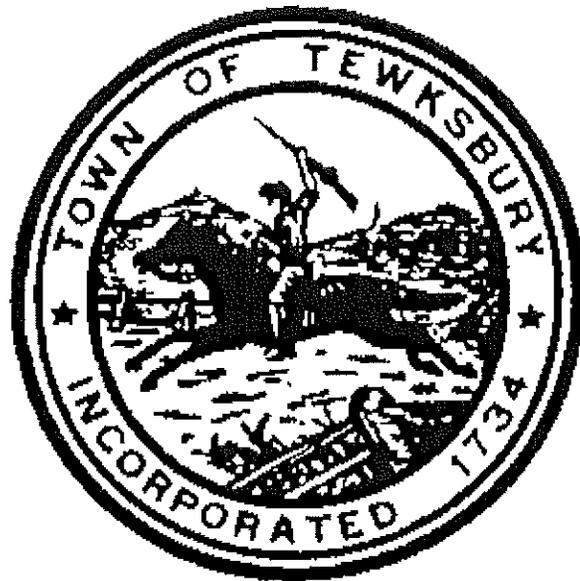


Special Act Charter Committee FINAL REPORT



Scott Wilson, Chairman
Richard O'Neill, School Committee
Ronald Hall, Finance Committee
Vincent Spada, Planning Board
Sandra Barbeau, Member at Large
Elizabeth Carey, Member at Large
James Biewener, Member at Large
Dean Graffeo, Member at Large

Special Act Charter Committee Mission (SACC):

To examine our current local government structure and to investigate the following forms of government; the Open Town Meeting, the Representative Town Meeting and a Town Council Format, including the efficiency and cost effectiveness of each and to prepare a preliminary report to the Board of Selectman within 18 months of the formulation of the April 2009 Special Act Charter Committee.

SACC Final Report

The Charter Committee held its first meeting in June of 2009 and the amazing journey began where members learned about the different forms of government available to the Town of Tewksbury. In 2009 and most of 2010 the committee met with other towns, researched forms of government and gathered the information necessary to compare other forms of government with our current Open Town Meeting. While this group recognized that Open Town Meeting has worked, we asked ourselves the questions: could we do better? Is this the best way to run a \$100 million dollar a year operation? Should Tewksbury be a community content with the progress we are making or should we look to our future and determine ways to lead Tewksbury forward? These questions are not easily answered, so we'll start by providing some of the numbers which led us to our recommendation.

MASSACHUSETTS GOVERNMENTS

Our review of 351 communities in Massachusetts revealed:

- 261 Communities with Open Town Meeting (74%)
- 50 Communities with a Council/Alderman form of Government (15%)
- 36 Communities with a Representative Town Meeting (10%)

Open Town Meeting based on number of residents

- <10K residents = 98%
- >10K <20K residents = 85%
- >20K <30K residents = 49%
- >30K residents = 2%

When we screened this data to look at communities with similar population as Tewksbury (over 25K residents):

- 4 Communities with Open Town Meeting (6%)
 - N. Andover, Dracut, Tewksbury & Andover
- 46 Communities with Council/Alderman form of Government (65%)
- 21 Communities with Representative Town Meeting (30%)

United States Governments

- There are 1450 US municipalities with populations greater than 25K residents
 - 62.7% are a Council-Manager form of Government (25K to <50K = 63%)
 - 33.7% are a Council-Mayor form of Government (25K to < 50K = 32%)
 - 1.7% are a Commission form of Government
 - 0.4% are a Town Meeting form of Government (ALL in Massachusetts)
 - 1.4% are a Representative Town Meeting form of Government

Since 1984 Council-Manager forms of government is the only form of government that has grown.

FORMS OF GOVERNMENT

	2010		2008	2004	2000	1996	1992	1988	1984	
Council-Manager	3,543	48.90%	3,520	3,453	3,302	2,760	2,441	2,356	2,290	34.70%
Mayor-Council	3,158	43.60%	3,131	3,089	2,988	3,319	3,635	3,686	3,686	55.80%
Commission	143	2.00%	143	145	143	154	168	173	176	2.70%
Open Town Meeting	342	4.70%	338	338	334	365	363	369	370	5.60%
Representative TM	63	0.87%	62	63	65	70	79	82	81	1.20%
Unknown				3						
Total	7,249		7,194	7,091	6,832	6,668	6,686	6,666	6,603	

- More than 92 million individuals live in cities operating under council-manager government.
- 62% of U.S. cities with populations of 50,000* or more operate under the council-manager form.
- 63% of U.S. cities with populations of 25,000* or more operate under the council-manager form.
- 57% of U.S. cities with populations of 10,000* or more operate under the council-manager form.
- 53% of U.S. cities with populations of 5,000* or more operate under the council-manager form.

TEWKSBURY

These numbers give an idea of what is happening in the Commonwealth and across the country, but we needed to examine what was happening in Tewksbury. In 1989 Tewksbury had 28K residents and as of today (October 2011) has 30K residents. From 2000 to 2010 Town Meeting averaged 285 residents or approximately 1% out of 28K residents and Special Town Meeting averaged 380 residents or approximately 1.4% out of 28K residents. Over the years Town Meeting attendance has been on the decline as we averaged 366 residents from 2000-2002, 330 from 2002-2004 (down 10%), 254 residents from 2005-2007 (down 23%) and 199 residents from 2008-2010 (down 22%).

In recent years we have seen anomalies to this trend as the 2008 budget debate brought voters to TM as there were 911 voters at the May 6, 2008 TM and 923 voters at the June 25, 2008 TM. More recently we had 2104 voters in attendance on March 1, 2010 to vote on whether to build the new high school. From 2000-2010 unfortunately 69% of the meetings (42 out of 61) had less than 300 residents (1% of the voters).

While these numbers reflect poor attendance and indicate a general apathy in Tewksbury government, we know from listening to the comments received and debates at our public meeting that many people firmly believe Town Meeting is the ideal form of government for our town. Many believe that the types of changes being discussed would take away the people's direct authority over local government. As a registered voter you have a voice and a vote in government proceedings. You have the ability to add an article to the town meeting warrant and advocate for your cause. It allows any individual to champion a cause without hoping a town representative or town council member will support and vote favorably on your behalf.

Open Town Meeting is also a cost effective form of government. With the business of the town taking place on two evenings there is limited expenses in preparation for Town Meeting with the majority of the cost being money spent in the Town Clerk's office and to print warrant articles. While each meeting has a different cost we put the cost in the neighborhood of \$5K per meeting.

Another concern residents have expressed is that they are more in tune with their interests than the government. Many have suggested when they are uninformed the fault lies with lack of information and poor communication from elected officials. The question comes down to; are residents better off with 200 residents making decisions or with a select group of elected officials?

Advocates of keeping Open Town Meeting have suggested that changes to the meeting process could improve attendance. We did research to look at Open Town Meeting and the changes which have occurred over the years. The town meeting review committee from 1997-2005 recommended the detailed initiatives below which were implemented.

- Reduction in the number of warrant articles at Town Meeting
 - From 1960 to 1967 we averaged 100 articles at each meeting ranging from 80 to 112 warrants
 - At our most recent STM we had 19 warrant articles
 - A consent calendar was created which groups non-controversial articles under one article
- Town Meeting was divided into 3 sections
 - Annual Town Election
 - Monday Annual Town Meeting: Consent calendar, budget and personnel by-laws
 - Wednesday Annual Town Meeting: Zoning, BY Laws and general articles and petitions
- Motion to reconsider was only allowed for specific reasons
 - Procedural defect
 - Scriveners error
 - Oversight
- Glossary of Town Meeting Terms added to Warrant
- Executive summaries were required for each article explaining the purpose and intent.
- Process for submitting Town Meetings warrant articles established and published
- Established a policy for videotaping town meetings

We believe these initiatives were significant improvements to the Town Meeting process that did not result in improved attendance. The apparent apathy which exists toward Town Meeting is not unique to Tewksbury. The Boston Herald carried an article titled "Town Meeting Needs Adjourning" by Jennifer C Braceras (April 25, 2011). The article talks about the fact that people refer to Town Meeting as *"the most democratic form of government. When you stop to think that towns have used town meeting for 350 years to make local decisions it is easy to understand the long history. But why have attendance rates been so "abysmally low"?* Apathy alone is not the only cause. In discussions with residents I have heard more about the "hustle and bustle of daily life". Jennifer Braceras raised the issue that when Town meeting was established things were very different in the United States. *"People lived and worked locally" and they spent less time "traveling for work, working nights and*

commuting to jobs miles from home. Moreover, in 2011, all adults in a household can vote, and so, for some, attending Town Meeting requires hiring a babysitter. “

No one can definitively state why Town meeting attendance continues to decline but as stated in the article, what is left is “a small, unrepresentative portion of the electorate makes decisions for the entire community. It is governance by might a system where those with the loudest voices, and the time and the energy to outlast all others, always prevail. A system where citizens vote by voice or show of hands also creates incredible social pressure for people to go along to get along for the sake of neighborhood harmony. “

REPRESENTATIVE TOWN MEETING

Some believe that taking the interim step and moving to a representative town meeting is a better choice. For those worried about losing their vote or having a small group of council members make the decisions, they believe having town meeting members offers greater representation. This would keep town meetings twice a year with the major difference being that a represented body would make the final vote instead of the residents.

Our research provided several examples where towns that have recently moved to this form of government are already looking to make another change. Some of the challenges we discovered included unproductive Town Meetings requiring extended number of days to complete, challenges keeping the representative informed, problems with getting a quorum and with representatives' not attending meetings, and difficulty in getting people to run for election. Our discussion with local town clerks further backed up our research as they expressed similar problems. Just this past spring Billerica's representative town meeting needed five days to complete.

The bottom line for us is if you are going to have town meeting then you are better off continuing it the way it operates today as we don't see the representative town meeting as a way of improving town government.

COUNCIL

In looking for the best description of a council form of government, the ICMA provided great information that clearly explains this form of government. This section is all from the ICMA website. The ICMA is the International City/County Management Association. They develop and advance professional local government management to create sustainable communities with the stated goal of improving lives worldwide.

<http://icma.org/>

Council-manager government combines the strong political leadership of elected officials with the strong managerial experience of an appointed manager. All power and authority to set policy rests with an elected governing body, which includes a chairperson and members of the council. The governing body in turn hires a nonpartisan manager who has very broad authority to run the organization. Born out of the U.S. progressive reform movement at the turn of the 20th century, the council-manager system was designed to combat corruption and unethical activity in local government by promoting effective management within a transparent, responsive, and accountable structure. Since its establishment, the council-manager form has become the most

popular structure of local government in the United States. The form is also widely used throughout the world in countries such as Canada, Australia, the Netherlands, New Zealand, and the United Kingdom.

The elected council or board represent their community and develop a long-range vision for its future. They establish policies that affect the overall operation of the community and are responsive to residents' needs and wishes. To ensure that these policies are carried out and that the entire community is equitably served, the governing body appoints a highly trained professional manager on the basis of his/her education, experience, skills, and abilities (and not their political allegiances). If the manager is not responsive to the governing body, it has the authority to terminate the manager at any time.

