

# PREAMBLE

We, the people of the Town of Pepperell, Massachusetts, in order to reaffirm our individual sovereignty with respect to the conduct of our local government and to take the fullest advantages inherent in the Home Rule Amendments of the Constitution of the Commonwealth of Massachusetts, do hereby adopt the following Home Rule Charter for this Town.



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# TOWN OF PEPPERELL

## HOME RULE CHARTER

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## ARTICLE 1: INCORPORATION; SHORT TITLE; POWERS

### SECTION 1-1: INCORPORATION

The ~~inhabitants~~ people of the Town of Pepperell within the corporate limits as established ~~by~~ by-law shall continue to be a body corporate and politic with perpetual succession under the name "Town of Pepperell".

### SECTION 1-2: SHORT TITLE

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

### SECTION 1-3: POWERS OF THE TOWN

It is the intent and purpose of the voters of the Town, through the adoption of this Charter, to secure for the Town all the powers possible under the ~~constitution~~ Constitution and laws of the Commonwealth, as fully and as completely as though each power were specifically and individually enumerated herein.

### SECTION 1-4: DIVISION OF POWERS

The administration of all of the fiscal, prudential and municipal affairs of the Town shall be vested in an executive branch headed by a ~~board of selectmen~~ Select Board. The legislative powers of the Town shall be vested in a town meeting open to all registered voters.

### SECTION 1-5: CONSTRUCTION

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

### SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirements of any provision of the Constitution or statutes of the Commonwealth, the Town of Pepperell may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States Government or any one or more agencies thereof.

### SECTION 1-7: PRECEDENCE OF CHARTER PROVISIONS

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 repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

### SECTION 1-8: ETHICS STANDARDS

Elected and appointed officers, employees and volunteers of the Town are expected to demonstrate, by their example, with their general conduct and in the performance of their duties and responsibilities, the highest ethical standards ~~to the end that the public may justifiably have trust and confidence in the integrity of its government.~~ Elected and appointed officers, employees and volunteers of the Town are expected to recognize that they act always as agents for the public, that they hold their offices or positions for the benefit of the public, that the public interest is their primary concern, and that they are expected to faithfully discharge the duties of their offices regardless of personal considerations. Elected and appointed officials, employees and volunteers of the Town shall not use their official positions to secure or grant special

consideration, treatment, advantage, privilege, or exemption to themselves or to any other person beyond that which is available to every other person.

All elected and appointed officers, employees and volunteers of the Town shall take and abide by the Conflict of Interest/Ethics Training as required in the Massachusetts General Laws Massachusetts ((MGL)), Chapter 268-Section A, such that the public may justifiably have trust and confidence in the integrity of their government. Certifications for all elected and appointed officials, employees and volunteers wishall be-on filed in the Town Clerk's office.

All elected and appointed officers, employees and volunteers of the Town shall abide by any policies of the Town pertinent to ethical behavior such as, but not limited to, codes of conduct, anti-harassment policies, and policies related to conduct on any publicly accessible media.

**Commented [DD1]:** The language in this paragraph is not a common charter provision; behavior and aspirational language of this type is typically set out in a policy document, which may be updated and revised more quickly and easily than a charter provision. (Corrected typo and revised filing language, but recommend consider deletion or replacement of this paragraph with general language based on existing text, such as: "All elected and appointed officers, employees and volunteers of the Town shall comply with all applicable ethics requirements of the Massachusetts General Laws (MGL) and local law, such that the public may justifiably have trust and confidence in the integrity of their government."

## ARTICLE 2: LEGISLATIVE BRANCH

### SECTION 2-1: TOWN MEETING

The legislative powers of the Town of Pepperell shall ~~continue to be~~ exercised by ~~town meeting~~the Town Meeting, open to all registered voters.

### SECTION 2-2: PRESIDING OFFICER

The Moderator, elected as provided in Section 3-6, shall preside at all sessions of the Annual and the Special Town Meetings. ~~He/she~~The Moderator shall, at the first session of the Annual Town Meeting, appoint a Deputy Moderator, subject to ratification by the Town Meeting, to serve at any session of an annual or special town meeting in the event of ~~his~~ absence ~~of the Moderator~~ or disability ~~of the Moderator~~. The Deputy Moderator may also temporarily serve when the Moderator has a conflict or the appearance of conflict arises, as determined by the Moderator, with regard to a particular article or matter under consideration. The Moderator, at all ~~town~~ ~~meetings~~ meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes, and may exercise such additional powers and duties as may be authorized ~~by the MGL, by law,~~ this Charter, ~~by~~ by-law or ~~by~~ other vote of the Town Meeting.

### SECTION 2-3: COMMITTEES

- a. In General - Subject to the provisions of this Charter and by such by-laws or other town meeting votes regarding committees as may be provided, the Moderator shall appoint for fixed terms the members of such committees of the Town Meeting, special or standing, as may from time to time be established. In addition to such specific powers, duties and responsibilities as may be provided to a town meeting committee by the by-law or vote establishing it, each such committee when acting within the scope of its authority shall have a right to examine the pertinent records of any town agency and to consult with, at reasonable times, any town officer, employee or agent.
- b. Finance Committee - There shall be a ~~finance committee~~Finance Committee, the members of which shall be appointed by the ~~Select~~ Board ~~of Selectmen~~. The number of members, the term of office, and any other conditions of appointment or service as may be deemed necessary or desirable shall be established by by-law. No member of the Finance Committee shall serve on any other Board or Committee as a voting member except for a Charter Review Committee, or as may be provided by by-law. Any member of the Finance Committee running for any public office within the Town shall resign from the Finance Committee upon election.

The subject matter of all proposals to be submitted to a ~~town~~ ~~meeting~~ meeting by warrant article shall be referred to the Finance Committee by the ~~Select~~ Board ~~of Selectmen~~ at the

earliest practicable time, not to exceed seven (7) days, following their receipt by the ~~Select Board of Selectmen~~. The Finance Committee shall report, in writing, its recommendations on every article contained in a ~~Town m~~Meeting warrant together with a statement of the reasons for each such recommendation. The Finance Committee shall hold one or more public ~~hearings~~meetings to permit public discussion of the subject matter of all articles contained in the warrant. The Finance Committee shall have such additional powers and duties as may be provided by ~~the MGL General Law~~ or ~~by~~ by-law.

The Finance Committee shall have authority to request additional information on budget matters directly from the Town Administrator.

#### SECTION 2-4: -ANNUAL TOWN MEETING

The Annual Town Meeting shall meet once in each calendar year as provided by by-law at a date in February, March, April, May, or June...

#### SECTION 2-5: SPECIAL TOWN MEETING

Special ~~Town m~~Meetings may be held at the call of the ~~Select Board of Selectmen~~ at such times as it deems necessary, or desirable, in order to transact the legislative business of the Town in an orderly manner and in accordance with by-law.

- a. Town Initiated Special Town Meetings - ~~The Select Board of Selectmen~~ shall give notice at least forty-five (45) days prior to the calling of a Special Town Meeting by publication in a local newspaper of such intention, except as otherwise provided by statute, and shall notify all town agencies, each town officer, and chairpersons of multiple member bodies of its intention to do so. The ~~Select Board of Selectmen~~ may waive the forty-five (45) day notification for a special town meeting and give notice at least fourteen (14) days prior to calling a special town meeting if a situation exists where it has been determined, by the ~~Select Board of Selectmen~~, to be in the best interests of the Town.

Town Initiated Special Town Meetings - The Select Board shall give notice of the calling of a Special Town Meeting at least forty-five (45) days prior to the date for which the meeting is called by publication in a local newspaper, except as otherwise provided by statute, and shall notify all Town agencies, each Town officer, and chairpersons of multiple member bodies of the date of the Special Town Meeting. The Select Board may waive the forty-five (45) day notification and give notice of the calling of a Special Town Meeting at least fourteen (14) days prior to the date for which the meeting is called if a situation exists where it has been determined, by the Select Board, to be in the best interests of the Town.

