

## Chapter C. CHARTER

[HISTORY: Adopted initially by the April 2004 Town Meeting of the Town of Abington; accepted by the voters at referendum 4-10-2004; approved by the Legislature by c. 259, L. 2004. Amendments noted where applicable.]

[EDITORIAL NOTE: References to the Town of Abington General Bylaws throughout have been inserted by the Town Clerk, in consultation with the Town Manager, for the convenience of the reader, but are not part of the Town Charter. Such references take a form similar to the following, “[Bylaws, Chapter \_\_\_]” or “[Bylaws, Section \_-\_\_\_]”]

### Article I. INCORPORATION

#### Section 1-1. Incorporation.

The inhabitants of the Town of Abington, within the corporate limits as now established, or as hereafter may be established in the manner provided by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Abington."

#### Section 1-2. Short Title.

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

#### Section 1-3. Form of Government.

The administration of all the fiscal, prudential, and municipal affairs of the town, with the government thereof, shall be vested in a legislative branch, to consist of a town meeting open to all registered voters of the town, and an executive branch, to be headed by a Board of Selectmen and Town Manager.

#### Section 1-4. Powers of the Town.

The form of government provided by this charter shall be known as the Abington Home Rule Charter Plan. Pursuant to this charter, and subject to only limitations as may be imposed by the constitution and statutes of the Commonwealth of Massachusetts, it is the intent and the purpose of this charter to confer on the Town of Abington all of the powers it is possible to confer under the constitution and statutes of said Commonwealth, as fully and as completely as though each such power was specifically and individually enumerated herein.

#### Section 1-5. Interpretation of Powers.

The powers of the Town of Abington under this charter shall be construed liberally in favor of the Town, and the specific mention of particular powers is not intended, nor is it to be construed, as limiting in any way the general powers of the town as stated in Section **1-4**.

Section 1-6. Intergovernmental Relations.

Subject to the applicable requirements of any provision of the constitution or statutes of the Commonwealth of Massachusetts, the Town of Abington 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 agency thereof.

Section 1-7. Definitions.

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:

"Appointing authority," where appropriate, Board of Selectmen, Board of Library Trustees, School Committee, and Town Manager.

"Charter," this charter and any amendments to it made through any of the methods provided under article LXXXIX of the Amendments to the Constitution of the Commonwealth of Massachusetts and General Laws chapter 43B.

"Majority vote," a majority of those present and voting, provided that a quorum of the body is present.

"Multiple member body," any board, commission or committee consisting of two or more persons, whether elected or appointed, but specifically excluding town meeting.

"Town," the Town of Abington.

"Town agency," any board, commission, committee, department or office of the town government.

"Town bulletin board," the bulletin board, on which official town notices are posted, located in the town office building. Whenever reasonably possible, official town notices shall be posted on the town's website.

"Voters," the registered voters of the Town of Abington.

Article II. LEGISLATIVE BRANCH

Section 2-1. Open Town Meeting.

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

Section 2-2. Presiding Officer.

The moderator, as provided for in Section 3-3, shall preside at all sessions of the town meeting, but the moderator shall have no vote unless those voters present and voting are equally divided. He/she shall at the first session of the town meeting following each annual town election appoint a deputy moderator to serve in the event of his absence or disability, provided that the town meeting ratifies such appointment. In the event of the absence or disability of the moderator and deputy moderator the town meeting shall elect from those voters present at the town meeting a temporary moderator to act during such absences or disabilities. The moderator shall perform such duties as may from time to time be assigned to the office of moderator by by-law, rule or other vote of town meeting.

#### Section 2-3. Committees.

2-3-1. Subject to the provisions of this Charter and to such by-laws or other town meeting votes regarding committees as may be provided, 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, other than those appointed by vote of the town meeting.

2-3-2. There shall be a finance committee, the members of which shall be appointed by the moderator. The number of members, the term of office and any other condition of appointment or service as may be deemed necessary or desirable shall be established by bylaw. The finance committee shall report its recommendations on every article contained in a town meeting warrant, in writing, at least ten (10) days prior to a scheduled town meeting. Prior to making its recommendations the finance committee shall hold one or more meetings to permit discussion of the subject matter of all articles contained in the warrant, except those articles subject to public hearings by other multiple member town bodies and not containing appropriations. The finance committee shall have such additional powers and duties as may be provided by Massachusetts General Laws, by this charter or by by-law. [Bylaws, Chapter 67]

#### Section 2-4. Annual Town Meeting.

There shall yearly be held an annual town meeting, to transact business relating to the prudential affairs of the town, which shall be held on the date fixed in the by-laws of the town.[Bylaws, Section 152-1]

#### Section 2-5. Special Town Meetings.

Special town meetings shall be held at the call of the Board of Selectmen at such times as it may deem appropriate and whenever a special town meeting is requested by the voters of the town in accordance with procedures made available by the laws of the Commonwealth of Massachusetts.

#### Section 2-6. Clerk of the Meeting.

The town clerk shall serve as the clerk of the town meeting. In the event of unavoidable absence, the town clerk shall designate a substitute; otherwise, the moderator shall appoint a clerk pro

tempore. The town clerk shall give notice of all meetings to the public, keep a journal of its proceedings and perform such other functions as may be provided by the laws of the Commonwealth of Massachusetts, by the charter, by by-law or by other town meeting vote.

#### Section 2-7. Warrant Articles.

The Board of Selectmen shall at all times receive all requests or petitions which are addressed to it and which seek the inclusion of an article in a town meeting warrant and are filed by: (1) the town clerk or moderator; (2) any elected or appointed multiple member body, acting by a majority of its members; (3) any ten voters for a regular town meeting and any one hundred voters for a special town meeting; (4) any other person or entity authorized by law. The original copy of each request or petition filed hereunder shall be retained by the Board of Selectmen until at least ninety days following the completion of the town meeting at which the request or petition is acted upon. The Board of Selectmen shall have discretion as to whether to include on a warrant for any town meeting a request or petition filed by: (1) the town clerk or moderator or (2) any elected or appointed multiple member body, acting by a majority of its members.