Benefits of the council-manager form of government include:

- 1. Political power is concentrated in the entire governing body. The Council share legislative functions*
- 2. Policy making resides with elected officials, while oversight of the day-to-day operations of the community resides with the manager. In this way, the elected officials are free to devote time to policy planning and development*
- 3. The manager carries out the policies established by the elected governing body with an emphasis on effective, efficient, and equitable service delivery*
- 4. Because decisions on policy and the future of the community are made by the entire governing body rather than a single individual, council-manager governments more often engage and involve their residents in decision making. Residents guide their community by serving on boards and commissions, participating in visioning and strategic planning, and designing community-oriented local government services*
- 5. The form is flexible enough to adapt to local needs and demands. For example, some communities elect their councils at large, while others elect them by district or by a combination of an at-large-and-by-district system.*

The manager is hired to serve the council and the community and brings to the local government the benefits of his/her training and experience in administering municipal or county projects and programs. The manager prepares a budget for the council's consideration; recruits, hires, terminates, and supervises government staff; serves as the council's chief advisor; and carries out the council's policies. Council members and residents count on the manager to provide complete and objective information about local operations, discuss the pros and cons of alternatives, and offer an assessment of the long-term consequences of their decisions. Appointed managers serve at the pleasure of the governing body. They can be fired by a majority of the council, consistent with local laws, or any employment agreements they may enter into with the council. The manager makes policy recommendations to the council for consideration and final decision. The manager is bound by whatever action the council takes, and control is always in the hands of the elected representatives of the people.

The council is the community's legislative and policymaking body. Power is centralized in the elected council, which, for example, approves the budget and determines the tax rate. The council also focuses on the community's goals, major projects, and such long-term considerations as community growth, land use development, capital improvement and financing, and strategic planning. The council hires a professional

manager to implement the administrative responsibilities related to these goals and supervises the manager's performance.

Many local governments have found that their overall costs are actually reduced under competent management. Savings can come from decreased operating costs, increased efficiency and productivity, improved revenue collection, and effective use of technology. The economic health of the community may also benefit from implementation of improved business development and retention strategies.

<http://icma.org/formofgovt>

	OTM	RTM	Council
Legislative Body	OTM	Elected Representatives 25-300 people	Elected Council 5-19
Executive Branch	Board of Selectmen Town Manager	Board of Selectmen Town Manager	Council Town Manager

RECOMMENDATION

The Special Act Charter Committee would like to request that the Board of Selectman call for a Special Town Meeting prior to March 15, 2012 for the proposed change from an Open Town Meeting to a Town Council form of government for the Town of Tewksbury. It is our strong belief that an issue of this magnitude should have its own stage where all concerned have an opportunity to voice their opinion.

While the trend in this country has been a movement towards council-manager forms of government, our recommendation is truly based on what we believe is best for Tewksbury. Having a council that deals with the day to day business issues of the community, in a timely manner will allow for real-time decision making. Keeping boards elected in Tewksbury is a unique twist which doesn't allow the council to appoint people but keeps this decision in the hands of the voting public.

With regards to a nine member council versus a seven member council, a study of the state of Massachusetts convinced us that nine is the best alternative. Medford is the only community in Massachusetts that has a seven member council. We believe that this is too small and a community could find that there is lack of diversity in views and voices with only seven councilors. In addition by having district councilors we are providing geographical coverage for all of Tewksbury while having at-large members which will help mitigate the advocacy for certain areas of the town with the "whole town" view still being the priority. The larger council will provide better access, representation, deliberation of varying views and assures the stature of the body. This is not a workload issue, this is an issue of representation for the residents.

The Board of Selectman will now be the legislative arm of our town government and will play the role of town meeting, which is a different role than the Board of Selectman play today.

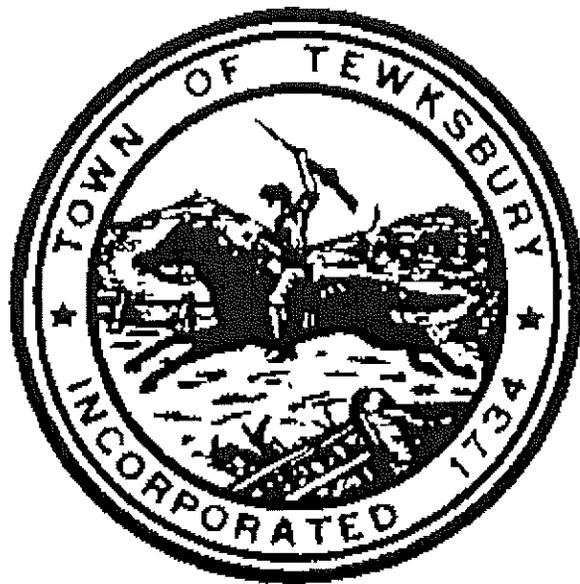
We believe that a council form of government is an improvement over our government today. It is important to remember that this arrangement is not going to work with effortless efficiency on day one, but it will take some time for both the manager and the council to reach a rhythm that works well for them and to establish protocols which will become the norm.

The goal for the legislative arm is to assure that decisions are made in the best interest of the town by providing an ongoing venue for deliberation, debate and decisions. Towns the size of Tewksbury with a council – for example Franklin & Winthrop or larger communities like Randolph & Watertown, have operated reasonably well and have managed to sustain administrative and operational practices while remaining responsive to local needs as well as being fiscally responsible. Much of the operational responsibility under a council moves to the town manager and maintaining the role of a strong town manager in Tewksbury was very important to this committee.

Now that we have completed a strong charter document our challenge will be to educate the public and inform them how this government works.

SIGNIFICANT ELEMENTS OF THE CHARTER:

- Nine Councilors replaces the five member Board of Selectmen.
 - Four district councilors
 - Five at-large councilors
- The Town Manager remains appointed.
- Town Meetings would be abolished.
- The Finance Committee would become financial advisors to the Council.
- Elected officials and terms would remain the same with the exception to appoint the Town Clerk.
- The Town of Tewksbury would be a Town with a "city" form of government and still being known as the Town of Tewksbury.
- Elected officials salaries will remain the same, subject to appropriation. No increase in salary for elected officials will be effective until it goes through a particular process.
- Vacancies in elected office shall be filled as required by Massachusetts General Laws.
- The Annual Town Election to be held on the first Tuesday in April from 7:00 AM to 8:00 PM.
- The Recall for elected officials remains the same as in the current Charter, Section 15A.
- There is an Initiative Petition Process.
- There is a Referendum Petition Process.



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TOWN OF TEWKSBURY

ARTICLE 1: INCORPORATION; SHORT TITLE; DEFINITIONS

SECTION 1-1: INCORPORATION

1-1.1 The inhabitants of the town of Tewksbury, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Tewksbury."

SECTION 1-2: SHORT TITLE

1-2.1 This instrument shall be known and may be cited as the Tewksbury Home Rule Charter.

SECTION 1-3: POWERS OF THE TOWN

1-3.1 Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the commonwealth, it is the intention and the purpose of the voters of the town of Tewksbury through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated herein. The ultimate power of the town resides with the voters through their ability to elect the town council.

SECTION 1-4: DIVISION OF POWERS

1-4.1 The town council shall have and shall exercise all legislative powers of the town. The executive branch, headed by the town manager who is appointed by the town council, shall administer all town fiscal, business and municipal affairs, except as provided in M.G.L. c. 41, section 45.

SECTION 1-5: CONSTRUCTION

1-5.1 The powers of the town of Tewksbury under this charter are to be construed liberally in favor of the town and the specific mention of any particular power is not intended to limit the general powers of the town as stated in Section 1-3.

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

1-6.1 Subject only to express limitations in the constitution or general laws of the commonwealth, the town of Tewksbury may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or

otherwise, with the commonwealth or any agency or political subdivision thereof, or with the United States government or any agency thereof.

SECTION 1-7: TOWN SEAL

1-7.1 The town seal in existence at the time this charter is adopted, unless the town council shall adopt another, shall continue to be the town seal and shall be kept in the custody of the town clerk. Papers or documents issued from any office or board of the town may be attested by use of said seal.

ARTICLE 2: LEGISLATIVE BRANCH

SECTION 2-1: COMPOSITION, TERM OF OFFICE

2-1.1 Composition. There shall be a town council of nine (9) members, which shall exercise the legislative powers of the town. These nine (9) members are to be known as councilors.

2-1.2 Term of Office. The term of office for town council members shall be three (3) years beginning on the first Tuesday of April following election and continuing until a successor is qualified and sworn into office. The terms shall be staggered in accordance with the transitional language in Article 10, Section 10-6.

2-1.3 Eligibility. Voters of the town of Tewksbury shall be eligible to hold the office of town council. Four councilors shall be nominated and elected from four districts to be composed of the existing adjacent precincts such that two precincts shall compose a district and five councilors shall be nominated and elected by and from the voters at large. A district councilor shall at the time of election be a voter of the district from which elected.

2-1.3.1 If any district councilors shall during the first 24 months of the term of office remove to another district in the town, the council shall declare the office vacant, and such office shall be filled for the balance of the term as provided in Section 2 – 12. If the district councilor removes to another district in the last 12 months of the term to which elected, the councilor shall continue to serve for the balance of the term for which he is elected. If the district councilor removes from the town in the last twelve months of the term to which elected, the council may elect a voter from such district to serve the balance of the term.

SECTION 2-2: COUNCIL OFFICERS AND CLERK

2-2.1 Council Organization. The president shall preside at all meetings of the town council, and perform such other functions as may be assigned by the charter, by ordinance or by vote of the town council. The vice-president shall preside at meetings of the town council during the absence or disability of the president.

2-2.2 Election and Term. The council president and vice-president shall be elected by the council and shall each serve a 1 year term of office.

2-2.3 Town Council President. The town council president shall preside at all meetings of the town council, regulate its proceedings and shall decide all questions of order. The town council president shall appoint, with the approval of the town council, all members of all subcommittees of the town council, whether special or standing. The town council president shall have the same powers to vote upon all measures coming before the town council as any other member of the town council. The town council president shall perform such other duties consistent with the office as may be provided by charter, by ordinance, by the council's own rules, or by other vote of the town council.

2-2.4 Town Council Vice-President. The town council vice-president shall serve as acting president during the temporary absence or disability of the town council president. The powers of an acting town council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary absence or disability and no others.

2-2.5 Clerk of the Town Council. A clerk of the town council, who is not a council member, shall be appointed by the council for an initial or successive term or terms each not to exceed 3 years. The clerk of the town council shall, with the consent of the town council, ensure the continuity of record keeping for the town council; give notice of its meetings to its members and to the public; keep the journal of town council proceedings; present the draft minutes to the town council at regularly scheduled meetings; and, perform such other duties as may be provided by ordinance, by the council's own rules, or by other vote of the town council.

SECTION 2-3: PROHIBITIONS

2-3.1 Holding Other Town Office or Position. No member of the town council shall hold any other non-elected compensated town office or town employment. No former member of the town council shall hold any compensated town office or town employment until 1 year following the date on which such former member's service on the town council has terminated. This provision shall not prevent a town officer or other town employee who has taken a leave of absence in order to serve as a member of the town council from returning to the same office or other position of town employment held at the time such leave of absence commenced; provided however no such person shall be eligible for any other town office until at least one year following the termination of service as a member of the town council.

2-3.2 Interference with Administration. Except for the purpose of inquiries and investigations pursuant to Section 2-8, the town council shall not infringe upon the town manager's authority and responsibilities by giving instructions, orders or directions directly to the officers and employees serving under the town manager.

SECTION 2-4: EXPENSES

2-4.1 Expenses. Subject to appropriation and to prior allocation and authorization, the town council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

SECTION 2-5: GENERAL POWERS

2-5.1 Except as otherwise provided by general law or by this charter, all powers of the town shall be vested in the town council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the town council by ordinance. The town may enter into contracts for the exercise of its corporate powers on such terms and conditions as are authorized by the town council by ordinance.

