple-member body, department head or division head is to be absent due to illness or other reasonable cause, such person shall designate a Deputy to attend to represent the office, multiple-member body, department or division. If any person designated to attend the Town Meeting under this section is not a voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section.

SECTION 2-9: CLERK OF THE MEETING

The Town Clerk shall serve as clerk of the Town Meeting, give notice of all adjourned sessions thereof, record its proceedings, and perform such additional duties in connection therewith as may be provided by the General Laws, by this charter, by by-law or by other Town Meeting vote.

SECTION 2-10: RULES OF PROCEDURE

The Town Meeting may, by by-law, establish and from time to time amend, revise, or repeal rules to govern the conduct of Town Meetings.

ARTICLE 3 ELECTED OFFICIALS

SECTION 3-1: IN GENERAL

(a) Elective Offices - The offices to be filled by the voters shall be a Board of Selectmen, a School Committee, three members of a Planning Board, a Board of Library Trustees, and a Town Moderator. In addition, four members of a Housing Authority and such other officials or representatives to regional authorities or districts as may be established by by-law or by inter-local agreement may also be filled by ballot at town elections.

(b) Eligibility - Any voter shall be eligible to hold any elective town office, provided however, no person shall simultaneously hold more than one elected town office as defined in this section.

(c) Town Election - The annual election of Town Officials and the determination of all questions to be provided by by-law.

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

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

(f) Filling of Vacancies

(1) Multiple-member Body - If there is a vacancy in a board consisting of two or more members, other than the Board of Selectmen the remaining members shall forthwith give written notice to the Board of Selectmen of the existence of any such vacancy. After seven days public notice of the date on which the vote shall be taken, the Board of Selectmen, with the remaining members or member of such board shall fill such vacancy by a joint roll call vote. If the multiple-member body does not give such notice to the Board of Selectmen within 30 days following the date on which said vacancy occurs, the Board of Selectmen shall, after seven day's public notice, fill such vacancy without participation by the remaining members or member of the multiple-member body.

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

(g) Recall of Elected Officials

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

(2) Recall Petitions - A recall affidavit, signed by at least 50 voters in each of the precincts into which the town is divided, may be filed with the Town Clerk containing the name of the official whose recall is sought and a statement of the grounds for recall. The Board of Registrars of Voters shall certify such petitions with regard to the sufficiency and validity of the signatures of voters. The Town Clerk, within seven days following such filing, shall deliver to the ten persons first named on such petitions, petition blanks demanding said recall. The Town Clerk shall keep available printed petition forms. They shall be addressed to the Board of Selectmen, contain the typewritten names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit. The petitions shall demand the election of a successor to the office; they shall be dated and signed by the Town Clerk. A copy of the petitions shall be entered into the record book to be kept in the office of the Town Clerk.

The recall petitions shall be returned to the office of the Town Clerk within 14 days following the date they are issued, signed by at least 50 percent of the total number of persons who voted at the most recent annual town election.

The Town Clerk shall, within one day following such filing, submit the petitions to the Board of Registrars of Voters who shall, within five days, thereafter, certify thereon the number of signatures which are the names of voters.

(3) Recall Elections - If the petitions are certified by the Registrars of Voters, the Town Clerk shall forthwith submit the same with a certificate to the Board of Selectmen. Upon its receipt of the certified petition, the Board of Selectmen shall forthwith give notice, in writing, of said petition to the official whose recall is sought. If said official does not resign from office within five days following delivery of the said notice, the Board of Selectmen shall order a special election. This special election shall be held not less than 60 nor more than 90 days after the date of the certification of the Town Clerk that the petition is sufficient. If a regular annual town election is to be held within 90 days following the date of said certificate the recall election shall be held in

conjunction therewith and not at a special election. If a vacancy occurs in the position from which the official is being recalled after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

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

(5) Propositions on the Ballot -

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

For the recall of (name of official)

Against the recall of (name of official)

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

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

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

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

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

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

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

SECTION 3-2: BOARD OF SELECTMEN

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

(b) Powers and Duties - The executive powers of the town shall be vested in the Board of Selectmen which shall be the chief executive office. The Board of Selectmen shall have all of the executive powers it is possible for a Board of Selectmen to have and to exercise. The Board of Selectmen shall serve as the chief policy making agency. It shall be responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it. The Board of Selectmen shall work in conjunction with other Town Officials to develop and to promulgate policy guidelines designed to bring all agencies of the town into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of them, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines which are to be implemented by officials and employees appointed by or under its authority.