#### Section 2-8. Warrants.

Every town meeting shall be called by a warrant issued by the Board of Selectmen which shall state the date, time and place at which the meeting is to be convened and, by separate articles, the subject matter to be acted upon. Notice of an annual or special town meeting shall be provided in the manner prescribed by the General Laws and bylaws. The original copies of all warrants for town meeting shall be kept in the office of the town clerk in a record book maintained for that purpose. [Bylaws, Section 152-2]

#### Section 2-9. Availability of Town Officials at Town Meetings.

Every town officer, or in the case of a multiple member body, a designated representative of such multiple member body, and every town department head shall attend all sessions of the annual town meeting and any and all special town meetings for the purpose of providing the town meeting with information pertinent to matters appearing on the warrant, unless deterred for reasonable cause as determined by the Town Manager. If any person described above is so deterred, he/she shall designate a designee to attend the town meeting in his/her place, and shall notify the Town Manager of such designee.

If any person required to attend the sessions of the town meeting under this section is not a voter, he/she shall, notwithstanding, be entitled to speak in order to provide the town meeting with information on pertinent warrant articles.

## Article III. ELECTIONS AND ELECTED OFFICIALS

### Section 3-1. Elections: General Provisions.

3-1-1. Elected offices. The offices to be filled by ballot of the voters of the entire town shall be a Board of Selectmen, moderator, town clerk, school committee, board of assessors, board of health, board of library trustees, board of sewer commissioners, board of water commissioners, housing authority, and planning board and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.

Any voter shall be eligible to hold any elective town office, but no elected town official shall simultaneously hold any other elected town office.

Notwithstanding their election by the voters, the town officers named in this section shall be subject to the call of the Board of Selectmen or of the Town Manager, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

Such elected officials shall be subject to recall as set forth in Section 3-13 of this Charter.

### 3-1-2. Annual Town Election.

The regular annual election of town officers shall be held annually on such date as may from time to time be fixed in the by-laws of the town, and shall be acted upon and determined by the voters on official ballots without party or other designation.[Bylaws, Section 152-1]

### 3-1-3. Nomination of Candidates.

The number of signatures of voters required to place the name of a candidate for any office on the official ballot for use at any town election shall be 50, unless a greater number is required by state law.

### Section 3-2. Board of Selectmen.

There shall be a Board of Selectmen consisting of five (5) members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. Vacancies in the office of selectmen shall be filled by a special election in accordance with the provisions of Massachusetts General Laws.

The executive powers of the town shall be vested in the Board of Selectmen which shall be deemed to be the chief executive office of the town. 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 of the town. The Board of Selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to

be followed by all town agencies serving under it, and in conjunction with other elected town officers and multiple member bodies to develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony. Provided however, nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of such members, 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 officers and employees serving under it. The Board of Selectmen:

- (a) shall cause the charter, by-laws, and rules and regulations for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.
- (b) shall appoint a Town Manager as provided for in Article **IV** of this charter and shall appoint a town counsel.
- (c) shall appoint those multiple member bodies authorized by law, and those authorized by the provisions of Section 7-10 of this Charter;
- (d) may investigate the affairs of the town and the conduct of any town agency including any doubtful claims against the town, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of the results of such investigation shall be placed on file in the office of the Town Manager, and a report summarizing the results of such investigation shall be printed in the next annual town report;
- (e) shall be the licensing board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions thereto as it deems to be in the public interest. The Board of Selectmen shall enforce the laws relating to all businesses for which it issues such licenses. The Board of Selectmen may delegate such licensing authority unless specifically prohibited by the laws of the Commonwealth of Massachusetts.

Section 3-3.Moderator.

There shall be a moderator elected for a term of three years. The moderator shall preside and regulate the procedure at all sessions of the town meeting, and shall have all of the powers and duties to which are given moderators under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-4. Town Clerk.

There shall be a town clerk elected for a term of three years. The town clerk shall be the keeper of vital statistics of the town and the custodian of the town seal and all public records, shall administer the oaths of office to all town officers who apply to him/her therefore, be the clerk of the town meeting and perform such duties with regard to elections and other matters as may be

provided by law. The town clerk shall have all of the powers and duties which are given to town clerks under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-5. School Committee.

There shall be a school committee consisting of five (5) members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The school committee shall have general charge and superintendence of the public schools and for this purpose shall have all of the powers and duties which are given to school committees under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-6. Board of Assessors.

There shall be a board of assessors which shall consist of three (3) members elected for terms of three years each, so arranged that one term shall expire each year. The board of assessors shall annually make a fair cash valuation of all property, both real and personal, within the town, and it shall have all of the powers and duties which are given to boards of assessors under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-7. Board of Health.

There shall be a board of health which shall consist of five (5) members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The board of health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health, and shall have all of the powers and duties which are given to boards of health under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-8. Board of Library Trustees.

There shall be a board of library trustees which shall consist of (9) nine members elected for terms of three years each, so arranged that the term of office as nearly an equal number of members as is possible shall expire each year. The board of library trustees shall have general charge of the care and management of the town library, and of all property of the town relating thereto, in consultation with the Town Manager. The board of library trustees shall have all of the powers and duties which are given to library trustees under M.G.L. c.78 and any other relevant provision of the constitution and laws of the Commonwealth of Massachusetts and shall

have such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting. The Board of Library Trustees shall appoint the Library Director in consultation with the Town Manager, who shall act in the capacity of the principal personnel officer of the Town, as defined in Section 4 of this Charter.

Section 3-9. Board of Sewer Commissioners.