SECTION 2-6: EXERCISE OF POWERS; RULES

2-6.1 Exercise of Powers. Except as otherwise provided by general law or by this charter, the legislative powers of the town council may be exercised in a manner determined by the town council.

2-6.2 Rules of Procedure. The town council shall from time to time establish written rules regulating its procedures, which shall be in addition to the following:

2-6.2.1 Regular meetings of the town council shall be held at a time and place fixed by ordinance but which shall be not less frequent than once monthly.

2-6.3. Special Meetings. Special meetings may be held on the call of the president of the town council, town manager, or on the call of any 4 or more members, by written notice delivered at least forty-eight hours in advance of the time set and such notice shall further comply in all instances with the provisions of M.G.L. c. 30A, §18-25 (referred elsewhere herein as the "Open Meeting Law"). Except as otherwise authorized by the laws of the Commonwealth all sessions of the town council shall be open to the public and press. Every matter coming before the town council for action shall be put to a vote, the result of which shall be duly recorded. All council votes on ordinances, appropriation orders, or loan authorizations shall be taken by roll call vote, and shall be duly recorded by the town clerk. A full, accurate, and up-to-date record of the proceedings of the town council shall be kept and shall be open to inspection by the public. Regular meetings of the town council shall provide for a period of public comment; provided however, the town council may regulate such period of public comment as deemed appropriate.

2-6.3.1 The town manager may at any time call a special meeting of the town council by causing a notice of such meeting to be delivered in hand or to the place of business or residence of each member of the town council. Such notice shall, except in an emergency as determined by the town manager, be delivered at least 48 hours in advance of the time set and shall specify the

purpose or purposes of the special meeting. A copy of each such notice shall be posted by the town manager on the town bulletin board and on the town's official web site.

2-6.4 Town Council Meeting Protocol. All meetings of the town council shall include opportunity for public comment. Residents may present comments to councilors orally at council meetings or in writing.

2-6.4.1 For the conduct of business a quorum of the town council shall be a minimum of 5 members, provided that a lesser number may adjourn from time to time.

2-6.4.2 Except as otherwise provided by the charter, the affirmative vote of a majority of the full council shall be required to adopt any ordinance or appropriation order.

2-6.4.3 The meetings of the town council and of every committee or subcommittee thereof shall be posted and the agenda made available in accordance with the applicable provisions of the Open Meeting Law.

2-6.4.4 The affirmative vote of at least 2/3 of the full town council shall be required to change or adopt zoning ordinances.

SECTION 2-7: LICENSING AUTHORITY: DELEGATION OF POWERS

2-7.3.1 The town council shall be the licensing authority of the town and shall have all the power to issue licenses as otherwise authorized by law, to make all rules regarding issuance of such licenses and to attach conditions and restrictions on any license it may issue as it deems to be in the public interest and to enforce all laws relating thereto.

2-7.3.2 The town council may delegate to one or more agencies the powers vested in the town council by the general laws to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits of any such town agency, and may in its discretion, rescind any such delegation without prejudice to any prior action which has been taken and to enforce all laws relating to such businesses for which a license has been issued.

SECTION 2-8: ACCESS TO INFORMATION

2-8.1 In General. The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency and, for this purpose, may subpoena witnesses, administer oaths and require the production of evidence.

2-8.2 Town Officers, Members of Town Agencies, Employees. With notice to the town manager, the town council may require any town officer, member of a town agency or town employee to appear before it to give such information as the town council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person and within the jurisdiction of the town council.

2-8.3 Town Manager. The town council may require the town manager to appear before it and to provide specific information to it on any matter within the jurisdiction of the town council.

2-8.4 Notice. The town council shall give a minimum notice of 10 days to any person requested to appear before it under the provisions of this section. The notice shall include specific issues on which the town council seeks information. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of any such person.

SECTION 2-9: PERSONNEL APPOINTED BY TOWN COUNCIL

2-9.1 Except as otherwise provided by this charter, the town council shall appoint all boards, commissions and committees. The town council shall adopt procedures to allow for orderly appointment of multiple member bodies, including, but not limited to, the following: a board of assessors; a conservation commission; a zoning board of appeals; a council on aging; a government study committee; a trust fund commission; a historical commission; a finance committee; and, a board of registrars. The town council shall also appoint all multiple member policy advisory committees or commissions and shall appoint all ad hoc committees or commissions not specifically provided by ordinance, and all other multiple member bodies for whom no other method of appointment is provided.

2-9.1.1 Appointments made by the town council shall be for the same term of office, and the same number of members for each multiple member body set forth in Section 2-9.1 above as currently provided for, until other provisions are made in accordance with the charter.

2-9.1.2 The town council shall employ such staff and experts as are necessary to conduct the business of the town council. The town council shall set the form and levels of compensation of such staff.

2-9.2 Salaries/Compensation. Any person appointed by the town council shall receive such salaries or other compensation as may from time to time be provided for such office by ordinance; provided, however, that such salary or compensation shall have been adopted by a two-thirds (2/3) vote of the full town council.

2-9.3 Removal/Suspension. Any person appointed by the town council may be removed or suspended by the town council by the use of procedures contained in the personnel ordinance for the removal of town employees.

2-9.4 Review of Town Manager. The town council shall annually conduct a comprehensive performance review and evaluation of the town manager, the results of which shall be reviewed at a regular or special meeting of the town council in each calendar year.

2-9.4.1 The town council shall by majority vote of the town council establish guidelines for the annual performance review and evaluation of the town manager. The town council and the town manager shall jointly establish short-term and long-term goals for the town manager and the town manager's annual performance review shall include a measurement of the town manager's progress in achieving or performing against the goals as stated and agreed.

SECTION 2-10: ORDINANCES, TAX MEASURES, APPROPRIATION ORDERS AND LOAN AUTHORIZATIONS

2-10.1 Ordinances, tax measures, appropriation orders and loan authorizations shall be introduced in writing and shall be processed through the following stages: First Reading; Public Hearing; Second Reading. After the First Reading, the town council shall cause a synopsis of the proposed ordinance, tax measure, appropriation order or loan authorization in the form passed by the town council to be published in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site, together with notice of the time and place when and where the public hearing will be held prior to the second reading for final passage, at least 7 days prior to the date of the public hearing. If the town council amends the ordinance, tax measure, appropriation order or loan authorization after the public hearing, then it shall cause a synopsis of the amended ordinance, tax measure, appropriation order or loan authorization to be published in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site in the new form passed by the town council, together with notice of the time and place when and where the public hearing on this amendment shall be held at least 7 days prior to the date of the new public hearing.

2-10.2 Emergency Ordinances. No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property. No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to such ordinance, separately voted upon and receiving the affirmative vote of 5 or more members of the town council. Emergency ordinances shall stand repealed on the sixty-first day following adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted in conformity with this section is passed extending it, or unless a measure passed in conformity with the procedures for measures generally has been passed extending it.

2-10.3 The town council shall cause a synopsis of every ordinance, tax measure, and appropriation order or loan authorization to be published in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site. The ordinance, tax measure, appropriation order or loan authorization shall be effective 20 days after the date of publication, except in case of emergency involving the health or safety of the people or their property when the provisions of the foregoing section 2-10.2 shall apply.

SECTION 2-11: COUNCIL REVIEW OF CERTAIN APPOINTMENTS

2-11.1 The town manager shall submit to the town council the name of each person the town manager desires to appoint to each of the following positions in the town, and all other town officials whose appointment or election is not specifically provided for herein, however titled: town clerk, town treasurer; town collector; chief assessor; police chief; fire chief; superintendent of public works; director of personnel; director of community development; director of council on aging; conservation administrator; director of the public library; director of public health, and town attorney; but, not including any position for whom selection is provided by election under Article 4. The town council may require any person the town manager so refers to it to appear before a standing committee of the town council, or before the town council, to give such information relevant to such appointment as the committee, or the town council, requires. Appointments made by the town manager shall become effective on the 15th day following the date on which notice of the proposed appointment was filed with the clerk of the council, unless 5 members of the town council shall within the said 15 days vote to reject such appointment, or unless the town council has sooner voted to affirm the appointment. Rejection by the town council shall require at least a 2/3 vote of the full town council. The question on rejection of any appointment made by the town manager shall not be subject to the procedure of charter objection provided in Section 8-3 of this charter.

2-11.2 The person serving as town clerk at the time this charter is approved by the voters shall, notwithstanding any contrary provision of any special or general law, the charter, or any rule or regulation, complete the term to which elected. The appointment provisions of the charter pertaining to the town clerk shall become effective upon the completion of such term or if there is a sooner vacating of the office by the said person serving as town clerk at the time this charter is approved, whichever is earlier.

SECTION 2-12: FILLING OF VACANCIES

Filling of Vacancies by Town Council

2-12.1 Whenever a vacancy shall occur during the first 24 months of the term of a councilor at large or a district councilor, the town council shall call a special election in said district(s) or in the town, as necessary, to be held within 90 days of the determination of such vacancy. Such election may be postponed if the town's annual election is to be held within 120 days. The individual elected shall serve for the remainder of the term. Should a vacancy occur in the final 12 months of the term of a councilor the remaining members of the town council shall elect by majority vote a town of Tewksbury voter to fill the vacancy until the next annual town election. The voter chosen to fill a vacancy in the seat of a councilor at large shall reside in the town of Tewksbury, and a voter chosen to fill a district councilor vacancy shall reside in the affected district. Individuals serving on the council as a result of appointment shall not be entitled to have the words "candidate for re-election" printed alongside their names on the election ballot.

2-12.1 Whenever a vacancy shall occur by death, resignation or otherwise during the first 24 months of the term of a councilor at large or a district councilor, the town council shall declare such seat vacant and call a special election in said district(s) or in the town, as necessary, to be held within 90 days of the determination of such vacancy. Such election may be postponed if the town's annual election is to be held within 120 days. The individual elected shall serve for the remainder of the term. Should a vacancy occur as described herein in the final 12 months of the term of a councilor the remaining members of the town council shall declare such seat vacant and elect by majority vote a town of Tewksbury voter to fill the vacancy until the next annual town election. The voter chosen to fill a vacancy in the seat of a councilor at large shall reside in the town of Tewksbury, and a voter chosen to fill a district councilor vacancy shall reside in the affected district. Individuals serving on the council as a result of appointment shall not be entitled to have the words "candidate for re-election" printed alongside their names on the election ballot.

2-12.1.1 If any councilor-elect shall fail after election to take the oath of office as a councilor for the town council, as required by general law, the council shall declare said office vacant and the balance of the unexpired term shall be filled in the manner provided in this Section 2 – 12.

2-12.1.2 In the event that no candidate for election shall have been elected by the voters as a councilor for the town council, the council shall declare such office vacant and the balance of the unexpired term shall be filled in the manner provided herein.

Filling of Vacancies in Other Elected Offices

2-12.2 When a vacancy exists in any elected town office or elected town board the vacancy shall be filled as required by M.G.L. c. 41, §11. The person so appointed shall serve to completion of the unexpired term, or until the next annual town election, whichever is earlier.

