

**BILLERICA CHARTER
ADOPTED MARCH 3, 1979**

REVISED

2007

2016

Town of Billerica Charter

**Revised 2007
2016**

CHARTER COMMITTEE

**William G. Greene, Chairman
John J. Piscatelli, Vice-Chairman
Cosmo D. Cavicchio, Secretary
Shirley E. Schult, Town Clerk
Edward J. Giroux
Mary K. McBride
John Griffin
Philip Newfell
Steven Smilgis
Neelam Wali
Gilbert Moreira**

INDEX

ARTICLE I:	INCORPORATION: DIVISION OF POWERS POWER OF THE TOWN	1
ARTICLE II:	LEGISLATIVE BRANCH	2
ARTICLE III:	EXECUTIVE BRANCH	9
ARTICLE IV:	ADMINISTRATIVE ORGANIZATION	15
ARTICLE V:	FISCAL PROCEDURES	16
ARTICLE VI:	ELECTIONS	20
ARTICLE VII:	GENERAL PROVISIONS	22
ARTICLE VIII:	TRANSITIONAL PROVISIONS	28

DEFINITIONS

~~(A LARGE NUMBER OF WORDS WHICH ARE USED THROUGHOUT THE CHARTER ARE DEFINED IN THIS SECTION. A MUCH SHORTER LIST IS CONTAINED IN THE EXISTING CHARTER.)~~

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

(a) Ballot – A slip of paper bearing the names of the offices to be filled at the particular election and the names of the candidates for whom the elector desires to vote

(a) Charter – The word “charter” shall mean this charter and any amendments to it which may hereafter be adopted.

(b) Days – The word “days” shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven days; when the time set is seven days or more, every day shall be counted.

(c) Emergency – The word “emergency” shall mean a sudden, unexpected, unforeseen happenings, occurrence or condition which necessitates immediate action.

(d) general laws – the words “general laws” (all lower case letters) shall mean laws which apply alike to all cities and towns, or to all towns, or to a class of municipalities of which Billerica is a member.

(e) General Laws – The words “General Laws” (used with initial capital letters) shall refer to the General Laws of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently enacted.

(f)-Local Newspaper –The words “local newspaper” shall mean a newspaper of general circulation in the Town of Billerica **or any other means or channel of information communication to which the general public has access within the Town.**

(g) Majority Vote – The words “majority vote” shall mean a majority of those present and voting, provided a quorum of the body is present when the vote is taken.

(h) Multiple Member Body – The words “multiple member body” shall mean any body consisting of two or more persons, whether elected, appointed, or otherwise constituted, but not to include the representative town meeting.

(i) Town – The word “town” shall mean the town of Billerica.

(j) Town Agency – The words “town agency” shall mean any board, commission, committee or other multiple member body, department, division, or office of the town of Billerica.

(k) Town Bulletin Boards – The words “town bulletin boards” shall mean the bulletin board in the Town Hall on which official notices are posted, and those at such other locations within the town as may, from time to time, be established by the board of selectmen.

(l) Voters – The word “voters” shall mean persons who are registered to vote in the town of Billerica.

ARTICLE I

INCORPORATION: DIVISION OF POWERS POWER OF THE TOWN

~~(THESE SECTIONS, TECHNICAL IN NATURE, ARE DESIGNED TO ASSURE, TO THE GREATEST EXTENT POSSIBLE, THAT BILLERICA WILL HAVE ALL OF THE 'HOME RULE' POWERS THAT IT IS POSSIBLE FOR A TOWN TO EXERCISE IN MASSACHUSETTS).~~

SECTION 1-1 INCORPORATION

The inhabitants of the Town of Billerica, within the territorial limits established by law shall continue to be a body corporate and politic under the name "Town of Billerica".

SECTION 1-2 SHORT TITLE

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

SECTION 1-3 DIVISION OF POWERS

The administration of all 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 exercised by a representative town meeting.

SECTION 1-4 POWERS OF THE TOWN: INTENT OF VOTERS

It is the intent and the purpose of the voters of Billerica, through the adoption of this charter, to secure for the town all of the powers possible to secure under the constitution and statutes of the Commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

SECTION 1-5 INTERPRETATION OF POWERS

The powers of the town under the charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended in any way to limit the general powers of the town as stated in section 1-4.

ARTICLE II

LEGISLATIVE BRANCH

~~(THE REPRESENTATIVE TOWN MEETING, WHICH HAS SERVED AS THE LEGISLATIVE BODY IN BILLERICA SINCE 1955 HAS BEEN RETAINED WITH ONLY A FEW MODIFICATIONS WHICH ARE INTENDED TO MAKE THE RTM A MORE EFFICIENT, MORE RESPONSIVE, MORE RESPONSIBLE VEHICLE FOR THE EXERCISE OF TOWN POWERS.)~~

SECTION 2-1 REPRESENTATIVE TOWN MEETING

There shall be a representative town meeting which shall exercise the legislative powers of the town.

~~(THE TOWN MEETING WILL REMAIN THE SAME AS IT IS PRESENTLY CONSTITUTED. NO NEW ELECTIONS OF TOWN MEETING MEMBERS WILL BE NECESSARY AS A RESULT OF THE ADOPTION OF THIS CHARTER.)~~

SECTION 2-2 COMPOSITION, TERM OF OFFICE

The representative town meeting shall consist of two hundred and forty members, or as nearly that number as may be, who shall be elected by and from the voters in the several precincts into which the town is divided for the purpose of elections. The term of office of town meeting members shall be for three years, so arranged that as nearly an equal number as possible shall expire each year.

Each precinct shall be represented in the representative town meeting by a number of representatives which is in the same proportion to the whole number of such representatives as the number of inhabitants of such precinct bears to the number of inhabitants of the whole town.

SECTION 2-3 ESTABLISHMENT OF PRECINCTS

~~(THE SELECTMEN MAY UNDER STATE LAWS, REVISE THE NUMBER OF PRECINCTS.)~~

The board of selectman shall in the manner provided by the general laws relating to elections divide the town into a convenient number of voting precincts and shall from time to time cause such precincts to be reviewed to assure that all such precincts are as nearly equal in number of inhabitants as it may be reasonably possible to achieve and to maintain.

SECTION 2-4 APPORTIONMENT OF REPRESENTATIVES

The number of representatives to which each precinct shall be entitled shall be reviewed and reapportioned (a) on each occasion that the precinct lines are altered, (b) at least once in every ten years, (c) whenever it is requested that such review take place by vote of the town meeting, (d) whenever it is apparent from the street listing census data or other official information that the number of inhabitants in any one precinct has increased, or decreased, by five percent or more since the most recent review and reapportionment. Such review and apportionment of representatives shall be conducted by the board of registrars of voters.

SECTION 2-5 REPRESENTATIVE TOWN MEETING MEMBERS

~~(INCUMBENT TOWN MEETING MEMBERS WILL BE REQUIRED TO FILE TEN SIGNATURES OF VOTERS IF THEY WISH TO BE CANDIDATES FOR REELECTION.)~~

(a) Eligibility – Any voter shall be eligible to be a candidate, to be elected, and to serve as a town meeting member.

(b) Nomination Procedure – Nomination of candidates to serve as town meeting member shall be made by nomination papers signed by not less than ten voters of the precinct in which he resides and from which he seeks election. The said nomination papers shall be submitted to the board of registrars not later than five o'clock in the afternoon on the forty-second day preceding the date of the town election.

If the said nomination papers are found by the board of registrars of voters to contain a sufficient number of valid signatures, they shall be filed with the town clerk not later than twenty-eight days preceding the town election. The written acceptance of the candidate may be on or attached to the nomination papers when submitted to the board of registrars. However, the written acceptance of the candidate shall be on or attached to the nomination papers when filed with the town clerk in order for it to be valid.

(c) Election and Term – At the first annual election following the establishment or revision of precinct lines, all of the representative town meeting members of the affected precincts shall be elected by ballots.

The first third to the nearest whole number of town meeting members elected, in the order of votes received, shall serve for three years; the second third to the nearest whole number shall serve for two years; and the remaining third to the nearest whole number shall serve for one year from the date of their election. In case of a tie vote affecting the division into thirds, or otherwise, the town meeting members elected from the precinct, not affected by such tie, shall determine the same by ballot. Thereafter as the terms of town meeting members expire, candidates shall be elected for three years terms to fill such expiring terms, and candidates shall be elected to fill the unexpired term of any vacancy then existing.

