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CHARTER

Town of Stow

Adopted May 13, 1991



**TOWN OF STOW
STOW, MASSACHUSETTS**

INDEX TO CHARTER

ARTICLE I	INCORPORATION; FORM OF GOVERNMENT; POWERS	3
	1-1 Incorporation	
	1-2 Form of Government	
	1-3 Powers of the Town	
	1-4 Division of Powers	
	1-5 Construction	
	1-6 Intergovernmental Relations	
	1-7 Precedence of Charter Provisions	
	1-8 Viability of Charter Provisions	
 ARTICLE II	 LEGISLATIVE BRANCH	 4
	2-1 Town Meeting	
	2-2 Presiding Officer	
	2-3 Quorum	
	2-4 Committees	
	2-5 Special Meetings	
	2-6 Warrants	
	2-7 Initiation of Warrant Articles	
	2-8 Availability of Town Officials at Town Meetings	
	2-9 Clerk of the Meeting	
	2-10 Rules of Procedure	
	2-11 Town Elections	
 ARTICLE III	 ELECTED OFFICIALS	 7
	3-1 General Provisions	
	3-2 Board of Selectmen	
	3-3 School Committee	
	3-4 Board of Library Trustees	
	3-5 Town Moderator	
	3-6 Planning Board	
	3-7 Board of Health	
	3-8 Board of Assessors	
	3-9 Stow Housing Authority	

ARTICLE IV	TOWN ADMINISTRATOR	13
	4-1 Appointment; Qualification; Term	
	4-2 Powers and Duties	
	4-3 Delegation of Authority	
	4-4 Acting Town Administrator	
	4-5 Removal and Suspension	
	4-6 Selecting a Town Administrator	
ARTICLE V	ADMINISTRATIVE ORGANIZATION	17
	5-1 Organization of Town Agencies	
	5-2 Publication of Administrative Code and Personnel Plan	
	5-3 Merit Principle	
	5-4 Removals and Suspensions	
	5-5 Town Administrative Organization	
ARTICLE VI	FINANCE AND FISCAL PROCEDURES	20
	6-1 Fiscal Year	
	6-2 Submission of Budget and Budget Message	
	6-3 Budget Message	
	6-4 The Budget	
	6-5 Action on the Budget	
	6-6 School Committee Budget	
	6-7 Capital Outlay Program	
	6-8 Approval of Warrants	
ARTICLE VII	GENERAL PROVISIONS	23
	7-1 Charter Changes	
	7-2 Severability	
	7-3 Specific Provisions to Prevail	
	7-4 Number and Gender	
	7-5 Definitions	
	7-6 Rules and Regulations	
	7-7 Periodic Review of Charter and Bylaws	
	7-8 Procedures Governing Multiple Member Bodies	
	7-9 Notice of Vacancies	
	7-10 Loss of Office, Excessive Absence	

CHARTER

TOWN OF STOW STOW, MASSACHUSETTS

Adopted May 13, 1991

Effective January 1, 1992

Amended June 11, 1996, Approved May 27, 1997

Amended May 17, 2005, Approved May 9, 2006

ARTICLE I INCORPORATION; FORM OF GOVERNMENT; POWERS

Section 1-1: Incorporation

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

Section 1-2: Form of Government

The town of Stow shall have an open town meeting - board of selectmen - town administrator form of government and this charter shall be known and may be cited as the Stow Home Rule Charter.

Section 1-3: Powers of the Town

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

Section 1-4: Division of Powers

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a board of selectmen; except that, as provided in the General Laws of the Commonwealth, the making of rules and regulations for the administration and management of the public schools shall be vested in the school committee(s). The legislative powers of the town shall be vested in a town meeting and ballot process open to all voters.

Section 1-5: Construction

The powers of the town under this charter are to be construed liberally in favor of the town. The specific mention of any particular power is not intended to limit in any way the general powers of the town as described in Section 1-3.

Section 1-6: Intergovernmental Relations

The town may enter into lawful agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

Section 1-7: Precedence of Charter Provisions

To the extent any bylaw, vote, rule or regulation of or pertaining to the town is in force and contravenes or otherwise conflicts with any provision of this charter, then the charter provision shall take precedence over said bylaw, vote, rule or regulation, excepting such vote as is expressly intended to amend this charter in accordance with Section 7-1 hereof.

Section 1-8: Viability of Charter Provisions

The provisions of this charter shall not be waived by the board of selectmen or any other town agency or person.

**ARTICLE II
LEGISLATIVE BRANCH**

Section 2-1: Town Meeting

The legislative powers of the town shall be exercised by a town meeting open to all voters. An annual town meeting shall include an annual election of town officers and shall be held in accordance with the general bylaws.

Section 2-2: Presiding Officer

The town moderator shall preside at all sessions of the town meeting. At the first session of the annual meeting, the moderator may appoint a voter to serve as deputy moderator to assist the moderator. The appointment of a deputy moderator shall be subject to ratification by the town meeting.

In the absence of the moderator and the duly ratified deputy at any session of the town meeting, the town clerk shall open the meeting and preside over the election of a temporary moderator. In the absence of a moderator and the town clerk, the presiding officer of the first session of the town meeting shall be determined in accordance with the General Laws.

Section 2-3: Quorum

The quorum of voters required to conduct business at any town meeting shall be determined by bylaw.