- b. Citizen Initiated Special Town Meetings - Special ~~Town m~~Meetings may also be held upon request in writing of two hundred registered voters of the Town. The ~~Select Board of Selectmen~~ shall call a ~~s~~Special ~~Town m~~Meeting, to be held not sooner than twenty-one (21) days nor later than forty-five (45) days, after the receipt of such request.

#### SECTION 2-6: TOWN MEETING WARRANTS

Every ~~Town m~~Meeting shall be called by a warrant issued by the ~~Select Board of Selectmen~~, which shall state the time and place at which the meeting is to convene and, by separate articles, the subject matter to be acted upon. The publication of the warrant for every ~~Town m~~Meeting shall be in accordance with a ~~town~~Town by-law governing such matters.

#### SECTION 2-7: INITIATION OF WARRANT ARTICLES

**Commented [DD2]:** As currently worded, this paragraph could be interpreted as requiring 45 days' notice of the Select Board meeting at which the Board will consider calling a Special Town Meeting, as opposed to the presumed intent of 45 days from publication of notice of the meeting to the date of the meeting, plus the required statutory notice period from the posting of the warrant to the date of the meeting (14 days). I have included suggested alternative language for the whole of paragraph a in the body of the document.

**Commented [DD3]:** Question: Is there still a "local newspaper," as opposed to a newspaper with publication in the Town? Same question applies to the phrase in current language – paragraph above.

- a. Initiation - The ~~Select Board of Selectmen~~ shall receive all petitions addressed to it and which request the submission of any matter to the Town Meeting, and which are filed by:
  - i. ~~(1)~~ Any ~~T~~own officer
  - ii. ~~(2)~~ Any multiple member body acting by a majority of its members~~(3)~~
  - iii. Any ten (10) voters for an ~~a~~Annual ~~T~~own ~~m~~Meeting
  - iv. Any one hundred (100) voters for a ~~s~~Special ~~T~~own ~~m~~Meeting

Requirements for inclusion on the warrant are prescribed in subsection (c).

- b. Referral - Forthwith following receipt of any proposed warrant article the ~~Select Board of Selectmen~~ shall furnish a copy of the proposal to the Chairperson of the Finance Committee, a copy to be posted on the ~~Town bulletin board~~homepage of the Town's municipal website, and shall cause such other distribution to be made of each such proposal as may be required ~~by~~ by-law. ~~Notices shall also be made available for viewing at the Town Clerk's office during normal business hours.~~

c. Inclusion on Warrant –

- i. Annual Town Meeting: The ~~Select Board of Selectmen~~ shall include on the warrant for an annual town meeting the subject matter of all petitions received up to forty-five (45) days prior to the date fixed by by-law for the Town Meeting to convene. Citizen petitions must be accompanied by the signatures of at least ten (10) registered voters to be included on the warrant. Articles shall be published a minimum of fourteen (14) days prior to Town Meeting. Where practical, all motions and recommendations are to be prepared and submitted to the Select Board and made public no later than seven (7) days prior to Town Meeting.
- ii. Special Town Meeting: The ~~Select Board of Selectmen~~ shall include in the warrant for such special town meeting the subject matter of all petitions which are received at its office before normal close of business on the thirtieth day prior to the date of the Special Town Meeting. Citizen petitions must be accompanied by the signatures of at least one hundred (100) registered voters to be included on the warrant.

The written requests of registered voters for the insertion of subjects in town meeting warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence, with street and number, if any. The ~~Select Board of Selectmen~~ shall submit such written requests to the Town Clerk who shall check and forthwith certify the number of signatures so checked which are names of voters in the Town, and only signatures so checked and certified shall be counted. A greater number of signatures than are required in each case need not be certified.

With the exception of citizen petitions and ongoing union negotiations, any proposed warrant article requesting expenditure of town funds shall include an estimated cost. Warrant articles requesting expenditure of town funds that do not include estimated costs shall be rejected by the ~~Select Board of Selectmen~~.

With the exception of citizen petitions, all proposed warrant articles shall be subject to review by Town Counsel. Any proposed article deemed to be illegal by Town Counsel shall be rejected by the ~~Select Board of Selectmen~~.

**Commented [DD4]:** What is meant by "published?" Section 2-5.a calls for publication in a newspaper, and provides for "notice" 14 days prior to the meeting – which would be by posting of the warrant. (G.L. c. 39, §10 states: "Every town meeting or town election, except as hereinafter provided, shall be called in pursuance of a warrant, under the hands of the selectmen, notice of which shall be given at least seven days before the annual meeting or an annual or special election and at least fourteen days before any special town meeting.") This sentence could be omitted, in my view.

**Commented [DD5]:** See 6-5.d below. (language moved)

**Formatted:** Highlight

SECTION 2-8: AVAILABILITY OF TOWN OFFICIALS AT TOWN MEETINGS

- a. Every town officer, the Chairperson of each multiple member body, and the head of each department, excluding representation from the regional school districts, shall

attend all sessions of the Town Meetings for the purpose of providing the Town Meeting with information pertinent to matters appearing in the warrant. -In the event any town officer, chairperson of a multiple member body, or department head is to be absent due to illness or other reasonable cause, such person shall designate a deputy to attend and to represent the office, multiple member body or department. If any person designated to attend town meetings under this section is not a voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section.

- b. No meeting of any multiple member body or town agency shall be convened or be in a session during a session of any town meeting.

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SECTION 2-9: CLERK OF THE MEETING

The Town Clerk shall serve as clerk of town meetings, give notice of all adjourned sessions thereof, record its proceedings, and perform such duties in connection therewith as may be provided by MGL General Law, by this Charter, by by-law, or by other town meeting vote.

If in a town meeting the office of the Town Clerk is vacant, the Moderator shall appoint a clerk pro tempore. In the event of the unavoidable absence of the Town Clerk, the Town Clerk shall designate a substitute. -If the Town Clerk fails to name a substitute, then the Moderator shall also be empowered to appoint a clerk pro tempore.

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SECTION 2-10: RULES OF PROCEDURE

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

SECTION 2-11: ~~REPORT:~~ REPORTS TO THE VOTERS

- a. ~~Town Meeting Information Packet~~ ~~Warrant~~ – There shall be published for every town meeting a copy of the warrant, together with its articles, in a report to supporting information packet for the voters, which shall contain the explanation and relevant data submitted by the proponents of each article; provided, however, that in the alternative, the Town Administrator may direct that excessive supporting material necessary for consideration of particular articles, in lieu of inclusion in the written report to the voters, be made reasonably available for inspection ~~at public locations~~ on or from the homepage of the Town's municipal website before the Town Meeting. ~~The written report for each annual town meeting Documents, can~~ shall also be made available for viewing at the Town Clerk's office during normal business hours.

This information packet shall be comprised of the following: (1)

- i. ~~T~~the written report of the Planning Board setting forth its findings and recommendations as to all zoning articles; (2)
- ii. ~~T~~the written report of the Finance Committee, setting forth its findings, conclusions, and recommendations, including the reasons thereof, regarding all of the monetary articles in the warrant; ~~and~~ (3)
- iii. ~~W~~ith respect to each warrant article, in addition to the reports of the Planning Board and the Finance Committee, the written report of any proponent or sponsor of the warrant article and of any multiple member body or town agency that is required to review, recommend, or sponsor the warrant article by by-law, appointment or otherwise.

All proposed warrant articles shall be ~~accomplished~~ accompanied by the required explanation and relevant data at the time of submission. The ~~Select Board of Selectman~~ shall have the sole discretion to determine what material meets the intent of this Charter provision in preparing the ~~report to the voters~~ information packet.