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

Except as otherwise provided by the General Laws, this charter, or specified by by-law, or expressly voted by Town Meeting, no member of the Board of Selectmen shall be a member of any other town board or committee.

(c) Appointment Powers - The Board of Selectmen shall appoint a Town Administrator. The Board of Selectmen shall appoint such other Town Officials and members of multiple-member bodies, the primary responsibilities of which are policy making and not administrative and such other positions as may be provided by by-law.

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

SECTION 3-3: SCHOOL COMMITTEE

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

(b) Powers and Duties - The School Committee shall have all of the powers and duties which are given to School Committees by General Laws and it shall have such additional powers and duties as may be authorized by this charter, or by by-law, or by Town Meeting vote.

SECTION 3-4: LIBRARY TRUSTEES

(a) Composition, Term of Office - There shall be a Board of Library Trustees of three members, elected for terms of three years each and arranged such that the terms of one member shall expire each year.

(b) Powers and Duties - The Board of Library Trustees shall be responsible for the management and supervision of the free public libraries of the town. The Board of Library Trustees shall have all other powers and duties which are given to library trustees by the General Laws and shall have such additional powers and duties as are provided by charter, or by by-law or by Town Meeting vote, as well as any powers, duties and responsibilities as may be imposed by the terms of any applicable trust.

SECTION 3-5: TOWN MODERATOR

(a) Term of Office - There shall be a Town Moderator elected for a term of three years.

(b) Powers and Duties - The Town Moderator shall be the presiding official of the Town Meeting, as provided in section 2-2, regulate its proceedings and perform such other duties as may be provided by the General Laws, by charter, by by-law or by Town Meeting vote.

The Moderator shall appoint the Finance and Warrant Advisory Committee and shall appoint the members of all committees established by vote of the Town Meeting unless otherwise provided.

SECTION 3-6: PLANNING BOARD

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

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

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

SECTION 3-7: SUTTON HOUSING AUTHORITY

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

(b) Powers and Duties - The Housing Authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly persons of low income. The Housing Authority shall have such other powers and duties as are assigned to housing authorities by the General Laws.

SECTION 3-8: BLACKSTONE VALLEY REGIONAL VOCATIONAL SCHOOL DISTRICT COMMITTEE (SUTTON REPRESENTATIVE)

(a) Composition, Term of Office - The voters shall elect such members of the Blackstone Valley Regional Vocational School Committee for such terms as may be provided under the agreement and laws establishing the same.

(b) Powers and Duties - The members of the Blackstone Valley Regional Vocational School Committee shall, along with members of the committee from other municipalities participating therein, be responsible for the management and supervision of the said school according to the agreement and laws governing the same.

ARTICLE 4 TOWN ADMINISTRATOR

SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

The Town Administrator shall be appointed solely on the basis of demonstrated executive and administrative qualifications from a list prepared by a screening committee established by by-law. The Board of Selectmen shall appoint the Town Administrator and shall fix the term and compensation for such person. The Town Administrator shall be a person especially fitted by education, training and previous experience in public administration to perform the duties of the office. A Town Administrator need not be a resident of the town or of the Commonwealth at the time of appointment or at any time during the period of such service. The Town Administrator shall not have served as an elected official in the Town of Sutton for at least 12 months prior to appointment. The town may from time to time establish, by by-law, such additional qualifications as necessary and appropriate.

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

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

SECTION 4-2: POWERS AND DUTIES

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

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

(b) To appoint, subject to the provisions of the civil service law and of any applicable collective bargaining agreements, all department heads, officials, members of multiple-member bodies, for whom no other method of selection is provided by this charter. Such appointments shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall within that period by a majority of all of its members vote to reject such appointment or has sooner voted to affirm it. Copies of the notices of all such proposed appointments shall be posted on the town bulletin board when submitted to the Board of Selectmen.

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

(d) To be the administrator of a town personnel system including, but not limited to, personnel policies and practices, rules and regulations including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the town. The Town Administrator shall also

prepare and periodically review at least every five years a plan establishing the personnel staffing and job classification for each town agency and positions therein, except the school department.