SECTION 2-6 VACANCIES

~~(THIS SECTION PROVIDES A METHOD OF ESTABLISHING VACANCIES IN TOWN MEETING SEATS WHEN MEMBERS FAIL TO ATTEND MORE THAN HALF OF THE TOWN MEETING SESSIONS. THE REMAINING MEMBERS OF THE PRECINCT MAY VOTE TO DECLARE THE SEATS OF SUCH MEMBERS VACANT, AFTER GIVING NOTICE OF AN INTENTION TO DO SO. IF SUCH A MEMBER HAS A VALID REASON FOR SUCH ABSENCES, HE SHOULD NOT BE REMOVED, BUT THE DECISION IS LEFT~~

~~WITH HIS FELLOW TOWN MEETING MEMBERS. RUNNER UP CANDIDATES WOULD AUTOMATICALLY ASSUME TOWN MEETING SEATS WHEN VACANCIES OCCUR, UPON CERTIFICATION BY THE TOWN CLERK.)~~

(a) Resignation – A town meeting member may resign by filing a written resignation with the town clerk; such resignation shall take effect upon the date of such filing unless a date certain is specified therein when it shall take effect.

(b) Removal From Town or Precinct

1. A town meeting member who no longer resides in the town shall forthwith cease to be a town meeting member.

2. A town meeting member who removes from one precinct in town to another by a revision of precinct lines may continue to serve as a town meeting member from the precinct from which he was elected until the next annual town election. Any person so removed from office may be elected at the same election as town meeting members from the precinct to which he was removed.

3. A town meeting member who removes from one precinct in town to another may continue to serve as a town meeting member from the precinct from which he was elected until the next annual town election at which the remainder of his term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as town meeting members from the precinct to which he has removed.

(c) Forfeiture of Office – If any person elected as a town meeting member shall fail to attend one-half or more of all of the sessions of the town meeting held in a calendar year, his place may be declared vacant by a majority vote of the remaining members from his precinct. No such vote to declare an office vacant by reason of such failure to attend shall be valid unless a letter stating an intention to so do has been mailed by the town clerk to the last known address of such person at least seven days before the vote is taken. Whenever it shall appear to the town clerk from the records of the town meeting that such breach of conditions has occurred, or when such breach of condition is called to the attention of the town clerk by any other town meeting member and verified by such records, the town clerk shall direct a letter as aforesaid to such person.

(d) Filling of Vacancies – Any vacancy in the full number of representative town meeting members to which any precinct shall be entitled shall be filled until the next annual town election from among the candidates for the office of town meeting member in such precincts at the most recent town elections who failed to be elected in descending order of votes received, provided such candidate remains eligible and willing to serve and provided further such candidate received at least ten votes for the office. The town clerk shall certify the said candidate to the office of town meeting member to serve until the next annual town election. In the event there is no such candidate the vacancy shall be filled by the remaining members of the precinct delegation from among the voters of the precinct.

SECTION 2-7 COMPENSATION

Representative town meeting members shall serve without salary.

SECTION 2-8 PRESIDING OFFICER

A moderator, chosen in accordance with the provisions of section 3-5 shall preside at all sessions of town meeting. The moderator shall regulate the proceedings of all town meetings,

decide all questions of order, and make public declaration of all votes. He may, in open meeting administer the oath of office to any town officer. The moderator shall be a town meeting representative by virtue of his office and may, as such, exercise all the rights of a town meeting member. The moderator shall perform such other duties as may from time to time be provided for the office by the charter, by by-law or by other town meeting vote.

The town moderator shall, at the first session of the representative town meeting at which he presides in the spring of each year, appoint a deputy moderator, subject to the approval of the representative town meeting, who shall preside at all sessions of the town meeting in the event of the absence or disability of the town moderator.

Should the town moderator resign or otherwise vacate the office, the deputy moderator shall assume the duties and the position of the town moderator until the next town election. The deputy moderator, acting as town moderator shall appoint a deputy moderator subject to the approval of the representative town meeting.

SECTION 2-9 CLERK OF THE REPRESENTATIVE TOWN MEETING

The town clerk, or his designee, shall serve as the clerk of the representative town meeting. The clerk shall give notice of all meetings to the members, keep the journal of its proceedings, and perform such other functions as may be provided for the office by the charter, by by-law or by other town meeting vote.

SECTION 2-10 GENERAL POWERS AND DUTIES

All powers of the town shall be vested in the representative town meeting, except as otherwise provided by law or by the charter. The representative town meeting shall provide for the exercise of all of the powers of the town and for the performance of all duties and obligations imposed upon the town for which no other provision is made.

SECTION 2-11 PARTICIPATION BY NON-TOWN MEETING MEMBERS

~~(THIS SECTION IS DESIGNED TO ASSURE THAT WHEN ARTICLES ARE TAKEN UP WHICH CONCERN PARTICULAR TOWN AGENCIES SOMEONE WILL BE AT THE MEETING TO EXPLAIN THE SUBJECT MATTER TO THE TOWN MEETING MEMBERS IN ORDER THAT THEY MIGHT BE BETTER INFORMED BEFORE ACTING.)~~

(a) Representatives of Town Agencies – A designated representative of each town agency shall attend all sessions of the representative town meeting at which warrant articles pertinent to the said town agency are to be acted upon, for the purpose of providing information relative to such warrant articles to the town meeting. If any such person so designated shall be unable to attend due to illness or other reasonable cause he shall designate another person to attend in his place. If any person designated to represent a town agency at a representative town meeting session is not a town resident he shall, notwithstanding, be entitled to speak in order to provide information relative to such warrant articles pertinent to his responsibilities. Representatives of town agencies attending sessions of the town meeting under this section shall have the same right to speak as an elected town meeting member but shall have no right to make motions or to vote.

(b) Residents – Any resident of the town not an elected town meeting member may, notwithstanding, attend any of the sessions of the representative town meeting and, subject to such rules as may from time to time be adopted, participate in the proceedings, but may not vote.

SECTION 2-12 TOWN MEETING WARRANTS

~~(A SPECIFIC RIGHT TO SUBMIT PROPOSALS FOR THE TOWN MEETING ACTION IS AFFORDED TO TOWN AGENCIES AND TO INDIVIDUALS).~~

~~(THE WARRANTS FOR THE REGULARLY SCHEDULED SPRING AND FALL TOWN MEETINGS WILL CLOSE 50 DAYS BEFORE THE DATE THE TOWN MEETINGS ARE SCHEDULED TO BEGIN).~~

(a) In General – Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the time and place of the meeting and, by separate articles, the subjects which are to be acted upon.

(b) Initiation of Articles – The board of selectmen shall receive all petitions which are addressed to it and which request the submission of a particular subject matter to the representative town meeting and which are filed by (1) any elected town officer, including a member of a multiple member body; (2) any appointed multiple member body acting by a majority of its members; (3) any ten voters; subject to the subsequent certification by the board of registrars that at least ten of the signers are voters; (4) any other person, persons or town agency as may be authorized by by-law. All such requests for the inclusion of subjects shall be in writing, but they shall not be required to conform to any particular form or style, except that each request for a particular subject shall be submitted as a separate petition.

(c) Time Requirements – The board of selectmen shall place on the warrant for the spring and fall town meetings all subjects which have been submitted to it, in accordance with the provisions of this section, fifty or more days before the date, fixed by by-law, on which such meetings are scheduled to be convened at which time said warrant shall close and thereafter no other subject not then in hand, and in writing, shall be added to the warrant by any person or agency, including the board of selectmen.

~~(WHEN THE SELECTMEN DETERMINE THERE IS A NEED TO CALL A SPECIAL TOWN MEETING THEY WILL BE REQUIRED TO GIVE NOTICE OF THAT FACT AND TO KEEP THE WARRANT FOR THE SPECIAL TOWN MEETING OPEN FOR AT LEAST TWO BUSINESS DAYS.)~~

Whenever the board of selectmen shall deem it to be necessary to call a special town meeting, it shall, by publication in a local newspaper, give public notice of its intention. All requests for the inclusion of subjects, as provided above, which are received in the office of the board of selectmen prior to four o'clock p.m. on the second business day following such publication, or such longer period as may be authorized by a by-law designed to further implement this provision, shall be included in the warrant for such special town meeting, at which time said warrant shall close and thereafter no other subject not then in hand, and in writing, shall be added to the warrant by any person or agency, including the board of selectmen.

(d) Publication – Within ten days following the date the warrant for any town meeting shall close the board of selectmen shall compile, then sign and cause preliminary copies of the preliminary warrant in a format which may be determined by by-law for such meeting to be posted in each precinct of the town and copies of the preliminary warrant to be sent by mail to the town moderator, the chairman of the finance committee, the town counsel and to such other persons as may be designated by by-law. Additional copies of the preliminary warrant shall be made available at the office of the town clerk for any person who may request the same. When the official warrant has been prepared, copies shall be distributed in the same manner as aforesaid.

