

**TOWN OF BELLINGHAM
MASSACHUSETTS**

**AMENDED
HOME RULE CHARTER**

Adopted by Voters on May 26, 2004

Charter Review Committee Members

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TABLE OF CONTENTS

		Page
*	Preamble	3
	<u>Articles</u>	
1	Town Incorporation, Form of Government, and Powers	3
2	Legislative Branch	4
3	Elected Officers	6
4	Town Administrator	10
5	Administrative Organization	13
6	Finance and Fiscal Procedures	15
7	General Provisions	17
8	Other Provisions	20

PREAMBLE

We, the people of the Town of Bellingham, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantage inherent in the home rule amendment to the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this Town.

ARTICLE 1: TOWN INCORPORATION, FORM OF GOVERNMENT, AND POWERS

Section 1: Incorporation

1-1-1 The inhabitants of the Town of Bellingham 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 Bellingham".

Section 2: Short Title

1-2-1 This instrument shall be known and may be cited as the Bellingham Home Rule Charter.

Section 3: Powers of the Town

1-3-1 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 Bellingham to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the Constitution and Laws of the Commonwealth.

Section 4: Division of Powers

1-4-1 All legislative powers of the town shall be exercised by a town meeting open to all voters. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the board of selectmen, the town administrator and elected officers and boards.

Section 5: Construction

1-5-1 The powers of the Town of Bellingham under this charter are to be construed liberally in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the Town of Bellingham as stated in section 1-3-1.

Section 6: Intergovernmental Relations

1-6-1 Consistent with any applicable constitutional or statutory provisions, the town may exercise any of its powers, or perform any of its functions and may participate in the financing thereof, with any one or more civil divisions, subdivisions or agencies of any state or the United States government.

ARTICLE 2: LEGISLATIVE BRANCH

Section 1: Town Meeting

2-1-1 The legislative powers of the town shall be vested in a town meeting open to voters of the town.

Section 2: Presiding Officer

2-2-1 The town moderator, elected as provided in section 3-3-1 of this charter, shall preside at all sessions of the town meeting.

2-2-2 In the absence of the town moderator, the town meeting shall, as its first act, elect a temporary moderator by a majority vote. The town clerk shall preside until such election has taken place.

Section 3: Committees

2-3-1 In general. 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. In addition to such specific powers, duties and responsibilities as may be provided to a town meeting committee by by-law 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 or department and to consult with any town officer, employee or agent.

2-3-2 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 by-law. 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 bodies and not containing appropriations. The finance committee shall report its recommendations on the articles for which it held a public hearing, in writing, at least ten (10) days prior to a scheduled town meeting. The finance committee shall have such additional powers and duties as may be provided by M.G.L.A., by this charter or by by-law.

Section 4: Time of Meeting

2-4-1 The town meeting shall meet in regular session at least twice in each calendar year.

2-4-2 The first regular meeting, to be held during March, April or May, on a date fixed by by-law, shall be primarily concerned with the determination of matters involving the expenditure of town funds, including, but not limited to, the adoption of an annual operating budget for all town agencies; for the purpose of electing officers; for the determination of other matters to be decided by ballot of the voters; and which shall be deemed to be the annual town meeting.

2-4-3 The second such meeting, the powers of which shall also be deemed to be those of the annual town meeting, except that it shall not include the election of officers or the determination of other matters to be decided by ballots of voters, shall be held during the last four (4) calendar months, on a date fixed by by-law.

Section 5: Special Meetings

2-5-1 Special town meetings shall be held at the call of the board of selectmen at such times as it may deem necessary and whenever a special meeting is petitioned by voters in accordance with procedures made available by the M.G.L.A.

Section 6: Warrants

2-6-1 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.

2-6-2 The publication of the warrant shall be in accordance with town by-laws governing such matters.

Section 7: Initiation of Warrant Articles

2-7-1 Initiation. The board of selectmen shall receive at any time all petitions addressed to it and which request the submission of any matter to the town meeting and which are filed by: (1) any elected town officer, (2) any multiple member body acting by a majority of its members, (3) any ten (10) voters for a regular town meeting and any one hundred (100) voters for a special town meeting. In accordance with Ch. 39, section 10 of the M.G.L.A., the board of selectmen shall insert all petitions as articles on the appropriate town meeting warrant.

2-7-2 Referral. The board of selectmen shall immediately upon signing cause a copy of the warrant to be delivered the chairperson or the designee of the finance committee and shall cause such other distribution to be made of each warrant as may be required by by-law.

2-7-3 Notification. Whenever a special town meeting is to be called, the board of selectmen shall give notice of the date, time and place by publication in a local newspaper.

Section 8: Availability of Town Officials at Town Meetings

2-8-1 Every town officer, chairperson of each multiple member body, head of each department and the head of each division within said department shall attend all sessions of the town meeting for the purpose of providing the town meeting with information and answering questions concerning matters appearing in the warrant.

2-8-2 In the event a town officer, chairperson of a multiple member body, department head or division head is to be absent due to illness or other reasonable cause, he shall designate a deputy to attend in his place. If any person designated to attend the town meeting under this section is not a voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section.