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

(f) To maintain full and complete records of the financial and administrative activities of the town. The Town Administrator shall render a quarterly report of such activities to the Board of Selectmen and a copy shall be placed on file with the Town Clerk.

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

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

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

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

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

(l) To be responsible for purchasing all supplies, material, and equipment for all departments and activities of the town but not including food for schools, school books, and other instructional material, supplies and equipment unless otherwise specifically requested by the School Committee. The Town Administrator shall examine, or cause to be examined the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency except schools. The Town Administrator shall be responsible for the disposal of all supplies, material, and equipment which have been declared surplus by any town agency.

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

(n) To inquire at any time into the conduct and operation of office or performance of duties of any official or employee, department, board, commission, or other town agency except schools.

(o) To attend all sessions of all Town Meetings and answer questions raised by voters which relate to warrant articles and to matters over which the Town Administrator exercises any supervision.

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

(q) To coordinate the activities of all town agencies serving under the office of Town Administrator and the office of Board of Selectmen with those under the jurisdiction of other officials and multiple-member bodies elected directly by the voters. For this purpose the Town Administrator shall have authority to require the persons so elected, or their representatives, to meet with the Town Administrator at reasonable times for the purpose of effecting coordination and cooperation among all agencies of the town.

(r) To perform any other duties as are required to be performed by the Town Administrator by by-laws, administrative code, votes of Town Meeting, votes of the Board of Selectmen, or otherwise.

(s) To establish a Personnel Resource Development Committee and maintain a talent resource bank of prospective volunteers for town service.

SECTION 4-3: DELEGATION OF AUTHORITY

The Town Administrator may authorize any subordinate official or employee to exercise any power or perform any function or duty which is assigned to the office of Town Administrator, provided however,

that all acts performed under any such delegation shall at all times be deemed to be the acts of the Town Administrator.

SECTION 4-4: ACTING TOWN ADMINISTRATOR

(a) Temporary Absence - By letter filed with the Town Clerk, the Town Administrator shall designate a qualified town official or employee to exercise the powers and perform the duties of Town Administrator during a temporary absence. During a temporary absence the Board of Selectmen may not revoke such designation until at least ten working days have elapsed, whereupon the Board of Selectmen may appoint another qualified town official or employee to serve until the Town Administrator shall return.

(b) Vacancy - Any vacancy in the office of Town Administrator must be filled by the Board of Selectmen. Pending such regular appointment, the Board of Selectmen must appoint a qualified town official or employee to perform the duties of the office on an acting basis. Such temporary appointment may not exceed three months, but one renewal may be voted by the Board of Selectmen not to exceed a second three months. The Board of Selectmen shall set compensation for such person.

(c) Powers and Duties - The powers of an acting Town Administrator, shall be limited to urgent matters and shall include temporary or emergency appointments or employment.

SECTION 4-5: REMOVAL

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

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

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

(c) The Board of Selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members, not less than ten nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the Town Administrator, if the Town Administrator has not requested a public hearing; or, within ten days following the close of the public hearing. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the Town Administrator shall, at the expiration of said time, forthwith resume the duties of the office. The Town Administrator shall continue to receive a salary until the effective date of a final resolution of removal.

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

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the following methods provided in this article.

(a) By-laws - Subject to express prohibitions in the General Laws or the provisions of this charter, the Town Meeting may, by by-law, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part. The Town Meeting may also establish such new town agencies as it deems necessary or

advisable, determine the manner of selection, the term of office and prescribe the functions of all such entities; provided, however, that no function assigned by this charter to a particular town agency may be discontinued, or, unless this charter specifically so provides, assigned to any other.

(b) Administrative Code - The Town Administrator, after consultation with the Board of Selectmen, may from time to time prepare and submit to the Town Meeting plans of organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the town. Whenever the Town Administrator prepares such a plan, the Board of Selectmen shall hold one or more public hearings on the proposal. The Board of Selectmen shall give notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven nor more than 14 days following said publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the Town Meeting by an appropriate warrant article.

An organization or reorganization plan shall become effective at the expiration of 60 days following the date of adjournment of the Town Meeting at which the proposal is submitted unless the Town Meeting disapproves of the plan by a majority vote. The Town Meeting may vote only to approve or to disapprove the plan and may not vote to amend it.