~~The report for~~

included in ~~The Annual~~ supporting information packet, ~~the Town Meeting Administrator~~ shall also ~~also~~ include, as an appendix, the ~~provide~~ include a summary document of the work of the Capital Program defined in Section 6-7, setting forth a 5-year ~~Committee~~. This document shall include the following:

- Clear and concise general summary of its contents
- List of all capital outlay program improvements proposed to be undertaken during the next five (5) fiscal years together with supporting information as to the need for each capital improvement in prioritized order
- Cost estimates, methods of financing and recommended time schedules for the information and guidance of town meeting each capital improvement
- The estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired.

The ~~Select Board of Selectmen~~ shall have the opportunity to include in the ~~report~~ information packet its conclusions and recommendations, including the reasons

**Commented [DD6]:** Note that there may be some instances where "supporting material," for whatever reason, is not available; and that could be a potential basis for a legal challenge to a vote taken at Town Meeting. For that reason, it may be appropriate to delete this sentence.

therefor, regarding articles in the warrant that relate to its general superintendence over the administration of town affairs.

The ~~report information packet~~ shall be made available to residents of the Town ~~via the Town Website~~ Town's municipal website and by any other method determined by the ~~Select Board of Selectmen~~ not later than the seventh day before the date on which the opening session of the annual town meeting is to be held; provided, however, that the failure to make the ~~report information packet~~ available shall not prohibit a town meeting from acting upon the matters set forth in the warrant and shall not affect the validity of the proceedings at a town meeting.

**Commented [DD7]:** Availability via website is already stated in 2-11.a, above.

b. Annual Town Report - In accordance with- the MGL ~~Massachusetts General Law, the Town shall prepare, and make public, an Annual Town Report prior to the Annual Town Meeting. The report shall include~~ focuses on significant accomplishments of the previous fiscal year and goals for the current fiscal year. The Annual Town Report may also include reports from multiple member bodies ~~boards and committees, election results and Town Meeting information.~~

**Commented [DD8]:** This change is for consistency with description of the annual report in G.L. c. 40, §49.

**Commented [DD9]:** Annual town reports are usually for a calendar year period. Reporting on a fiscal year basis would mean that the end point of the report would be approximately 10 months prior to the time of the Annual Town Meeting – the preceding June 30.

#### SECTION 2-12: GENERAL POWERS AND DUTIES OF ~~THE~~ TOWN MEETINGS

Town meetings shall be vested with all the legislative powers of the town. ~~Massachusetts General Law-MGL (Part I, Title VII, Chapter 420, Section 21) assigns to the voters at Town Meeting the authority to pass local by-laws. Proposed~~ potential by-laws must follow the warrant process described in Sections 2-6 and 2-7. ~~It is recommended that during the by-law origination process that the author(s) consult with the appropriate board, commission, and other agency to minimize conflicts with current regulations and by-laws.~~

**Commented [DD10]:** Recommend deletion of this sentence as it is in the nature of a practice advisory, rather than a rule or provision of governmental organization.

### ARTICLE 3: ELECTED AND APPOINTED OFFICIALS

#### SECTION 3-1: IN GENERAL

a. Elective Offices - The offices to be filled by the voters shall be:

- i. ~~Select Board of Selectmen~~: 3 members, 3-year term, staggered
- ii. Planning Board: 5 members, 5-year term, staggered
- iii. ~~North Middlesex Regional School District School~~ Committee: 2 members, see section 3-year term, staggered-3
- iv. Moderator: 1 member, 3-year term
- v. ~~Board of Lawrence~~ Library Board of Trustees: 6 members, 3-year term, staggered
- vi. Board of Health: 3 members, 3-year term, staggered
- vii. Housing Authority: 5 members, 5 year term, staggered ~~Board of Commissioners: see section 3-4~~
- viii. Board of Assessors: 3 members, 3-year term, staggered
- ix. ~~DPW commissioners (Board of Public Works: 3 members~~ selected, 2 appointed)
- x. Recreation Commission: 3 members ~~selected, 3-year term, staggered~~

**Commented [DD11]:** For consistency with terminology in section 3-3.

**Commented [DD12]:** Section 3-5 does not use this word; it refers to free public library. Is "Lawrence" necessary here?

**Commented [DD13]:** Statutory terminology is housing authority member. G.L. c. 121B, §5

**Commented [DD14]:** The statutory provision for a board of public works specifies 3 elected members. G.L. c. 41, §69D (requires Town's acceptance of sections 69C to 69F; such acceptance should be confirmed) Question to answer: how did arrangement of elected and appointed come into existence?

~~\*xi.~~ In addition, members of boards or representatives to regional authorities or districts, as may be established by law ~~MGL law~~ or by inter-local agreement, may also be filled by ballot at town elections.

**Commented [DD15]:** There may be instances in which a governmental body is established by means other than the General Laws.

b. Eligibility - Subject to the recall provisions in this Charter, any registered Pepperell voter shall be eligible to hold any elective town office, provided however, that no person shall simultaneously hold more than one elected town office as defined by this section.

- c. Town Election - The annual election of town officials and for the determination of all questions to be referred to the voters, shall be held on such date as may from time to time be provided by by-law.
  - d. Compensation - Elected town officials shall receive such compensation for their services as may be appropriated annually for such purpose.
  - e. Coordination - Notwithstanding their election by the voters, the town officers named in this section shall be subject to the call of the [Select Board](#) ~~of Selectmen~~, the Town Administrator, or Finance Committee at all reasonable times, for consultation, conference, and discussion on any matter relating to their respective offices.
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SECTION 3-2: ~~BOARD OF SELECTMEN~~SELECT BOARD

- a. Composition, Term of Office - There shall be a ~~board of selectmen~~Select Board consisting of three (3) members elected for terms of three (3) years each, so arranged that the terms of as nearly equal number of members as is possible shall expire each year.
- b. Powers and Duties - The executive powers of the Town of Pepperell shall be vested in the ~~Select Board of Selectmen~~which shall be deemed to be the ~~chief executive officer~~Chief Executive Officer of the Town. The ~~Select Board of Selectmen~~ shall be accountable to the Town, to the extent provided for in this Charter, for events and activities of the Town, as performed by Employees and Boards under its authority. The ~~Select Board of Selectmen~~shall have all of the executive powers it is possible for a ~~board of selectmen~~~~Sselect Bboard~~ to have and to exercise, unless otherwise limited in this Charter. The ~~Select Board of Selectmen~~ shall serve as the chief policy-making agency of the Town. It shall be responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it and, in conjunction with other elected town offices, to develop and to promulgate policy guidelines designed to bring all agencies of the Town into harmony. The Board shall assure compliance with policy directives. Nothing in this section shall be construed to authorize any member of the ~~Select Board of Selectmen~~, or a majority of such board, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the ~~Select Board of Selectmen~~ shall act through the adoption of policy guidelines which are to be implemented by officers and employees appointed by or under its authority. The ~~Select Board of Selectmen~~ shall maintain liaison with all town boards, commissions, and committees and shall mediate disputes among town boards, commissions, and committees. The ~~Select Board of Selectmen~~ shall cause a record of all its official acts to be kept. To aid it to perform its duties, the ~~Select Board of Selectmen~~ shall appoint a town administrator. The ~~Select Board of Selectmen~~ shall, according to Chapter 41 Section 23B of MGL, have the power to make investigations, and may authorize the Town Administrator to investigate the affairs of the Town and the conduct of any town department, office, or agency, including any doubtful claims against the Town. The ~~Select Board of Selectmen~~ shall have the authority to appoint town boards in accordance with the provisions of this Charter. Members of the ~~Select Board of Selectmen~~ shall be ineligible to serve on ~~ad hoc committees or~~ multiple member bodies established by this Charter or by by-law ~~to~~for which the ~~Select Board of Selectmen~~ is the appointing authority. The ~~Select Board of Selectmen~~ shall be recognized as head of the Town government for all ceremonial purposes.
- c. Licensing Authority - The ~~Select Board of Selectmen~~ shall act as the licensing authority of the Town and shall have the power and responsibility required to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach conditions and impose such restrictions as it considers to be in the public interest, and further to enforce, or cause to be enforced, the laws, rules, and regulations relating to all businesses for which it issues licenses.