Section 2-4: Committees

- (a) General - Subject to the provisions of this charter and such bylaws 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. In addition to such specific powers, duties and responsibilities as may be provided to a town meeting committee by the bylaw or vote establishing it, each such committee when acting within the scope of its authority shall have a right to examine the pertinent records of any town agency and to consult with, at reasonable times, any town officer, employee or agent.
- (b) Finance Committee - 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 conditions of appointment or service as may be deemed necessary or desirable shall be established by bylaw. The subject matter of all proposals to be submitted to a town meeting by warrant article shall be referred to the Finance Committee by the board of selectmen at the earliest practicable time. The Finance Committee shall report its recommendations on the fiscal aspects, if any, of each article contained in a town meeting warrant together with a brief statement of the reasons for each such recommendation. Before preparing its recommendations the Finance Committee shall hold one or more public hearings to permit public discussion of the subject matter of all articles contained in the warrant.

Section 2-5: Special Meetings

- (a) Special town meetings may be called by the Selectmen at such times as they deem necessary or desirable in order to transact the business of the Town in an orderly manner.
- (b) Special town meetings may also be held on the petition of two hundred or more voters in the manner provided by the General Laws.

Section 2-6: Warrants

Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the time and place(s) at which the meeting is to convene and, by separate articles, the subject matter to be acted upon. The posting of the warrant for every town meeting shall be in accordance with a bylaw and the General Laws governing such matters.

Section 2-7: Initiation of Warrant Articles

- (a) Initiation - The board of selectmen shall receive at any time all petitions addressed to it which request the submission of any matter to the town meeting or ballot process by the voters, including petitions submitted in accordance with Section 21C of Chapter 59 of the General Laws, and which are filed by: (1) any town agency acting by a majority of its members, (2) any ten or more voters for an annual town meeting, (3) any one hundred or more voters for a special town meeting, and (4) any two hundred or more voters for a special election article, except in all cases when any other number is required by the General Laws.

- (b) Referral - Forthwith following receipt of any proposed warrant article or ballot question, the board of selectmen shall cause a copy of the proposal to be submitted to the chairperson of the Finance Committee, a copy to be posted on the town bulletin board, and shall cause such other distribution to be made of each such proposal as may be required by bylaw.
- (c) Inclusion on Warrant - The board of selectmen shall include in the warrant for an annual town meeting the subject matter of all petitions, found and certified by the registrars of voters to be sufficient, which have been received by it ninety or more days prior to the date fixed by bylaw for the town meeting to convene.

Whenever a special town meeting is to be called, the board of selectmen shall give notice by publication in the traditional manner of such intention and shall include in the warrant for such special town meeting the subject matter of all petitions, found and certified by the registrars of voters to be sufficient, which are received at its office on or before five o'clock in the afternoon of the fifth business day following such publication, or thirty or more days prior to the date announced for the special town meeting, whichever is later.

Section 2-8: Availability of Town Officials at Town Meetings

Every town agency shall designate one or more persons to attend all sessions of any town meeting for the purpose of providing the town meeting with information pertinent to matters appearing on the warrant.

If any person designated to attend the town meeting under this section is not a voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section after properly informing the meeting that such person is not a voter.

Section 2-9: Clerk of the Meeting

The town clerk shall serve as clerk of the town meeting, give notice of all adjourned sessions thereof, record its proceedings, and perform such additional duties in connection therewith as may be provided by general law, by this charter, by bylaw, or by other town meeting vote. In the absence of the town clerk, the assistant town clerk shall perform all of the duties of the town clerk at any town meeting.

Section 2-10: Rules of Procedure

The town meeting may, by bylaw, establish and from time to time amend, revise, or repeal rules to govern the conduct of all town meetings.

Section 2-11: Town Elections

- (a) The regular town election of town officers shall be held annually on the date fixed by bylaw. The election shall be taken on official ballots without party or political designation.
- (b) All other matters to be decided by ballot should also, when possible, be submitted to the regular town election. However, at the discretion of the board of selectmen or, if initiated by a petition of two hundred voters, ballot questions may be submitted to a special town election.

ARTICLE III ELECTED OFFICIALS

Section 3-1: General Provisions

- (a) Elected Offices - The town offices to be filled by ballot shall be a board of selectmen, school committee(s) in accordance with Section 3-3, a town moderator, a board of health, a planning board, a board of assessors, a board of library trustees, members of the housing authority, and such members of regional authorities or districts as may be established by statute, regional agreement or otherwise, except the representative to the regional vocational school who shall be appointed by the moderator.
- (b) Eligibility - Any voter shall be eligible to hold any elective office; but no elected town official shall simultaneously hold any other elected town office.
- (c) Commencement of Term - If the election is held after the dissolution of the annual town meeting, the terms of office of those elected shall commence and the terms of those replaced shall expire the day following the election. If the election is held prior to the dissolution of the annual town meeting, said terms shall commence or expire the day following the dissolution of the annual town meeting.
- (d) Compensation - Elected town officers shall receive such compensation for their services as may be appropriated for such purpose.
- (e) 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, or the town administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.
- (f) Filling of Vacancies
 - (1) Town Officer - If there is a failure to elect or if a vacancy occurs in the position of any town officer, the board of selectmen shall, in writing, appoint some suitable person to serve until the next town election.
 - (2) Multiple Member Body - If there is a failure to elect or if a vacancy occurs in the membership of any elected multiple member body other than the board of selectmen, unless the provisions of a will or a trust provide for a different method, the remaining members of the multiple member body shall give a written notice to the board of selectmen of such vacancy and inform the public in the same manner as required for appointed town officers by the provisions of Section 7-9. The board of selectmen, with the remaining members of such multiple member body shall, by a joint vote after one week's notice of the date on which the vote is to be taken, fill such vacancy until the next town election. The votes of a majority of the persons entitled to vote shall be necessary for such election.