There shall be a board of sewer commissioners consisting of five (5) members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The board of sewer commissioners shall have general charge of the care and management of the municipal sewer system, and of all property of the town relating thereto. The board of sewer commissioners shall have all of the powers and duties which are given to boards of sewer commissioners under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-10. Board of Water Commissioners.

There shall be a board of water commissioners consisting of three (3) members elected for terms of three years each, so arranged that one term shall expire each year. The board of water commissioners shall have general charge of the care and management of the municipal water system, and of all property of the town relating thereto. The board of water commissioners shall have all of the powers and duties which are given to boards of water commissioners under the constitution and laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

Section 3-11. Housing Authority.

There shall be a housing authority consisting of five (5) members whose composition shall be subject to the provisions of M.G.L. c.121B, §3. The housing authority shall have all of the powers and duties which are given to housing authorities under the constitution and laws of the Commonwealth of Massachusetts.

Section 3-12. Planning Board.

There shall be a planning board consisting of five (5) members elected for terms of five years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The planning board shall make studies and prepare plans concerning the resources, possibilities and needs of the town. It shall prepare and may from time to time amend and perfect a comprehensive plan which shall set forth in graphic and textual form information concerning the present development of the town and parts thereof. Such comprehensive plan shall include recommendations of the planning board concerning the future development (including physical, economic, and environmental aspects) of the entire town and parts thereof.

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, and shall specify amendments that the planning board has made during the past year in the comprehensive plan.

The planning board shall have all of the other powers and duties which are given to planning boards under the constitution and laws of the Commonwealth of Massachusetts, and shall have such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the town meeting.

### SECTION 3-13 RECALL OF ELECTED OFFICIALS

#### 3-13-1. Who can be Recalled.

Any holder of a Town elective office listed in Section 3-1 may be recalled therefrom by the voters as herein provided.

**Commented [A1]:** There are some offices, such as for regional school district committee, where the individual is an officer of the district, rather than the Town. Including the word Town clarifies that.

#### 3-13-2. Recall Affidavit and Petition.

Any twenty-five (25) registered voters of the town may file with the town clerk an affidavit signed under oath or sworn to before a notary public bearing the name of the officer sought to be recalled and a statement of the grounds for the recall. Within three days following such filing the registrars of voters and/or town clerk shall determine whether such filing is sufficient and valid. If said filing is determined to be sufficient, the town clerk shall thereupon make available in the office of the town clerk to the first voter who signed the affidavit (the "lead petitioner") copies of petition blanks demanding such recall with the clerk's signature and official seal attached thereto, and a copy of said petition shall be considered a permanent record of the town.

**Commented [A2]:** Hopefully including this language will assist voters with the process, rather than having to "redo" a faulty affidavit.

**Commented [A3]:** The Registrars of Voters are unlikely to be able to call for a meeting in that period of time. At this stage, the question is simply ministerial, rather than policy-related. In other words, does the affidavit meet the requirements of the Charter and is it signed by the requisite number of voters.

**Commented [A4]:** Utilizing this language should help avoid the argument that the Clerk has to provide copies of the petitions to 25 voters. Further, it will clarify that the petitioners must pick up the petitions from the Clerk.

They shall be dated, addressed to the Board of Selectmen and contain the names of the first ten signers of the affidavit, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit, and demand the election of a successor in the said office. The recall petition shall be returned and filed with the town clerk no later than 5:00 p.m. on the twentieth day after the petitions are made available. The petitioners shall have been signed by at least twenty percent (20%) of the registered voters of the town, determined as of the date the affidavit was filed, and the signatories to such petition shall add their number and street, if any, of their residences, to their signatures.

**Commented [A5]:** This is meant to streamline this paragraph.

**Commented [A6]:** Again, the goal is to avoid problems with implementation. Including this language will make clear that the petition will list only 10 of the signers of the Affidavit.

**Commented [A7]:** This is to ensure that the filing deadline is clear.

The town clerk shall submit the within petition to the registrars of voters in the town by the end of the next business day following its filing, and the registrars shall forthwith, but in no event more than seven days after receipt, certify thereon the number of signatures which are names of registered voters of the town.

#### 3-13-3. Selectmen's Action on Receiving Petition.

If the petition shall be found and certified by the registrars of voters to be sufficient they shall submit the same with their certificate to the Board of Selectmen without delay. The Board of Selectmen shall forthwith meet at a properly posted meeting in accordance with the Open Meeting Law and give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within seven (7) days thereafter, the Board of Selectmen shall order an election to be held on a date fixed by it, in accordance with the minimum requirements of the election laws of the Commonwealth of Massachusetts, provided however, that the recall election must be held no later than fourteen (14) days after adherence to the minimum statutory requirements; provided, however, that if another municipal election is scheduled to occur within 100 days of the date the Board votes to schedule the election, the question of recall may be presented to the voters on the same date and on the same ballot, at the discretion of the board. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

**Commented [A8]:** There are multiple sections of the General Laws that set the minimum number of days required for an election. In my opinion, better to simply delete the particular reference, than to risk trying to figure out how to implement this section later.

**Commented [A9]:** This provides some flexibility, as the minimum number of days to call for an election with candidates is 64 days. If there were to be another election within 36 days, the Town would likely want to put off the recall election to that date. Also, please consider whether there is interest in allowing the question to appear on the same ballot as the

#### 3-13-4. Nomination of Candidates.

The officer whose recall is sought may be a candidate in the recall election, and unless such officer requests otherwise in writing, the town clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of the law relating to elections, unless otherwise provided in this section.

#### 3-13-5. Incumbent Holds Office Until Election.

The officer whose recall is sought shall continue to perform the duties of his office until the recall election. If not then recalled, such person shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided for in Section 3-13-7. If recalled, such person shall be deemed removed immediately.