Section 9: Clerk of the Meeting

2-9-1 The town clerk shall serve as the clerk to the town meeting.

2-9-2 In the event of the absence of the town clerk, the town clerk shall designate a substitute; otherwise, the town moderator shall appoint a clerk pro tempore.

2-9-3 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 M.G.L.A., by charter, by by-law or by other town meeting vote.

Section 10: Rules of Procedure

2-10-1 The town meeting may, by by-law, establish and from time to time amend, revise or repeal rules to govern the conduct of all town meetings.

ARTICLE 3: ELECTED OFFICERS

Section 1: General Provisions

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

3-1-2 The regular elections for town office shall be held annually on such date as may from time to time be fixed in the by-laws of the town.

3-1-3 Elected town officials shall receive such compensation for their services as may be appropriated.

3-1-4 Notwithstanding their election by voters, the town officers named in this section shall be subject to the call of the board of selectmen or of the town administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their office.

3-1-5 Elected multiple member body vacancies. If there is a vacancy in a board consisting of two or more members, other than the board of selectmen, the remaining members shall forthwith give notice of the existence of any such vacancy to the board of selectmen. The board of selectmen, with the remaining member or members of such board, shall fill such vacancy by a joint vote. The board of selectmen shall set the date for the joint vote and give one week's notice. If such notice is not given within thirty days following the date on which such vacancy occurs, the board of

selectmen shall, after one week's notice, fill such vacancy without participation by the remaining member or members of the multiple member body.

Section 2: Board of Selectmen

3-2-1 Composition, Term. A board of five selectmen shall be elected at-large for three (3) years each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

3-2-2 Vacancies in the office of selectmen shall be filled by a special election in accordance with the provisions of M.G.L.A.

3-2-3 Executive powers. Except as otherwise provided by this charter, all executive powers of the town shall be vested in the board of selectmen which shall have all the powers and duties given to boards of selectmen under the Commonwealth of Massachusetts Constitution and M.G.L.A., and such additional powers and duties as may be authorized by this charter, by by-law, or town meeting vote.

3-2-4 Licensing. The board of selectmen shall be a licensing board for the town and shall have the power to issue licenses as authorized by M.G.L.A., to make all necessary rules and regulations regarding the issuance of such licenses, to attach conditions and to impose restrictions on any such licenses as it deems to be in the public interest, and to enforce all laws, rules, regulations and restrictions relating to all such businesses for which it issues licenses.

3-2-5 The board of selectmen 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.

3-2-6 The board of selectmen may investigate or may authorize the town administrator to investigate the affairs of the town and the conduct of any agency of the town.

3-2-7 Town administrator. The board of selectmen shall appoint a town administrator for a three (3) year term. The appointment of the administrator shall be by the affirmative vote of at least three (3) members of the board, with reappointment by at least three (3) affirmative votes of the board. Removal requires at least four (4) affirmative votes of the board.

3-2-8 Other appointments. The board of selectmen shall have the authority to make appointments as provided by M.G.L.A., by this charter, and by by-law, and to make other such appointments as it may deem necessary. A listing of appointments authorized at the time of this charter is provided in article 8, section 3-1, c, 1, the town administrative organization.

3-2-9 Unless noted elsewhere in this charter, the terms of office of all appointments made by the board of selectmen shall be as currently specified by M.G.L.A., by this charter, by by-law or town meeting vote.

Section 3: Town Moderator

3-3-1 Term. There shall be a town moderator elected for a term of three (3) years.

3-3-2 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 M.G.L.A., by this charter, by by-law and by other vote of the town meeting, including appointing a finance committee.

Section 4: School Committee

3-4-1 Composition, term of office. There shall be a school committee consisting of five (5) members elected for terms of three (3) years each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

3-4-2 Powers and duties. The school committee shall have all the powers and duties which are given to school committees by M.G.L.A. and it shall have such additional powers and duties as may be authorized by this charter, by by-law, or by 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 other officers as allowed by M.G.L.A., to fix their compensation and to define their duties, make rules concerning their tenure of office and to discharge them.

(2) To make all reasonable policies consistent with M.G.L.A. or Department of Education regulations for the administration and management of the public school system and for the conduct of its own business and affairs.

Section 5: Town Clerk

3-5-1 Term. There shall be a town clerk elected to serve for a term of three (3) years.

3-5-2 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 office; shall issue such licenses and permits as are required by law to be issued by town clerks; supervise 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 to preside pending the election of a temporary town moderator. The town clerk shall also have such other powers and duties as are given to town clerks by M.G.L.A., by this charter, by by-law or by other vote of the town meeting.

Section 6: Planning Board

3-6-1 Composition, term. There shall be a planning board consisting of five (5) members elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number as is possible shall expire each year.

3-6-2 Powers and duties. The planning board shall have all of the powers and duties planning boards may have under the Constitution and M.G.L.A., and it shall have such additional powers and duties as may be authorized by the charter or by by-law.

The planning board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The planning board shall provide for the review of the comprehensive master plan every ten years, setting forth in graphic and textual form policies governing the future growth and development of the town's economic, developmental and human service needs.