- (3) Board of Selectmen - If there is a failure to elect or if a vacancy occurs in the membership of the board of selectmen, the remaining members of the board of selectmen may or, if there remains more than six months until the next scheduled date for any election, shall call a special election to fill such vacancy and, in any case, shall call such special election upon the written request of two hundred or more voters.

(g) Recall of Elected Officers

- (1) Who Can Be Recalled - Any holder of an elective office, as defined in Section 3-1(a), who has served at least six months of, and has at least six months remaining of, the term for which elected, may be recalled therefrom by the voters as herein provided.
- (2) Recall Petition - Any two hundred or more voters may file with the town clerk an affidavit containing the name of the officer sought to be recalled, the position held, and a statement of the grounds for recall. If the affidavit shall be found and certified by the registrars of voters to be sufficient, the town clerk shall within two business days deliver to the first ten voters named on such affidavit, copies of petition blanks demanding such recall. The petition blanks when issued shall be signed by the town clerk and shall have the official town seal attached thereto and may be completed by hand or by typewriting. The petition blanks shall be dated, addressed to the board of selectmen and contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within thirty days after the delivery of the petition blanks to the petitioners and shall have been signed by at least fifteen percent of the voters who shall add to their signatures the street and number, if any, of their residences.

The town clerk shall, prior to 5:00 p.m. the next business day following the receipt of an affidavit or petition under this section, submit the affidavit or petition to the registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are names of voters.

- (3) Selectmen's Action Upon Receiving Petition - If the petition shall be found and certified by the registrars of voters to be sufficient, the town clerk shall submit the same with a certificate so stating to the board of selectmen without delay. The selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by the board of selectmen not less than thirty-five days nor more than sixty days after the date of the town clerk's certificate that a sufficient petition has been filed. However, if any other town election is to occur within ninety days after the date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

- (4) Nomination of Candidates - An officer whose recall is sought may not be a candidate to succeed to the office in the event the vote on the recall is in the affirmative. The nomination of 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 law relating to elections, unless otherwise provided in this section.
- (5) Incumbent Holds Office Until Election - The incumbent shall continue to perform the duties of the office until the recall election. If not recalled, the incumbent shall continue in office for the remainder of the unexpired term. If recalled, such person shall be deemed removed upon the qualification of the successor, who shall hold office for the remainder of the unexpired term. If the successor fails to qualify within five days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.
- (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)
Against the recall of (name of officer)

Immediately to the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of the 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 hereinbefore provided. The proposition for the recall shall fail unless greater than twenty-five percent of the voters cast ballots at the election. If at least two-thirds 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. If less than two-thirds of the votes cast is in the affirmative, the ballots for candidates need not be counted.

- (7) Repeat of Recall Petition - No recall petition shall be filed against an officer subjected to a recall election and not recalled thereby during the remainder of such officer's then current term of office.
- (8) Appointment of Person Recalled - No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any town office within two years after such recall or such resignation.

Section 3-2: Board of Selectmen

- (a) Composition, Term of Office - There shall be a board of selectmen consisting of five members elected for terms of three years each, so arranged that the term of office of no more than two members shall expire each year.

- (b) Powers and Duties - The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive officer 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:

- (1) the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it;
- (2) in conjunction with other elected town officers and multiple member bodies, the development and promulgation of policy guidelines designed to bring all town agencies into harmony; and
- (3) the maintenance and revision of any master plan developed in accordance with Section 7-7(c).

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.

- (c) Licensing Authority - The board of selectmen shall be the licensing board for the town and shall have the power to issue licenses as otherwise authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and to impose restrictions on any such license as it may issue as it deems to be in the public interest, and to enforce all laws relating to all businesses for which it issues any licenses.
- (d) Appointment - The board of selectmen shall appoint such members of multiple member bodies who are not elected and individuals who are to serve as representatives or delegates of the town to the governing or advisory boards of regional or district authorities, except where otherwise governed by contract, agreement, bylaw, or this charter.
- (e) Investigations - The board of selectmen may make investigations and may authorize the town administrator to investigate the affairs of the town and the conduct of any town agency including any claims against the town. The report of the results of such investigation and any actions resulting therefrom shall be placed on file in the office of the town clerk separate from the minutes of the meetings of the board of selectmen. A report summarizing the results of such investigation shall be printed in the next annual town report.

Section 3-3: School Committee

There shall be schools governed by local or regional school committees as determined by town meeting vote.

- (a) Local school committee - The local school committee shall have all of the powers and duties that school committees may have under the constitution and general laws of the commonwealth, and it shall have such additional powers and duties as may be authorized by this charter, by bylaw, or other town meeting vote. The powers of the school committee shall include, but are not intended to be limited to, the following:
 - (1) To appoint a superintendent of the schools and all other officers and employees connected with the schools, to fix their compensation, to define their duties, to make rules concerning their tenure of office, and to discharge them;
 - (2) To make all reasonable rules and regulations consistent with law for the administration and management of the public schools and for the conduct of its own business and affairs; and
 - (3) To work with the town administrator and other town agencies to further the interests of the town, its citizens, and its children.
- (b) Regional school committee - The powers and duties conferred upon the school committee by this charter may be transferred to a regional school committee in accordance with the procedures contained in the general laws.