SECTION 2-13: FINANCE COMMITTEE

2-13.1 The town council shall establish a finance committee of not more than 9 members or fewer than 5 members. Thereafter, initial appointments shall be made by the town council president and the school committee chairperson. Once all positions have been filled, any vacancy that occurs shall be filled by appointment by a majority vote of the following three parties; namely, the town council president, school committee chairperson and finance committee chairperson. Such committee shall be in addition to any similar committee composed of council members. Terms of committee members shall be for three years; the council president shall so arrange initial terms such that as equal a number of members as is possible are appointed each year. No elected or appointed town officer or town employee shall serve on the committee. The committee will serve in an advisory capacity to the council on fiscal matters, and on such other matters as the council may request. The committee shall, at the council's request, examine all budget and appropriations proposals and make recommendations thereon to the council.

ARTICLE 3: EXECUTIVE BRANCH

SECTION 3-1: TOWN MANAGER: QUALIFICATIONS; COMPENSATION

3-1.1 Town Manager Qualifications. The town manager shall be the chief executive officer of the town and shall be appointed by the town council by an affirmative vote of at least 2/3 of the full town council. The town manager shall be a person of proven administrative ability, and specially qualified by education and training. At a minimum, the town manager shall possess a minimum of a bachelor's degree in public administration or a related field and 5 years of relevant public or private experience, or, in the alternative, a master's degree in public administration or in a related field and 3 years of relevant public or private experience in performing the duties that are comparable to those set forth in section 3-3 below. The town council may, from time to time, establish by ordinance such additional qualifications as it may deem necessary and appropriate.

3-1.2 The town manager shall not engage in any other business or occupation during his or her term except for part-time consultative or teaching duties, directly relating to the profession of municipal management and with the specific consent of the town council.

3-1.3 Compensation. The town council shall determine the town manager's salary within the amount as provided by yearly annual appropriation. The initial term of appointment and any successor term of appointment of the town manager shall not exceed a term of 3 years.

3-1.4 Expenses. Subject to appropriation, the town manager shall be entitled to reimbursement of the actual and necessary expenses incurred in the performance of the duties of the office.

3-1.5 Prohibitions. The town manager shall hold no other town office or town employment for which a salary or other emolument is payable from the town treasury; provided, however, this restriction shall not apply in any event where the town manager is serving in another capacity in lieu of creating or maintaining a position for which funding may be required and an annual appropriation made; or, where town manager is also serving in another position as part of an administrative plan to reorganize, consolidate, combine, or eliminate, in whole or in part, certain functions or tasks that may otherwise be performed, temporarily or permanently, by town manager.

SECTION 3-2: EXECUTIVE POWERS; ORGANIZATION

3-2.1 The executive powers of the town shall be vested solely in the town manager and may be exercised by the town manager either personally or through the several town agencies under the general supervision and control of the office of the town manager.

SECTION 3-3: POWERS AND DUTIES OF THE TOWN MANAGER

3-3.1 The town manager shall be the chief executive officer of the town and shall be responsible to the town council for the operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties, and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

3-3.1.1 To supervise, direct, and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility, authority or control by this charter, by ordinance, or by vote of the town council.

3-3.1.2 To administer either directly or through a person or persons supervised by the town manager, in accordance with this charter, all provisions of general or special laws applicable to the town, all ordinances, and all regulations established by the town council.

3-3.1.3 To oversee and coordinate all activities of town departments or agencies.

3-3.1.4 To attend all regular and special meetings of the town council, unless excused, and be available to respond to matters under the general supervision of the town manager.

3-3.1.5 To keep the town council fully informed as to the state of the town, and to make recommendations on matters which may require its attention.

3-3.1.6 To maintain complete and accurate records of the financial activity of the town.

3-3.1.7 To approve the rental, use, maintenance, and repair of all town facilities, except, those school buildings and grounds under the jurisdiction of the school committee.

3-3.1.8 To authorize the purchase of all supplies, materials, and equipment, except books and other educational materials and supplies for the schools and books and other media for the public library.

3-3.1.9 To approve the award of all town contracts, except contracts for books, educational material and supplies for the schools and the public library as aforesaid.

3-3.1.10 To develop and maintain a full and complete inventory of all town owned real and personal property.

3-3.1.11 To administer personnel policies, practices, or rules and regulations, compensation plans and related matters for town employees, except for school department employees, and to administer collective bargaining agreements, except for school department agreements, entered into by the town.

3-3.1.12 To set the compensation levels of town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan.

3-3.1.13 To be responsible for the negotiation of collective bargaining agreements with town employees on wages and other terms and conditions of employment, except employees of the school department. The town manager may employ special counsel to assist in the performance of these duties.

3-3.1.14 To prepare and submit an annual operating budget, capital improvement program, and a long-term financial forecast under Article 6 of the charter.

3-3.1.15 To keep the town council informed as to the financial condition of the town and to make recommendations to the town council as the town manager determines necessary or expedient.

3-3.1.16 To investigate or inquire into the affairs of any town agency under the authority of the town manager.

3-3.1.17 To delegate, authorize, or direct any subordinate or employee of the town to exercise any power, duty, or responsibility which the office of town manager is authorized to exercise, provided, that all acts that are performed under such delegation shall be considered to be the acts of the town manager.

3-3.1.18 To perform such other duties as necessary or as may be assigned by this charter, by ordinance, or by vote of the town council.

SECTION 3-4: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

3-4.1 The town manager shall cause the charter, the laws, the ordinances and other orders for the government of the town to be enforced, and shall cause a record of all official acts of the executive branch of the town government to be kept.

SECTION 3-5: APPOINTMENTS BY THE TOWN MANAGER

3-5.1 All appointments made by the town manager shall be made on the basis of merit and fitness demonstrated by past performance or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person qualified by education, training, and previous work experience to perform the duties of the office or position.

3-5.2 The town manager shall have authority to appoint, in consultation with the town council, a town clerk. This appointment shall be made on the basis of merit and fitness, past performance, or by other evidence of competence and suitability. The person initially and subsequently appointed to fill the position of town clerk shall be a person qualified by

education, training, and previous work experience to perform the duties of the office or position.

3-5.2.1 The town clerk shall be appointed by the town manager. Notwithstanding any provision in the charter to the contrary, the town manager may remove, suspend, reprimand, or warn the town clerk only for just cause; provided, however, the town clerk shall be given written notice at least 14 days prior to the date of the taking of disciplinary action (removal, suspension reprimand, warning) which shall specify the reasons for such disciplinary action. The town clerk shall thereafter upon written request be granted a public hearing held by the town council who shall, by a majority of the members present constituting a quorum, vote either to approve or not approve such disciplinary action taken by the town manager. In the event the disciplinary action taken by the town manager is not approved, the action taken against the town clerk shall be dismissed with prejudice and the individual shall be made whole and restored to the position, both economically and in terms of status he/she would have occupied had the disciplinary action not taken place.

Said written request for a public hearing shall be made to the town council or through its office on or before the close of business (5:00 p.m.) on the third day following the date of said written notice. Said vote of the town council shall occur no later than 7 days after the public hearing. If, after a written request for a public hearing, said hearing or said vote is not held as provided herein, the action taken against the town clerk shall be dismissed with prejudice.

3-5.2.2 The building commissioner shall be appointed by the town manager. Notwithstanding any provision in the charter to the contrary, the town manager may remove, suspend, reprimand, or warn the building commissioner only for just cause; provided, however, the building commissioner shall be given written notice at least 14 days prior to the date of the taking of disciplinary action (removal, suspension reprimand, warning) which shall specify the reasons for such disciplinary action. The building commissioner shall thereafter upon written request be granted a public hearing held by the town council who shall, by a majority of the members present constituting a quorum, vote either to approve or not approve such disciplinary action taken by the town manager. In the event the disciplinary action taken by the town manager is not approved, the action taken against the building commissioner shall be dismissed with prejudice and the individual shall be made whole and restored to the position, both economically and in terms of status he/she would have occupied had the disciplinary action not taken place.

Said written request for a public hearing shall be made to the town council or through its office on or before the close of business (5:00 p.m.) on the third day following the date of said written notice. Said vote of the town council shall occur no later than 7 days after the public hearing. If, after a written request for a public hearing, said hearing or said vote is not held as provided herein, the action taken against the building commissioner shall be dismissed with prejudice.

SECTION 3-6: ADDITIONAL APPOINTMENTS; REMOVAL OR SUSPENSION BY THE TOWN MANAGER

3-6.1 Except as is otherwise provided in Section 2-11, the town manager shall have authority to appoint, after consultation with the appropriate agency head, all assistants, subordinates, and employees of a town department, office, board or agency. All appointments shall be made on the basis of merit and fitness, past performance, or by other evidence of competence and suitability. Each person appointed shall be a person qualified by education, training, and previous work experience to perform the duties of the office or position.

3-6.2 The town manager, after consultation with the appropriate agency head, as applicable, may remove, suspend or discipline any person appointed by the town manager. The decision of the town manager shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the town manager; provided, however, except as otherwise provided in Section 3-5.2.1 and Section 3-5.2.2, that any such removal, suspension or other disciplinary action shall be in accord with the applicable provisions of G.L. c. 32 concerning a position recognized by the town as being subject to the jurisdiction of the civil service law, so-called, or any collective bargaining agreement in force and effect to which an employee has rights as a bargaining unit member, or any personnel ordinance that is in force and effect and of application to such employee at the time of such disciplinary action is being taken. All other employees shall serve at the discretion of the appointing authority.

SECTION 3-7: COMMUNICATIONS

3-7.1 Communications to the Town Council. The town manager shall submit to the town council and make available for public distribution the annual report as referenced in Section 9-8. The town manager shall, from time to time throughout the year, by written communication, report on and recommend to the town council for its consideration such measures as, in the judgment of the town manager, are in the best interest of the town. The town manager shall, from time to time throughout the year, by written communications, keep the town council informed of the financial condition of the town and shall regularly report to the town council concerning substantive fiscal, financial, or other issues of significant interest to the town.

SECTION 3-8: TEMPORARY ABSENCE OF THE TOWN MANAGER

3-8.1 Delegation of Authority by Town Manager. The town manager may authorize any subordinate officer or employee of the town to exercise any power or perform any function or any duty of the town manager that is assigned by this charter. The town manager may rescind or revoke any such authorizations previously made, provided, however, that all acts performed under any such delegation of authority during such period of authorization shall be and remain the acts of the town manager. Nothing in this section shall be construed to authorize a town manager to delegate the power of appointment.

3-8.2 Temporary Absence. During the temporary absence of the town manager for periods of 10 days or less, the town manager shall, by a letter filed with the town council and a copy filed with the town clerk, designate a qualified town officer or town employee to serve as acting town manager and to serve only when the needs of the town require and only to the extent necessary under the circumstances.

3-8.3 Acting Town Manager. Whenever, by resignation, removal from office or otherwise, the position of town manager is vacant, the town council shall appoint an acting town manager for a term not to exceed 4 months; provided, however, two renewals, each individually not to exceed a 4 month term extension, may be granted by majority vote of the town council. The powers of the acting manager shall be as provided in Article 3, section 3-8.4.

3-8.4 Powers of Acting Town Manager. The acting town manager shall have only those powers of the town manager as are essential to conduct the business of the town in an orderly and efficient manner and on which action may not be delayed. The acting town manager shall have no authority to make any permanent appointment or removal from town service unless the appointment of the acting town manager shall extend beyond four months.

SECTION 3-9: REMOVAL OF TOWN MANAGER

3-9.1 The town council by at least a 2/3 affirmative vote of the full council may vote to terminate, remove or suspend the town manager from office in accordance with the following procedure:

3-9.1.1 Prior to removal or termination the town council shall adopt a preliminary resolution of removal by the affirmative vote of at least 2/3 of the full town council. The preliminary resolution may suspend the town manager for a period not to exceed thirty days. A copy of the resolution shall be delivered to the town manager forthwith. If so requested by the town manager, town council shall provide a written statement setting forth the reasons for the removal or termination.