SECTION 3-3: NORTH MIDDLESEX REGIONAL SCHOOL COMMITTEE

- a. Composition, Term of Office - The Town shall ~~elect~~~~choose~~ such number of representatives and for such terms of office to represent the Town of Pepperell on the North Middlesex Regional School District Committee as may be provided for in an agreement entered into and approved by each of the participating municipalities.

b. Powers and Duties - The North Middlesex Regional School District Committee shall have all of the powers and duties which are given to regional school committees under the ~~constitution~~Constitution, laws and regulations of the Commonwealth and additional powers and duties as may be authorized by the regional agreement, by by-law or other vote of the Town Meetings of all of the towns of the North Middlesex Regional School District.

**Commented [DD16]:** For consistency with paragraph a.

SECTION 3-4: HOUSING AUTHORITY BOARD OF COMMISSIONERS

**Commented [DD17]:** See comment above, at section 3-1.a.

- a. Composition, Term of Office - There shall be a Housing Authority consisting of five (5) members ~~serving for five (5) years each, so arranged that the term of one member shall expire each year. Four, Three~~ of the members shall be elected by the voters, ~~and the serving for five (5) years each in staggered terms.~~ One member shall be a Housing Authority tenant appointed by the Select Board for a term of one (1) year. The fifth member shall be permanently appointed by the Commonwealth as provided by the MGL, General Laws.
- b. Powers and Duties - The Housing Authority ~~shall make studies~~ is a public body politic and corporate State Subsidized Program under the M.G.L., Chapter 23121B -- Department of the housing needs Housing and Community Development (DHCD). ~~The Board of the community Commissioners and shall provide programs to make available housing for families of low income and for elderly persons of low income. The housing authority shall~~ the Housing Authority shall have such other powers and duties as are assigned to housing authorities by General Laws set forth in the M.G.L., Chapter 121B -- Local Housing Authorities and 760 Code of Massachusetts Regulations C.M.R. -- DHCD Regulations.

**Commented [DD18]:** This is contrary to the statute, which provides for 5-year terms, and the DHCD guidance document, Public Housing Notice 2021-01, available at <https://www.mass.gov/doc/2021-01-tenant-board-member/download>

**Commented [DD19]:** Recommend only citing the statutory provision; applicable regulations could change, but statutory basis for housing authorities is less likely to be changed by the Legislature.

SECTION 3-5: LIBRARY BOARD OF TRUSTEES

- a. Composition, Term of Office - There shall be a ~~Board of Library~~ Board of Trustees consisting of six (6) members elected for terms of three (3) years each, so arranged that the term of at least two (2) members shall expire each year.
- b. Powers and Duties - The Library Board of Library Trustees shall be responsible for the management of the free public library of the Town, the property, and the staff. ~~The Library Board of library Trustees shall have all the powers and duties which are given to library trustees by the MGL General Laws and shall have additional powers and duties as are provided by this Charter, by by-law, or by town meeting vote, as well as any powers, duties, and responsibilities as may be imposed by the terms of any public trust.~~

SECTION 3-6: MODERATOR

- a. Term of Office - There shall be a town moderator elected for a term of three (3) years.
- b. Powers and Duties - The Town Moderator shall be the presiding officer of the Town Meeting and regulate its proceedings, as provided in Section 2-2, and shall perform all other powers and duties given to moderators under the eConstitution and MGL General Laws, unless otherwise limited elsewhere in this Charter, and such additional powers and duties as may be authorized by this Charter, by by-law, or by other town meeting vote.

SECTION 3-7: FILLING OF VACANCIES

- a. Electing Multiple Member Board -- Body
- i. If there is a vacancy in a ~~board multiple member body~~ consisting of two or more members, other than the Select Board of Selectmen, the remaining members shall forthwith give written notice of any such vacancy to the Select Board of Selectmen. After at least ten (10) business days of the ~~publically~~ publicly posted vacancy, the Select Board of Selectmen with the remaining members or member of such ~~board body~~ shall fill such vacancy by a joint vote.
- ii. If such notice of the vacancy is not given within ~~thirty (30) days~~ one (1) month following the date on which such vacancy occurs the Select Board shall, after a

~~one (1) week~~ five (5) business days' notice, fill such vacancy without participation by the remaining members of the multiple member ~~board-body~~. The appointment will be made by vote, ~~which shall require and carried by~~ a simple majority.

**Commented [DD20]:** This paragraph is based on G.L. c. 41, §11, which uses the terminology of "month" and "week." Recommend retaining the one week phrase.

- iii. The person chosen to fill any such vacancy shall serve in such office until the next regular town election at which the balance of the unexpired term, if any, shall be filled. The person elected shall begin the unexpired term as provided by by-law.
- b. ~~Select Board of Selectmen~~ - If there is a failure to elect or if a vacancy occurs in the office of ~~selectmen~~ the Select Board and six (6) months or more will elapse before the next annual town election the remaining ~~selectmen~~ Select Board members shall, forthwith, call a special election to fill the vacancy until the next annual election; at such annual election, the seat shall be filled for the remainder of the term of office. If the vacancy occurs in the office of ~~selectmen~~ the Select Board and more than three (3) but less than six (6) months will elapse before the next annual town election, the remaining ~~selectmen~~ Select Board members shall call a special election to fill the vacancy only upon the request, in writing, of two hundred (200) or more registered voters of the Town of Pepperell. If less than three (3) months will elapse before the next annual town election, the vacancy shall be filled at the next annual town election.
- c. Town Moderator - If there is a failure to elect, or if a vacancy occurs in the office of Town Moderator; the office of Town Moderator shall be filled by Town Meeting vote. The Town Moderator shall be elected by ballot by registered voters, as certified by the Town Clerk, present at Town Meeting, to preside at all town meetings and fulfill the duties of Town Moderator. The term of office shall begin as soon as he/she is qualified and shall continue for the remainder of the term.
- d. North Middlesex Regional School Representative - If there is a failure to elect or ~~if a vacancy occurs in the office of regional school representative representing the town, the regional school committee shall forthwith give, upon receiving~~ written notice of ~~existence of the vacancy to the Board of Selectmen and notification from~~ the Regional School Committee. ~~If a vacancy occurs on in the Committee as to an office of representative for the Town of Pepperell resident member seat, then the Select Board of Selectmen and the remaining resident members from the Town of Pepperell shall, by majority vote, appoint a successor member to fill the vacancy to complete the present term.~~

#### SECTION 3-8: RECALL OF ELECTED OFFICIALS

- a. Application - With the exception of the members of the Housing Authority, who are governed under ~~MGL~~ Massachusetts General Laws, Chapter 121B, Section 6, any person who has held an elected town office for at least six (6) months, and with more than six (6) months remaining of the term of office at the time of the filing of the recall affidavit, may be recalled thereof by the voters of the Town of Pepperell in the manner provided in this section.
- b. Recall Affidavit - One hundred (100) or more registered voters of the Town of Pepperell may file a recall affidavit with the Town Clerk containing the name of the officer whose recall is sought and a statement of the grounds upon which the affidavit is based, provided that a minimum of twenty-five (25) names of voters shall be from each of the voting precincts into which the Town is divided. The Town Clerk shall, within one (1) ~~working~~ business day thereafter, submit such affidavit to the registrars of voters. The

Registrars of Voters shall, within ten (10) workingbusiness days thereafter, certify such affidavit ~~with regard to~~ regarding the sufficiency and validity of the signatures of voters.

**Commented [DD21]:** Recommend retaining original language.

- c. Recall Petition: If the affidavit shall be certified by the Registrars of Voters, the Town Clerk shall, within five (5) working days thereafter, deliver to the first ten (10) voters named on such affidavit, petition blanks demanding said recall; printed forms of which the Town Clerk shall keep available. The blanks shall be signed by the Town Clerk with the official town seal attached thereto. The blanks may be completed by printing or typewriting; they shall contain the names of the ten (10) persons to whom they are issued; they shall contain the name of the officer whose recall is sought, the grounds for recall as stated in the affidavit; and shall demand the election of a successor to the said office. A copy of the affidavit shall be entered in a record book to be kept in the office of the Town Clerk.