Section 3-4: Board of Library Trustees

- (a) Composition, Term of Office - There shall be a board of library trustees consisting of seven members elected for terms of three years each, so arranged that the term of office of no more than three members shall expire each year.
- (b) Powers and Duties - The board of library trustees shall have the custody and management of the library and of all property of the town related thereto. All money raised or appropriated by the town for the support and maintenance of the library shall be expended by the board, and all money or property that the town may receive by gift or bequest for the library shall be administered by the board in accordance with the provisions of such gift or bequest. The board of library trustees shall have all of the powers and duties given to boards of library trustees under the constitution and general laws of the commonwealth, and such additional powers and duties as may be authorized by this charter, by bylaw, or by other town meeting vote.

Section 3-5: Town Moderator

- (a) Term of Office - There shall be a town moderator elected for a term of three years.
- (b) Powers and Duties - The town moderator shall be the presiding officer of the town meeting, shall regulate its proceedings, decide all questions of order and shall have such other powers and duties as may be provided for that office by the General Laws, by this charter, by bylaw, or by other town meeting vote. Rulings of the moderator regarding procedure and other matters of conduct of town meeting shall be final.

Section 3-6: Planning Board

- (a) Composition, Term of Office - There shall be a planning board consisting of five members elected for terms of five years each, so arranged that the term of office of one member shall expire each year.
- (b) Powers and Duties - The planning board shall make careful studies of the resources, possibilities, and needs of the town and shall make plans for the development of the town consistent with any master plan developed in accordance with Section 7-7(c). The board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations. The planning board shall make recommendations to the town meeting on all proposed warrant articles which affect land use and development, including, but not limited to, proposals to amend the zoning bylaw and zoning map. The planning board shall make an annual report, giving information regarding the condition of the town, any plans or proposals for its development (including estimates of their costs), and indicating adherence to or deviations from any master plan. The planning board shall have all of the other powers and duties which are given to planning boards by General Law, by this charter, by bylaw, or by other town meeting vote.

Section 3-7: Board of Health

- (a) Composition, Term of Office - There shall be a board of health consisting of three members elected for terms of three years each, so arranged that the term of one member shall expire each year.
- (b) Powers and Duties - The board of health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health. It shall have all of the powers and duties given to boards of health under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by this charter, by bylaw, or by other town meeting vote.

Section 3-8: Board of Assessors

- (a) Composition, Term of Office - There shall be a board of assessors consisting of three members elected for terms of three years each, so arranged that the term of one member shall expire each year.
- (b) Powers and Duties - The board of assessors shall periodically make a fair cash valuation of all the estates, real and personal, subject to taxation within the town. It shall determine, based on such valuations and such sums as may be authorized to be expended by town meeting and the consideration of other income and expenses of the town, the rates of taxation to apply against taxable estates in the town. It shall have all of the powers and duties given to boards of assessors under the constitution and General Laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw, or by other town meeting vote.

Section 3-9: Stow Housing Authority

- (a) Composition, Term of Office - There shall be a housing authority consisting of five members, four of which shall be elected by the voters and one shall be appointed in the manner provided by general law. All of the members shall serve for five year terms, so arranged that the term of office of one member shall expire each year.
- (b) Powers and Duties - The housing authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income. The housing authority shall have such other powers and duties as are given to housing authorities by General Law.

**ARTICLE IV
TOWN ADMINISTRATOR**

Section 4-1: Appointment; Qualification; Term

The board of selectmen shall appoint a town administrator from a list prepared by the screening committee established by Section 4-6 of this charter. The board of selectmen shall appoint the town administrator to serve for an indefinite term and shall fix the compensation for such person, annually, within the amount appropriated by the town. The town administrator shall be appointed on the basis of demonstrated executive and administrative qualifications and especially fitted by education, training and previous experience to perform the duties of the office. A town administrator need not be a resident of the town or of the Commonwealth at the time of appointment, nor at any time during the period of such service. The town administrator shall not have served in an elective office in the town for at least twelve months prior to appointment. The town may from time to time establish, by bylaw, such additional qualifications as seem necessary and appropriate.

The town administrator shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during such service, unless such activity is approved in advance and in writing by the board of selectmen.

The board of selectmen shall, not less frequently than annually, review the job performance of the town administrator and establish objectives for ensuing periods. Copies of the review and objectives shall, at least in summary form, be a public record.

Section 4-2: Powers and Duties

The town administrator shall be the chief administrative officer of the town, directly responsible to the board of selectmen. The powers and duties of the town administrator 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 functions and activities for which the office of town administrator is given authority, responsibility, or control by this charter, by bylaw, by town meeting vote, or by vote of the board of selectmen.
- (b) To recommend for appointment or removal by the board of selectmen all department heads, officers, members of boards and commissions, and employees for which the board of selectmen is the appointing authority.
- (c) Where such power has been specifically granted by the board of selectmen, to appoint and, in appropriate circumstances, to remove, subject to the provisions of the civil service law and of any collective bargaining agreements as may be applicable, department heads, officers, members of boards and commissions, and employees. Such appointments or removals shall become effective on the fifteenth day following the day on which notice of the appointment or removal is filed with the board of selectmen, unless the board of selectmen shall within that period by a majority of all of its members vote to reject such appointment or removal or has sooner voted to affirm it. Copies of the notices of all such appointments or removals shall be posted on the town bulletin board when filed with the board of selectmen.
- (d) To be entrusted with the administration of the town personnel system in accordance with the town personnel bylaw, including, but not limited to, personnel policies and practices, rules, regulations, annual employee performance reviews and objectives, and collective bargaining agreements. The town administrator shall also prepare and keep current a plan establishing the personnel staffing requirements for each town agency, except the school department.
- (e) To attend all regular and special meetings of the board of selectmen, unless unavailable for reasonable cause, and to have a voice, but no vote, in all of its proceedings.
- (f) To assure that comprehensive and accurate records of the financial and administrative activities of the town are maintained; to render as often as may be required by the board of selectmen, but not less than once in each year, a report of all town administrative operations during the period reported, which shall be made available to the public.
- (g) To keep the board of selectmen fully advised as to the needs of the town and to recommend for adoption to the board of selectmen and to other town officers and agencies such measures requiring action by them or by the town meeting as the town administrator may deem necessary or expedient.
- (h) To recommend to the board of selectmen proposals for the rental and use of all town facilities and property except school property and property under the control of the conservation commission. The town administrator shall be responsible for the maintenance and repair of all town buildings and facilities placed under the town administrator's control by the board of selectmen, including school property if so voted by the local school committee.
- (i) To be the chief fiscal officer of the town; to prepare and present to the board of selectmen and to any town meeting an annual operating budget and a proposed capital outlay program for the town; to approve warrants, all in the manner provided in Article VI.