#### 3-13-6. Propositions on Ballot.

Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer, office)

Against the recall of (name of officer, office)

Immediately at the right of each proposition there shall be a space in which the voter, by making a mark, may vote for either of said propositions. Under the propositions shall appear the word "Candidates," the directions to voters required by section 42 of chapter 54 of the General Laws, and beneath this the names of candidates nominated as herein before provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected, and shall upon qualification serve the balance of the unexpired term. If the successor shall fail to qualify within 10 days after receiving notification of

**Commented [A10]:** Five days is a short period of time. In the event that the vacancy created is on the Board of Selectmen, no appointment may be made, and it may be more appropriate to provide a few additional days to be sworn so as to avoid this result.

election, the office shall be deemed vacant and shall be filled in the manner provided for in Article VIII, Section 3-14. If a majority of the votes cast upon the question of recall is in the negative, the officer whose recall was sought shall not be recalled and the ballots for candidates shall not be counted and shall have no legal effect.

#### 3-13-7. Timing of Recall Petition.

No recall petition shall be filed against an officer within three (3) months after the officer takes office nor less than six (6) months prior to the end of the officer's elected term. In the case of an officer subjected to a recall election and not recalled thereby, no recall petition may again be filed until at least three (3) months after the election at which the question of recall was submitted to the voters of the town.

#### 3-13-8. Appointment of Person Recalled.

A person who has been recalled from an office, or who has resigned from office at any time after a valid recall affidavit has been certified, shall not be appointed to any town office within two (2) years after such recall or resignation.

**Commented [A11]:** In some towns, the trigger for this prohibition is the filing of a valid recall petition, rather than the affidavit.

#### Section 3-14. Vacancy in Office.

If there exists a vacancy in the office of Town Clerk or Town Moderator the selectmen shall provide for notice of such vacancy as provided for in Article VII, section 7-11 by posting the vacancy on the town bulletin board. Any person who desires to be considered to fill such vacancy may, within ten days following the date the notice is posted file with the Board of Selectmen a statement which sets forth in clear and specific terms the qualifications which he/she holds for the position. The Board of Selectmen shall fill such vacancy no earlier than fourteen days and no later than thirty days after the notice was posted. The person appointed to fill such vacancy shall be the person who receives a majority of the votes cast at such meeting. The person appointed to fill such vacancy shall hold office until the next regularly scheduled annual town election at which time the vacant position shall be included on the ballot as provided for in Article III, section 3-1.

If there exists a vacancy in an elected multiple member body, other than the Board of Selectmen, the remaining members shall forthwith give notice of the existence of any such vacancy to the Board of Selectmen. The Board of Selectmen shall then provide for notice of such vacancy as provided for in Article VII, Section 7-11 by posting the vacancy on the town bulletin board. Any person who desires to be considered to fill such vacancy may, within ten days following the date the notice is posted file with the Board of Selectmen and the board or committee which has experienced the vacancy a statement which sets forth in clear and specific terms the qualifications which he/she holds for the position. Not earlier than fourteen days nor later than thirty days after said notice is posted, the Board of Selectmen and the remaining members of the board or committee which has experienced the vacancy shall fill such vacancy at a joint meeting

of the Board of Selectmen and such board or committee. The filling of such vacancy shall be by a joint vote of those members of the Board of Selectmen and those members of such board or committee who are in attendance, provided that a quorum of the Board of Selectmen is present. The person appointed to fill such vacancy shall be the person who receives a majority of the votes cast at such meeting. The person appointed to fill such vacancy shall hold office until the next regularly scheduled annual town election at which time the vacant position shall be included on the ballot as provided for in Article III, section 3-1.

An elected official who is no longer a resident of the Town shall be deemed to have vacated the office to which he/she was elected. When a doubt exists as to the residency of an elected official, the Board of Registrars of Voters of the Town shall, by a majority vote, decide the issue of residency.

#### Article IV. TOWN MANAGER

##### Section 4-1.Appointment, Qualification, Term of Office.

The Town Manager shall be appointed by the Board of Selectmen for a term not to exceed five years. A committee consisting of seven members, including one member of the school committee (selected by vote of the school committee), one member of the finance committee (selected by vote of the finance committee) and five residents appointed by the Board of Selectmen, shall present to the Board of Selectmen no less than three candidates chosen from the applicants after interviews by the committee.

The Town Manager shall be the chief administrative officer of the town and be responsible to the Board of Selectmen for the administration of all town affairs placed in his/her charge by or under the charter. The Town Manager shall be a person especially fitted by education which shall consist of at least a bachelor's degree from an accredited degree granting college or university, and his/her professional experience shall include at least five years of, full time, compensated service in a managerial capacity in public or business administration. The Town Manager shall not have served in an elected office in the town of Abington government for at least twenty-four months prior to his/her appointment. The Town Manager need not be a resident of the town or of the commonwealth but must be a United States citizen.

The Town Manager shall devote full time to the duties of the office and shall not hold any other elective or appointive town office, nor shall the Town Manager engage in any other business unless such action shall be approved in advance in writing by the Board of Selectmen.

The Town Manager shall execute a bond in favor of the town for the faithful performance of his/her duties in such sum and with such surety as shall be fixed or approved by the board of selectman, who shall not waive the requirement of a performance bond.