(e) Committees – The representative town meeting may, by by-law, provide for standing committees to which shall be referred warrant articles for study, review and report in advance of town meeting action. Such committees may be in addition to the finance committee, or they may assign some portion of the review now conducted by the finance committee to some other committee.

(f) Quorum – One hundred and twenty-one town meeting members shall constitute a quorum for the transaction of all business to come before the representative town meeting, but a smaller number may adjourn from time to time.

~~(THIS SECTION PROVIDES FOR A TOWN MEETING TO BE HELD ON A REGULAR BASIS IN THE FALL OF EACH YEAR. IT IS EXPECTED, BASED ON THE EXPERIENCE OF OTHER TOWNS WHICH HAVE SIMILAR PROVISIONS, THAT THIS WILL REDUCE THE NUMBER OF SPECIAL MEETINGS HELD NOW EACH YEAR. THE SPRING MEETING WILL BE PRIMARILY THE BUDGET MEETING, AS IS THE CASE NOW, BUT KNOWING A MEETING WILL ALSO BE HELD IN THE FALL OTHER MATTERS CAN BE DEFERRED FOR ACTION THEN.)~~

(g) Open Meetings – All sessions of the representative town meeting shall at all times be open to the public and to the press.

(h) Rules and Journals – The representative town meeting may, at the first session of the spring town meeting adopt additional rules for the governing of its proceedings, not inconsistent with this charter, by-laws or general laws. The Town Clerk shall keep the journal of its proceedings, as provided in section 2-9. A certified copy of the town meeting journal shall be kept available in the town library.

(i) Time of Meeting – The representative town meeting shall meet at least twice in each calendar year. The first such meeting shall be held during the second three months of the calendar year, on a date fixed by by-law, and shall be primarily concerned with the determination of matters involving the expenditure or commitment of town funds, including but not limited to the adoption of an annual operating budget for all town agencies. The second such meeting, the powers of which shall be deemed to be those of annual town meeting, shall be held during the last four months of the calendar year, on a date fixed by by-law. In addition to the two meetings required by this section the board of selectmen may, in their discretion, ~~for the purpose of acting on the legislative business of the town in an orderly and expeditious manner,~~ call the representative town meeting into session at other times by the issuance of warrants for that purpose.

(j) Town Counsel Reviews – Forthwith following the date on which any article to be included in a warrant for any town meeting has been received by the board of selectmen, and after the names of voters contained on any petition for inclusion of a subject on the said warrant, in conformity with section 2-12, (b), (3), have been certified by the board of registrars of voters, a copy of the said article shall be delivered to the town counsel. Within five days following the date any proposed warrant articles are submitted to him, the town counsel shall make a preliminary review of the subject matter of each such proposed article for the purpose of determining if each such measure may validly be adopted by the representative town meeting, both in terms of its content and its form and including notation of any special requirements relating to valid action on such subject matter by reason of public hearings, special votes or otherwise. A written copy of the preliminary opinion of the town counsel, as aforesaid, shall be delivered to the person or agency having submitted each article in the warrant as it relates to said article.

Not less than fourteen days prior to the date on which the representative town meeting is scheduled to act upon the warrant, the town counsel shall submit a legal opinion, in such detail as may be individually appropriate, for each article contained in the warrant.

SECTION 2-13 REFERENDUM PROCEDURES

~~(THIS SECTION PROVIDES FOR OVERRIDE OF TOWN MEETING ACTION BY A VOTE OF THE ELECTORATE.)~~

(a) Effective Date of Final Votes – No final vote of the representative town meeting under any warrant article, but not including a vote to adjourn or to dissolve a town meeting vote appropriating money for the payment of notes or bonds of the town and interest thereon coming due within the then current fiscal year, a vote authorizing the borrowing of money in anticipation of taxes or other revenue, or a vote declared by preamble to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town, shall be operative until the expiration of seven days following the dissolution of the meeting. If a petition as provided hereafter in the section is not filed within the said seven days, the votes of the representative town meeting shall then become operative.

(b) Non-Final Votes – Any article disposed of by a vote to lay upon the table, or postpone indefinitely, or to by other procedural device which avoids a vote upon the merits of the principal question, shall be deemed to have been rejected in the form in which it was presented.

(c) Petition – If within seven days following the dissolution of a representative town meeting, a petition signed by not less than five percent of the voters, containing their names and addresses, is filed with the board of selectmen requesting that any question as voted by the town meeting members be referred to the voters at large for a final determination, then the operation of any such vote shall be further suspended pending its determination as provided in this section. The board of selectmen shall, within ten days after the filing of such a petition, call a special election to be held on a date fixed by it not less than fourteen nor more than twenty-one days later for the purpose of presenting such question to the voters for final determination.

(d) Form of Question – Any question submitted to the voters under this section shall be stated on the ballot in substantially the same language and form in which it was stated when presented by the moderator to the town meeting members, as appears in the record of the clerk of the meeting.

(e) Election – All votes upon any question so submitted shall be taken by ballot, and the conduct of such election shall be in accordance with the provisions of law relating to elections, generally. The questions so submitted shall be determined by a vote of the same proportion of the voters voting thereon as would have been required for the matter to be adopted by the representative town meeting. Provided, however that no vote the effect of which is the reverse of the vote taken at the representative town meeting shall be operative unless at least twenty percent of the total number of persons registered to vote as of the date of the preceding town election shall have participated in the special election.

ARTICLE-III

EXECUTIVE BRANCH

SECTION 3-1 IN GENERAL

~~(THE NUMBER OF OFFICES TO BE FILLED BY ELECTION HAS BEEN REDUCED. THIS WILL ENABLE QUALIFICATIONS TO BE ESTABLISHED FOR THOSE OFFICES WHICH WILL BECOME APPOINTED.)~~

(a) Elective Offices – The offices to be filled by the voters shall be a board of selectmen, a school committee, a planning board, a town clerk and a town moderator. In addition a housing authority and such other members of regional authorities or districts as may be established by law or interlocal agreement may also be filled by the voters.

(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 officers and for the determination of all other questions to be made by the voters, shall be held on such date as may be fixed by by-law.

(d) Nomination – The number of signatures of voters required to place the name of a candidate for any town office on the official ballots for use at any town election shall be not less than fifty.

(e) Compensation – Elected town officials may receive such compensation for their services as may annually be appropriated for that purpose.

(f) Coordination – Notwithstanding their election by the voters, the town officers named in this section shall be subject to the call of the board of selectmen, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

(g) Filling of Vacancies – If a vacancy shall occur in any elective town office more than ninety days preceding a regular town election such vacancy shall be filled by the candidate who, at the most recent town election was a candidate for a full term to such office who failed to be elected, but did receive more than twenty-five percent of the total ballots cast in the election and further provided such candidate remains eligible and willing to serve in the office. If more than one candidate shall meet the requirements said candidates shall be considered in descending order of votes received. The town clerk shall within ten days following notification of any such vacancy certify the said candidate to the office to serve until the next regular town election. In the absence of any such candidate the vacancy shall be filled in the manner provided by general laws. If less than ninety days shall elapse before the next regular town election the vacancy shall remain until such regular election. Provided, however, that if said vacancy occurs after the time for filing of nomination papers for town office in the current year has expired and as a result thereof the vacancy will not be filled at such ensuing election the provisions of this section shall apply and the candidate at the preceding election who otherwise qualifies, shall fill such vacancy until the vacancy can be filled by the voters at ~~a regular~~ **the annual** town election.

~~(THIS SECTION RECOGNIZES THE BOARD OF SELECTMEN AS A COORDINATING AUTHORITY FOR ALL TOWN AFFAIRS. THE PROVISION IS NOT INTENDED TO AUTHORIZE THE SELECTMEN TO INTERFERE IN MATTERS UNDER THE CONTROL OF OTHER OFFICIALS BUT MERELY ENABLES THEM TO CAUSE A DISCUSSION TO TAKE PLACE FOR THE OVERALL GOOD OF THE TOWN.~~

~~THIS METHOD WILL OBVIATE THE NECESSITY OF HOLDING SPECIAL ELECTIONS TO FILL CERTAIN VACANCIES AND REDUCE THE 'POLITICS' WHEN VACANCIES DO OCCUR.)~~

SECTION 3-2 BOARD OF SELECTMEN

~~(THE BOARD OF SELECTMEN IS ESTABLISHED AS THE EXECUTIVE HEAD OF THE TOWN, BUT, THEY ARE EXPECTED TO DEAL WITH THE AFFAIRS OF THE TOWN AS A WHOLE AND NOT WITH THE DAY TO DAY ADMINISTRATION. THEIR POLICIES AND GOALS ARE TO BE IMPLEMENTED BY FULL TIME EMPLOYEES.)~~

(a) Composition, Term of Office – There shall be a board of selectmen consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

(b) Powers and Duties – The executive powers of the town shall be vested in the board of selectmen. The board of selectmen shall have all of the executive powers given to boards of selectmen by general law or otherwise. The board of selectmen shall serve as the chief policy making agency of the town, responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it, provided, however, that no individual member of the board of selectmen, nor a majority of them, shall at any time, attempt to become involved in the day-to-day administration of the affairs of the town. It is the intention of this provision that the board of selectmen shall act only through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority.