The recall petitions shall be returned to the Town Clerk within thirty (30) days following the date they are issued, signed by at least twenty (20) percent of the registered voters of the Town at the date of issue. The Town Clerk shall, within one (1) workingbusiness day following such filing, submit the petitions to the Registrars of Voters which shall within fifteen (15) workingbusiness days thereafter certify thereon the number of signatures which are names of voters.

- d. Recall Elections - If the petitions shall be certified by the Registrars of Voters to be sufficient, the Town Clerk shall forthwith submit the same, with a certificate to the Select Board of Selectmen. Upon its receipt of the certified petition, the Select Board of Selectmen shall forthwith give notice, in writing, of said petition and certificate to the officer whose recall is sought. If said officer does not resign from office within five (5) workingbusiness days following delivery of said notice, the Select Board of Selectmen shall order a special election to be held not less than sixty-four (64) days nor more than ninety (90) days after the date of certification of the Town Clerk, provided however, that if a regular town election is to be held within one hundred and ten (110) days following the date of said certificate the recall election shall be held in conjunction therein and not at a special town election. If a vacancy occurs in said office after the recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted. If the officer whose recall is sought is a member of the Select Board, that individual shall ~~refuse themselves refrain from participating in any~~ proceedings related to the recall and the remaining members of the board shall perform the steps as described herein.

**Commented [DD22]:** Revised to make non-participation language more direct. Recusal requires an affirmative act of the applicable member, but a prohibition on participation could be enforced by the other members.

- e. Nomination of Candidates - An officer whose recall is sought may not be a candidate to succeed himself/herself in the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of all shall be in accordance with the provisions of law relating to elections unless otherwise provided in this section.
- f. Propositions on the Ballot - Ballots used at the recall election shall state the proposition in the order indicated:
  - i. For the recall (name of officer)
  - ii. Against- the recall (name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said propositions shall appear the word "candidates" and the names of the candidates arranged in accordance with the provisions of law relating to elections. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate

receiving the highest number of votes cast shall be declared elected. If the majority of the votes cast is in the negative, the ballots for candidates need not be counted.

- g. Office Holder - The incumbent shall continue to perform the duties of the office until the recall election. If then not recalled, the incumbent shall remain in office for the remainder of the unexpired term, subject to recall as provided in [Section vii paragraph h](#) below.

If recalled at the election such person shall be deemed to be removed upon the qualification of the successor, who shall hold the office during the unexpired term. If the successor fails to qualify within five (5) [workingbusiness](#) days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

- h. Repeat of Recall Petition - No recall shall be filed against an officer subjected to a recall election and not recalled thereby until at least six (6) months after the election at which the recall was submitted to the voters.
- i. Appointment of the Person Recalled - No person who has been recalled from an office, or who has resigned from office while recall provisions are pending against her/him, shall be appointed to any town office within one (1) year after such recall or such resignation.

## ARTICLE 4: TOWN ADMINISTRATOR

### SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

The ~~Select Board of Selectmen~~ shall appoint a town administrator from a list prepared by a screening committee as established in Section 4-5. The ~~Select Board of Selectmen~~ shall appoint the Town Administrator to serve for a renewable term of not more than three (3) years and shall fix the compensation for such person, annually, within the amount appropriated by the Town. The Town Administrator shall be appointed on the basis of educational, executive, ~~and administrative qualifications and experience. He/she shall have served full time in a management position for a period of not less than three years. He/she shall possess at least an earned Bachelor's degree from a recognized, accredited college or university; and~~ administrative qualifications, and such other requirements as required by the screening committee. ~~The Town Administrator shall not have served in an elective office in the Town government for at least twelve months prior to appointment. The Town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate. The Town Administrator shall devote full time to the office and shall not hold any other public office, elected, or appointed, nor engage in any business or occupation during such service, unless such action is approved in advance by the Select Board of Selectmen.~~ ~~The Select Board of Selectmen shall provide for an annual review of the job performance of the Town Administrator which shall, at least in summary form, be a public record in accordance with the MGL Massachusetts General Law.~~ ~~Failure to administer an annual review will prohibit the Select Board of Selectmen from authorizing any annual increases in compensation. This review shall reflect the Town Administrator's performance of duties as listed in Section 4-2. At least~~ Not less than three months prior to expiration of any contract term, the ~~Select Board of Selectmen~~ shall vote on the reappointment of the Town Administrator. The annual reviews shall be used as a basis for reappointment. ~~The majority vote of the full membership of the Select Board of Selectmen is required to reappoint. If the vote of the Board of Selectmen to reappoint fails, the appeal process of Section 4-4.~~

### SECTION 4-2: POWERS AND DUTIES

The Town Administrator shall be the ~~chief administrative officer~~ Chief Administrative Officer of the Town, directly responsible to the ~~Select Board of Selectmen~~ for the administration of all town affairs for which the ~~offices~~ office of town administrator is given responsibility by or under this Charter. The powers and duties of the Town Administrator shall include, but are not intended to be limited to the following:

- a. To supervise, direct and be responsible for the efficient administration of all functions and activities, for which the office of town administrator is given authority, responsibility, or control by this Charter, by by-law, by town meeting vote, by vote of the ~~Select Board of Selectmen~~, or otherwise to best serve the citizens of Pepperell.
- b. ~~To appoint, and in~~ To appoint, subject to the provisions of the civil service law and any other collective bargaining agreements as may be applicable, all department heads, officers, agents, members of boards and commissions, and employees for whom no other method of selection is provided by this Charter, the Administrative Code, and/or Town by-laws. Where approval of an appointee by a Town board, commission or committee is required by this Charter, the Administrative Code, and/or Town by-laws, the Town Administrator shall appoint a qualified individual from the candidate/candidates approved by ~~applicable~~ such boards, commissions, or committees. Such appointments become

**Commented [DD23]:** Question: What is the 'approval' that is referenced here? Have the applicable 'requirement' provisions of the Charter, Administrative Code and by-laws been identified?

effective upon ~~at~~ the date specified ~~included~~ in a notice of appointment signed by written agreement between the Town Administrator and the appointee. Copies of the notices of all ~~such~~ proposed appointments shall be posted on the homepage of the Town's municipal website when submitted to the Select Board. Notices ~~can~~ shall also be made available for viewing ~~ed~~ at the Town Clerk's office during normal business hours.

**Commented [DD24]:** Change reflects fact that only a few town positions other than a town administrator or town manager are eligible for an employment agreement: police chief, fire chief, treasurer, assessor, tax collector. See G.L. c. 41, §§108, 108N1/2, 108O

~~b.c.~~ In appropriate circumstances to remove, subject to the provisions of the civil service law and any ~~other~~ collective bargaining agreements as may be applicable ~~with consultation of,~~ and the ~~respective board or committee~~ Personnel By-Law, all department heads, officers, agents, members of boards and commissions, ~~and~~ employees for whom no other method of ~~selection~~ removal is provided by this Charter. ~~Such appointments shall become effective on, the 15<sup>th</sup> day following the day on which such notice of appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of its members, vote to reject such an appointment, or has sooner voted to affirm it. Copies of the notice of all such proposed appointments shall be posted on the Administrative Code, and/or Town bulletin board and website when submitted to the Board of Selectmen by-laws. Where approval of a Town board, commission or committee is required by this Charter, the Administrative Code, and/or Town by-laws for such a removal, the Town Administrator shall not remove an appointee without such approval of applicable boards, commissions, or committees.~~

**Commented [DD25]:** AM – there is a personnel policy document, looking to have adopted this month; 80 pages, mostly boilerplate but some particular to PEPP. There is a proposal to shorten the bylaw and just have it 'point to' policies – the policy document.