##### Section 4-2.Powers.

The Town Manager shall be the chief administrative officer of the town, shall be responsible and accountable to the Board of Selectmen and shall be accountable to said Board, for the efficient and orderly conduct of the departments, offices and functions placed in charge of the Town Manager by this charter or vote of the board of selectmen. The Town Manager's responsibilities shall include, but not be limited to, the proper execution of the powers and duties that follow:

- (a) The Town Manager shall be the personnel director of the town, responsible for the administration of all personnel matters, including personnel by-laws and all personnel policies and regulations that the Board of Selectmen may adopt.
- (b) The Town Manager shall appoint and may remove, subject to the civil services law where applicable, all department heads, all officers and all subordinates and employees of the town, except those appointments for which another method of appointment is provided in the charter and, employees of the school department, and subject to the provisions of Section 7-12 of this charter. Appointments of department heads of elected multiple member bodies shall be made after consultation with the respective multiple member body. In the case of department heads and officers, appointments shall become effective on the fifteenth day following the day notices of the appointment is filed with the Board of Selectmen unless the said Board shall within that period by a two-thirds vote of all its members vote to reject said appointment. Within said fifteen day period the Board of Selectmen may, by a two-thirds vote of all its members vote to waive its power to reject the appointment, whereupon the appointment shall become effective forthwith. All other appointments shall become effective immediately.
- (c) The Town Manager shall exercise general supervision of all town agencies for which the Town Manager is appointing or employing authority.
- (d) All appointments by the Town Manager shall be based upon merit and fitness alone.
- (e) Copies of notices of appointments shall be submitted to the Board of Selectmen and posted on the town bulletin board.

#### Section 4-3. Administrative 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 effective management of all town affairs placed in the manager's charge by this charter, said Board of Selectmen, by bylaw, or vote of the town meeting, and for the implementation of town policies placed in the Town Manager's charge by said Board of Selectmen.

The powers, duties and responsibilities of the Town Manager shall include, but are not intended to be limited to, the following

- a) To supervise, direct and be responsible for the efficient administration of all officers appointed by the Town Manager and their representative departments, and of all functions for

which the Town Manager is given responsibility, authority or control by this charter, by bylaw, by town meeting vote, or by vote of the Board of Selectmen;

b) To administer and enforce either directly or through a person or persons supervised by the Town Manager, in accordance with this charter, all provisions of the laws of the commonwealth or special laws applicable to the town, all bylaws, and all regulations established by the Board of Selectmen;

c) To be responsible for coordination of operational and strategic planning for the town;

d) To attend all meetings of said Board of Selectmen, except when excused, having the right to speak but not vote;

e) To attend all sessions of the town meeting and answer all questions addressed to the Town Manager which are related to the warrant articles and to matters under the general supervision of the Town Manager;

f) To keep said Board of Selectmen fully informed regarding all departmental operations, fiscal affairs, general problems, administrative actions, and the availability of federal and state funds and how such funds might relate to unmet long range needs and to this end shall submit quarterly reports to the Board of Selectmen;

g) To assure the complete and full records of the financial and administrative activity of the town are maintained and to render reports to the Board of Selectmen as may be required, but not less frequently than quarterly, a full report of all town administrative operations during the period reported on, which report shall be made available to the public.

h) To 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:

i) To be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all town facilities, except those under the jurisdiction of the Housing Authority, School Committee, Sewer Commission or Water Commission, unless requested by those agencies;

j) To be responsible for purchasing of all functions and departments, pursuant to chapter 30B of the General Laws, and all other applicable statutes, procedures and bylaws. Said Town Manager shall at the request of the School Committee, delegate such duties for school department purchasing to an employee of the School Committee as per the requirements of said chapter 30B;

k) To administer the town's personnel system, personnel evaluation policies and practices, enforcement of labor contracts, labor relations, collective bargaining and state and federal

equal employment opportunities law compliance function of the town, except for school department agreements, entered into by the town;

l) To fix compensation of all town employees and officers appointed by the Town Manager within limits established by appointment and any applicable compensation plan and collective bargaining agreements, and or Town Meeting; provided further however that any interim revision to same shall require approval of the Board of Selectmen.

m) To have the authority to sign payroll and accounts payable warrants concerning the everyday operations of the Town;

n) To be responsible for the negotiation of all contracts with town employees over wage, and other terms and conditions of employment, except employees of the school department. The Town Manager may, subject to the approval of the Board of Selectmen, employ special counsel to assist in the performance of these duties. Any such contracts shall be subject to approval of the Board of Selectmen.

o) To prepare and submit annual operating budgets and capital improvement programs as provided in Section VI of this charter;

p) To keep the Board of Selectmen and finance committee fully informed as to the financial condition of the town and to make recommendations to the Board of Selectmen as the Town Manager deems necessary;

q) To coordinate the activities of all town agencies serving under the office of Town Manager and the office of the Board of Selectmen with those under the control of other officers and municipal member bodies elected directly by the voters. For the purposes of effecting coordination and cooperation among all agencies of the town, the Town Manager shall have the authority to require persons so elected, or their representatives, to meet with the Town Manager, at reasonable times, to submit such reports of their doings and summaries of action taken as may be deemed to be necessary or desirable to have available for the purposes of such coordination.

r) To investigate or inquire into the affairs of any town department or office;

s) To prosecute, defend or compromise all litigation to which the Town is a party, upon request and with approval of said Board of Selectmen

t) To delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty, or responsibility which the office of Town Manager is authorized to exercise, provided, that all acts that are performed under such delegation shall be deemed to be the acts of the Town Manager;

u)To perform such other duties as necessary as may be assigned by this charter, bylaw, by town meeting vote, or by vote of the Board of Selectmen.

#### Section 4-4.Financial Powers and Duties.

The Town Manager shall be the chief financial officer of the Town, and be responsible for the design and preparation of the annual budget, filing grant applications, and controlling budget expenditures, including approval of the warrant and for the payment of funds prepared by the Town Accountant in accordance with the provisions of section 56 of chapter 41 of the General Laws. Provided, further, however, that the Board of Selectmen shall alone approve all warrants prepared and signed by the town accountant in the event of the absence of the Town Manager or a vacancy in the office of Town Manager.

#### Section 4-5. Temporary Absence.

The Town Manager may designate by letter with the Board of Selectmen and Town Clerk a qualified officer of the town to perform the duties of the Town Manager during a temporary absence or disability. If such temporary absence or disability shall exceed thirty days, any designation made by the Town Manager shall be subject to the approval of the Board of Selectmen. In the event of the failure of the Town Manager to make such designation, or if the person so designated is for any reason unable to serve, the Board of Selectmen may designate some other qualified person to perform the duties of Town Manager until the Town Manager shall return.