The planning board shall regulate the sub-division of land within the town by adoption of rules and regulations governing such development and the administration of such rules and regulations. The planning board shall make recommendations to the town meeting on all matters affecting land use and development, including the zoning by-laws of the town.

The planning board shall make an annual report, giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs.

Section 7: Board of Library Trustees

3-7-1 Composition, term. There shall be a board of library trustees consisting of five (5) members elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as possible shall expire each year.

3-7-2 Powers and duties. The board of library trustees shall have the custody and management of the public library and of all property of the town related to the said library. All funds of money and property that the town may receive by gift or bequest for the purpose of library support or maintenance shall be administered by the board in accordance with the provisions of any such gift or bequest. The board shall have all of the other powers and duties which are given to boards of library trustees by M.G.L.A., by this charter, by by-law or other town meeting vote.

Section 8: Constables

3-8-1 Composition term of office. There shall be four (4) constables elected for terms of three (3) years each, so arranged that the terms of office of each will expire simultaneously.

3-8-2 Powers and duties. Constables may serve writs and processes and shall have the powers of sheriffs to require aid in the execution of their duties. They shall serve all warrants and other processes directed to them by the board of selectmen for notifying town meetings or for other purposes. They may serve by copy, attested by them, demands, notices and citations and their returns of service thereof shall be prima facie evidence.

Section 9: Bellingham Housing Authority

3-9-1 Composition, term of office. There shall be a housing authority which shall consist of five (5) members serving for terms of five (5) years each so arranged that the term of one member shall expire each year. Four of these members shall be elected by the voters and the fifth member shall be appointed as provided by M.G.L.A.

3-9-2 Powers and duties. The housing authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly and disabled persons of low income. The housing authority shall have such other powers and duties as are assigned to housing authorities by M.G.L.A.

Section 10: Blackstone Valley Regional Vocational District School Committee (Bellingham Representative)

3-10-1 Composition, term of office. The voters shall elect such members of the Blackstone Valley Regional Vocational School Committee for school Committee for such terms as may be provided under the agreement and laws establishing the same.

3-10-2 Powers and duties. The members of the Blackstone Valley Regional Vocational School Committee shall, along with members from other municipalities participating therein, be responsible for the management and supervision of the said school according to the agreement and laws governing the same.

Section 11: Recall Provisions

3-11-1 Application. Any holder of an elected office in the town with more than six (6) months remaining in the term of office may be recalled there from by the qualified voters of the town in the manner provided herein.

3-11-2 Recall petition. Two hundred (200) or more voters may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The town clerk shall thereupon deliver to said voters petition blanks demanding such recall. The blanks shall be issued by the town clerk with the town clerk's signature and official seal. They shall be dated, shall be addressed to the board of selectmen, shall contain the names of all petitioners 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 to said office. A copy of the affidavit shall be entered in a record book to be kept in the office of the town clerk. The recall petitions shall be returned and filed with the clerk within forty five (45) days following the date of the filing of the affidavit signed by at least ten (10) percent of the voters and containing their names and addresses; provided, however, that not more than twenty-five (25) percent of the total number shall be from any one district.

The town clerk shall, within twenty-four (24) hours of receipt, submit the petition to the registrars of voters who shall forthwith certify thereon the number of signatures that are names of voters.

3-11-3 Recall election. If the petition is certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with the town clerk's certificate to the board of selectmen. Upon receipt of the certificate, the board of selectmen shall forthwith give written notice of such petition and certificate by certified mail to the officer whose recall is sought. If said officer does not resign his office within five (5) days after delivery of such notice, the board of selectmen shall order an election to be held not less than sixty (60) nor more than ninety (90) days after the date of the town clerk's certificate of the petition notice. If, however, any other town election is to occur within one hundred (100) days after the date of the certificate, the board of selectmen shall hold the recall election on the date of such other election. If a vacancy occurs in said office after such a recall election has been ordered, the election shall nevertheless proceed as provided in this section, and the ballots for candidates shall, notwithstanding a recall provision to the contrary, be counted.

3-11-4 Nomination of candidates. Any officer whose recall is sought may be a candidate in the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the election shall all be in accordance with the provisions of law relating to elections.

3-11-5 Propositions on ballot. Ballots used in a recall election shall state the following propositions in the order indicated:

FOR THE RECALL OF (name of officer)

AGAINST THE RECALL OF (name of officer)

Adjacent to each proposition, there shall be a place to vote for either of said propositions. After the propositions shall appear the word "Candidate" and the names of candidates nominated as required in section 42 of Chapter 54 of the M.G.L.A. 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. If a majority of the votes on the question is in the negative, the ballots for candidates need not be counted.

3-11-6 Office holder. The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled in the election, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided herein.

If he is recalled in the election, he shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of his election, the incumbent thereupon shall be deemed removed and the office vacant.

3-11-7 Repeat of recall petition. No recall petition shall be filed against an officer within three (3) months after he takes office or, in the case of an officer subjected to a recall election and not recalled thereby, until at least six (6) months after the election at which his recall was submitted to the voters.