The board of selectmen shall cause all of the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept. To aid it in the performance of its duties the board of selectmen shall appoint a town manager, as provided in section 3-3, and shall establish written goals and objectives for said office annually.

(c) Appointing Powers – The board of selectmen shall appoint the town manager, the town accountant, the town counsel, the registrars of voters (but not the town clerk) and other election officers, the board of appeals, the conservation commission and constables and such other town officers as may be provided by charter or by by-law.

(d) Licensing Authority – The board of selectmen shall be a licensing board for the town and shall have a power to grant licenses, to make all necessary rules and regulations regarding the granting of such licenses and to attach conditions and to impose restrictions on any such license it may grant as it deems to be in the public interest, and to enforce all laws relating to all such businesses for which it grants licenses.

~~(THE SELECTMEN ARE DESIGNATED AS A LICENSE BOARD BY STATE LAW. THIS SECTION DOES NOT EXTEND ANY NEW POWERS TO THEM; IT MERELY SETS OUT FOR ALL TO SEE ONE OF THE VERY IMPORTANT FUNCTIONS THEY NOW DO PERFORM.)~~

SECTION 3-3 TOWN MANAGER

~~(THE EXISTING POSITION OF EXECUTIVE SECRETARY IS EXPANDED AND MADE MORE MEANINGFUL BY THE PROVISIONS OF THIS SECTION. THE NAME IS CHANGED TO INDICATE THAT IT IS INTENDED TO BE A DIFFERENT POSITION THAN WHAT HAS EXISTED. A CITIZEN COMMITTEE IS TO BE APPOINTED TO SCREEN THE CANDIDATES FOR THE JOB.)~~

(a) Appointment, Qualifications, Term of Office – The board of selectmen shall appoint town manager to serve for terms not to exceed five (5) years and shall fix his compensation within the amount appropriated for that purpose. The board of selectmen shall make such appointment from a list of nominees submitted to it by a screening committee established by by-law. The office of town manager shall not be subject to the consolidated personnel by-law, if any, of the town. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a person of proven professional ability, especially fitted by education, training and previous experience in municipal administration to perform the duties of the office. The town manager shall devote his full time to the office and shall not hold any other public office, elective or appointive, nor shall he engage in any other business, occupation or profession during his term, unless such action is approved in advance, in writing, by the board of selectmen. The town may, by by-law, from time to time, establish such additional qualifications as seem necessary and appropriate.

(b) The board of selectmen shall provide for an annual review of the job performance of the town manager. Any written evaluations shall, to the extent allowed by M.G.L. c.4, §7(26), be made a public record.

(c) Powers and Duties – The town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the proper discharge of all duties of the office and for the proper administration of all town affairs placed under his charge by or under the charter. The powers and duties shall include, but need not be limited to the following:

(1) GENERAL STATEMENT OF POWERS.

1) He shall supervise, direct and be responsible for the efficient administration of all functions under his control, as may be authorized by the charter, by by-law, by other town meeting vote or by vote of the board of selectmen, including all officers appointed by him and their respective departments.

(2) APPOINTMENT POWERS

2) He shall appoint, and may remove, subject to the civil service law where applicable, all department heads, all officers and subordinates and employees for whom no other method of selection is provided by the charter or by by-law except persons serving under other elected officers or elected multiple member bodies. Appointments made by the town manager and certified by the personnel board for regulatory compliance shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with the board of selectmen, unless the board of selectmen shall, within said period by majority vote of the full board vote to reject with just cause any such appointment. Copies of all notices of appointments made by the town manager shall forthwith be posted on the town bulletin boards.

(3) SERVES AS PERSONNEL DIRECTOR IN CONJUNCTION WITH PERSONNEL BOARD

3) He shall, in conjunction with a personnel board established by by-law, be entrusted with the administration of a town personnel system, including but not limited to personnel policies and practices, rules and regulations, personnel by-law and all collective bargaining agreements entered into on behalf of the town. He shall, in conjunction with the personnel board, prepare, maintain and keep current a plan establishing the personnel staffing requirements for each town agency, except those under the jurisdiction of the school committee.

(4) FIXES SALARIES FOR PERSONS SERVING UNDER HIM

4) He shall fix the compensation of all town officers and employees appointed by the town manager within the limits established by appropriation. ~~and all non-union appointees~~

(5) TO ATTEND ALL MEETINGS OF THE BOARD OF SELECTMEN

5) He shall attend all regular and special meetings of the board of selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its discussions.

(6) TO ATTEND ALL SESSIONS OF THE TOWN MEETING

6) He shall attend all sessions of the representative town meeting and shall answer all questions concerning warrant articles which are directed to him and which relate to matters under his general supervision.

(7) TO ASSURE THAT ALL LAWS, BY-LAWS, ETC., ARE ENFORCED

7) He shall see that all provisions of general laws, the charter, the by-laws and other votes of the town meeting and votes of the board of selectmen which require enforcement by him, or officers and employees subject to his direction and supervision, are faithfully carried out, performed and enforced.

(8) TO SUBMIT A PROPOSED BUDGET TO THE FINANCE COMMITTEE

8) He shall prepare and submit in the manner provided in article 5, a proposed annual operating budget and a proposed capital outlay program.

(9) TO KEEP THE SELECTMEN FULLY INFORMED ON TOWN FINANCES

9) He shall keep the board of selectmen fully informed as to the financial condition and needs of the town, and shall make such recommendations to the board of selectmen at the end of each fiscal year and at such other times as it may reasonably require.

(10) TO ASSURE THAT COMPLETE RECORDS ARE KEPT

10) He shall assure that full and complete records of the financial and administrative activities of the town are kept and shall render full reports to the board of selectmen at the end of each fiscal year and at such other times as it may reasonably require.

(11) TO HAVE JURISDICTION OVER ALL TOWN PROPERTY EXCEPT SCHOOL BUILDINGS AND GROUNDS

11) He shall have jurisdiction over the rental and use of all town facilities, except those under the jurisdiction of the school committee. He shall be responsible for the maintenance and repair of all town facilities, including, if authorized by a town meeting vote, school buildings and grounds.

(12) TO HAVE AUTHORITY TO MAKE INQUIRIES CONCERNING THE OPERATION OF ANY TOWN AGENCY

12) He may at any time inquire into the conduct of office of any town officer, employee or agency under his supervision.

(13) TO ASSURE THAT A FULL INVENTORY OF ALL PROPERTY BELONGING TO THE TOWN IS KEPT

13) He shall assure that a full and complete inventory of all property of the town, both real and personal, is kept, including all property under the jurisdiction of the school committee and other elected town officers and multiple member bodies.

(14) TO BE RESPONSIBLE FOR NEGOTIATIONS WITH TOWN EMPLOYEES WITH A PROVISION THAT THE BOARD OF SELECTMEN MAY 'VETO' ANY PROPOSED COLLECTIVE BARGAINING CONTRACT HE SUBMITS

~~14)~~ He shall be responsible for the negotiations of all contracts with town employees over wages, hours, and other terms and conditions of employment; provided, however, that any such contract as he may propose may be rejected by a majority vote of the full board of selectmen within fifteen days following the date it is submitted to such board.

(15) TO BE RESPONSIBLE FOR A CENTRAL PURCHASING FUNCTION

~~15)~~ The town manager or his or her designee shall be the chief procurement officer for the town. He shall be responsible for the purchase of all supplies, materials, equipment and services, and shall award all contracts for supplies, materials, equipment and services for all departments and activities of the town, excluding the school department, except in case of emergency. He shall examine and inspect or cause to be examined and inspected, the quality and condition of all supplies, materials, equipment and services delivered to or received by any town agency, excluding the school department.

(16) TO HAVE A POWER TO REORGANIZE THE TOWN ADMINISTRATIVE STRUCTURE TO MAKE IT MORE EFFICIENT AND MORE EFFECTIVE

~~16)~~ He may, in the manner provided in article 4 re-organize, consolidate or abolish town agencies in whole or in part, provide for new town agencies and, when incident to any such re-organization, with the approval of the finance committee, transfer all or a portion of the appropriation made for one town agency to another.