3-9.1.2 Within 5 days after the receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for such hearing with the town council. If such a hearing is requested, the hearing shall be held at a meeting of the town council not later than 20 days from the date of request. At such hearing the town manager shall be entitled to address the town council and make comments related to the preliminary resolution. If the town manager does not request a public hearing, the town council may adopt a final resolution of removal, which may be effective immediately, by the affirmative vote of at least 2/3 of the full town council at any time after 10 days following the date of delivery of a copy of the preliminary resolution to the town manager. If the town manager requests a public hearing, the town council may, at the conclusion of the hearing or within 5 days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of at least 2/3 of the full town council.

3-9.1.3 The town council may suspend by at least a 2/3 affirmative vote of the full town council, the removal of the town manager pending and during any public hearing as requested by the town manager. The town manager shall continue to receive a salary until the final date of removal becomes effective unless provided otherwise. The action of the town council in terminating, removing or suspending the town manager shall be final.

3-10: TOWN MANAGER SEARCH COMMITTEE

3-10.1 The town council shall fill a vacancy in the office of town manager as soon as possible. Pending appointment of the town manager or the filling of any vacancy, the town council shall forthwith within 30 days of receipt of notice that a permanent vacancy in the office of town manager exists, appoint a screening committee of 7 members. Each member so appointed must be a resident of the town at the time of such appointment and continuously maintain such residency during the candidate recruitment and selection process. The town council shall determine the method and manner of the recruitment and selection process in accordance with customarily accepted executive job search standards and principles. No member of the town council shall serve as a member of the search committee.

3-10.2 Not more than 14 days after the appointment of the search committee members, the town clerk shall call and convene a meeting of the search committee members who shall meet (1) to organize and to implement a search process in accordance with guidelines and or directives provided by the town council; and, (2) to advertise the vacancy and solicit candidates for the office of town manager.

3-10.3 The screening committee shall review all applications that are timely received by it, screen all applications by checking and verifying work records, academic and professional credentials and such other relevant credentials as related to the requirements of section 3-1.1 of this charter.

3-10.4 Not more than 90 days after the date on which the committee meets to organize, the committee shall submit to the town council the names of not fewer than 3, but not more than 5 persons whom it believes to be the best qualified and suited in terms of training and experience to perform the duties of the town manager. The town council shall, within 30 days after the date of its receipt of the list of nominees, select a candidate from the said list to fill the position of town manager or reject the list of nominees in total and direct that the committee resume the search.

3-10.5 Upon appointment of a town manager the search committee established hereunder shall be deemed to have fulfilled its obligations under this charter and shall, thereafter, be immediately dissolved.

3-11: RESIDENCY OF TOWN MANAGER

3-11.1 The town manager need not be a resident of the town or of the commonwealth at the time of appointment but shall establish residence within a 30 mile radius of the town's boundaries within 6 months following appointment, unless the time to establish residency is extended by the town council acting in its discretion.

ARTICLE 4: ELECTED TOWN BOARDS AND OFFICERS

SECTION 4-1: GENERAL PROVISIONS

4.1.1 It is the intent of this charter that the boards and committees elected by the voters or appointed under the charter, respectively establish and maintain cordial and effective working relationships with the town manager and town council to assure timely and responsive communication and cooperation in the administration and implementation of all town services and programs.

4-1.2 In addition to the town council, members and representatives of town boards to be elected by the voters of the town shall be 5 members of the school committee, 5 members of the planning board, 5 members of the board of health; 6 members of the board of trustees of the public library; 4 elected members of the housing authority; and such representatives of the shawsheen technical regional district school committee as may be established by the regional school district inter-local agreement, and such other regional authorities, districts, or committees as may be established by law or inter-local agreement. The terms of office for town council shall be 3 years; school committee shall be 3 years; planning board shall be 5 years; board of health shall be 3 years; board of trustees of the public library shall be 3 years; housing authority shall be 5 years; and, the representatives of the shawsheen technical regional district school committee shall be 3 years. All such terms shall begin on the first day following a candidate's election and shall continue until a successor is qualified. Each board's terms of office shall be staggered in accordance with the transition language in Article 10, Section 10-6.

SECTION 4-2: SCHOOL COMMITTEE

4-2.1 Authority. The school committee shall have general charge and superintendence of the public schools of the town. The school committee shall have all powers and duties which are conferred on school committees by general laws and such additional powers and duties as may be provided by the charter, by law, or by ordinance not inconsistent with said general laws. In furtherance thereof, the school committee shall administer and manage the public schools of the town, appoint a superintendent of schools; control all school buildings and grounds under its jurisdiction; make reasonable rules and regulations for the management of the public schools of Tewksbury and adopt reasonable rules for the conducting of the business of the school committee.

4-2.2 Expenses. Subject to the school department appropriation, the members of the school committee shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

4-2.3 Prohibition. Unless such service may otherwise be authorized by law, no member of the school committee shall hold any other office or position under the jurisdiction of the school committee for which a salary or other emolument is payable from the town treasury.

4-2.3.1 No school committee member shall hold any compensated non-elected office or employment until 1 year following the date on which his or her service as a member of the school committee has terminated, but this shall not prevent a town or school department officer or employee who has taken a leave of absence from such office or employment from resuming the same office or employment following service as a member of the school committee.

SECTION 4-3: PLANNING BOARD

4-3.1 Powers and Duties. The planning board shall have the responsibility to make studies of the resources and planning needs relating to the future growth and development of the town as authorized by general law. The board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development.

In addition thereto, the planning board shall act as special permit granting authority pursuant to M.G.L. c. 40A and have all powers which are conferred on planning boards by general laws and such additional powers and duties as may be provided by the charter, or ordinance not inconsistent with said grant of powers conferred by said general laws.

SECTION 4-4: BOARD OF HEALTH

4-4.1 Powers and Duties. The board of health shall be responsible for the formulation and enforcement of rules and regulations concerning public health. The board shall have all the powers and duties given to boards of health by the general laws of the commonwealth, the charter, or ordinance not inconsistent with said grant of powers conferred by said general laws.

SECTION 4-5: SHAWSHEEN TECHNICAL REGIONAL DISTRICT SCHOOL COMMITTEE

4-5.1 Composition, Term of Office. The shawsheen technical regional district school committee is a ten member regional school committee which serves the Towns of Bedford, Billerica, Burlington, Tewksbury and Wilmington with members elected from the Town of Tewksbury for a 3 year term as the regional school district agreement shall provide.

SECTION 4-6: BOARD OF LIBRARY TRUSTEES

4.6.1 Composition Term of Office. The board of library trustees has 6 members, serving

staggered terms such that 2 members shall be elected annually.

4-6.2 General Powers and Duties. The board of trustees of the public library shall have all powers that are conferred on library trustees by the general laws of the commonwealth and such additional powers and duties as may be provided by the charter or by ordinance not inconsistent with said grant of powers conferred by said general laws.

SECTION 4-7: HOUSING AUTHORITY

4-7.1 Composition, Term of Office. There shall be a housing authority composed of 5 members serving terms of 5 years each, so arranged that the term of one member expires each year. Four members shall be elected by the voters and the fifth member shall be appointed as provided by the general laws.

4-7.2 Powers and Duties. The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The housing authority shall have all the powers and duties given to housing authorities under the general laws, the charter, or ordinance not inconsistent with said grant of powers conferred by said general laws.

SECTION 4-8: MODIFICATION OF POWER AND DUTIES OF ELECTED BOARDS

4-8.1 The additional powers and duties of each elected board enumerated in this Article 4, as may be provided by the charter, or ordinance not inconsistent with said grant of powers conferred by said general laws, shall not be modified, deleted or otherwise changed, except by the affirmative vote of at least 2/3 of the full town council.

4-8.2 If the town council desires to convert any elected officer or board from elected to appointed, both the town council and the annual town election must vote in the affirmative on each position, separately, in accordance with G.L. c. 41, §1B. The provisions of this Section 4-8.2 shall be of no application to the town council and the school committee.

ARTICLE 5: ORGANIZATION

5-1.1 Organization of Town Agencies. The organization of the town into operating agencies for the provision of services and the administration of government may, pursuant to charter powers granted in section twenty of chapter 43B of the General Laws, be accomplished through either of two methods provided in this part.

5-1.2 Ordinance. Subject only to the express prohibitions in laws of the commonwealth or the provisions of this charter, the town council by at least a 2/3 affirmative vote of the full town council may by ordinance, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part, establish such new town agencies as it deems necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such agencies as deemed necessary, and may for such purposes transfer the duties and

powers, and so far as is consistent with the use for which the funds were intended, transfer the appropriation of one agency to another.

5-1.3 Executive Reorganizations. The town manager may, from time to time, prepare and submit to the town council for its consent plans for the organization or reorganization of town departments, boards, commissions and offices for which the town manager is the appointing authority. The town manager shall consult with the appropriate independently elected board or committee prior to submitting any plans of organization or reorganization to the town council. Such plans may reorganize, create, consolidate or abolish committees, commissions, offices, departments, and agencies under supervision of the town manager, in whole or in part, may establish new committees, commissions, offices, departments, and agencies as deemed necessary, and may for such purposes transfer the duties and powers, and so far as is consistent with the use for which the funds were intended, transfer the appropriation of one agency to another.

5-1.3.1 Whenever the town manager prepares such a plan, the town council shall hold at least 1 public hearing on the plan, after posting of the time, date, location and subject matter of the hearing not less than 14 days prior to the date of the public hearing. A plan prepared by the town manager shall not be subject to amendment and shall become effective after a 2/3 vote of the full town council in favor of the plan.

5-1.3.2 The town council shall hold one or more public hearings on the proposal giving notice by publication in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than 7 or more than 14 days following said publication. An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the town council unless the council shall, by at least a 2/3 vote of the full town council, within such period vote to disapprove the plan. The town council shall vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

5-1.4 Repetitive Proposals. Whenever a reorganization proposal becomes effective, whether under the provisions of section 5-1 or 5-2, no proposal to again reorganize which encompasses substantially the same subject matter shall be acted upon within 18 months following the first reorganization, except on the petition of the town manager.

5-1.5 Publication of Administrative Code and Personnel Ordinance. 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 ordinances of the town of Tewksbury.

5-1.6 Personnel Administration. The town manager shall adopt rules or regulations establishing a personnel system by ordinance. The personnel system shall make use of modern concepts of personnel management and may include, but not be limited to, the following

elements: a method of administration; personnel policies specifying the rights, obligations and benefits of employees; a classification plan; a compensation plan; a method of recruiting and selecting employees based upon merit principles; a centralized record keeping system; a performance evaluation system; disciplinary procedures; affirmative action plan; employee handbook, and other elements that are determined necessary.

5-1.6.1 All town agencies and positions shall be subject to the rules or regulations adopted under this section excluding employees of the school department.

ARTICLE 6: FINANCE AND FISCAL PROCEDURES

SECTION 6-1: ANNUAL OPERATING BUDGET

6-1.1 The town manager shall establish policy and procedures for the preparation of the town's fiscal year operating budget. All agencies of the town shall follow the schedule and budget preparation procedures set by the town manager.