The Town Administrator may, through the administrative code, and subject to express prohibitions in the General Laws, or this charter, reorganize, consolidate or abolish any town agency, in whole or in part. The Town Administrator may establish such new town agencies as is deemed necessary to the same extent as is provided in subsection (a) of section 5-1, for by-laws. The Town Administrator may for such purpose transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one town agency to another, but no function assigned by this charter to a particular town agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

SECTION 5-2: MERIT PRINCIPLE

All appointments and promotions of Town Officials and employees shall be made on the basis of merit and fitness, demonstrated by examination or other evidence of competence and suitability.

ARTICLE 6 FINANCE AND FISCAL PROCEDURES

SECTION 6-1: FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by the General Laws.

SECTION 6-2: SCHOOL COMMITTEE BUDGET

(a) Public Hearing - At least seven days before the meeting at which the School Committee is to vote on its final budget request, the School Committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget, and the reasons for such changes. It shall further indicate the times and places at which complete copies of its proposed budget are available for examination by the public, and the date, time and place when a public hearing will be held by the School Committee on the proposed budget. The School Committee shall take its final vote on its proposed budget not sooner than at its next regularly scheduled meeting following the public hearing.

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

SECTION 6-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE

Within the time fixed by by-law the Town Administrator, after consultation with the Board of Selectmen, shall submit to the Finance and Warrant Advisory Committee a proposed operating budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. The Town Administrator

shall simultaneously provide for the publication in a local newspaper of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. Said publication shall further indicate the times and places at which complete copies of the proposed operating budget are available for examination by the public.

SECTION 6-4: BUDGET MESSAGE

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

SECTION 6-5: THE BUDGET

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

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency; and
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency; and
- (c) Estimated surplus revenue and free cash at the end of the current fiscal year, and estimated balances in any special accounts established for specific purposes.

SECTION 6-6: ACTION ON THE BUDGET

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

(b) Review - The Finance and Warrant Advisory Committee shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each such agency in connection with its review and consideration. The Finance and Warrant Advisory Committee may require the Town Administrator, or any other town agency, to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget, and shall require the attendance of a representative of each town agency.

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

SECTION 6-7: CAPITAL PLANNING PROGRAM

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

- (a) a list of all capital improvements proposed to be undertaken during each of the ensuing five years, with supporting information as to the need for each capital improvement;
- (b) cost estimates, proposed methods of financing, and recommended time schedules for each improvement; and,
- (c) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

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

SECTION 6-8: APPROVAL OF WARRANTS

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

ARTICLE 7 GENERAL PROVISIONS

SECTION 7-1: CHARTER CHANGES

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

SECTION 7-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this 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 7-3: SPECIFIC PROVISIONS TO PREVAIL

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

SECTION 7-4: NUMBER AND GENDER

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

SECTION 7-5: DEFINITIONS

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

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

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

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

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

(e) Local Newspaper - The words "local newspaper" shall mean a daily or weekly newspaper of general circulation in the Town of Sutton.

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

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

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

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

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

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

(l) Town Official - The words "Town Official" when used without further qualification or description, shall mean a person having charge of a town agency, or a member of a multiple-member-body of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

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

SECTION 7-6: RULES AND REGULATIONS

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

SECTION 7-7: CHARTER AND BY-LAW REVIEW

A. By-law and Charter Review Committee

(1.) Purpose- A standing By-law and Charter Review Committee shall be established to provide an annual review of all General By-laws, exclusive of Zoning By-laws, and the Home Rule charter.

(2.) Composition- The By-law and Charter Review Committee shall consist of five members, two to be appointed by the Town Moderator and three to be appointed by the Board of Selectmen. Members of the By-law and Charter Review Committee shall serve for an indefinite term.

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

- Investigate and review specific portions of the general by-laws and Home Rule Charter.
- Submit an annual report to the Board of Selectmen.
- Meet annually with the Board of Selectmen regarding annual review and suggested changes.
- Recommend changes, additions, and deletions to general by-laws and Home Rule Charter.
- Act as a resource for town boards, committees and officials to interpret the meaning and language of the Home Rule Charter and general by-laws as deemed necessary.

B. Attorney General Approval- Subsequent to enactment by the Town Meeting, copies of the revised charter and by-laws shall be forwarded to the attorney general of the commonwealth for approval, and they shall be otherwise published, all as required by the General Laws. Copies of the revised by-laws shall be made available for distribution to the public.