ARTICLE 4: TOWN ADMINISTRATOR

Section 1: Appointment; Qualifications; Term

4-1-1 The town administrator shall be appointed by the board of selectmen for a three (3) year term, 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 charge by or under the charter. The town administrator 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 professional experience shall include previous, full-time, compensated service in a managerial capacity in public or business administration.

4-1-2 The town administrator need not be a resident of the town or the commonwealth at the time of his appointment. He must however establish residence within the town within twelve (12) months following his appointment. The board of selectmen may waive the residency requirement.

4-1-3 The town administrator shall hold no elected or other appointed town office, shall devote full time to the duties of the office and shall engage in no other business or occupation without the advance written authorization of the board of selectmen.

4-1-4 The town administrator shall not have served in an elected office in the town government for at least twelve (12) months prior to his appointment.

Section 2: Powers and Duties

4-2-1 The town administrator shall appoint and may remove, subject to civil service law or the "strong chief's " law (Ch. 48, sec. 42, 43 & 44 of the M.G.L.A.), where applicable, all department heads, all officers and all subordinates and employees of the town except for employees of the school committee and library trustees, appointments made by representatives of the commonwealth, and those appointments for which another method of appointment is provided in M.G.L.A., in this charter, or in the town by-laws. Appointments made by the town administrator shall be filled at a regularly scheduled meeting of the board of selectmen and shall become effective upon confirmation by a majority of the board of selectmen.

4-2-2 The town administrator shall direct and supervise the administration of all functions under his control.

4-2-3 The town administrator shall prepare and submit the annual capital budget and capital outlay program as provided in article 6, section 4.

4-2-4 The town administrator shall attend all regular and special meetings of the board of selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its discussions.

4-2-5 The town administrator shall attend all sessions of the town meetings and answer all questions directed to him by the voters of the town.

4-2-6 The town administrator shall see that all provisions of the M.G.L.A., of the charter, of by-laws, and of votes of the town meeting and of the board of selectmen which require enforcement by him or officers subject to his direction and supervision are faithfully carried out.

4-2-7 The town administrator shall administer all provisions of general and special laws applicable to the town, to the charter, to the by-laws and votes of the town, and all rules and regulations made by the selectmen which lie within the scope of the powers and duties of the office.

4-2-8 The town administrator shall negotiate all contracts involving any subject within the jurisdiction of the office of town administrator, including contracts with town employees, except employees of the school department, the director of the public library and other professional librarians, and involving wages, hours and other terms and conditions of employment.

4-2-9 The town administrator shall have full jurisdiction over the rental and use of all town facilities, except schools, library, and properties designated by by-law or other vote of the town. He shall be responsible for the maintenance and repair of all town property, excluding school buildings and library, place under his control by the charter, by by-law or otherwise.

(a) The town administrator shall be responsible for the keeping of full and complete records of the financial and administrative activities of the town and shall render a full report to the board of selectmen at the end of each fiscal year and otherwise as said board may require.

(b) As required by M.G.L.A., Sect.30 b, Uniform Procurement Act, the town administrator shall be the certified procurement officer responsible for the purchase of all supplies, materials, and equipment, except books and other educational materials for schools and books, supplies, materials, equipment and other media materials for the library, and approve the award of all contracts for all town departments with the exception of the school department and public library, subject to the approval of the board of selectmen.

4-2-10 The town administrator shall keep full and complete inventory of all property of the town, both real and personal.

4-2-11 The town administrator may at any time inquire into the conduct of office of any officer or employee, or department under his jurisdiction.

4-2-12 The town administrator shall perform such other duties consistent with the office as may be required by by-law, vote of the town, or board of selectmen.

Section 3: Acting Town Administrator

4-3-1 Temporary absence. By letter filed with the town clerk, the town administrator shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of town administrator during a temporary absence. During a temporary absence the board of selectmen may not revoke such designation until at least ten (10) working days have elapsed, whereupon it may appoint another qualified town administrative officer or employee to serve until the town administrator shall return.

4-3-2 Vacancy. Any vacancy in the office of the town administrator shall be filled as soon as possible by the board of selectmen, but, pending such regular appointment the board of selectmen shall appoint a qualified administrative officer to perform the duties of the office on an acting basis. Such temporary appointment may not exceed three (3) months, but one renewal may be voted by the board of selectmen not to exceed the second three (3) months. Compensation for such person shall be set by the board of selectmen.

4-3-3 Powers and duties. The powers of temporary or acting town administrator, under sections 4-3-1 and 4-3-2 above, shall be limited to matters which should not be delayed and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

Section 4: Removal and Suspension

4-4-1 The board of selectmen may for cause, by the affirmative vote of four (4) of its members, 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 four 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 (45) days. A copy of the resolution shall be delivered to the town administrator forthwith.

(b) Within five (5) days after receipt of the preliminary resolution the town administrator may request a public hearing by filing a written request for such hearing with the board of selectmen. This hearing shall be held at a meeting of the board of selectmen not later than thirty (30) days after the request is filed nor earlier than twenty (20) days. The town administrator may file a written statement responding to the reasons stated in the resolution of removal with the board of selectmen provided the same is received at its office more than forty-eight (48) hours in advance of the public hearing.