- (j) 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 local school committee.
- (k) To participate in the negotiation of all contracts involving any subject within the jurisdiction of the office of town administrator, including contracts with town employees, except employees of the school department, involving wages, hours and other terms and conditions of employment.
- (l) To coordinate the interests of the town with the school department in the negotiation of contracts with school department employees.
- (m) To be the chief procurement officer as that term is defined in Chapter 30B of the General Laws. The town administrator may delegate, in whole or in part, the powers and duties of the chief procurement officer in accordance with the provisions of Chapter 30B and with the prior written approval of the board of selectmen. Unless the responsibility has been otherwise so delegated, the town administrator shall be responsible for purchasing all supplies, material and equipment for all departments and activities of the town; shall examine, or cause to be examined, the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency; and shall be responsible for the disposal of all supplies, material and equipment which have been declared surplus by any town agency.
- (n) To advise the board of selectmen whenever provisions of the General Laws, this charter, town bylaws, and other votes of the town meeting, and votes of the board of selectmen are not being faithfully executed, performed or otherwise carried out.
- (o) To inquire, at any time, into the conduct of office or performance of duties of any officer or employee, department, board, commission or other town agency.
- (p) To attend all sessions of all annual and special town meetings and answer all questions raised by voters which relate to warrant articles and to matters over which the town administrator exercises any supervision.
- (q) To recommend to the board of selectmen the reorganization, consolidation or abolishment of town agencies serving under the supervision of the town administrator, in whole or in part, and provisions for new town agencies and for reassignment of powers, duties, and responsibilities among such agencies so established or existing, in the manner provided in Article V.
- (r) To coordinate the activities of all town agencies serving under the office of town administrator and the office of board of selectmen with those under the control of other officers and multiple member bodies elected directly by the voters. For this purpose, the town administrator shall have authority to require the persons so elected, or their representatives, to meet with the town administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the town.

- (s) To coordinate the efforts of all town agencies in adhering to the intent of, and effectuating the implementation of, any master plan developed in accordance with the provisions of Section 81D of Chapter 41 of the General Laws and Section 7-7(c) of this charter and to recommend to the board of selectmen modifications and improvements to any such master plan.
- (t) To aid all persons in their day-to-day contacts and dealings with the town, its officers and agencies.
- (u) To perform any other duties as are required to be performed by the town administrator by bylaw, administrative code, vote of the town meeting, or vote of the board of selectmen.

Section 4-3: Delegation of Authority

The town administrator may authorize any subordinate officer or employee to exercise any power or perform any function or duty which is assigned to the office of town administrator, provided however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the town administrator.

Section 4-4: Acting Town Administrator

- (a) Temporary Absence - By letter filed with the board of selectmen, the town administrator may designate a qualified town administrative officer or employee to exercise the powers and perform the duties of the town administrator during a temporary absence. During a temporary absence the board of selectmen may revoke such designation whereupon it may appoint another qualified town administrative officer or employee to serve until the town administrator returns.
- (b) Vacancy - Any vacancy in the office of town administrator caused by absences greater than thirty days, suspension, removal, resignation, or death shall be filled as soon as possible by the board of selectmen in accordance with the procedures of Section 4-6 of this charter, but, pending such regular appointment, the board of selectmen shall appoint a town employee or other person to perform the duties of the office on an acting basis. Any temporary appointment shall be for a period not exceeding ninety days and may be renewed for an additional period not exceeding ninety days. Compensation for such person shall be set by the board of selectmen.
- (c) Powers and Duties - The powers of the temporary or acting town administrator, under (a) and (b) above, shall be limited to matters not admitting of delay.

Section 4-5: Removal and Suspension

The board of selectmen may, by a majority vote of the full board, terminate and remove, or suspend, the town administrator from office in accordance with the following procedure:

- (a) The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all its members which must state the reason or reasons for removal. This preliminary resolution may suspend the town administrator for a period not to exceed forty-five days. A copy of the resolution shall be delivered forthwith to the town administrator by hand or by mail to the last known address.

- (b) Within five days after the delivery by hand or date of mailing of the preliminary resolution, the town administrator may request a public hearing by filing a written request for such a hearing with the board of selectmen. At this hearing, which shall be held at a meeting of the board of selectmen not earlier than twenty days nor later than thirty days after the request is filed, the town administrator may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing. The town administrator may, in addition, file a written statement responding to the reasons stated in the resolution of removal with the board of selectmen provided the statement is received at the office of the board of selectmen more than forty-eight hours in advance of the public hearing.
- (c) The board of selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members not less than ten nor more than twenty-one days following the date of delivery by hand or date of mailing of a copy of the preliminary resolution to the town administrator if the town administrator has not requested a public hearing, or, within ten days following the close of the public hearing if the town administrator has so requested. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the administrator shall, at the expiration of said time, forthwith resume the duties of the office.