~~e.d.~~ To be entrusted with the administration of the Town personnel system, including, but not limited to ~~To implement and maintain, consistent with any requirements of a Personnel By-law, personnel policies and procedures, rules, and regulations, including provisions for an annual employee performance review, personnel by law and collective bargaining agreements entered into by the Town in accordance with the Personnel By law. The Personnel By-law shall include a grievance process for all Town employees subject to that by-law. This process shall include access to a binding independent third-party mediator if satisfactory conclusion from the Personnel Board is not received.~~ The Town Administrator shall also prepare and maintain a current plan establishing the personnel staffing requirements for each town agency, except the library and school department.

**Commented [DD26]:** Recommend deletion of this sentence. It is beyond the typical scope of charter provisions on this topic. Note that current Personnel By-law does not include such a provision. Note also that mediation is a mutual, non-binding process. A binding process would be arbitration.

~~f.c.~~ To attend all regular and special meetings of the ~~Select Board of Selectmen~~, unless unavoidable for reasonable cause, and shall have a voice, but no vote, in all ~~of~~ its proceedings. ~~The exception would be meetings regarding the performance of a Select Board member, unless invited by the Select Board.~~

**Commented [DD27]:** This exception seems strange from my experience. The Town Administrator may well have applicable information or comment on a matter involving performance of a Select Board member; the matter could actually involve the Town Administrator.

~~e.f.~~ To assure that full and complete records of the financial and administrative activities of the Town are kept and to render as often as may be required by the ~~Select Board of Selectmen~~, but not less than once a year, a full report of all town administrative operations during the period reported on, which report shall be made available to the public within the Annual Town Report.

~~f.g.~~ To keep the ~~Select Board of Selectmen~~ fully advised as to the needs of the Town and recommend to the ~~Select Board of Selectmen~~ and to other elected town officers and agencies for adoption such measures requiring action by them or by the Town Meeting as the Town Administrator may deem necessary or expedient.

~~g.h.~~ The Town Administrator shall be responsible for the maintenance and repair, rental and use, of all town buildings ~~and~~ facilities, ~~and~~ grounds placed under the Town Administrator's control by this Charter, by by-law, by vote of the Town or otherwise, excluding those facilities operated in active use by the North Middlesex Regional School District ~~and the Library under the control of the Library Board of Trustees. The Town~~

Administrator's responsibilities do not include the initiation of any new building, facilities, or grounds projects without such approval as may be required by this Charter, by by-law, or by vote of the Town following proper town procedures.

~~h.i.~~ To prepare and present, in the manner provided in Article 6, an annual operating budget and Capital Improvement Plan for the Town and develop material to furnish to the Capital Program Committee for the preparation of a proposed capital improvement plan for the five (5) fiscal years next ensuing.

~~i.j.~~ To assure that a full and complete annual inventory of all property of the Town, both real and personal, is kept, including all property under the control of the library trustees.

~~j.k.~~ To negotiate, on behalf of the Select Board of Selectmen, all contracts and collective bargaining agreements involving any subject within the jurisdiction of the office of the Town Administrator, including contracts with town employees, involving wages, hours and other terms and conditions of employment. All such contracts and agreements shall be subject to the approval of the Select Board of Selectmen.

~~k.l.~~ To be the Chief Procurement Officer for the Town, in accordance with the all provisions of Chapter 30B Commonwealth of the the MGLassachusetts General Laws, and regarding procurement, including, but not limited to, appoint such Assistant Procurement Officers as provided in Chapters 7C, Chapter 30Bb, Chapter 30B30, section 39M, and Chapter 149 of the Massachusetts MGLGeneral Laws. The Town Administrator is to be certified as a Massachusetts Certified Public Procurement Officer at the time of his/her initial appointment or be certified within a reasonable period of time following said appointment.

~~l.m.~~ To see that the provisions of this Charter, town by-laws, and other votes of the Town Meeting and votes of the Select Board of Selectmen which require enforcement by the Town Administrator are faithfully executed, performed, or otherwise carried out.

~~m.n.~~ To inquire, at any time, into the conduct and operation of office or performance of duties of any officer or employee, department, board, agent, commission, or other town agency.

~~n.o.~~ To attend all sessions of all town meetings and answer questions raised by voters which relate to warrant articles and to matters over which the Town Administrator exercises any supervision.

~~o.p.~~ To reorganize, consolidate, or abolish, in the manner provided in ArticleSection 5-1, town agencies serving under the supervision of the Town Administrator, in whole or in part, provide for new town agencies and provide for a reassignment of powers, duties and responsibilities among such agencies so established or existing.

~~p.q.~~ To facilitate communications, coordination, and operations between and amongst the following:

- i. townTown agencies serving under the office of the Town Administrator
- ii. townTown agencies serving under the Select Board of Selectmen
- iii. townTown agencies under the control of other officers and multiple member bodies elected directly by the voters.

For this purpose, the Town Administrator shall have authority to require the persons so elected, or their representatives, to meet with the Town Administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the Town. The Town Administrator shall have the right to attend and speak at any meeting of any multiple member body; but shall not have the right to vote.

**Commented [DD28]:** Revised to use a form consistent with other Charter provisions, and for more specificity. "Proper town procedures" is a general phrase that could be open to interpretation.

**Commented [DD29]:** See comment at section 6-7.

~~q.r.~~ To seek and review, by initiative or upon request of any town officer, those state, federal, regional and all other grants which may be of benefit to the Town of Pepperell. The Town Administrator shall be the authority responsible for reviewing all applications for such grants which require the approval of the Select Board of Selectmen.

~~r.s.~~ To be responsible for the publication, maintenance, and review of the Town by-laws and of any duly authorized revisions, amendments, additions, or other changes pertaining thereto. The review of town by-laws shall be in conjunction with the Town Counsel, or, by special counsel retained for that purpose, ~~and the By-law Review Committee, (see Sec 7-6b).~~ Subsequent to enactment by the Town Meeting, copies of the revised by-laws shall be forwarded to the Attorney General of the Commonwealth for approval, and they shall be otherwise published, ~~as~~ as required by the MGL General Laws. Copies of the revised by-laws shall be made available for distribution to the public.

~~s.t.~~ To perform any other duties as are required to be performed by the Town Administrator by Town by-laws, the aAdministrative eCode or votes of the Board of Selectmen (see Section 5-1b), Select Board vote, Town Meeting vote, or -Massachusetts General Laws (MGL).

~~t.u.~~ ~~Shall~~To ensure that the Select Board of Selectmen is kept fully informed of the Town's emergency preparedness planning. ~~In time of public danger of emergency, per the Town Administrator shall direct and oversee the management of town resources pursuant to any applicable state law, regulation, or other protocol(s), directive(s), or agreement(s) to which the Town is a signatory and/or participant. Should the Town Administrator be unavailable, the Police Chief shall perform such duties as may be necessary in such circumstances~~Massachusetts Civil Defense Act.

#### SECTION 4-3: ACTING TOWN ADMINISTRATOR

- a. Temporary Absence - With the approval of the Select Board of Selectmen, the Town Administrator may designate a qualified town officer or employee individual to exercise the powers and perform the duties of the Town Administrator during an absence of the Town Administrator of not more than fifteen (15) days. Such delegation shall be made by letter filed with the Town Clerk and the Select Board of Selectmen.
- b. Vacancy - Any vacancy in the office of town administrator shall be filled as soon as possible by the Select Board of Selectmen, but, pending such regular appointment the Select Board of Selectmen shall appoint a qualified town officer or employee individual to perform the duties of the office on an acting basis. Such temporary appointment may not exceed ~~three (3)~~six (6) months, but one renewal may be voted by the Select Board of Selectmen not to exceed a second term of three (3) months. Compensation for such person shall be set by the Select Board of Selectmen.
- c. Powers and Duties - The powers and duties of a temporary or acting town administrator, under (a) and (b) above, shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

#### SECTION 4-4: SUSPENSION AND REMOVAL FOR CAUSE

The Select Board of Selectmen may, by a majority vote of the full board, terminate and remove, or suspend, the Town Administrator from office in accordance with the following procedure:

**Commented [DD30]:** This review function is broader than that provided for in section 7-6.b, so recommend against insertion. Also, the specific term "By-law Review Committee" is not used in 7-6.b.