The powers of a temporary town manager appointed under this section shall be limited to matters not admitting of delay and shall include authority to make necessary temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

#### Section 4-6. Vacancy in Office/Acting Town Manager.

Any permanent vacancy in the office of Town Manager shall be filled as soon as possible by the Board of Selectmen. The filling of such vacancy shall be done as provided for in Article **IV**, Section 4-1.

Pending such appointment, the Board of Selectmen shall appoint a qualified town administrative officer or employee, or other individual, to perform the duties of the office on an acting basis. Such temporary appointment shall not exceed six months but one renewal may be voted by the board of selectmen not to exceed a second six months. Compensation for such person shall be set by the board of selectmen but shall not exceed the compensation paid to the most recent incumbent of the office of town manager.

The powers of an acting town manager appointed under this section shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments

or designations to town office or employment but not to make permanent appointments or designations unless specifically so authorized by the board of selectmen.

#### Section 4-7. Removal and Suspension.

The board of selectmen by the affirmative votes of at least three members may terminate, remove or suspend the town manager from office; provided, however, that further conditions applicable to termination, removal and suspension may be addressed by the terms of any contract between the board of selectmen and the town manager.

### Article V. ADMINISTRATIVE ORGANIZATION

#### Section 5-1. Police Department Organization.

##### 5-1-1. Organization; Chief of Police

The Police Department shall be organized under the provisions of section 97A of chapter 41 of the General Laws. There shall be a Chief of Police, appointed by the Town Manager, for an indefinite term. The Town Manager, in consultation with the Board of Selectmen, shall determine the qualifications for appointment to the office of Chief of Police. The Chief of Police, once appointed, may only be removed from office for just cause, as defined and after a hearing in accordance with the provisions of Article VII, section 7-13 of this charter.

The Town Manager shall use an assessment process using not less than three police professionals, not employed by the Town of Abington, to evaluate candidates for the position of Chief of Police. The Chief of Police shall be appointed on the basis of qualifications and fitness for service.

The Town Manager may enter into a contract of employment with the Chief of Police in compliance with Section 4-3(n), however, there shall be no defined term of office.

##### 5-1-2 Deputy Chief of Police

The Chief of Police shall appoint the Deputy Chief of Police. The Chief of Police shall determine the qualifications for appointment of the Deputy Chief of Police, provided however, that the Chief of Police shall use an assessment process, using not less than three police professionals, not employed by the Town of Abington, to evaluate candidates for the position of Deputy Chief of Police. The Deputy Chief shall be appointed on the basis of qualifications and fitness for service. The decision of the Chief of Police in the selection of the Deputy Chief of Police shall be final. The Deputy Chief of Police, once appointed, may only be removed from office for just cause and after a hearing in accordance with the provisions of Article VII, section 7-13 of this charter.

##### 5-1-3 Department Personnel and Officers.

The Chief of Police shall appoint all other personnel and officers of the department provided that appointment of all sergeants and patrol officers shall be in accordance with the provisions of chapter 31 of the Massachusetts General Laws.

Section 5-2.Fire Department Organization.

There shall be a Fire Department organized under sections 42, 43 and 44 of chapter 48 of the General Laws. As provided in said chapter 48 there shall be a Fire Chief who shall be appointed by the Town Manager, in accordance with the provisions of chapter 31 of the General Laws and the rules made thereunder.

The Fire Chief shall be responsible for the appointment, management and supervision of personnel, shall be responsible for all operations of the Fire Department, shall serve as the Town's forest fire warden, and shall perform all fire related duties and tasks considered necessary by the Town Manager.

The Fire Chief shall be the appointing authority for all fire department personnel and shall have full authority to appoint, demote, suspend and terminate all employees, including firefighters, captains, superior officers and the Deputy Fire Chief. The officers and firefighters shall be appointed in accordance with the provisions of chapter 31 of the General Laws.

Article VI. 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 of the Commonwealth of Massachusetts.

Section 6-2.Submission of Budget.

The Town Manager shall submit to the Board of Selectmen, 30 days prior to the date a budget is required to be submitted to the Finance Committee as specified by bylaw, a written proposed budget for town government for the ensuing fiscal year, including the budget proposed by the School Committee. The proposed budget shall detail all estimated revenues from all sources, and all expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital during the ensuing year, detailed by agency, department, committee, purpose, and position, together with estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The Town may, by bylaw, establish additional financial reports to be provided by the Town Manager. In addition:

- (a) To assist said Town Manager in preparing the proposed annual budget of revenues and expenditures, all boards, officers and committees of the town, including the School

Committee shall furnish all relevant information in their possession and submit to the Town Manager, in writing and in such form as the Town Manager shall establish, a detailed estimate of the appropriations required and available funds.[Bylaws, Section 67-5]

(b)The Town Manager shall report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the Town, together with an estimate of the tax rate necessary to raise such amount.

(c)Within the time fixed by law the Town Manager, with the advice and consent of the Board of Selectmen, shall submit to the Finance Committee a proposed, balanced, operating budget for the ensuing year with an accompanying budget message and supporting documents. The Town Manager shall provide for a general summary of the proposed budget on the town's website.

#### Section 6-3.Budget Message.

The budget message of the Town Manager shall explain the 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 budget, indicate 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 Manager deems desirable or the Board of Selectmen may reasonably require.

#### Section 6-4.The Budget.

The proposed operating budget shall provide a complete financial plan for all town funds and activities for the ensuing fiscal year. Except as may be otherwise be required by the General Laws of the Commonwealth of Massachusetts, by this charter, or by by-law, it shall be in the form which the Town Manager deems desirable or the Board of Selectmen may require. In the presentation of the budget, the Town Manager shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. 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 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 and position in terms of work programs, and the method of financing such expenditures;
- (b) 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 6-5.Action on the Budget.