The town administrator shall continue to receive salary and benefits until the effective date of removal.

The action of the board of selectmen in suspending or removing the town administrator 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 4-6: Selecting a Town Administrator

Immediately upon notification of a vacancy or pending vacancy in the office of Town Administrator, the process of establishing a screening committee for the purpose of soliciting, receiving, and evaluating applications for the position of town administrator shall commence.

The screening committee shall consist of five voters, two of whom shall be appointed by the board of selectmen and three by the town moderator. Such voters, at the time of appointment, shall not be serving in any elective office or as a member of any multiple member board.

Not more than thirty days following the notification of a vacancy or pending vacancy in the office of town administrator the appointed members of the committee shall meet to initiate the process of selecting the new town administrator.

The screening committee shall review all applications received by it, screen all qualified applicants by checking and verifying work records and other credentials, and provide for interviews to be conducted with such number of candidates as it deems to be necessary.

As soon as it feasible, the committee shall submit to the board of selectmen the names of not less than three nor more than five persons whom it believes to be available and suited to perform the duties of the office of town administrator.

The board of selectmen, in an expedient manner, shall choose by majority vote one of the said nominees to serve as town administrator.

The entire selection process, beginning with the announcement of a vacancy or pending vacancy in the office of the town administrator, shall be completed within a period of 180 days in agreement with the provisions of Section 4-4(b) of this charter.

Upon the appointment of a town administrator, the screening committee established hereunder shall be considered discharged.

ARTICLE V ADMINISTRATIVE ORGANIZATION

Section 5-1: Organization of Town Agencies

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

- (a) ByLaws - Subject only to express prohibitions in the General Laws or the provisions of this charter, the town meeting may by bylaw reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part, establish such new town agencies as deemed necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such entities, provided, however, that no function assigned by this charter to a particular town agency may be discontinued, or unless this charter specifically so provides, assigned to any other.
- (b) Administrative Code - Subject only to express prohibitions in the General Laws or this charter, the town administrator, after consultation with the board of selectmen, may from time to time prepare and submit to the town meeting a plan of organization or reorganization to consolidate, abolish, or reorganize any town agency, in whole or in part, establish such new town agencies as is deemed necessary to the same extent as is provided in Section 5-1(a) for bylaws, and for such purpose transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one town agency to another, provided, however, that no function assigned by this charter to a particular town agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

Whenever the town administrator prepares such a plan, the board of selectmen shall hold one or more public hearings on the proposal giving notice by publication in a newspaper of general circulation in the town, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held not less than seven nor more than fourteen days following said publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the town meeting by an appropriate warrant article.

THIS DOCUMENT IS FOR REFERENCE ONLY. THE TOWN CLERK MAINTAINS THE OFFICIAL RECORD.

An organization or reorganization plan shall become effective at the expiration of sixty days following the date of the town meeting at which the proposal is approved by a majority vote. The town meeting may vote only to approve or disapprove the plan and may not vote to amend or alter the plan in any substantive manner.

Section 5-2: Publication of Administrative Code and Personnel Plan

For the convenience of the public, the administrative code and any amendments thereto shall be printed as an appendix to, but not an integral part of the bylaws of the town. The personnel and staffing plan as prepared by the town administrator, in conformity with Section 4-2 (d), shall be published annually in the town report.

Section 5-3: Merit Principle

All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.

Section 5-4: Removals and Suspensions

Any appointed 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 indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term "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 the appointing authority to be necessary to protect the interests of the town. However, no suspension shall be for more than fifteen days. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

The appointing authority when removing any such officer, member of a multiple member body or employee of the town shall act in accordance with the following procedure:

- (a) A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered by hand or by mail to the last known address of the person sought to be removed;
- (b) Within five days after the delivery by hand or date of mailing of such notice, the officer, member of a multiple member body or employee of the town may request a public hearing from the appointing authority at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing;
- (c) Between one and ten days after the public hearing is adjourned, or if the officer, member of multiple member body or employee of the town fails to request a public hearing, between six and fifteen days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the

town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time period as stated in this section shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee of the town shall, forthwith, be reinstated.

Such officer, member of a multiple member body or employee of the town shall continue to receive salary and benefits until the effective date of 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 term expires.

Section 5-5: Town Administrative Organization

Until such time as a different form of organization shall be provided, in accordance with the provisions of Section 5-1 of this charter, the following outline of organization shall be operative:

- (a) The board of selectmen shall appoint:
- a town administrator to serve for an indefinite term;
 - an administrative assistant to the board of selectmen and town administrator whose duties shall be determined by said board;
 - a conservation commission;
 - an open space committee;
 - a board of registrars of voters in the manner provided by general law;
 - a zoning board of appeals;
 - a council on aging, as provided by bylaw;
 - a development and industrial commission, as provided by bylaw;
 - an industrial development finance commission in the manner provided by general law;
 - a cable television advisory committee;
 - a public, education and government committee;
 - a cultural council as provided by general law;
 - a board of cemetery trustees;
 - constables;
 - an emergency management officer and related personnel;
 - an historical commission;
 - a superintendent of streets and employees of said department;
 - a police chief and other police officers;
 - a fire chief and other fire fighting personnel or a board of fire engineers;
 - a forest fire warden;
 - a town collector and treasurer;
 - a town accountant;
 - an inspector of buildings;
 - a zoning enforcement officer;
 - a wire inspector, a plumbing inspector and a gas inspector;
 - a sealer of weights and measures;
 - a recreation commission;
 - at least two members of the Lake Boon Commission;
 - town counsel;

the Randall Relief Fund Trustees;
the Randall Town Fund Trustees;
the Hale School Fund Trustees;
a surveyor of wood and lumber;
a fence viewer;
a field driver;
a tree warden;
a pest control officer;
a veterans' agent; and
a veterans' graves committee.