(17) TO HAVE AN AUTHORITY TO DELEGATE CERTAIN RESPONSIBILITIES TO SUBORDINATES

~~17)~~ He may authorize any subordinate officer or employee to exercise any power or function he is authorized to exercise, provided, however, that all acts performed under such delegation shall be deemed to be his acts.

(18) TO PERFORM OTHER DUTIES AS MAY BE REQUIRED OF HIM BY THE SELCTMEN OR TOWN MEETING

~~18)~~ He shall perform such other duties as may be required of him by the charter, by by-law or other town meeting vote or by vote of the board of selectmen.

~~(e)~~ **(a)** Acting Town Manager

1) Temporary Absence – The town manager shall, subject to the approval of the board of selectmen, and by letter filed with the board of selectmen and the town clerk, designate a qualified town officer or employee to exercise the powers and perform the duties of his office during his temporary absence. During the temporary absence of the town manager the board of selectmen may not revoke such temporary designation until at least ten working days have elapsed whereupon it may appoint another qualified town officer or employee to serve as acting town manager until the town manager shall return.

2) Vacancy – Any vacancy in the office of town manager shall be filled as soon as possible by the board of selectmen, but pending such full time appointment they shall designate a qualified ~~town officer or employee~~ **person** to perform the duties of the town manager on a temporary basis. Such temporary appointment shall not exceed three months, but one additional renewal may be voted not to exceed a second three months.

3) Powers and Duties – The powers of an acting town manager, under (1) and (2) above, shall be limited to matters not admitting of delay and shall only include authority to make temporary, emergency appointments to any town office or employment.

~~(THE SELECTMEN MAY REMOVE THE TOWN MANAGER AT ANY TIME, SUBJECT ONLY TO A PUBLIC HEARING.)~~

~~(e)~~ (b) Removal and Suspension – The board of selectmen may, by majority vote of the full board, terminate or suspend the town manager from his office in accordance with the following procedure:

Before the town manager may be removed, if he so demands, he shall be given a written statement of the reasons alleged for his removal and shall have a right to be heard publicly thereon at a meeting of the board of selectmen prior to the final vote on the question of his removal, but pending and during such hearing the board of selectmen may suspend him from office. The town moderator shall preside at any hearing held by the board of selectmen on the removal of a town manager under this section. The action of the board of selectmen in suspending or removing the town manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the board of selectmen.

SECTION 3-4 SCHOOL COMMITTEE

(a) Composition, Term of Office – There shall be a school committee consisting of five members elected for three year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

(b) Powers and Duties – The school committee shall have all of the powers and duties school committees are given under general laws and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote. ~~The powers of the school committee shall include but need not be limited to the following:~~

~~1) The school committee shall appoint a superintendent of the schools and all other officers and employees connected with the schools, fix their compensation and define their duties, make rules concerning their tenure of office, and discharge them.~~

~~2) The school committee shall make all reasonable rules and regulations, consistent with law, for the administration and management of the public school system of the town.~~

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, as provided in section 2-8, shall preside and regulate the proceedings at all sessions of the representative town meeting and shall have all the powers and duties given to town moderators by general laws and such additional powers and duties as may be provided by charter, by by-law or by other town meeting vote.

SECTION 3-6 TOWN CLERK

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

(b) Powers and Duties – The town clerk shall be the keeper of vital statistics for the town, the custodian of the town seal and all records of the town, shall administer the oath of office to all town officers, elected or appointed, shall issue such licenses and permits as are required by general law to be issued by such clerks, supervise and manage the conduct of all elections and matters relating thereto, be the clerk of the representative town meeting, keep its records and in the absence of the town moderator and the ~~assistant~~ **deputy** town moderator, serve as temporary

presiding officer and shall appoint the assistant town clerk. The town clerk shall have all the other powers and duties which are given to town clerks by general laws and such additional powers and duties as may be provided by charter, by by-law or by other town meeting vote.

(c) Vacancy – If a vacancy occurs in the office of town clerk within 90 days preceding the annual town election, the assistant town clerk, shall serve as town clerk until a new town clerk is elected and sworn into office.

SECTION 3-7 PLANNING BOARD

(a) Composition, Term of Office – There shall be a planning board consisting of seven members elected for three year terms, so arranged that as nearly an equal number of terms as

possible shall expire each year. ~~Members of the board who, prior to the adoption of this charter amendment, were elected for five years terms shall continue to serve for the duration of the terms for which they were elected; upon expiration of such terms, such offices shall be filled in the manner provided in this charter.~~

(b) Powers and Duties – The planning board shall make studies and prepare plans concerning the resources, possibilities and needs of the town. The planning board shall have the power to regulate the subdivision of land within the town by adoption of rules and regulations governing such development. The planning board shall annually report to the town, giving information regarding the condition of the town and any plans or proposals known to it affecting the resources, possibilities and needs of the town. The planning board shall have all of the powers and duties given to planning boards by general laws and such additional powers and duties as may be provided by charter, by by-law or by other town meeting vote.

SECTION 3-8 BILLERICA HOUSING AUTHORITY

(a) Composition, Term of Office – There shall be a housing authority consisting of five members. Four of these members shall be elected by the voters of the town; the fifth member shall be a resident of the town appointed by the commonwealth ~~through the department of community affairs~~, or as otherwise provided by law. All members of the housing authority shall serve for terms of five years, so arranged that the term of one member shall expire each year.

(b) Powers and Duties – The housing authority shall have all the powers and duties given to the housing authorities by general laws.

SECTION 3-9 SHAWSHEEN VALLEY REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE ~~(BILLERICA REPRESENTATIVES)~~

The town shall choose such number of representatives and for such term of office to represent the town of Billerica on the Shawsheen Valley Regional Vocational School District Committees as may be provided for in an agreement entered into and approved by each of the participating municipalities.

ARTICLE IV

ADMINISTRATIVE ORGANIZATION

SECTION 4-1 CREATION OF TOWN AGENCIES

~~(THIS ARTICLE PROVIDES TWO METHODS BY WHICH THE STRUCTURE OF TOWN ADMINISTRATIVE ORGANIZATION MAY BE CHANGED.)~~

The organization of the town into operating agencies for the conduct of business of the town and the provision of services may be accomplished through either method provided in this section.

~~(THIS SECTION BROADENS THE CAPACITY OF THE TOWN MEETING TO RE-ORGANIZE BY THE ADOPTION OF BY LAWS)~~

(a) By-Laws – Pursuant to the authority contained in section twenty of chapter forty-three B of the general laws, the town meeting may, by by-law, reorganize, consolidate, or abolish any town agency in whole or in part and establish such new town agencies as it shall deem to be necessary or advisable. Such by-laws may prescribe the functions of any town agency.

~~(THIS SECTION IS SIMILAR TO A REORGANIZATION POWER AVAILABLE TO THE GOVERNOR OF THE COMMONWEALTH; A REORGANIZATION PLAN MAY BE SUBMITTED TO THE TOWN MEETING WHICH MUST BE ADOPTED OR REJECTED AS A WHOLE. THE CAPACITY OF THE TOWN MEETING TO AMEND SUCH A PROPOSAL IS RESTRICTED.)~~

(b) Administrative Code – Pursuant to the authority contained in section twenty of chapter forty-three B of the general laws, the town manager may, after consultation with the board of selectmen, submit to the representative town meeting, a plan of organization or reorganization, of amendments to any existing plan for any town agency under his general supervision.

Whenever the town manager prepares such a plan he shall hold one or more public hearings concerning the proposal giving notice by publication in a local newspaper not less than seven nor more than fourteen days in advance which notice shall describe the scope of the proposal and the time and place at which a public hearing will be held. Following such hearing the town manager may provide for the submission of the same plan to the representative town meeting by warrant article.

The authority of the representative town meeting concerning the provision of a proposed administrative code provision shall be limited to the approval or rejection of it; the representative town meeting shall not vote to amend or to alter it.

SECTION 4-2 DEPARTMENT OF PUBLIC WORKS

~~(THE EXISTING PUBLIC WORKS DEPARTMENT IS CONTINUED WITH ONE CHANGE. RECOGNIZING THE CONFUSION WHICH HAS RESULTED FROM HAVING DUAL RESPONSIBILITY FOR THE OPERATION OF THE SEWAGE SYSTEM AFTER CONSTRUCTION THAT FUNCTION WILL NOW BE PLACED WHOLELY WITHIN THE PUBLIC WORKS DEPARTMENT. PLANNING FOR SEWAGE EXTENSION PROGRAMS WILL REMAIN A CITIZEN FUNCTION THROUGH A SUCCESSOR TO THE PRESENT SEWER COMMISSION (SEE SECTION 4-2(e).)~~

(a) Scope – There shall be a department of public works responsible for the performance of all public works activities of the town, placed under its control by the charter, by by-law or otherwise.