The finance committee shall, upon receipt of the budget from the Town Manager, consider in public meetings detailed expenditures for each town department and agency and may require the Town Manager, or any other town agency, to furnish it with such additional information as it may deem necessary to assist the committee in its review and consideration of the proposed budget. The finance committee shall file with the town clerk at least ten days prior to town meeting a report containing its recommendation for action to be taken on each line item in the proposed operating budget as submitted by the Town Manager. Said report shall also be made available to voters of the town, forthwith after filing with the Town Clerk, in the manner provided in the Town Bylaws, and at Town Meeting.[Bylaws, Chapter 152]

#### Section 6-6. Capital Improvement Program.

The Town Manager shall submit a capital improvement program to the Board of Selectmen and the finance committee at least six (6) months before the start of the fiscal year. Said program shall be based on material prepared by the capital improvement committee established by by-law, if any, including:

- (a) A clear, concise general summary of its contents;
- (b) A list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need or each capital improvement;
- (c) Cost estimates, methods of financing and recommended time schedules for each improvement; and
- (d) 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 Manager with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

#### Section 6-7. Audits.

The Board of Selectmen shall annually provide for an independent audit of all financial books and records of the town, or, whenever it deems an audit of the whole town or of any particular town agency, to be necessary.

Audits of the town's financial books and records shall be conducted by a certified public accountant, or firm of such accountants, having no interest, direct or indirect, in the affairs of the town.

### Article VII. GENERAL PROVISIONS

#### Section 7-1. Charter Changes.

This charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth of Massachusetts and General Laws chapter 43B.

#### 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 Provisions Shall 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. References to General Laws.

All references to the General Laws contained in the charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the charter.

#### Section 7-5. Computations of Time.

In computing time under the charter, if seven days or less, "days" shall refer to secular days and shall not include Saturdays, Sundays or legal holidays. If more than seven days, every day shall be computed.

#### 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, and words importing the masculine gender shall include the feminine gender.

#### Section 7-7. 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 and made available for review by any person who requests such information. Such rules and regulations shall not become effective until ten days following the date they are so filed.

#### Section 7-8. Periodic Review, Charter and By-laws.

##### 7-8-1 Charter Review

At least once in every ten years, in each year ending in a four, beginning in the year 2014, a special committee shall be established for the purpose of reviewing this charter and to make a report, with recommendations, to the town meeting concerning any proposed amendments which said committee may determine to be necessary or desirable. The committee shall consist of five members who shall be chosen by the town moderator. The committee shall meet to organize forthwith following the final adjournment of the annual town meeting and shall report to the annual town meeting the following year with any recommendations.

7-8-2 At intervals of not more than five years from the date of adoption of this charter, proposed revisions or recodifications of the by-laws of the town shall be presented to the town meeting for re-enactment. Such revisions or recodifications shall be prepared by a special by-law review committee appointed by the Board of Selectmen for that purpose, which shall conduct its review under the supervision of the town counsel or, if the Board of Selectmen shall so direct, by special counsel appointed for that purpose. Such committee shall be appointed immediately following the adjournment of the annual town meeting in the year preceding the year in which their report is to be filed.

Within eight months following their appointment, the committee shall cause to be published on the town's website (1) a report summarizing their recommendations and noting the times and places within the town where complete copies of their report are available for inspection by the public and (2) the date, time and place not less than two weeks following such publication when a public hearing will be held by the committee on the report.

Subsequent to their enactment by the town meeting, copies of all by-laws shall be forwarded to the Attorney General of the Commonwealth of Massachusetts for review and approval, and they shall be otherwise published all as required by the General Laws of the Commonwealth of Massachusetts. Copies of the revised by-laws shall be made available for public distribution.

In each year between such re-enactments and publications there shall be published an annual supplement which contains all by-laws and amendments to by-laws which have been adopted in the previous year.

Section 7-9. Procedures.

7-9-1 Meetings.

All multiple member bodies of the town, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the town as they may prescribe. 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 suitably written notice delivered to the residence or place of business of each member at least forty eight 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 one week following the date of the filing with the town clerk of a

**Commented [A12]:** Is there real value in continuing to include this language in the Charter? In the first paragraph, the law requires that bylaws b forwarded to the AG and then posted or published. See G.L. c.40, §32. In the second paragraph, like any other document, all the Bylaws are public records, subject to disclosure upon request.

petition signed by at least fifty voters and which states the purpose or purposes for which the meeting is to be called. Except as otherwise authorized by law, all meetings of all multiple member bodies shall be open and public. However, the multiple member body may recess, for the purpose of meeting in executive session in accordance with the General Laws of the Commonwealth of Massachusetts.

#### 7-9-2 Open Meeting Law.

Multiple member bodies shall be subject to applicable provisions of the Open Meeting Law as it may be amended from time to time.

#### 7-9-3 Rules and Journal.

Each multiple member body shall determine its own rules and order of business unless otherwise provided by the charter or by-law, and shall provide for keeping minutes of its proceedings. Such minutes shall be voted on and approved within sixty (60) days following the date of such proceedings. These rules and minutes shall be a public record kept available in a place convenient to the public at all reasonable times, and copies shall be kept available in the town library.

#### 7-9-4 Voting.

Except on procedural matters, all votes of all multiple member bodies shall be taken by voice or roll call vote, the result of which shall be recorded in the minutes; provided, however, that if the vote is unanimous, only that fact need be recorded.

#### 7-9-5 Quorum.

A majority of the members of the multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time. 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.