**Commented [DD31]:** Recommend retaining language, so that an acting Town Administrator during an absence, as opposed to during a vacancy, is a Town officer or employee.

- a. The Select Board of Selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all its members, which must state the reason or reasons for removal. This preliminary resolution may suspend the Town Administrator for a period not to exceed forty-five (45) calendar days. A copy of the resolution shall be delivered to the Town Administrator forthwith. The Town Administrator shall continue to receive a salary until the effective date of the final resolution of removal.
- b. Within five (5) workingbusiness days of receipt of the preliminary resolution the Town Administrator may request a public hearing by filing a written request for such hearing with the Select Board of Selectmen. This hearing shall be held at a meeting of the Select Board of Selectmen not later than ~~thirty (30)~~twenty (20) business days after the request is filed nor earlier than ~~twenty (20)~~fifteen (15) business days. The Town Moderator shall preside at any public hearing to discuss the suspension or removal of the Town Administrator. The Town Administrator may file a written statement responding to the reasons stated in the resolution of removal with the Select Board of Selectmen provided the same is received at its office at least forty-eight (48) hours in advance of the public hearing.
- c. The Select Board of Selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all its members not less than ten (10) business days nor more than ~~twenty-one (21)~~fifteen (15) business days following the date of delivery of a copy of the preliminary resolution to the Town Administrator, if the Town Administrator has not requested a public hearing; or, within ten (10) workingbusiness days following the close of the public hearing if the Town Administrator has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the Town Administrator shall, at the expiration of said time, forthwith resume the duties of the office. The action of the Select Board of Selectmen in suspending or removing the Town Administrator shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal solely in the Select Board of Selectmen.

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SECTION 4-5: SELECTING A TOWN ADMINISTRATOR

Forthwith following a notice of resignation or a vacancy in the office of the Town Administrator, the Select Board of Selectmen shall establish a screening committee to review applicants for the position of town administrator. The sScreening eCommittee is to consist of seven (7) persons, representing as nearly as possible the Town's demographic and occupational base-

of the Town and a Select Board member as a non-voting advisor. The seven (7) person make-up shall consist of two (2) staff (non-Department Heads), two (2) Department Heads, and three (3) Town citizens. Not more than twenty-one (21) calendar days following notice of resignation or pending vacancy in the office of the Town Administrator the seven (7) persons chosen aforesaid shall meet to organize and to plan a process for the selection of a newthe Town Administrator.

The Screening Committee shall advertise the position, engage an independent, professional search organization if necessary, and review all applications received by it, screen all such applicants by checking and verifying work records, qualifications, and other credentials, including, but not limited to, internet searches and CORI checks both in Massachusetts, pursuant to MGL, assachusetts General Law chapter 6, section 272and out of state as

**Commented [DD32]:** If make-up of committee must include 2 department heads and 2 department heads (4 of the 7 members), that would be contrary to the preceding directive that the committee represent the Town's demographic and occupational base. Suggest either removing the demographic and occupational base language or revising the make-up of the committee to be consistent with the 'base' language.

necessary, and provide for interviews to be conducted with such number of candidates ~~at~~the Screening Committee deems to be necessary, desirable, and/or expedient.

~~Not more than ninety (90)~~The Chairperson of the Screening Committee shall be responsible for all written correspondence and verbal communications with prospective applicants/candidates and must share all communications with the Screening Committee members. ~~Not more than ninety (90) calendar~~ days following the date on which the committee meets to organize, the committee shall submit to the ~~Select Board of Selectmen~~ the names of not less than three (3) nor more than five (5) persons whom it believes to be best suited to perform the duties of the office of town administrator.

Within thirty (30) calendar days following the date the list of nominees is submitted to ~~it~~, the ~~Select Board of Selectmen, the Select Board~~ shall interview and choose by majority vote one of the said nominees to serve as town administrator. In the event the ~~Select Board of Selectmen~~ shall fail to make an appointment within the said thirty (30) calendar days, the ~~screening committee~~Screening Committee shall reopen the screening process to solicit more applicants/nominees.

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

Commented [DD33]: Strictly speaking, only one person would be "best" suited. Suggest delete "best" or replace it with "well."

## ARTICLE 5: ADMINISTRATIVE ORGANIZATION

### SECTION 5-1: ORGANIZATION OF TOWN AGENCIESGOVERNMENT

The organization of the Town of Pepperell ~~government~~ into operating agencies for the provisions of services and the administration of the government may be accomplished through either of the methods provided in this article.

- a. ~~By-Law~~Laws - Subject only to the express prohibitions in ~~the MGLa General Law~~ or the provisions of this Charter, the Town Meeting may, by by-law, 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 entities; provided, however, that no function assigned by this Charter to a particular town agency may be discontinued, or unless this Charter specifically so provides, assigned to any other town agency.
- b. Administrative Code - The Town Administrator, ~~with the approval of the Board of Selectmen,~~ may ~~from time to time~~ prepare and ~~submit~~present to the ~~Select Board for approval for submission to town meeting~~Town Meeting, plans of organization or reorganization which establish operating divisions for the orderly and efficient conduct of the business of the Town ~~— an Administrative Code.~~ -The ~~Administrative e~~Code may propose to reorganize, consolidate or abolish any town agency, in whole or in part; establish such new town agencies as is deemed necessary to the same extent as is provided in section 5-1 a), above, ~~by~~for by-laws; and for such purpose transfer the powers and duties of one town agency to another town agency, board, commission, or office provided, however, that no function assigned by this Charter to a particular town agency may be discontinued, or unless this Charter so provides assigned to any other town agency.

Whenever the Town Administrator prepares such a plan the ~~Select Board of Selectmen~~ shall hold one or more public hearings on the proposal giving notice in a local publication, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven (7) nor more than fourteen (14)

days following such publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the Town Meeting as a warrant article.

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

- a. ~~The Town Administrator may, through the administrative code, and subject only to express prohibitions in a General Law or this Charter, transfer the appropriation of the Town agency or agencies to another, so far as is consistent with the use for which the funds were voted by the Town.~~
- c. The Town may, by majority vote at any Town Meeting duly held, transfer any amount previously appropriated to any other use authorized by by-law. Alternatively, under Section 4633B of MGL, Chapter 4439, the Select Board, with the concurrence of the Finance Committee, may transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year, any amount appropriated, other than for a school department, to any other appropriation.

**Commented [DD34]:** This is not an organizational provision. Also, the second sentence reflects statutory language that could more likely be amended in the future. Edits made, but recommend removing this paragraph.

#### SECTION 5-2: PUBLICATION OF ADMINISTRATIVE CODE AND PERSONNEL PLAN

For the convenience of the public, the ~~administrative code~~ Administrative Code and any amendments thereto shall be printed as an appendix to, but not an integral part of the by-laws of the Town of Pepperell. -The personnel and staffing plan as prepared by the Town Administrator, in conformity with section 4-2 ed) shall be published annually in the Town Report.

**Commented [DD35]:** This phrase is indefinite. If intention is that Administrative Code be part of by-laws, recommend re-wording sentence to say so. If that is not the intention, recommend deletion of the phrase.

#### SECTION 5-3: APPOINTMENTS, PROMOTIONS, AND DISCIPLINE

- a. Unless otherwise provided for by this Charter, the heads of all town agencies, whether appointed by the Select Board of Selectmen or by the Town Administrator, shall be responsible for the appointment, promotion and discipline of all persons serving under them.
- a. ~~The Town of Pepperell shall establish the position of Fire Chief no later than thirty six (36) months following the adoption of the charter. The Fire Chief will have those powers, duties and responsibilities as provided by M.G.L. Chapter 48, section 42.~~
- b. SECTION 5-4: MERIT Individuals performing the human resources function for the town shall be appointed by a majority vote of the Select Board. Individuals performing the human resources function shall report to the Town Administrator. In cases of employee grievances involving against an action or inaction of the Town Administrator, individuals performing the human resources function shall report to the Select Board.