~~The department of public works shall assume all of the duties and responsibilities and perform all of the functions including but not limited to those which prior to the adoption of this provision were performed by the department of public works and the sewer commission.~~

(b) Director of Public Works – The town manager shall appoint a director of public works to serve as the head of the department of public works. The director of public works shall serve for a term of three years. He shall be a person especially fitted by education, training and previous experience in public works administration to perform the duties of the office. The director of public works shall be responsible to the town manager for the supervision of all public works operations and activities of the town in accordance with policy directives, guidelines and priorities as established by the board of selectmen.

The director of public works shall be responsible for the coordination of all divisions within the department in accordance with general laws, the charter, by-laws, policies established by the board of selectmen and administrative directives of the town manager.

ARTICLE V

FISCAL PROCEDURES

SECTION 5-1 FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the thirtieth day of June, unless another provision is made by general law.

SECTION 5-2 SCHOOL COMMITTEE BUDGET

~~(THIS ARTICLE ESTABLISHES CLEAR CUT PROCEDURES GOVERNING THE PREPARATION AND REVIEW OF A CONSOLIDATED BUDGET PROPOSAL. THE EXISTING STATUTORY REQUIREMENT THAT THE SCHOOL COMMITTEE HOLD A HEARING ON ITS SPENDING REQUESTS IS CONTINUED. THE EXISTING FINANCE COMMITTEE WILL BE CONTINUED IN ITS VITALLY IMPORTANT ROLE OF REVIEWING SPENDING REQUESTS AND MAKING RECOMMENDATIONS TO THE TOWN MEETING. BECAUSE IT WILL NO LONGER BE REQUIRED TO FIRST SEEK OUT THE INFORMATION AND ASSEMBLE IT BEFORE MAKING RECOMMENDATIONS, IT IS EXPECTED IT WILL BE IN A MUCH STRONGER POSITION TO PERFORM THE REVIEW FUNCTION.)~~

(a) Submission to Town Manager – The budget proposed by the school committee shall be submitted to the town manager within a time fixed by by-law to enable him to consider its effect on the total town budget he is required to submit under this article.

(b) Public Hearing by School Committee – at least fourteen 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 reason for such changes. They shall also indicate the times and places at which copies of their complete draft budget are available for public examination, and the date, time and place, not less than seven days following such publication, when a public hearing shall be held by the school committee on the proposed budget.

(c) Adoption – The action of the school committee in adopting the budget following the public hearing shall be summarized and the vote of each member on any amendments offered to the proposed budget shall be recorded.

SECTION 5-3 SUBMISSION OF PROPOSED TOWN BUDGET

~~(PUBLIC NOTICE OF THE CONTENTS OF THE PROPOSED BUDGET MUST BE GIVEN BEFORE THE FINANCE COMMITTEE BEGINS ITS REVIEW. AN INFORMED ELECTORATE IS THE GOAL OF THIS REQUIREMENT AT A TIME WHEN ITS VIEWS AND OPINION CAN STILL SIGNIFICANTLY AFFECT THE ULTIMATE SHAPE OF THE BUDGET.)~~

Within a time fixed by by-law before the date on which the town meeting is to meet in its annual spring town meeting session, the town manager under the direction of the board of selectmen, shall submit to the finance committee a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. He 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 budget, and the reasons for such changes.

The notice shall also indicate the times and places at which complete copies of the proposed budget and accompanying materials are available for examination by the public.

SECTION 5-4 BUDGET MESSAGE

The budget message submitted by the town manager shall explain the proposed budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year; describe important features of the proposed budget; indicate any major variations from the current budget in financial policies, expenditures and revenues together with the reasons for such changes; summarize the town's debt position; and shall include such additional information as the town manager deems desirable or the board of selectmen may require.

SECTION 5-5 THE PROPOSED BUDGET

The proposed budget shall provide a complete financial plan of all town funds and activities, including the budget as requested by the school committee. Except as may otherwise be required by general law, or by the charter, it shall be in the form the town manager deems desirable or the board of selectmen may require. In his presentation of the proposed budget the town manager shall make use of modern concepts of fiscal presentation so as to furnish a maximum amount of information and to provide the best financial controls. The budget shall be arranged to show the actual and estimated income and expenditures 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, function and work programs, and the proposed methods of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital expenditure;

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

SECTION 5-6 ACTION ON THE PROPOSED BUDGET

(a) Public Hearing – The finance committee shall, forthwith upon receipt of the proposed budget, provide for the publication in a local newspaper of a notice stating the date, time and place, not less than seven nor more than fourteen days following such publication, when a public hearing shall be held by the finance committee on the proposed budget.

(b) Finance Committee, Procedure – The finance committee shall consider, in public meetings, the detailed expenditures for each town agency as proposed by the town manager, and may confer with representatives of any such town agency in connection with its considerations. The finance committee may require the town manager or any other town agency, to furnish it with such additional information as it may deem to be necessary to assist it in review of the proposed budget.

(c) Presentation to Town Meeting – The finance committee shall file a report containing its recommendations for action on the proposed budget, which shall be available not less than seven days prior to the date on which the town meeting is to act on the proposed budget. When the proposed budget is before the town meeting for action it shall first be subject to amendment, if any, as may be proposed by the finance committee.

SECTION 5-7 CAPITAL IMPROVEMENT PROGRAM

~~(THIS SECTION WILL REQUIRE SOME LONG RANGE PLANNING AND FORECASTING TO DETERMINE CAPITAL EXPENDITURE NEEDS FOR TOWN AGENCIES. IT IS AN ESSENTIAL INGREDIENT TO SOUND FINANCIAL PLANNING AND A VITALLY IMPORTANT STEP IF WE ARE EVER TO BEGIN TO CONTROL OUR TAX RATE.)~~

The town manager shall submit a capital improvement program to the board of selectmen and to the finance committee at least thirty days before the date fixed for submission of the proposed budget. The capital improvement program shall include, but need not be limited to the following:

- (a) A clear, concise, general summary of its contents;
- (b) A listing of all capital expenditures proposed to be made during the five fiscal years next ensuing, with supporting information as to the need for each such expenditure;
- (c) Cost estimate methods of financing and recommended time schedules;
- (d) The estimated annual cost of operating and maintaining any new facility or place of major equipment involved.

The information is to be annually revised with regard to all items still pending or in the process of being acquired, improved, or constructed.

SECTION 5-8 FINANCIAL PUBLIC RECORDS

Statements summarizing the budget, the capital improvements program and related warrant articles, as adopted by the town meeting, shall be made available in the office of the town manager for examination by the public, within twenty-one days following their adoption.

SECTION 5-9 APPROVAL OF FINANCIAL WARRANTS

Warrants for the payment of town funds as prepared by the town accountant shall be submitted to and reviewed by the town manager.

SECTION 5-10 INDEPENDENT AUDIT

At least once in every three years an outside audit of the books and accounts of the town shall be made. In the event that the commonwealth shall fail in any such period to provide for such an audit to be conducted, within sixty days following the date a written request for an audit is made by the town meeting, the town meeting shall provide for an audit to be made by a certified public accountant, or firm of such accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the town government or any of its officers.

SECTION 5-11 LAPSE OF APPROPRIATIONS

Unless another provision is specifically made in the town meeting vote under any special warrant article which authorizes a commitment of town funds, whether by appropriation, transfer or otherwise, the said authorization shall lapse at the expiration of three years following the effective date of such vote.

SECTION 5-12 COLLECTIVE BARGAINING AGREEMENTS

Collective bargaining agreements availability – copies of all contracts entered into with employees of the town pursuant to collective bargaining, shall be made available to the town moderator, town accountant, the chairman of the finance committee and all members of the representative meeting at least seven days before the town meeting is to vote on the question of appropriating funds to implement the said agreements. If a motion to appropriate any such funds is made without seven days having elapsed, the question shall be laid on the table until the next session of the town meeting held after such period has elapsed. Copies of all collective bargaining agreements shall also be placed on file in the office of the town manager, the office of the town clerk and in the town library at least seven days before they are to come before the town meeting for any action.

ARTICLE VI

ELECTIONS

SECTION 6-1 ANNUAL TOWN ELECTIONS

The election of town officers, the election of town meeting members, the election of other officers to be chosen on local election ballots and referenda questions shall be acted upon and determined by the voters on official ballots without party or other designation on the date fixed in the by-laws of the town.