#### Section 7-10. Committees; Appointing Authority, In General.

Whenever, whether under the provisions of a town meeting vote or by by-law, a multiple member body is established, the primary purpose of which is to perform an administrative or executive function, notwithstanding the provisions of any such vote to the contrary, the members of such committee shall be appointed by the Board of Selectmen. Whenever, whether under the provisions of a town meeting vote or a by-law, a multiple member body is to be established, the primary purpose of which is to perform a legislative function, notwithstanding any provision in such vote to the contrary, the member of such multiple member body shall be appointed by the moderator. Nothing in this section shall be construed to prevent the town meeting, by vote or by by-law, to provide that a multiple member body shall include, as a portion of its membership,

certain persons to serve ex-officio, provided that such authority is not used to defeat the clear purpose of this provision.

Section 7-11. Notice of Vacancies.

Whenever a vacancy occurs in any town office or town employment, or as a member of any multiple member body, except for positions covered under the civil service law of the Commonwealth of Massachusetts, whether by reason of death, resignation, expiration of a fixed term for which a person has been appointed, or otherwise, the Board of Selectmen or other appointing authority shall cause public notice of the vacancy to be posted on the town bulletin board. No permanent appointment to fill such a position shall be effective until at least fourteen days have elapsed following such posting. Any person who desires to be considered for appointment to the position may, within ten days following the date the notice is posted, file with the Board of Selectmen or other appointing authority a statement which sets forth in clear and specific terms the qualifications which he/she holds for the position.

Section 7-12. Appointments and Removals.

Except as otherwise provided in this charter, the Town Manager shall appoint, subject to the provisions of Article IV, section 4-2 of this charter all persons categorized as head of departments. Except as may otherwise be required by the civil service law, appointments made by the Town Manager shall be for periods not to exceed five years. The Town Manager may suspend or remove any person appointed by the Town Manager in accordance with the procedure established in Section 7-13. The decision of the Town Manager in suspending or removing a department head shall be final.

All persons categorized as department heads shall, subject to the consent of the Town Manager, appoint all assistants, subordinates and other employees of the department for which such person is responsible. The department head may suspend or remove any assistant, subordinate or other employee of the department for which such person is responsible in accordance with the procedures established in Section 7-15. The decision of the department head to suspend or remove any assistant, subordinate or other employee shall be subject to review by the Town Manager. A person for whom a department head has determined that suspension or removal is appropriate may seek review of such determination by the Town Manager by filing a petition for review in the office of the Town Manager, in writing, within ten days following receipt of notice of such determination. The review by the Town Manager shall follow the procedures established in Section 7-13. The decision of the Town Manager shall be final.

Section 7-13. Removals and Suspensions.

Any appointed town officer, 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, after notice and the opportunity for a hearing, removed from office, without compensation, by the appointing authority for good cause. The term "good cause" shall include, but not be limited to incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed officer, 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, other than the Town Manager as provided in Section 4-7, no suspension shall be for more than fifteen days. Suspension may be coterminous with removal.

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

#### Section 7-14. Loss of office, excessive absence.

If any person appointed as a member of a multiple member body shall fail to attend four or more consecutive meetings, or one-half of all of the meetings of such committee held in one calendar year, the remaining members of the multiple member committee may, by a majority vote of the remaining members of such committee, notify the appointing authority for said position for such action as such appointing authority deems appropriate. Prior to taking such vote, the multiple member body shall, not less than ten days prior to the date said vote is scheduled to be taken, mail notice of such proposed or pending vote to the last known address of such person.

### Article VIII. 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 the amendments to the Town Charter approved at the \_\_\_\_\_ Town Meeting take effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

#### Section 8-2. Continuation of Government.

Following the effective date of the amendments to the Town Charter approved at the \_\_\_\_\_ Town Meeting, 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 their duties have been transferred.

#### Section 8-3. Continuation of Personnel.

**Commented [A13]:** The determination as to whether to revise these sections 8-1, 8-2, 8-3, 8-5 through ultimately depends on the method the Town seeks to utilize to amend the Charter. The text of Section 8-4 and 8-6 should be deleted regardless.

Any person holding a town office or employment under the town as of the effective date of the amendments to the Town Charter approved at the \_\_\_\_\_ Town Meeting shall retain such office or employment and shall continue to perform his/her duties until provision shall have been made in accordance with the charter for the performance of the said duties by another person or agency; provided, however, that no person in the permanent fulltime service or employment of the town shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical to do so.

Section 8-4. Time of Taking Effect, Continuing Obligations, and Transfer of Records and Property.

The amendments to this Charter approved at the \_\_\_\_\_ Town Meeting shall take effect immediately upon approval by the voters of the Town at the \_\_\_\_\_ Town Election.

Upon the effective date of the amendments, the elected Park and Recreation Commission and Trustees of War Memorials shall be abolished. At that time, they shall, by operation of law, become appointed multiple member bodies of the town and the terms of the elected incumbents shall terminate. Any elected incumbent serving on the Park and Recreation Commission and Trustees of War Memorials as of the effective date of the amendments shall serve as the first appointee to such multiple member bodies for such period of time equivalent to the remainder of their respective elected term, or sooner resignation, retirement or removal. As vacancies arise on said multiple member bodies, they shall be filled in accordance with the applicable provisions of this charter as revised, including Sections 3-2, 7-10 and 7-11.

All records, property and equipment whatsoever of the elected Park and Recreation Commission and Trustees of War Memorials shall be transferred forthwith by operation of law to the appointed Commission and Trustees, to which such powers and duties are assigned, respectively, and any contracts or other obligations of said commission and trustees shall be unaffected by the change in the manner of selection of such public bodies.

No contracts or liabilities in force on the effective date of the amendments shall be affected by abolition of the elected offices and creation of the appointed offices, and the newly created appointed offices shall in all respects be the lawful successor of the elected offices so abolished. All records, property and equipment whatsoever of the elected offices to be abolished hereunder shall be assigned by law to the newly created appointed offices.

**Commented [A14]:** Again, we will need to revisit the process for revising the Charter, i.e., under the statutory method (wherein the revisions would appear on the ballot at the 2016 Annual Town Election), or by special act, which means that the effective date is less certain.

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