(b) Town Clerk

- (1) Term of office - The town clerk shall be appointed by the board of selectmen for a term of three years.
- (2) Powers and Duties - The town clerk shall be the keeper of vital statistics for the town, the custodian of the town seal, shall administer the oath of office to all persons elected or appointed to any town office, shall issue such licenses and permits as are required by law to be issued by town clerks, supervisor and manage the conduct of all elections and all other matters relating to elections, be the clerk of the town meeting, keep its records and, in the absence of the town moderator or deputy town moderator, to preside pending the election of a temporary town moderator. The town clerk shall have such other powers and duties as are given to town clerks by general law, by this charter, by bylaw or by other town meeting vote, so long as not inconsistent with the General Laws.

- (c) The board of health shall appoint:
a health agent (s); and
an animal control officer (s).

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.

Section 6-2: Submission of Budget and Budget Message

- (a) At least sixty days prior to the date scheduled for town meeting in accordance with the bylaws, the town administrator, after consultation with the board of selectmen, shall submit to the finance committee a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The town administrator shall simultaneously provide for the publication, in a newspaper of general circulation in the town, of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the operating budget for the current fiscal year and the reason for such changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget are available for examination by the public.

Section 6-3: Budget Message

The budget message of the town administrator 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 fiscal year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position and include other material as the town administrator deems desirable or the selectmen may 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 otherwise be required by General Law or this charter, it shall be in the form which the town administrator deems desirable or the selectmen may require. 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) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each capital expenditure; and
- (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 6-5: Action on the Budget

- (a) Public Hearing - Forthwith upon its receipt of the proposed operating budget, the finance committee shall provide for the publication in a newspaper of general circulation in the town of a notice stating the time and place, not less than seven nor more than fourteen days following such publication, at which it will hold a public hearing on the proposed operating budget as submitted.

- (b) Review - The finance committee shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each such agency in connection with its review and consideration. The finance committee may require the town administrator, or any other town agency, to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget.
- (c) Action by Town Meeting - The finance committee shall file a report containing its recommendations for action on the proposed operating budget. The report shall be available at least seven days before the date on which the town meeting is scheduled to be held. When the budget proposed by the town administrator is before the town meeting for action it shall first be subject to amendments, if any, proposed by the finance committee before any other amendments shall be considered.

Section 6-6: School Committee Budget

- (a) Public Hearing: The local school committee shall conduct a public hearing on its proposed annual budget not less than seven days prior to the meeting at which it is scheduled to vote on such budget. Notice of the public hearing shall be published in a newspaper of general circulation in the town no less than seven days prior to the hearing. The notice shall contain a general summary of its proposed budget and shall specifically indicate any major variations from the budget for the then current fiscal year and the reasons for such changes. It shall further indicate the times and places at which complete copies of its proposed budget are available for examination by the public.
- (b) Submission to town administrator: The budget as adopted by the local school committee shall be submitted to the town administrator no later than seventy-five days prior to the date scheduled for town meeting in accordance with the bylaws so as to enable the town administrator to consider the effect of the local school department's requested appropriation upon the total town operating budget which is required to be submitted under this article.

Section 6-7: Capital Outlay Program

Capital outlays, as established by bylaw, shall be included in any capital outlay program. The capital planning committee shall submit a capital outlay program to the board of selectmen and the finance committee approximately sixty days prior to the date scheduled for town meeting, and it shall include::

- (a) a clear and concise general summary of its contents;
- (b) a list of all capital outlays proposed to be expended during the next ensuing five fiscal years, with supporting information as to the needs for and the benefits of each capital outlay;
- (c) cost estimates, methods of financing and recommended time schedules for each outlay; and
- (d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

The capital outlay program shall be revised annually and a report thereof distributed with the finance committee report.

Section 6-8: Approval of Warrants

The town administrator shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of the general laws shall be submitted to the town administrator. The approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer. The board of selectmen shall approve all warrants in the event of an absence or a vacancy in the office of the town administrator.

**ARTICLE VII
GENERAL PROVISIONS**

Section 7-1: Charter Changes

This charter may be replaced, revised or amended in accordance with any procedures made available under the state constitution and any statutes enacted to implement the said constitutional provisions.

Section 7-2: Severability

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

Section 7-3: Specific Provisions to Prevail

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

Section 7-4: Number and Gender

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

Section 7-5: Definitions

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

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

- (b) Day - The word "day" shall refer to a calendar day unless preceded by the word "business" in which case it shall mean a day, except Saturday, Sunday or a recognized holiday.
- (c) Public Hearing - The words "public hearing" shall mean a duly noticed public meeting in which the town agency presents information, responds to inquiries and hears testimony of interested persons.
- (d) Public Meeting - The words "public meeting" shall mean a meeting of a town agency called to conduct its usual and customary business.
- (e) Town - The word "town" shall mean the town of Stow.
- (f) Town Agency - The words "town agency" shall mean any officer, board, commission, committee, department, division or office of the town government.
- (g) Town Bulletin Board - The place designated by the town clerk for posting notices required by bylaw, charter, constitution or general law.
- (a) Voter - The word "voter" shall mean a registered voter of the town.