(c) The board of selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of four of its members not less than ten (10) nor more than twenty-one (21) days following the date of delivery of a copy of the preliminary resolution to the town administrator, if the town administrator has not requested a public hearing; or within ten (10) days following the close of the public hearing if the town administrator has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the town administrator shall at the expiration of said time, forthwith resume the duties of the office.

(d) Faced with action by the board of selectmen to terminate, remove or suspend, the town administrator shall be afforded all of the provisions provided municipal employees under M.G.L.A. Ch. 39, Sect. 23 b, Open Meeting Law.

4-4-2 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 solely in the board of selectmen.

Section 5: Specific Appointments

4-5-1 The town administrator shall have the authority to appoint all technical and operational positions of the town, and other such positions as may be created by M.G.L.A., by this charter, by by-law or by vote of the town. A listing of appointments authorized at the time of this charter is provided in article 8, section 3-1, c, 3, the town administrative organization.

Section 6: Resolution of Policy Conflicts

4-6-1 If a conflict relating to a policy issue arises between the town administrator and a department head, the department head may appeal the administrator's decision to the board of selectmen. The board of selectmen shall act as arbitrator between the department head and the town administrator and shall resolve the conflict regarding policy. The board of selectmen's decision on policy shall be final and binding on both the town administrator and the department head.

ARTICLE 5: ADMINISTRATIVE ORGANIZATION

Section 1: Organization of Town Agencies

5-1-1 The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

5-1-2 By-Laws. The town meeting may, by by-law, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part; establish new town agencies as it deems necessary or advisable; determine the manner of selection, the term of office and prescribe the functions of all such entities; provided, however, that no function assigned by this charter to a particular town agency may be discontinued, or unless this charter specifically so provides, assigned to any other.

5-1-3 Administrative code. The town administrator, after consultation within the board of selectmen, may from time to time prepare and submit to the town meeting plans for organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the town.

Whenever the town administrator prepares such a plan, the board of selectmen shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the date, time and place at which the hearing will be held, not less than seven (7) nor more than fourteen (14) days following said publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the town meeting by an appropriate warrant article.

5-1-4 An organization or reorganization plan shall become effective at the expiration of sixty (60) days following the date of adjournment of the town meeting at which the proposal is submitted unless the town meeting shall, by a majority vote, vote to disapprove the plan. The town meeting may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

5-1-5 The town administrator may, through the administrative code, reorganize, consolidate or abolish 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 5-1-2, above, for by-laws; 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 (1) 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 so specifically provides, be assigned to any other.

Section 2: Publication of Administrative Code and Personnel Plan

5-2-1 For the convenience of the public, the administrative code and any amendments hereto shall be printed as an appendix to, but not an integral part of, the by-laws of the town. The personnel and staffing plan, as prepared by the town administrator, in conformity with article 4, section 2, shall be published annually in the town report. The school committee and the library trustees shall provide the town administrator with copies of their respective personnel and staffing plans annually for publication in the town report.

Section 3: Merit Principle

5-3-1 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 4: Department of Public Works

5-4-1 There shall be a department of public works, headed by a director of public works, who shall be either the town administrator or a director of public works appointed by the town administrator. The appointment of a director of public works by the town administrator shall be filled at a regularly scheduled meeting of the board of selectmen and shall become effective upon confirmation by a majority of the board of selectmen. The director of public works so appointed shall be a person especially fitted by education, training, or previous experience to perform the duties of the office.

5-4-2 The director of public works shall be responsible for the supervision and coordination of all public works operations of the town which are placed under his control by this charter, by by-law, by vote of the town or otherwise. Public works operations may include, but need not be limited to, the following operations: refuse collection and disposal, sewer, water supply and distribution, forestry services and maintenance of town infrastructure, including town parks and cemeteries.

5-4-3 Other offices, the functions of which are related to a department of public works, may from time to time be assigned to the department in accordance with by-laws or an administrative code, as provided in this article, section 1.

5-4-4 The board of selectmen, acting through the town administrator, shall be responsible for the overall policy decisions of the department of public works and for the establishment of priorities to govern the operation of the department provided, however, that the board of selectmen shall not in any way become involved with the day to day operations of said department.

Section 5: Finance Office

5-5-1 There shall be a finance office in the town, with a chief financial officer as its head, and including an appointed treasurer-collector and an appointed board of assessors which shall, in matters dealing with town finance, be responsible to the chief financial officer.

5-5-2 The scope and functions of the finance office shall be to provide the coordination of all financial services and activities and provide assistance to all other town departments in any matter related to finances; and other such functions related to the fiscal management and planning of the town.

5-5-3 The chief financial officer and other officers and employees of the finance office shall operate in matters related to finance under the oversight and direction of the town administrator and shall assist the administrator in providing required and interim reports and preparing materials for the budget process, as specified in article 6, section 4 of this charter.

Section 6: Treasurer-Collector

5-6-1 Term of office. The town administrator shall appoint for a three (3) year term a treasurer-collector who shall be assigned to the finance office, as provided in section 5-5-1 above, and shall work under the supervision of the chief financial officer.