6-1.2 Annual Operating Budget Policy. The president of the town council shall call a meeting of the town council prior to the commencement of the budget process, but not later than November 30, to review the financial condition of the town, revenue and expenditure forecasts, and other information relevant to the budget process. The president also shall invite the school committee, superintendent of schools and the finance committee to attend this meeting. Subsequent to this meeting, the town council shall meet with the town manager to set policy goals. Based on these goals, the town manager will (1) annually develop budgetary goals to be employed in the construction of the proposed annual operating budget, and (2) develop with the superintendent of schools an annual policy agreement pertaining to the allocation of the projected revenue between the general government operations and the school department operations. Said agreement shall be subject to review and approval of the school committee and the town council.

6-1.3 Operating Budget Purpose. The operating budget shall annually serve the following essential purposes:

- (a) A policy document, identifying the town's challenges, programs, and financial goals and policies;
- (b) A financial plan, presenting the town's current financial condition, comparing all revenues and expenditures for the prior year, current year, and ensuing year, including the basis for economic assumptions and projecting the town's financial condition at the end of the budget period;
- (c) An operations guide, describing municipal services and operations, such as police and fire protection, education, maintenance of streets, parks, water and sewer systems and identifying measures of activity, effectiveness and efficiency for individual programs

or departments; and

(d) A public information document, communications device, articulating the town's challenges and priorities for the coming year and summarizing for taxpayers and other interested individuals and organizations how the town's programs, services, and finances will meet those challenges and accomplish those goals.

6-1.4 Submission of Operating Budget. Within the period prescribed by the laws of the commonwealth, the town manager shall submit to the town council a proposed operating budget for all town agencies, which shall include the proposed school budget as adopted by the school committee, for the ensuing fiscal year with an accompanying budget narrative and supporting documents. The budget narrative submitted by the town manager shall categorize the budget in fiscal terms and in terms of work programs for all town agencies. It shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position, and include such other material as the town manager deems desirable or the town council may require.

6-1.4.1 The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the town manager deems desirable.

6-1.4.2 The proposed budget as adopted by the school committee shall be submitted to the town manager at least 30 days prior to the submission of the proposed annual operating budget to the town council.

6-1.4.3 The town manager shall prepare and submit the annual operating budget to the town council. The town council shall have one or more public hearings on the proposed budget. Copies shall be made available for public review not less than 10 days prior to the public hearing.

6-1.5 Operating Budget Adoption. The town council shall adopt the operating budget, with or without amendments, within 60 days following the day the proposed operating budget is received by it, or such other period as may be provided by general law, but, not later than the close of the fiscal year. In amending the operating budget the town council may delete or decrease any programs or amounts, except expenditures required by law or for debt service. If the town council fails to take any action with respect to any item in the proposed operating budget within 60 days following the date of its receipt, or such other period as may be provided by general law, such amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified.

6-1.5.1 The town council may add budget items or increase funding for budget items as generally described in sections 32 and 33 of chapter 44 of the General Laws for items not funded in the town manager's proposed budget.

6-1.6 Supplementary Budgets and Appropriations. Whenever the town manager shall submit to the town council a request for an appropriation of any sum of money, whether as a supplement to the annual operating budget or for an item or items not included therein, the town council shall not act upon such request until it has (1) given notice by published in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site of the request, and (2) held a public hearing concerning such request. The publication and the public hearing shall be in conformity with the provisions of section 6-1 concerning the proposed annual operating budget.

6-1.7 Long Term Financial Forecast. The town manager shall annually prepare a 5 year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will have an impact on the financial condition of the town, and the town's revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

SECTION 6-2: CAPITAL IMPROVEMENTS PLAN

6-2.1 Capital Improvement Plan. The town manager shall, in conjunction with the finance committee, or any other committee established for such purpose, if any, annually submit a capital improvement plan to the town council at least 90 days prior to the date for submission of the operating budget, unless some other schedule is provided by ordinance.

6-2.2 Contents. The capital improvement plan shall include: (1) a summary of its contents; (2) an itemization of all capital improvements, including those of the school department, proposed to be undertaken during the next 5 fiscal years with supporting data; (3) cost estimates, method of financing, and recommended time schedules; and, (4) the estimated annual cost of operating and maintaining the facilities included.

6-2.3 Public Hearing. The town council shall publish in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site, in the town a summary of the capital improvement plan and a notice stating: (1) the times and places where copies of the capital improvement plan are available for inspection by the public; and, (2) the date, time and place not less than 14 days after such publication, when a public hearing on said plan will be held by the town council.

6-2.4 Approval of Capital Budget Items. The town manager shall prepare and submit a proposed capital expenditure budget for each fiscal year, either as a component of the annual budget, or as a separate document. The town council shall vote on the annual capital budget, as presented by the manager, provided, however, that each amendment must be voted separately and that any increase in the annual capital improvement budget as submitted must clearly identify the method of financing proposed to accomplish such increase.

SECTION 6-3: ANNUAL AUDIT

6-3.1 The town council shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest, direct or indirect, in fiscal affairs of the town government or any of its offices.

ARTICLE 7: ELECTIONS AND ELECTION-RELATED MATTERS

SECTION 7-1: TOWN ELECTIONS: GENERAL

7-1.1 The annual town election shall be held on the first Tuesday in April of each year between the hours of 7:00 a.m. to 8:00 p.m. at a place or places to be fixed by majority vote of the town council.

SECTION 7-2: NON-PARTISAN ELECTIONS

7-2.1 All elections for town offices shall be non-partisan and election ballots shall be printed without party affiliation, mark, emblem, or other designation.

SECTION 7-3: APPLICATION OF MASSACHUSETTS GENERAL LAW

7-3.1 Except as expressly provided in the charter, all town elections shall be governed by the general laws of the commonwealth.

SECTION 7-4: DISTRICTS

7-4.1 The territory of the town shall be divided into 4 districts, each to be composed of adjacent existing precincts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded as far as possible by the center line of known streets or ways or by other well-defined limits. The town council shall from time to time, but at least once in each 10 years, review these districts to insure their uniformity in number of inhabitants.

ARTICLE 8: FREE PETITION; INITIATIVE; REFERENDUM; RECALL, OPEN MEETING

SECTION 8-1: CITIZEN INITIATIVE MEASURES

8-1.1 Commencement of Proceedings. Initiative procedures shall be started by the filing of an initiative petition with the town clerk. The petition shall be addressed to the town council or the school committee, shall contain a request for passage of a particular measure set forth in the petition and shall be signed by not less than 5 percent of the total number of voters.

8-1.1.1 Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the town clerk

as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same. With each signature to the petition, shall be stated the place of residence of the signer, giving the street and number, if any.

8-1.1.2 Within 10 days of the filing of said petition the registrars of voters shall ascertain by what number of voters the petition is signed, and shall attach thereto their certificate showing the result of such examination.

8-1.1.3 The town clerk shall forthwith transmit the said certificate with the said petition to the town council or to the school committee, as appropriate, and at the same time shall send a copy of said certificate to the persons designated on the petition as filing the same.

8-1.1.4 When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made with regard to the signatures thereon by a voter within 48 hours after such certification by filing such objections with the town council or the school committee, and a copy thereof with the registrars of voters. Any such objection shall be determined forthwith by the board of registrars.

8-1.2 Referral to Town Attorney. If the town clerk determines that a sufficient number of signers are voters, the town clerk shall forthwith transmit a copy of the petition to the town attorney.

8-1.2.1 Within 15 days after receipt by the town attorney of the petition the town attorney shall advise the town clerk in writing whether the measure may be proposed by initiative procedures and whether it may lawfully be passed by the town council or the school committee. If the opinion of the town attorney is that the measure may not lawfully be passed, the town attorney shall state the reason or reasons therefore in said reply. The town clerk shall forthwith furnish a copy of the town attorney's opinion to the person designated on the petition as filing the same, and to the town council or school committee, as the case may be.

SECTION 8-2: INITIATIVE PETITION; REQUIREMENTS FOR PASSAGE AND SUBMISSION TO ELECTORATE

8-2.1 If any initiative petition is signed by voters equal in number to at least 5 percent of the total number of voters, and in the opinion of the town attorney, such measure applicable to the town council may lawfully be passed by the town council or such measure applicable to the school committee may lawfully be passed by the school committee. The town council or the school committee within 20 days after the date of the certificate of the registrars to that effect (1) may pass said measure without alteration, subject to the referendum vote provided by this charter; or, (2) the town council shall call a special election to be held on a date fixed by it not less than 30 nor more than 45 days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, that if any town election is otherwise to occur within 120 days after the date

of said certificate, the town council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such election.

8-2.1.1 The ballots used when voting upon a proposed measure under this section shall state the nature of the measure in terms sufficient to show the substance thereof.

SECTION 8-3: CITIZEN REFERENDUM PROCEDURES; REFERENDUM PETITION; EFFECT ON FINAL PASSAGE

8-3.1 The petition described in this section shall be termed a referendum petition and section 8-1 shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

8-3.2 If within 20 days after the final passage of any measure a petition signed by not less than 150 voters, and addressed to the town council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the town clerk, the same shall thereupon and thereby be suspended from taking effect; and the town council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded the town council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular town election, or at a special election which may, in its discretion, be called for the purpose and such measure or part thereof shall forthwith become void unless a majority of the voters voting on the same at such election vote in favor thereof.

SECTION 8-4: REQUIRED VOTER PARTICIPATION

8-4.1 For any measure to be effective under initiative procedure and for any measure to be declared void under any referendum procedure at least 15 percent of the voters shall vote at an election upon which an initiative or referendum question is submitted.

Section 8-5: MEASURES NOT SUBJECT TO INITIATIVE AND REFERENDUM

8-5.1 Measures which include the following subject matter shall not be subject to initiative and referendum procedures:

- (a) revenue loan orders;
- (b) appropriations for the payment of debt or debt service;
- (c) internal operational procedures of the town council and the school committee;
- (d) emergency measures;
- (e) the town budget as a whole or the school committee budget as a whole;
- (f) appropriation of funds to implement a collective bargaining agreement;
- (g) procedures relating to election, appointment, removal, discharge or any other personnel action;

- (h) proceedings providing for the submission or referral of a matter to the voters at an election;
- (i) memorial resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition; and
- (j) any refinancing of an existing loan authorization for the purpose of achieving a lower rate of repayment.

SECTION 8-6: SUBMISSION OF PROPOSED MEASURE TO VOTERS

8-6.1 The town council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special town election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

8-6.2 The town council may, of its own motion, submit to the voters at any regular town election non-binding ballot questions, propositions, or opinion polls.

SECTION 8-7: MEASURES WITH CONFLICTING PROVISIONS

8-7.1 If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

SECTION 8-8: FREE PETITION

8-8.1 Individual Petitions, Action Discretionary. The town council and the school committee shall receive all petitions which are addressed to them and signed by a voter and may, in their discretion, take such action with regard to such petitions as they deem necessary and appropriate.

8-8.2 Group Petitions; Action Required. The town council or the school committee, as the case may be, shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it and which is signed by not less than 150 voters. The hearing shall be held by the town council or the school committee, or, in either case, by a committee or subcommittee thereof and the action by the town council or school committee shall be taken not later than 45 days after the petition is filed with the town clerk. Hearings on two or more petitions filed under this section may be held at the same time and place. The town clerk shall mail notice of the hearing to 10 petitioners whose names first appear on each petition at least 7 days before the hearing. Notice by publication in a newspaper of general circulation, posted on the town bulletin board, and posted on the town's official web site, at least 7 days prior to all such hearings shall also be made, and shall be at public expense. No hearing shall be heard upon any one subject more than once in any given 12 month period.