SECTION 6-2 BALLOT POSITION

The order in which names of candidates appear on election ballots for any office, including that of town meeting member, shall be determined by a drawing by lot conducted by the town clerk which shall be open to the public. Notification to the candidates and to the public shall be by publication in a local newspaper during the week preceding the week in which the day

of the drawing is to take place. The drawing shall be conducted by the town clerk or the assistant town clerk, beginning not earlier than six o'clock in the afternoon of the day following the last day for candidates to withdraw their nomination papers and continuing until such time as all ballot positions have been determined.

SECTION 6-3 APPLICATION OF STATE LAWS

Except as expressly provided in the charter and as authorized by law, all town elections shall be governed by the laws of the commonwealth relating to elections, including, but not limited to, the right to vote, the registration of voters, the nomination of candidates, the conduct of regular and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting and recounting of votes and the declaration of results.

SECTION 6-4 RECALL OF ELECTED OFFICERS

~~(THIS SECTION REWRITES OUR EXISTING CHARTER REGARDING RECALL OF ELECTED OFFICIALS.)~~

(a) Application – Any person who holds an elected town office, but not including an elected town meeting member, 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.

(b) Recall Petitions – One hundred and fifty or more voters may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The signatures on such petitions shall contain the names of at least ten voters in each of the precincts into which the town is divided for the purpose of electing town meeting members.

If the said petition is found to be valid, the town clerk shall thereupon deliver to the ten persons first named on such petitions, petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the town clerk within twenty days following the date they are issued, signed by at least ten percent of the total number of persons registered to vote as of the date of the most recent town election.

The town clerk shall, within twenty-four hours following such filing with him, submit the petitions to the board of registrars of voters which shall within five days thereafter, certify thereon the number of signatures which are the names of voters.

(c) Recall Elections – If the petitions shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with his 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 officer whose recall is sought. If said officer does not resign his office within five days following delivery of the said notice, the board of selectmen shall order a special election to be held not less than thirty-five nor more than sixty days after the date of the certification of the town clerk that the petition is sufficient. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

(d) Nomination of Candidates – An officer whose recall is sought may not be a candidate to succeed himself in the event the vote on the question of recall is in the affirmative. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the charter and general laws regulating elections.

(e) Propositions on the Ballot – Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of
(name of officer)
Against the recall of
(name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word ‘candidates’ and the names of candidates arranged as provided in section 6-2. If a majority of the votes cast on the proposition is against the recall the votes for candidates need not be counted. If a majority of the votes cast is in favor of the recall the votes for candidates shall be counted and the candidate receiving the highest number of votes shall be declared elected.

(f) Officeholder – The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is not then recalled he shall continue in office for the remainder of his unexpired term, subject to recall as provided in section (g) below.

If the officer is recalled he shall be deemed removed 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.

(g) Request of Recall Petition – No recall petition shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7-1 - CHARTER CHANGES

This charter may be replaced, revised or amended in accordance with any procedure made available under the state constitution, or by statute enacted in accordance with the state constitution.

SECTION 7-2 - SEVERABILITY

The provisions of the charter are severable. If any provision of the charter is held invalid, the other provisions of the charter 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 the charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 7-3 - SPECIFIC PROVISION TO PREVAIL

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

SECTION 7-4 - RULES AND REGULATIONS

A copy of all rules and regulations adopted by town agencies shall be placed on file in the office of the town clerk and made available for review by any person who shall request such information.

SECTION 7-5 – DEFINITIONS

THIS SECTION INTENTIONALLY LEFT UNPOPULATED. DEFINITIONS MOVED TO THE FRONT OF THE BOOK.

~~(A LARGE NUMBER OF WORDS WHICH ARE USED THROUGHOUT THE CHARTER ARE DEFINED IN THIS SECTION. A MUCH SHORTER LIST IS CONTAINED IN THE EXISTING CHARTER.)~~

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

~~(a) Charter—The word “charter” shall mean this charter and any amendments to it which may hereafter be adopted.~~

~~(b) Days—The word “days” shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven days; when the time set is seven days or more, every day shall be counted.~~

~~(c) Emergency—The word “emergency” shall mean a sudden, unexpected, unforeseen happenings, occurrence or condition which necessitates immediate action.~~

~~(d) general laws—the words “general laws” (all lower case letters) shall mean laws which apply alike to all cities and towns, or to all towns, or to a class of municipalities of which Billerica is a member.~~

~~(e) General Laws—The words “General Laws” (used with initial capital letters) shall refer to the General Laws of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently enacted.~~

~~(f) Local Newspaper—The words “local newspaper” shall mean a newspaper of general circulation in the Town of Billerica.~~

~~(g) Majority Vote—The words “majority vote” shall mean a majority of those present and voting, provided a quorum of the body is present when the vote is taken.~~

~~(h) Multiple Member Body—The words “multiple member body” shall mean any body consisting of two or more persons, whether elected, appointed, or otherwise constituted, but not to include the representative town meeting.~~

~~(i) Town—The word “town” shall mean the town of Billerica.~~

~~(j) Town Agency—The words “town agency” shall mean any board, commission, committee or other multiple member body, department, division, or office of the town of Billerica.~~

~~(k) Town Bulletin Boards—The words “town bulletin boards” shall mean the bulletin board in the Town Hall on which official notices are posted, and those at such other locations within the town as may, from time to time, be established by the board of selectmen.~~

~~(l) Voters—The word “voters” shall mean persons who are registered to vote in the town of Billerica.~~

SECTION 7-6 - 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 masculine gender shall include the feminine gender.

SECTION 7-7 - REMOVALS AND SUSPENSION

~~(THIS PROCEDURE WOULD BE APPLICABLE TO PERSONS NOT COVERED BY THE PROVISIONS OF THE CIVIL SERVICE LAW OR BY THE TERMS OF A COLLECTIVE BARGAINING PROCEDURE. IT DOES EXTEND A MEASURE OF PROTECTION FROM ARBITRARY DISMISSAL TO A SMALL NUMBER OF TOWN EMPLOYEES AND TO APPOINTED OFFICERS.)~~

Any appointed officer or employee of the town, except the town manager, whose removal or suspension is not covered by the provisions of general law or the terms of a collective bargaining agreement, whether appointed for a fixed or an indefinite term, may be suspended or removed from his duties by the appointing authority.

The appointing authority when acting to remove or to suspend any appointed officer or town employee, shall act in accordance with the following procedure:

(a) A written notice of the intent to remove or to suspend and a statement of the cause or causes therefore, shall be delivered in hand to the officer or employee, or mailed, by registered or certified mail to his last known address.

(b) Within five days following delivery of the said notice, the officer or employee may request a public hearing by submitting, in writing, a request therefore to the appointing authority and personnel board, and by filing a copy of said request in the office of the town clerk and personnel board.

(c) The personnel board shall hold a public hearing not less than seven nor more than fourteen days following the date of receipt of a request therefore, and shall give not less than five days written notice of such public hearing to the officer or employee affected. The officer or employee shall have a right to be represented by counsel at such hearing, to call witnesses, to examine witnesses and to introduce evidence at the public hearing.

(d) Not more than fourteen days following the public hearing, or not more than fourteen days following the delivery of the original notice of intent if no public hearing has been requested, the appointing authority shall take final action on the removal or suspension and shall, forthwith, notify the officer or employee of the removal or suspension, or that the notice of intent has been rescinded.

SECTION 7-8 - LOSS OF OFFICE, EXCESSIVE ABSENCE

~~(THIS NEW SECTION ALLOWS APPOINTED BODIES TO HAVE A DEFINITIVE TIMETABLE ON WHEN THEY ARE ABLE TO MOVE FORTH TO REPLACE NON-ATTENDING MEMBERS. IT ALSO GUARANTEES THAT THE MEMBER BEING REPLACED IS NOTIFIED OF THE ACTION BEFOREHAND.)~~

If any person appointed to serve as a member of a multiple member body shall fail to attend three 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 the remaining members of such body, declare the office to be vacant, provided, however, 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.

SECTION 7-9 - REVIEW OF CHARTER AND BY-LAWS

~~(THESE SECTIONS PROVIDE FOR A PERIODIC REVIEW OF THE CHARTER AND THE TOWN BY LAWS, AND REQUIRES UP TO DATE COPIES OF BOTH TO BE AVAILABLE.)~~

(a) Charter Review – At least once in every ten years, in every year ending in a five, a special committee shall be appointed by the town moderator, for the purpose of reviewing the provisions of the charter and to make a report, with recommendations, to the town meeting, concerning any proposed amendments or revisions which said committee may deem to be necessary or desirable.