5-6-2 Powers and duties. The treasurer-collector shall provide for the administrative, supervisory and technical work involving the receipt, disbursement and investment of town funds, the borrowing of monies and the collection of all taxes and such fees, as determined by by-law or town meeting vote, due to the town. The treasurer-collector shall also have such other powers and duties as are given to treasurers and collectors, or either of them, by M.G.L.A., by this charter, by by-law or by other vote of the town meeting.

Section 7: Capital Improvements Committee

5-7-1 There shall be a capital improvements committee which shall consider the relative need, timing, cost, completeness of planning, community support, availability of outside funding and other factors said committee members shall deem appropriate to the individual proposed expenditures and the effect each will have on the financial position of the town.

Membership, terms of office, method of appointment and additional functions of the capital improvements committee shall be determined by town by-law.

Section 8: Inspection Department

5-8-1 There shall be a department of inspection headed by the inspector of buildings/zoning agent as its director, and include the following: weights and measures; wires; gas and plumbing; building; health agent.

5-8-2 The department of inspection shall provide for consolidation of inspection operations, coordination of functions, centralized planning of work assignment and distribution, timely inspection services, centralized record keeping, and management of manpower resources.

5-8-3 The town administrator shall appoint the inspector of buildings for a three (3) year term and inspectors for weights and measures, wires, and gas and plumbing for terms of one (1) year as currently established by M.G.L.A., by this charter, by by-law or by town meeting vote. The town administrator may appoint assistants to any of the referenced inspectors in this section as provided by town by-law or town meeting vote.

5-8-4 The board of health shall appoint a health agent for a term of one (1) year.

Section 9: Personnel Board

5-9-1 There shall be a personnel board consisting of five (5) members appointed by the town administrator for three (3) year terms each so arranged that the terms of as nearly an equal number as is possible shall expire each year.

5-9-2 The personnel board shall assist the town administrator in his duties as the personnel administrator, in his function of contract negotiations with town departments, union organizations and personnel associations, and participate in the formulation of various personnel policies as required by law.

Section 10: Tree Warden

5-10-1 There shall be a tree warden appointed by the town administrator for a three (3) year term. The tree warden shall be responsible for the full care and control of all public shade trees, respond to public safety emergencies related to fallen limbs or trees on public ways, and assess and provide for the culling and trimming of public shade trees.

5-10-2 The tree warden shall hold or participate in a public hearing jointly with the planning board related to matters concerning designated scenic roads in accordance with town by-law and M.G.L.A.

ARTICLE 6: FINANCE AND FISCAL PROCEDURES

Section 1: Chief Financial Officer Appointment, Qualifications and Term

6-1-1 The town administrator shall appoint a chief financial officer who shall provide oversight for the financial operations of the town, including accounting, collections, management of funds, borrowing, property assessments, and preparation of documents by the board of assessors related to financial matters of the town.

6-1-2 The chief financial officer shall be a person especially fitted by education, training and previous experience to perform the duties of the office. The minimum qualification shall be a bachelor's degree in accounting or business administration from a duly accredited college or university and five (5) years of relevant experience in Massachusetts municipal finance, or comparable education and experience as determined by the town administrator.

6-1-3 The term of appointment shall be three (3) years.

Section 2: Chief Financial Officer Power and Duties

6-2-1 The chief financial officer will serve as the town accountant in accordance with Ch. 41, Sec. 55-61A of the M.G.L.A.

6-2-2 The chief financial officer will oversee the accounting department and coordinate all financial planning, budgeting and any other financial matters as determined by the town administrator.

6-2-3 The chief financial officer will serve as the head of the finance office, which will consist of the chief financial officer, the treasurer-collector, and the board of assessors.

6-2-4 The chief financial officer will serve ex officio of the finance committee.

6-2-5 The chief financial officer will assist the town administrator in the preparation of the annual operational budget of the town.

6-2-6 The town administrator shall delegate to the chief financial officer such duties and powers as are necessary for the administration of the financial matters of the town in accordance with M.G.L.A. and Special Laws, this charter, town by-laws, and regulations established by the board of selectmen.

Section 3: Fiscal Year

6-3-1 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 M.G.L.A.

Section 4: Budget Process

6-4-1 Annually, prior to the first day of October, the town administrator shall establish and issue a budget schedule which shall set forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year.

6-4-2 The schedule shall be in accordance with this charter unless deviation therefrom is recommended by the town administrator and approved by the board of selectmen and the finance committee.

6-4-3 Annually, prior to the first day of October, the town administrator shall request and receive from the board of selectmen, the chief financial officer, treasurer-collector and the board of assessors the estimated revenue for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided by the commonwealth or any other source the above officials shall within ten (10) working days revise, update and submit the data forthwith to the town administrator.

6-4-4 Annually, prior to the first day of November, the board of selectmen, after consultation with the town administrator, shall issue a policy statement that shall establish the general guidelines for the next town budget.

6-4-5 All department heads and all multiple member bodies shall submit detailed budget requests to the town administrator at least one hundred and fifty (150) days before the date of the annual town meeting.