SECTION 7-8: REMOVALS AND SUSPENSIONS

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

Any appointed official, member of a multiple-member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the town. However, no suspension shall be for more than 15 days. Suspension may be conterminous with removal and shall not interfere with the rights of the official or employee under the removal procedure given below.

The appointing authority when removing any such official, member of a multiple-member body or employee of the town, 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 therefor shall be delivered in hand, or by registered mail or certified mail, return receipt requested, to the last known address of the person sought to be removed.

(b) Within five days following delivery of such notice the official, member of a multiple-member body or employee of the town may request a public hearing at which such person 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 official, member of a multiple-member body or employee of the town fails to request a public hearing between six and 15 days after

delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the official, member of a multiple-member body or employee of the town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the official, member of a multiple-member body or employee shall, forthwith, be reinstated.

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 re-appointed when the original term expires.

SECTION 7-9: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

(a) Meetings - All multiple-member bodies shall meet regularly at such times and places within the town as they may by their own rules prescribe. Except in cases of emergency, special meetings of any multiple-member body shall be held on the call of the respective chairman, or by one-third of the members thereof by suitable written notice delivered to the residence or place of business of each member at least 48 hours in advance of the time set. A copy of the said notice shall also be posted on the town bulletin board. Special meetings of any multiple-member body shall also be called within seven days after the date of the filing with the Town Clerk of a petition signed by at least 50 voters and which states the purpose or purposes for which the meeting is to be called. Except as authorized by law, all meetings of all multiple-member bodies shall be open and public. All meetings shall be held in places to which members of the public have a convenient right of access.

(b) Agendas - At least 24 hours before any meeting of a multiple-member body is to be held, an agenda containing all items which are scheduled to come before the multiple-member body at the meeting shall be posted on the town bulletin board. No action taken on a matter not included in the posted agenda shall be effective unless the multiple-member body first adopts, by a separate vote, a resolution declaring that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the town.

(c) Rules and Journal - Each multiple-member body shall determine its own rules and order of business unless otherwise provided by this charter or by law and shall provide for keeping a journal of its proceedings. These rules and journals shall be public records, and, following their approval by the multiple-member body, copies shall be certified and placed on file in the office of the Town Clerk and for the convenience of the public, kept available for public inspection in the office of the Town Clerk.

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

(e) Quorum - A majority of the members of the multiple-member body then in office shall constitute a quorum. However, a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple-member body. No other action of the multiple-member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple-member body.

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

(g) Composition of Multiple-member Bodies - All multiple-member bodies when established shall be composed of an odd number of members, of not less than three. Whenever the terms of office of a multiple-member body are for more than one year such terms of office shall be so arranged that as nearly an equal number of terms as is possible will expire each year.

SECTION 7-10: NOTICE OF VACANCIES

Whenever a vacancy occurs in any town office, position or employment, or whenever by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority shall forthwith cause public notice of such vacancy to be posted on the town bulletin board for not less than ten days. Such notice shall contain a description of the duties of the office, position or employment and a listing of the necessary or desirable qualifications to fill the office, position or employment. No permanent appointment to fill such office, position or employment shall be effective until 14 days following the date

such notice was posted to permit reasonable consideration of all applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with the provisions of any collective bargaining agreement.

SECTION 7-11: LOSS OF OFFICE, EXCESSIVE ABSENCE

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

ARTICLE 8 TRANSITIONAL PROVISIONS

SECTION 8-1: CONTINUATION OF EXISTING LAWS

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

SECTION 8-2: CONTINUATION OF GOVERNMENT

All town agencies shall continue to perform their duties until re-appointed, reelected, or until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with the provisions of this charter.

SECTION 8-3: CONTINUATION OF ADMINISTRATIVE PERSONNEL

Any person holding an office or position in the administrative service of the town, or any person serving in the employment of the town shall retain such office or position and shall continue to perform their duties until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency.

SECTION 8-4: TRANSFER OF RECORDS AND PROPERTY

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 in this charter.

SECTION 8-5: TOWN ADMINISTRATIVE ORGANIZATION

Until such time as a different form of organization shall be provided, in accordance with the provisions of Article 5, the following outline of organization shall be operative. (See Figure 1.)