Such review shall be conducted ~~under the supervision of~~ **in consultation with** the town counsel, or, if the town meeting so directs, by special counsel retained for that purpose. A report, with recommendations, shall be submitted to the town meeting not more than ten months following the date such committee is appointed.

(b) By-Laws – At least once in every five years, in years ending in a five, or in a zero, the town meeting shall provide for the establishment of a special committee which shall be charged with the responsibility to review the then existing by-laws of the town for the purpose of determining if any amendments or revisions may be necessary or desirable.

(c) Copies of Charter and By-Laws – Copies of the charter and by-laws of the town, as most recently amended or revised, shall be kept available for distribution to any person who may request the same at the office of the town clerk. A charge, not to exceed the actual cost of reproduction of the said material, may be charged. In any interval between publication of the charter or by-laws, as amended or revised, supplements shall be published which shall contain all enactments affecting the charter or by-laws since last published in consolidated form.

SECTION 7-10 - PROCEDURES GOVERNING MULTIPLE MEMBER BODIES

~~(THIS SECTION PROVIDES A SERIES OF UNIFORM PROVISIONS TO GOVERN ALL MULTIPLE MEMBER BODIES.)~~

(a) Meetings – All multiple member bodies, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places within the town as they may, by vote, prescribe. Special meetings of any multiple member body shall be held upon the call of its chairman, or by one-third of the members thereof, by notice to each member, except in the case of emergency, at least forty-eight hours in advance of the time set, which indicates the subject to be acted upon. A copy of the same notice shall be posted on the town bulletin board. Regular meetings of all multiple member bodies shall be held in public buildings of the town of Billerica.

(b) Rules and Journals – Each multiple member body shall determine its own rules and order of business, unless otherwise provided by the charter or by-law, provided, however, that each multiple member body shall provide some period of time at each of its meetings for members of the public who are present to ask questions, state opinions and otherwise interchange information with the members of the multiple member body. Each multiple member body shall

also provide for the keeping of a journal of its proceedings. These rules and the journal shall be a public record, and certified copies of each shall be kept on file in the Billerica Public Library and in the office of the town manager.

(c) Voting – If requested by any member, any vote of a multiple member body shall be taken by a roll call vote and the vote of each member shall be recorded in the journal, provided, however, if any vote is unanimous only that fact need be recorded.

(d) Quorum – A majority of the full membership of a multiple member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. While a quorum is present, unless other provision is made by law, all business shall be determined by a majority of those present and voting.

(e) Filling of Vacancies – Whenever a vacancy shall occur in the membership of any appointed multiple member body the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If, at the expiration of thirty days following delivery of such written 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 the unexpired term by a majority vote of the remaining members.

SECTION 7-11 – OPINIONS OF TOWN COUNSEL

Whenever the town counsel shall prepare for the information of any town agency a written opinion concerning any aspect of the public business he shall file a copy of the said written opinion in the office of the town manager. The town manager shall keep the copies of all written opinions filed under this section in a record book maintained for that purpose, to which the public shall have a convenient right of access subject to public records statute, Mass. Gen. Laws, c. 4, § 7(26).

SECTION 7-12 – EXPIRATION OF COMMITTEES

All committees created by vote of the town meeting shall serve until the next regular fall session of the town meeting. Each such committee shall file at said fall town meeting a complete report of its doings since the vote to establish it and it may make such recommendations concerning further action to be taken by the town as it may deem to be necessary and desirable. Unless the town meeting shall vote to revive and extend any such committee, until the next regular fall town meeting, each such committee shall be deemed to have been discharged from its duties and dissolved upon the adjournment of the said fall town meeting.

SECTION 7-13 – NOTICE OF VACANCIES

Whenever a vacancy that is to be filled occurs in any town agency, or in town employment, or when by reason of retirement or the expiration of a fixed term a vacancy can be anticipated, the board of selectmen, or other appointing authority shall forthwith cause public notice of the vacancy or impending vacancy to be posted on the town bulletin board for not less than ten days and published in a local newspaper. Such notice shall contain a description of the duties of the office or position and a listing of necessary and desirable qualifications. Any person who desires to be considered for appointment to the vacancy may, within ten days following the date the notice is posted or published whichever is later, file with the appointing authority, a statement setting forth his qualifications for the position.

No permanent appointment to fill a position shall be effective until as least fourteen days have elapsed following such posting or publication whichever is later, 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 requirements provided under the terms of a collective bargaining agreement.

SECTION 7-14 – REMOVAL OF APPOINTED OFFICERS

(a) Application – any person who holds an appointed town office not covered by the provisions of civil service or the terms of a collective bargaining agreement, with more than six months remaining of the term of office may be removed from office in the manner provided in this section.

(b) Removal Petitions – One hundred and fifty or more voters may file with the town clerk an affidavit containing the name of the official whose removal is sought and a statement of the grounds upon which the petition is based. The signatures on such petitions shall contain the names of at least ten voters in each of the precincts into which the town is divided for the purpose of electing town meeting members.

If said petition is found to be valid, the town clerk shall thereupon deliver to the ten persons first named on such petition, petition blanks demanding said removal, printed forms of which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to a joint committee consisting of the town moderator and the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for removal as stated in the affidavit; they shall demand a public hearing for the purpose of removing the official from office; they shall be dated and signed by the town clerk. The removal petitions shall be returned to the office of the town clerk within twenty days following the date they are issued, signed by at least ten percent of the total number of persons registered to vote as of the date of the most recent town election. The town clerk shall, within twenty-four hours following such filing with him, submit the petitions to the board of registrars which shall within five days thereafter, certify thereon the number of signatures which are the names of voters.

(c) Removal Hearing – If the petitions shall be certified by the board of registrars of voters to be sufficient, the town clerk shall forthwith submit the same with his certificate to the joint committee. Upon its receipt of the certified petitions the joint committee shall forthwith give notice, in writing, of said petition to the official whose removal is sought. If said officer does not resign his office within five days following delivery of the said notice, the joint committee shall order a special public hearing to be held not less than thirty-five nor more than sixty days after the date of the certification of the town clerk that the petition is sufficient. If a vacancy occurs in the office after a removal hearing has been ordered, the position shall be filled in the manner described in Section 7-13.

(d) Public Hearing – The joint committee shall provide at least two weeks written notice of the hearing in a local newspaper and to the official whose removal is sought. The official shall have a right to be represented by counsel at such hearing, to call witnesses, to examine witnesses and to introduce evidence at the public hearing. Not more than fourteen days following the public hearing, the joint committee shall take final action on the removal and shall, forthwith, notify the official of the removal or that the notice of removal has been rescinded. A two-thirds vote shall be required to remove an official. The results of the hearing shall also be published in a local newspaper.

(e) Officeholder – The incumbent shall continue to hold his office and to perform his duties until the result of the removal hearing is made known. If he is not then removed, he shall continue in office for the remainder of his unexpired term, subject to removal as provided in section (f) below. If the official is removed he shall be deemed removed upon the notification of the results of the hearing. The appointing authority will appoint a replacement in the manner described in section 7-13. The removed official will not be eligible to be appointed. The new appointed official shall serve for the balance of the unexpired term.

(f) Request of Removal Petition – No removal petition shall be filed against an official within six months after he takes office, or in the case of an official subjected to a removal hearing and not removed thereby, until at least six months after the hearing at which his removal was submitted to the joint committee.

SECTION 7-15 – INCOMPATIBILITY OF OFFICE

No individual shall serve on more than one of the following boards concurrently: conservation commission, board of appeals, planning board and board of health.

~~ARTICLE VIII~~

~~TRANSITIONAL PROVISIONS~~

~~SECTION 8-1 – CONTINUATION OF EXISTING GOVERNMENT~~

~~(a) In General – All general laws, special laws, town by laws, town meeting votes, and rules and regulations of or pertaining to the town that are in force when this charter takes effect and not specifically or by implication repealed hereby, shall continue in full force and effect until amended or repealed or rescinded by due course of law or until they expire by their own limitation.~~

~~(b) Specific Repeal – The home rule charter, adopted in 1972, is hereby repealed and rescinded. It is the intention that this charter shall supersede the existing charter in all respects.~~

~~SECTION 8-2 – CONTINUATION OF GOVERNMENT~~

~~—All town agencies shall continue to perform their duties until re-appointed, or re-elected, or until successors to their respective positions are duly appointed or elected or until their duties have been transferred and assumed by another town agency.~~

~~SECTION 8-3 – TRANSFER OF RECORDS AND PROPERTY~~

~~—All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another town agency, shall be transferred forthwith to such agency.~~