6-4-6 At least one hundred and twenty (120) days prior to the scheduled date of the annual town meeting, the town administrator shall submit to the board of selectmen a comprehensive draft budget for all town functions for the ensuing fiscal year and an accompanying budget message.

6-4-7 The draft budget message shall explain the draft budget in fiscal terms and in terms of what specific projects are contemplated in the year ahead. It shall:

- (a) outline the proposed financial policies of the town for the ensuing fiscal year,
- (b) describe the important features of the budget,

- (c) indicate any major changes from the current fiscal year in financial policy, expenditures and revenues, together with the reasons for such changes,
- (d) summarize the town's debt position, and
- (e) include such other material as the town administrator may deem appropriate.

6-4-8 The draft budget shall provide a complete financial plan for all town funds and activities and shall be in such form as the town administrator, in consultation with the chief financial officer and the finance committee, may establish. The draft budget shall indicate proposed expenditures for current operations and for capital projects during the ensuing year, detailed by each town agency and by specific purposes and projects.

6-4-9 The board of selectmen shall, within thirty (30) days following the submission of the draft budget by the town administrator, adopt a proposed budget, with or without amendments, and shall submit it to the finance committee. The board of selectmen shall also transmit the budget request of the school committee, with its recommendations thereon, to the finance committee.

6-4-10 The finance committee shall conduct one or more public hearings on the proposed budget, including the school budget, and shall issue printed recommendations and detailed explanations of all financial articles in an annual finance committee report, in accordance with by-law, at least ten (10) days prior to the scheduled date of the annual town meeting. In preparing its recommendations, the committee may require the town administrator, any town department, office, board, commission, or committee to appear and furnish it with appropriate additional financial reports and budgetary information.

6-4-11 The board of selectmen shall present its proposed budget to the town meeting.

ARTICLE 7: GENERAL PROVISIONS

Section 1: Charter Changes

7-1-1 This charter may be replaced, revised or amended in accordance with any procedures made available under the state constitution and statutes enacted to implement the said constitutional provisions.

Section 2: Severability

7-2-1 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 3: Specific Provisions to Prevail

7-3-1 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 4: Number and Gender

7-4-1 Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include a singular person or thing; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

Section 5: Definitions

7-5-1 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) Days - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven (7) days; when the time set is seven (7) days or more, every day shall be counted.
- (c) M.G.L.A. - The abbreviation "M.G.L.A." shall refer to Massachusetts General Laws Annotated.
- (d) Local newspaper - The words "local newspaper" shall mean a newspaper of general circulation in the town of Bellingham.
- (e) Majority vote - The words "majority vote" shall mean a majority of those present and voting, provided there is a quorum of the body present when the vote is taken, unless a higher number is required by law.

(f) Multiple member body - The words "multiple member body" shall mean any town body consisting of two or more persons and whether styled board, commission, committee, sub-committee, or otherwise and however elected or appointed or otherwise constituted.

(g) Town - The word "town" shall mean the Town of Bellingham.

(h) Town agency - The words "town agency" shall mean any board, commission, committee, department, division or office of the town government.

(i) Town officer - The words "town officer" when used without further qualification or description, shall mean a person having charge of an office or department of the town who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the town.

(j) Voters - The word "voters" shall mean registered voters of the town of Bellingham

Section 6: Rules and Regulations

7-6-1 A copy of the rules and regulations adopted by a town agency shall be filed in the office of the town clerk and shall become effective immediately upon filing.

Section 7: Periodic Review, Charter and By-Laws

7-7-1 Charter review. At least once in every ten (10) years, in each year ending in a three (3), a special committee to consist of nine (9) members 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 nine (9) members who shall be chosen as follows: the board of selectmen, the school committee, the planning board and the board of library trustees, shall each designate one person; the finance committee shall designate two persons; and three persons shall be appointed by the moderator. Persons appointed by said agencies may, but need not, be members of the agency by which they are designated. The committee shall meet to organize forthwith following the final adjournment of the spring town meeting.

7-7-2 By-law Review. The board of selectmen shall at five (5) year intervals, in each year ending in four (4) or nine (9), cause to be prepared by a special committee appointed for that purpose, a proposed revision or recodification of all by-laws of the town which shall be presented to the town meeting for enactment not later than at the fall town meeting in the year following the year in which the said committee is appointed. The said committee in its final or its interim report shall include recommendations for such substantive change in town by-laws as it deems necessary or advisable. The review of town by-laws shall be in conjunction with town counsel or by special counsel retained for that purpose. Subsequent to enactment by the town meeting, copies of the revised by-laws shall be forwarded to the attorney general of the commonwealth for approval, and they shall be otherwise published, all as required by M.G.L.A. Copies of the revised by-laws shall be made available for distribution to the public.

Section 8: Removals and Suspensions

7-8-1 Any appointed officer, member of a multiple member body or employee of the town, not subject to the provisions of M.G.L.A., or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term "cause" shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming to the office.

7-8-2 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. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure stated in article 7-8-3

7-8-3 The appointing authority when removing any 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 therefor shall be delivered in hand, or by registered mail or certified mail, return receipt requested, to the last known address of the person sought to be removed.