Section 7-6: Rules and Regulations

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk before any such rule or regulation shall become effective, and copies shall be made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall become effective until fourteen days following the date it has been so filed in the office of the town clerk, provided, however, that any town agency may declare a rule to be effective in any period less than fourteen days provided the agency first adopts by a separate vote a resolution that an emergency exists and that the particular rule must be effective in less than fourteen days for the immediate preservation of the peace, health, safety or convenience of the town. The provisions of this section shall not apply to any rule or regulation adopted following a public hearing required by the General Laws to be specifically conducted for the purpose of adopting such rule or regulation.

Section 7-7: Periodic Review of Charter and ByLaws

- (a) Charter Review - At least once in every ten years, a special committee of five voters shall be appointed by the town moderator for the purpose of reviewing this charter and to make a report, with recommendations, to the town meeting concerning any proposed amendments which the committee may determine to be necessary or desirable.
- (b) General ByLaw Review - The board of selectmen shall at five year intervals following the adoption of this charter, appoint a special committee of five voters for the purpose of reviewing all by-laws of the town, except bylaws adopted in accordance with Chapter 40A of the General Laws. The committee shall present a final report which shall include recommendations for such substantive change in town bylaws as it deems necessary or advisable to the board of selectmen no later than ninety days prior to the date established by bylaw for the special town meeting to be

held in accordance with Section 2-5(a) during the year following the year in which it is appointed.

- (c) Master Plan Committee: The Master Plan shall be reviewed at the direction of the Planning Board every five years, and a Master Plan Committee shall be appointed two years before the next update is due. The Board of Selectmen shall appoint a special committee of seven members comprised of a member of the Board of Selectmen, the Planning Board, the Board of Health, the Conservation Commission, and the Finance Committee and two Stow voters at large, who are not members of the above named boards.

The appointed committee shall present a final report to the Planning Board and said report shall include a Master Plan or updates to any existing Master Plan as required by Chapter 41 of the General Laws. The committee shall be discharged six months after the Master Plan or Master Plan updates have been presented to the Planning Board.

- (d) If the Board of Selectmen so approves, any review committee appointed hereunder may retain counsel to assist in its review and expend such funds as may be appropriated.

Section 7-8: Procedures Governing Multiple Member Bodies

- (a) Meetings- All multiple member bodies shall meet regularly at such times and places within the town as they may by their own rules prescribe. Except in cases of emergency, special meetings of any multiple member body shall be held on the call, by notice to each member at least forty-eight hours in advance of the time set, of the respective chairman or by one-third of the members thereof. A copy of said notice shall also be posted on the town bulletin board. Special meetings of any multiple member body shall also be called within ten days after the date of the filing with the town clerk of a petition signed by at least fifty voters and which states the purpose or purposes for which the meeting is to be called. Except as authorized by law, all meetings of all multiple member bodies shall be open and public.
- (b) Agendas - At least one business day before any meeting of a multiple member body is to be held, an agenda containing all items which are scheduled to come before the multiple member body at the meeting shall be posted on the town bulletin board. No action taken on a matter not included in the posted agenda shall be effective unless the multiple member body first adopts by a separate vote a resolution declaring that an emergency exists and that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the town.
- (c) Rules and Minutes - Each multiple member body shall determine its own rules and order of business unless otherwise provided by this charter or by bylaw and shall provide for the keeping of minutes of their proceedings. These rules and minutes shall be public records, and copies of approved rules and minutes shall be delivered within thirty days to, and kept available in, the office of the town clerk for the convenience and review of the public.
- (d) Voting - Except on procedural matters all votes of all multiple member bodies shall be taken by a call of the roll and the ayes and nays shall be recorded by name in the minutes provided, however, if the vote is unanimous only that fact need be recorded.

- (e) Quorum - A majority of the full multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple member body. No other action of the multiple member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple member body.
- (f) Filling of Vacancies - Whenever a vacancy shall occur in the membership of an appointed multiple member body, the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If at the expiration of forty-five days following the delivery of such notice to the appointing authority said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple member body may fill such vacancy for the remainder of any unexpired term by majority vote of the remaining members.
- (g) Composition of Multiple Member Bodies - All multiple member bodies when established shall be composed of an odd number of members.
- (h) Associate Members - All multiple member bodies may establish one or more positions of associate member to assist in the work of the multiple member body subject to such rules as may be adopted in accordance with this section.

Section 7-9: Notice of Vacancies

Whenever a vacancy occurs in any appointed town office, position or employment, or whenever by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority shall forthwith cause public notice of such vacancy to be posted on the town bulletin board for not less than ten days. Such notice shall contain a description of the duties of the office, position or employment and a listing of the necessary or desirable qualifications to fill the office, position or employment. No permanent appointment to fill such office, position or employment shall be effective until fourteen days following the date such notice was posted to permit reasonable consideration of all applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with the provisions of any collective bargaining agreement.

Section 7-10: Loss of Office, Excessive Absence

If any person appointed to serve as a member of a multiple member body shall fail to attend six or more consecutive meetings, or one-half or more of all of the meetings of such body held in one calendar year, a majority vote of the remaining members of such body may 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 caused notice of such proposed or pending vote to be delivered to the person by hand or by mail to the last known address.