SECTION 8-9: OPEN MEETING OF THE VOTERS

8-9.1 The town council may call meetings of the voters of the town. Upon the request in writing of not less than 150 voters setting forth the specific purposes thereof, the town council shall within 30 days call a meeting of the voters. Said form of petition shall be issued by the town clerk. Within 10 days of filing, the town clerk shall certify that the petition contains the number of required signatures. The president of the town council or other designee of the town council shall preside and regulate the proceedings of such meetings. The president of the town council shall cause the attendance of town officials and employees necessary to respond to the issues and concerns raised by petitioners.

SECTION 8-10: LIMITS TO RE-ENACT OR ABOLISH

8-10.1 The town council shall not re-enact ordinances, orders, or resolutions rejected by voters at an election using the referendum process provided in this charter for a period of at least 2 years following such election. The town council shall not modify or abolish ordinances adopted by voters at elections where one or more initiatives have been adopted using the initiative process provided in this charter for a period of at least 2 years.

SECTION 8-11: RECALL ELECTIONS

Recall of Elected Office Holders

8-11.1 Application. Any person, who holds an elected office with more than 6 months remaining in the term of office, may be recalled from the office by the voters in the manner provided in this section.

8-11.1.1 Recall Affidavit Petitions for Officer Elected At large. One hundred and fifty or more voters may file with the town clerk an affidavit containing the name of the officer elected at large whose recall is sought and a statement of the grounds upon which the petition is based.

8-11.1.2 Recall Affidavit for Officer Elected by District. Fifty or more voters residing within the district may file with the town clerk an affidavit containing the name of the officer elected by district whose recall is sought and a statement of the grounds upon which the petition is based.

8-11.1.2 Recall Petition: If said affidavit is determined to be valid, the town clerk shall thereupon deliver to the 10 persons first named on such petitions, petition blank forms demanding such recall. The blank forms shall be addressed to the town council; they shall contain the names of the 10 persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the town clerk within 20 days following the date they are issued, signed by at least 20% percent of the number of the voters at the time of the previous annual town election.

8-11.1.3 The town clerk shall, within 24 hours following such filing, submit the petitions to the board of registrars which shall within 5 days thereafter, certify thereon the number of signatures which are the names of voters.

8-11.2 Recall Elections. If the petitions shall be certified by the board of registrars to be sufficient, the town clerk shall forthwith submit the same with the town clerk's certificate to the town council. Upon its receipt of the certified petitions, the town council shall forthwith give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign the office within 5 days following delivery of said notice, the town council shall order a special election to be held not less than 65 days nor more than 90 days after the date of the certification of the town clerk that the petition is sufficient. A recall election for a district officer shall be held only in the affected district. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed under this section, but only the ballots for candidates need be counted.

8-11.2.1 Nomination of Candidates. The nomination of all candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with this charter and the General Laws regulating elections.

8-11.2.2 Propositions on the Ballot. Ballots used at the recall election shall state the proposition in the order indicated:

"Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?"

Yes ___ No ___

If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled. No recall election shall be effective unless at least 20 percent of those entitled to vote shall have voted.

8-11.2.3 Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word "candidates" and the names of candidates arranged as prescribed by law. If a majority of the votes cast on the proposition is against the recall the votes for the candidates need not be counted. If a majority of the votes cast is in favor of the recall the votes for candidates shall be counted and the candidate receiving the highest number of votes shall be declared elected.

8-11.3 Officeholders. The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is then not recalled he shall continue in his office for the remainder of his unexpired term, subject to recall under Section 8-11.4.

8-11.3.1 Any person, who holds an elected office with more than 6 months remaining in the term of office, who is recalled from the office by the voters in the manner provided in this section, shall not be eligible to be nominated as a candidate for election to the recalled office.

8-11.3.2 If the officer is recalled, he shall be deemed removed upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

8-11.4 Repeat of Recall Petition. No recall petition shall be filed against an officer within 6 months after taking office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least 6 months after the election at which the recall was submitted to the voters.

ARTICLE 9: GENERAL PROVISIONS

SECTION 9-1: CHARTER CHANGES

9-1.1 This charter may be replaced, revised or amended in accordance with any procedure made available under the constitution of the commonwealth (Article LXXIX), or by statutes enacted in accordance with the constitution of the commonwealth; provided that any replacement, rescission or amendment must also be ratified by the voters at an annual town election.

SECTION 9-2: SEVERABILITY

9-2.1 The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions 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 the charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 9-3: RULES OF INTERPRETATION

9-3.1 The following rules shall apply when interpreting the charter:

9-3.1.1 Specific Provisions to Prevail. To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

9-3.1.2 Number and Gender. Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

9-3.1.3 References to General Laws. All references to General Laws contained in the charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to such chapters or sections, or to the corresponding chapters and sections of any rearrangement, recodification, or revision of such statutes enacted or adopted subsequent to the adoption of this charter.

9-3.1.4 “Counting of Days” – If the number of days referenced is five or less, only business days shall be counted, not including Saturdays, Sundays, and holidays, and if more than 5 days, every day shall be counted.

SECTION 9-4: RULES/REGULATIONS

9-4.1 A copy of all rules or regulations adopted by any town agency shall be placed on file in the offices of the town manager and town clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any town agency shall become effective until at least 5 days following the date it is so filed.

SECTION 9-5: PERIODIC REVIEW OF CHARTER AND ORDINANCES

9-5.1 Ordinances: Not later than the first day of July, at five-year intervals, in each year ending in a five or in a zero, the town manager and town council shall provide for a review to be made of the ordinances of the town for the purpose of preparing a proposed revision or recodification of the same, without substantive change. Such review shall be made by a special committee to consist of 8 members appointed by the town council. Seven of the persons appointed shall be voters of the town. The eighth person appointed shall be the town clerk, who shall serve ex-officio as an advisor and resource person to the special committee. The town clerk shall not have a vote. The special committee shall file its report with the clerk of the town council, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the town council agenda for action before the fifteenth day of June in said year and if not so scheduled by the clerk of the town council the matter shall come before the town council for action at its next meeting held following the said fifteenth day of June and no other business shall be in order until such report has been acted upon, by roll call vote. The review of town ordinances shall be under the supervision of the town’s attorney. A revision, recodification or republication of the ordinances shall be made at five-year intervals. Copies of the revision, recodification, or republication shall be made available to the public at a cost not to exceed the actual cost of such reproduction. In each year between such reenactments, an annual supplement shall be published which shall contain all ordinances and amendments to ordinances adopted in the preceding year, and shall be filed with the clerk of the council and with the town clerk.

9-5.2 Charter: Not later than the first day of July, at 10 year intervals, in each year ending in a nine, the town manager and town council shall provide for a review to be made of the town charter. Such review shall be made by a special committee to consist of 8 members appointed by the town council. Seven of the persons appointed shall be voters of the town. The eighth person appointed shall be the town clerk, who shall serve ex-officio as an advisor and resource person to the special committee. The town clerk shall not have a vote. The special committee shall file its report with the clerk of the council and the town clerk, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the town council agenda for action before the

fifteenth day of June in said year and if not so scheduled by the clerk of the town council the matter shall come before the town council for action at its next meeting held following the said fifteenth day of June and no other business shall be in order until such report has been acted upon, by roll call vote.

SECTION 9-6: LIMITATION ON OFFICE HOLDING

9-6.1 No town employee shall simultaneously hold more than one full-time compensated position with the town. Any hours worked in any part-time town position shall not be the same or otherwise conflict with, the hours worked in a full-time town position.

SECTION 9-7: ENFORCEMENT OF CHARTER PROVISIONS

9-7.1 It shall be the duty of the town manager to see that the provisions of the charter are faithfully followed and that all town agencies and town employees, inclusive of the school department and school department employees, are in compliance. Whenever in the opinion of the town manager, any town agency or town employee is failing to follow any provision of the charter the town manager shall, in writing, cause notice to be given to such agency or employee directing compliance with the charter. If determined by the town council that the town manager has failed to follow the provisions of the charter it shall, by resolution, direct the attention of the town manager to those areas and demand compliance with said charter provisions. The procedures made available in M.G.L. c. 231A may be used to determine the rights, duties, status, or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

SECTION 9-8: ANNUAL REPORT OF THE TOWN

9-8.1 Notwithstanding any general law to the contrary, an annual report, which contains a general summary of the activities of all town agencies, shall be based on the town's fiscal year, and shall be published, in accordance with any ordinance governing same, not later than the thirty-first day of October next following the end of the fiscal year. The annual report shall contain reports by the town manager, the town council, the school committee and such other town agencies as may be required by ordinance to provide such reports. The annual report will be made available by the town manager by filing same at the town clerk's office, at the public library and shall be electronically posted on the official town web site.

SECTION 9-9: NOTICE OF VACANCIES

9-9.1 Whenever a vacancy occurs, or is about to occur, in any town office or town employment, except for positions covered by the civil service law or collective bargaining agreements, that the appointing authority intends to fill and for which there has been made an appropriation and allocations of funds for the filling of that position by the funding authority, the appointing authority shall immediately cause public notice of such vacancy, or impending vacancy, to be posted on the town bulletin board and electronically on the official town's web

site for a period of not less than 14 days. Any person who desires to be considered for appointment to said office or employment may file with the appointing authority a statement in clear and specific terms setting forth such person's qualifications for the position. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least 14 days have elapsed following such posting, and until all persons who have filed statements in application have been considered.

ARTICLE 10: TRANSITIONAL PROVISIONS

SECTION 10-1: CONTINUATION OF EXISTING LAWS

10-1.1 All general laws, special laws, town by-laws, votes, 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 hereby repealed directly or indirectly, 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 10-2: CONTINUATION OF GOVERNMENT

10-2.1 All functions, duties, and requirements of all town officers, boards, agencies, or commissions shall continue until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with the provisions of the charter.

SECTION 10-3: CONTINUATION OF PERSONNEL

10-3.1 Any person holding a town office, or a position in the administrative service of the town, or any person holding full time employment under the town, shall retain such office or position or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in the permanent full time service of the town shall forfeit his or her pay grade, or time in service of the town. All such persons shall be retained in a capacity as similar to the capacity in which they were serving at the time this charter is adopted as is practicable, except as may otherwise be provided in the charter.

SECTION 10-4: CONTINUATION OF OBLIGATION

10-4.1 All official bonds, obligations, contracts and other instruments entered into or executed by or to the town before the adoption of the charter; and all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the town, shall be enforced and collected; and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter. No legal action done by or in favor of the town shall be rendered invalid by the adoption of the charter.

SECTION 10-5: TIME OF TAKING EFFECT

10-5.1 The charter shall take effect on January 1 of the year following the year in which it is adopted by the voters. Unless otherwise specified in the charter, all provisions are to be implemented within 90 days of the time of taking effect.

SECTION 10-6: TRANSITIONAL ELECTIONS;

10-6.1 All members of the Board of Selectmen in office at the time this charter takes effect shall remain in office until the initial meeting of the Town Council following the annual town election. At that time, the Board of Selectmen shall be abolished, and upon the initial meeting of the town council, no town meeting may be called or held unless in accordance with Article 8 section 8-9 of this charter. The town council shall immediately assume all duties and responsibilities of the town's legislative body. Following the election of the town council, the position of town moderator shall be abolished, and the term of the current moderator terminated.

10-6.2 Those members of the Board of Selectmen still in office at the time this charter takes effect shall continue to serve as councilors at large for the remainder of the term to which elected. Upon the taking of office of the entire town council following its initial election, the office of Board of Selectmen shall be abolished, and those members of the Board of Selectmen referenced herein will take the oath of office to serve as a town councilor at large for the remainder of the term to which they were originally elected.