(b) Within five (5) days following deliverance of such notice, the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

(c) Between one (1) and ten (10) days after the public hearing is adjourned, or if the officer, member of a multiple member body or employee of the town fails to request a public hearing between six (6) and fifteen (15) 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 that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as

stated in this section shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee shall, forthwith, be reinstated.

7-8-4 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 9: Loss of Office, Excessive Absence

7-9-1 If any person appointed as a member of a multiple member body shall fail to attend four (4) or more consecutive meetings, or one half of all of the meetings of such body held in one (1) calendar year, the remaining members of the multiple member body may, by a majority vote of the remaining members of such body, declare the office vacant, provided, however, that not less than ten (10) days prior to the date said vote is scheduled to be taken the body has given in hand, or mailed by registered or certified mail, return receipt requested, notice of such proposed or pending vote to the last known address of such person.

ARTICLE 8: OTHER PROVISIONS

Section 1: Continuation of Existing Laws

8-1-1 M.G.L.A., town by-laws, votes of the town meeting, rules and regulations of or pertaining to the town which are in force when the charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

Section 2: Time of Taking Effect

8-2-1 Amendments to the charter shall take effect upon adoption by the voters of Bellingham.

8-3-1 Until such time as the town meeting may act, by by-law, to amend, repeal or revise them, the following provisions shall have the force of town by-laws:

- (a) Date of town meetings. The annual town meeting shall be held on the fourth Wednesday in May at a time as set by town by-law. The date and time of the fall town meeting shall be set by town by-law.
- (b) Date of town elections. The annual town election for the election of town officers and for the determination of other matters to be referred to the voters shall be held on the month and day specified by town by-law.
- (c) Town administrative organization. Until such time as a different form of organization shall be provided, in accordance with the provisions of article 5 of this charter, the following outline or organization shall be operative:

1. The Board of Selectmen shall appoint the following:

- * Town Administrator for a three (3) year term;
- * Affordable Fair Housing Commission in the manner set by M.G.L.A.;
- * Cultural Council, as provided by M.G.L.A.;
- * Board of Assessors to consist of three (3) members appointed for terms of three (3) years each;
- * Board of Health to consist of three (3) members appointed for terms of three (3) years each;
- * Board of Registrars of voters in the manner provided by M.G.L.A.;
- * Cemetery Commission and Sextons to consist of three (3) members appointed for three (3) year terms each;
- * Conservation Commission to consist of seven (7) members appointed for three (3) year terms each;
- * Council On Aging, as provided by town by-law;
- * Bellingham Historical Commission, to serve for terms of three (3) years each, as provided by town by-law;
- * Industrial Development Finance Commission in the manner provided by M.G.L.A.;
- * Capital Improvement Committee, as provided by this charter and by town by-law;

- * Insurance Commission, as provided by town by-law;
- * Memorial and Veterans Day Committee, as provided by town by-law;
- * Parks and Recreation Commission to consist of three (3) members appointed for terms of three (3) years each;
- * Town Counsel appointed for a term of one (1) year;
- * Veterans' Grave Agent, for a one (1) year term;
- * Zoning Board of Appeals, as provided by M.G.L.A.
- * Town Common Trustees Committee, as provided by CH 201 of the Acts of 1998 (M.G.L.A.).

2. The Town Moderator shall appoint:

- * Finance Committee as provided by town by-law.

3. The Town Administrator shall appoint:

- * Police Chief and other police officers to serve for indefinite terms;
- * Fire Chief who shall be Forest Warden, to serve for an indefinite term;
- * Field Assistant Assessor/Appraiser for a one (1) year term and who shall be assigned to serve under the Chief Financial Officer;
- * Treasurer-Collector for a three (3) year term and who shall be assigned to the finance officer;
- * Chief Financial Officer for a three (3) year term and who shall head the finance office;
- * Director of Public Works for a three (3) year term;
- * Animal Control Officer (s) to serve for a one (1) year term;
- * Inspector of Buildings (building inspector/zoning agent) to serve for a three (3) year term and who shall head the department of inspections;
- * Inspector of Plumbing and Gas to serve for a one (1) year term under the director of the department of inspections;
- * Inspector of Wires to serve for a one (1) year term under the director of the department of inspections;
- * Sealer of Weights and Measures to serve for a one (1) year term under the director of the department of inspections;
- * Personnel Board consisting of five (5) members; to serve for three (3) year terms each so arranged that the terms of as nearly an equal number as is possible shall expire each year.
- * Veteran's Agent and Director of Veterans' Services to serve for a one (1) year term;
- * Workmen's Compensation Agent to serve for a one (1) year term;
- * Civil Defense Director, to serve for a one (1) year term;
- * Civilian Defense Auxiliary/Special Police to serve for one (1) year terms.
- * Tree Warden, to serve for a three (3) year term.

4. The Board of Health shall appoint:

- * Health Agent for a term of one (1) year and who shall serve under the director of the department of inspections for purposes of coordination of inspections.

5. The Library Trustees shall appoint:

- * Director of the public library and other professional librarians, for terms as determined by the library trustees.