10-6.3 On the first Tuesday in April in the year in which the charter takes effect, the annual town election shall be held and 6 members of the Town Council, 4 from districts and 2 at large, shall be elected as follows:

10-6.3.1 The 3 selectmen with 1 and 2 years remaining on their terms will take office as councilors at large. Those selectmen with 2 years remaining on their terms to which originally elected shall serve for 2 years, and the selectmen with 1 year remaining on the term to which originally elected shall serve for 1 year.

10-6.3.2 Two councilors at large shall be elected, for 3 year terms. The highest and next highest vote total among the candidates seeking election to the town council as at large candidates for a 3 year term shall be declared elected.

10-6.3.3 Four district councilors shall be elected to terms in said election in the following manner so as to establish staggered terms going forward:

10-6.3.3.1 The district 4 council candidate with the highest vote total shall be elected as the district 4 councilor and shall serve a three-year term.

10-6.3.3.2 The district 2 council candidate with the highest vote total shall be elected as the district 2 councilor and shall serve a two year term.

10-6.3.3.3 The district council candidates from districts 1 and 3 with the highest vote total shall be elected as district 1 and district 3 councilors respectively and shall each serve a 1 year term.

10-6.4 In the second year following the adoption of this charter: one councilor at large shall be elected and the district 1 and district 3 councilors shall each be elected to serve 3 year terms.

10-6.5 In the third year following adoption of this charter, 2 councilors shall be elected at large and the elected district 2 candidates shall be elected for a 3 year term.

10-6.6 In the fourth year following the adoption of this charter, 2 councilors at large and the district 2 councilor shall each be elected to serve 3 year terms.

10-6.7 Thereafter, all terms shall be for three years, in the following order:

- Two councilors at large and the District 4 councilor
- One councilor at large and the District 1 and 3 councilors
- Two councilors at large and the District 2 councilor

10-6.7.1 As soon as possible following the election the town clerk shall call together persons elected to the town council for the purpose of taking their oaths of office, and to choose a president and vice president of the town council.

The town council shall adopt temporary rules as soon as is practicable, but not later than 45 days following the initial meeting of the town council.

10-6.7.2 Thereafter, the town council president shall as soon as practicable appoint a committee of the council to develop permanent rules and regulations governing the conduct of council meetings and business. Said committee shall propose such rules and regulations for review and adoption by a majority vote of the town council within 6 months of the council's initial meeting.

10-6.8 The school committee in office at the time of the election adopting this charter and establishing the town council shall continue to serve in that office until the time this charter shall take effect. Immediately upon the charter's taking effect, each member of the school committee shall immediately thereafter on said date of taking effect continue to serve the then remainder of his or her term of office as a member of the school committee in accordance with the terms of this charter.

10-6.8.1 On the first Tuesday in April in the year following the adoption of this charter by the voters, an election will be held for the office of school committee. At such election the 2 then expiring terms of the 5 member school committee shall be filled by election in the following manner:

10-6.8.1.1 The 2 school committee candidates receiving the 1st and 2nd highest number of

votes will be elected to initial 3 year terms.

10-6.8.1.2 Thereafter the term of office for all subsequent elections for all members of the school committee shall be three 3 years thus allowing for staggered terms.

10-6.9 The planning board in office at the time of the election establishing the town council shall continue to serve in that office until the time this charter shall take effect. Immediately upon the charter's taking effect, each member of the planning board shall immediately thereafter on said date of taking effect continue to serve the then remainder of his or her term of office as a member of the planning board in accordance with the terms of this charter.

10-6.9.1 On the first Tuesday in April in the year following the adoption of this charter by the voters, an election will be held for the office of planning board. At such election the 1 then expiring term of the 5 member planning board shall be filled by election in the following manner:

10-6.9.1.1 The 1 planning board candidate receiving the highest number of votes will be elected to an initial 5 year term;

10-6.9.1.2 Thereafter the term of office for all subsequent elections for all members of the planning board shall be 5 years thus allowing for staggered terms.

10-6.10 The board of health in office at the time of the election adopting this charter and establishing the town council shall continue to serve in that office until the time this charter shall take effect. Immediately upon the charter's taking effect, each member of the board of health shall immediately thereafter on said date of taking effect continue to serve the then remainder of his or her term of office as a member of the board of health in accordance with the terms of this charter.

10-6.10.1 On the first Tuesday in April in the year following the adoption of this charter by the voters, an election will be held for the office of board of health. At such election the 2 then expiring terms of the 5 member board of health shall be filled by election in the following manner:

10-6.10.1 The 2 board of health candidates receiving the 1st and 2nd highest number of votes will be elected to 3 year terms;

10-6.10.2 Thereafter the term of office for all subsequent elections for all members of the board of health shall be 3 years thus allowing for staggered terms.

10-6.11 The board of library trustees in office at the time of the election adopting this charter and establishing the town council shall continue to serve in that office until the time this charter shall take effect. Immediately upon the charter's taking effect, each member of the board of library trustees shall immediately thereafter on said date of taking effect continue to

serve the then remainder of his or her term of office as a member of the board of trustees of in accordance with the terms of this charter.

10-6.11.1 On the first Tuesday in April in the year following the adoption of this charter by the voters, an election will be held for the office of board of library trustees. At such election the 2 then expiring terms of the 6 member board of library trustees shall be filled by election in the following manner:

10-6.11.1.1 The 2 board of library trustee candidates receiving the 1st and 2nd highest number of votes will be elected to 3 year terms;

10-6.11.1.2 Thereafter the term of office for all subsequent elections for all members of the board of library trustees shall be 3 years thus allowing for staggered terms.

10-6.12 The housing authority is governed by a 5 member board who appoints an Executive Director. Four members are elected by the voters and the fifth member is appointed as provided by the general laws of the commonwealth.

10-6.12.1 The housing authority in office at the time of the election establishing the town council shall continue to serve in that office until the time this charter shall take effect. Immediately upon the charter's taking effect, each member of the housing authority shall immediately thereafter on said date of taking effect continue to serve the then remainder of his or her term of office as a member of the housing authority in accordance with the terms of this charter.

10-6.12.2 On the first Tuesday in April in the year following the adoption of this charter by the voters, an election will be held for the office of housing authority. At such election the 1 then expiring term of an elected member of the 5 member housing authority shall be filled by election in the following manner:

10-6.12.2.1 The 1 housing authority candidate receiving the highest number of votes will be elected to a 5 year term;

10-6.12.2.2 Thereafter the term of office for all subsequent elections for all elected members of the housing authority shall be 5 years, thus allowing for staggered terms.

10-6.12.2.3 The term of the appointed housing authority member shall be as provided by the general laws of the commonwealth.

10-6.13 The shawsheen technical regional district school committee members in office at the time of the election adopting this charter and establishing the town council shall continue to serve in that office until the time this charter shall take effect. Immediately upon the charter's taking effect, each member of the shawsheen technical regional district school committee shall immediately thereafter on said date of taking effect continue to serve the then remainder of the term of office as a member of the shawsheen technical regional district school committee.

10-6.13.1 On the first Tuesday in April in the year following the adoption of the charter by the voters, an election will be held for the office of shawsheen technical regional district school committee. At such election the then expiring term of that member of the 2 member shawsheen technical regional district school committee shall be filled by election in the following manner:

10-6.13.1.1 The shawsheen technical regional district school committee candidate receiving the highest number of votes will be elected to a 3 year term;

10-6.13.1.2 Thereafter the term of office for all subsequent elections for all members of the shawsheen technical regional district school committee shall be 3 years thus allowing for staggered terms.

10-6.14 The town clerk serving as an elected officer of the town at the time of the election adopting this charter shall continue to serve until the first Tuesday in April in the year following the adoption of this charter and as of said date the town clerk shall no longer be an elected position and thereafter the town clerk shall be appointed by the town manager in accordance with the provisions of this charter.

ARTICLE 11: SPECIAL ACTS

11-1 Special Acts Repealed: Action Taken Thereunder Preserved. The following special acts are repealed; provided, however, that nothing contained in the charter shall be construed to revoke, invalidate or otherwise alter acts done in compliance therewith or under the authority thereof: Chapter 275 of the Acts of 1986, establishing the town administrator position and referencing certain elected offices in the town.

11-2 Special Acts Specifically Retained. The following special acts are hereby recognized, confirmed and retained: Chapter 229 of the Acts of 1995 relative to the Trust fund commission; Chapter 145 of the Acts of 2003 relative to the expansion in the size of the Board of Health; Chapter 2 of the Acts of 1937 relative to an Act placing under civil service laws the office of chief of police of the town of Tewksbury for so long as the chief of police serving as such at the time this charter takes effect shall remain in office as the chief of police.

ARTICLE 12: DEFINITIONS

12-1 Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

12-1.1 Administrative Code — The term “administrative code” shall mean a written description of the administrative organization of town offices, departments and multiple member bodies. The administrative code shall state the mode of selection, term of office and general powers and duties of each town office department and multiple member body.

12-1.2 Agency – The words “agency” or “town agency” shall include any department, committee, commission, division, office, agency, or other like administrative entity of the Town.

12-1.3 Affirmative Vote of Full Town Council - The term “affirmative vote of the full town council” shall mean a majority (5 of 9) of Town Council members voting in favor, or a super majority (6 of 9) of Town Council members voting in favor, as the case may be.

12-1.4 Charter - The word “charter” shall mean this charter and any amendments to it made through any methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

12-1.5 Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

12-1.6 Full Council, Full Multiple Member Body - The words "full Council" or "full multiple member body" shall mean the entire authorized complement of the Town Council, School Committee or other multiple member body notwithstanding any vacancy which might exist.

12-1.7 Initiative Measure - The words "initiative measure" shall mean a measure proposed by the voters through the initiative process provided under this Charter.

12-1.8 Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation within Tewksbury, with either a weekly or daily circulation.

12-1.9 Majority Vote - The words "majority vote" when used in connection with a meeting of a multiple member body shall mean a majority of those present and voting, unless another provision is made by ordinance, by law, or by its own rules.

12-1.10 Measure - The word "measure" shall mean any ordinance, order, resolution, or other vote or proceeding adopted, or which the Town Council or the School Committee might adopt.

12-1.11 Multiple Member Body - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of two or more persons

whether elected, appointed or otherwise constituted, but not including the Town Council or the School Committee.

12-1.12 Operating Budget – The term “Operating Budget” shall mean a proposed plan developed annually for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.

12-1.13 Organization or Reorganization Plan - The words "organization or reorganization plan" shall mean a plan submitted by the town manager to the town council which proposes a change in the organization of the structure of the town government, or to change the way in which a municipal service, or services are delivered.

12-1.14 Quorum - The word "quorum" shall mean a majority of all members of a multiple member body unless some other number is required by law or by ordinance.

12-1.15 Referendum Measure - The words "referendum measure" shall mean a measure adopted by the town council or the school committee that is challenged under the referendum procedures of this charter.

12-1.16 Town - The word "town" shall mean the town of Tewksbury.

12-1.17 Town Bulletin Boards - The words "town bulletin boards" shall mean the bulletin board in the town hall on which the town clerk posts official notices of meetings and upon which other official town notices are posted, and the bulletin boards at any other locations as may be designated town bulletin boards by the town council.

12-1.18 Town officer - The words "town officer" or “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 such position exercises some portion of the sovereign power of the town.

12-1.19 Voters - The word "voters" shall mean registered voters of the town of Tewksbury.