**Commented [DD36]:** Since "the human resources function" suggests one individual, recommend changing to singular. Alternatively, change "the human resources function" to "human resources functions."

**Commented [DD37]:** Same comment as above.

#### SECTION 5-4: MERIT PRINCIPLE

Subject to any collective bargaining agreements as may be applicable, or to the provisions of ~~the any applicable~~ any applicable civil service ~~law~~ laws, all appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination, past performance, or other evidence of competence and suitability.

SECTION 5-5: ORGANIZATION OF TOWN GOVERNMENT, APPOINTMENTS

Refer to the chart in the Glossary. ~~Until such time as a different form of organization shall be provided, in accordance with the provisions of Article 5-1 of this Charter, the following organization whose structure is shown in Figure 1 shall be operative:~~

~~The Board of Selectmen shall appoint:~~

- ~~• Affordable Housing Committee;~~
- ~~• Agricultural Advisory Board;~~
- ~~• Disabilities Commission;~~
- ~~• Board of Fire Engineers, such appointment to be effective only until the appointment of a Fire Chief as provided in this Charter;~~
- ~~• Board of Public Works its two (2) appointed members;~~
- ~~• Registrars of Voters;~~
- ~~• Cable TV Advisory Committee;~~
- ~~• Capital Program Committee;~~
- ~~• Conservation Commission;~~
- ~~• Council on Aging;~~
- ~~• Covered Bridge Committee;~~
- ~~• Cultural Council;~~
- ~~• Economic Development Advisory Committee;~~
- ~~• Emergency Planning Committee;~~
- ~~• Fence Viewer;~~
- ~~• Finance Committee;~~
- ~~• Fire Chief, subsequent to initial appointment as in this Charter;~~
- ~~• Information Systems Technology Committee;~~
- ~~• Keeper of the Lock up;~~
- ~~• Lowell Regional Transit Authority Selectmen's Representative;~~
- ~~• Nashoba Valley Technical High School Committee (joint appt.);~~
- ~~• one or more Constables, as the Selectmen may deem necessary;~~
- ~~• Historical Commission;~~
- ~~• Pepperell Public Access Cable Corporation;~~
- ~~• Personnel Board;~~
- ~~• Planning Board Associate Member (joint appt.);~~
- ~~• Police Chief as authorized by the town's acceptance of M.G.L., Chapter 97A;~~
- ~~• Representative to the Northern Middlesex Council of Governments (a selectmen's representative and alternate);~~
- ~~• Town Administrator;~~
- ~~• Town Counsel;~~
- ~~• Town Forest Committee;~~
- ~~• Middlesex County Retirement Board;~~
- ~~• Trustees of the Brooks Educational and Entertainment Fund;~~
- ~~• Vietnam Memorial and Honor Roll Committee; and~~
- ~~• Zoning Board of Appeals.~~

~~The Town Administrator shall appoint, with consultation from any governing board or committee chairperson where applicable:~~

- ~~• Town Clerk;~~
- ~~• Director of Council on Aging;~~
- ~~• Tax Collector/Treasurer;~~
- ~~• Town Accountant;~~
- ~~• Sealer of Weights and Measures, and one or more Assistant Sealers of Weights and Measures;~~
- ~~• Animal Control Officers;~~
- ~~• Animal Health Inspector;~~
- ~~• Plumbing Inspector;~~

- ~~Inspector of Gas Piping and Gas Appliances;~~
- ~~Building Inspector;~~
- ~~Local Inspector;~~
- ~~Inspector of Buildings;~~
- ~~Zoning Enforcement Officer;~~
- ~~Wiring Inspector;~~
- ~~All Assistant Inspectors;~~
- ~~Communications Director;~~
- ~~Director of Public Works;~~
- ~~Veterans Agent;~~
- ~~Veterans Grave Officer;~~
- ~~Assistant Assessor;~~
- ~~Systems Administrator;~~
- ~~Conservation Agent;~~
- ~~Planning Board Administrator;~~
- ~~Planning Board Assistant;~~
- ~~Recreation Facilities Program Director; and~~
- ~~Director of Emergency Management.~~

General information - Volunteer committees are a critical component of local government. Provided various powers by statute, by-law, or delegation, committees help create discussion and make decisions important to the community.

There are two primary types of committees.- Permanent or ‘standing’ committees are generally established by pursuant to MGLassachusetts General Law, by local bBy-law, or through Select Board appointmentdelegation. Temporary or ‘ad hoc’ committees are generally created by the Select Board or the Town Administrator.

By tradition, standing committee members are appointed or elected on thea fiscal year basis, generally for three-year staggered terms and ad hoc committees are appointed on thea calendar year basis, generally for one-year terms. There are exceptions to both of those appointment terms depending on statutory regulations or the purpose/timing of an ad hoc committee.

A committee, whether standing or ad hoc, should have a ‘committee charge’ which identifies its purpose and the authority under which it a board, committee, commission, council or similarly named group-functions within Pepperell’s local governance. The charge should at a minimum describe the establishment of the committee, its appointment structure and the intended role of the committee. The following should be included in a Committee Charge: how established (statute, by-law, Charter, Select Board, Town Administrator, other) / Elected or Appointed, number of members, terms and calendar cycle of terms, purpose.

**Commented [DD38]:** These four paragraphs are not typical elements of a charter, and the subject matter is not substantively referenced elsewhere in the Charter. Given that, and where the language is largely in the form of guidance or practical information, I recommend the Review Committee consider deleting these paragraphs.

**Commented [DD39]:** Such committees could also be created by vote of Town Meeting.

**Commented [DD40]:** As a general rule a town cannot provide for election of a committee other than as authorized by the General Laws or a special act of the Legislature.

## ARTICLE 6: FINANCE AND FISCAL PROCEDURES

### SECTION 6-1: FISCAL YEAR

The fiscal year of the Town of Pepperell shall begin on the first day of July and shall end on the last day of June, unless another period is required by MGLGeneral Law.

### SECTION 6-2: FINANCE COMMITTEE

A finance committee shall be established withper Article 2, Section 2-3 (b.) of this Charter.

### SECTION 6-3: FINANCIAL PLAN

The Town Administrator shall develop and annually revise a long range general financial plan of not less than three (3) years for the Town by the ~~1st day~~middle of December of each year or any other time fixed by by-law. The plan shall project anticipated revenues from all sources, provide projections related to the Town's future debt obligations, and identify anticipated municipal problems likely to require major expenditures in the future.

**Commented [DD41]:** This word is likely not subject to a definition that all persons would accept, and that could lead to possible conflicts. Recommend a phrase such as "not later than December \_\_"

The financial plan shall be reviewed by the ~~Select Board of Selectmen~~ and the Finance Committee, and ~~be~~ adopted by the ~~Select Board of Selectmen~~ with or without amendment.

#### SECTION 6-4: SUBMISSION OF BUDGETS AND BUDGET MESSAGE

- a. Estimated Revenues - On or before the last day of November of each year or any other time fixed by by-law, the Town Administrator shall request and receive from all town agencies, officers, and multiple member bodies, the estimated revenues for the next fiscal year. Upon receipt of any additional specific data provided by the Commonwealth or from any other source, such estimates shall be revised, updated, and submitted forthwith to the Town Administrator.
- b. Policy Statement - On or before the ~~fifteenth day~~end of December of each year, or any other time fixed by by-law, the ~~Select Board of Selectmen~~, after consultation with the Town Administrator and the Finance Committee, shall issue a policy statement relating to the budget for the next fiscal year. The statement shall establish the outer limits and guidelines of possible budget growth for the Town to be used by the various town agencies, officers, and committees in the preparation of operating budgets for the ensuing fiscal year.
- c. Budget Requests - Every town agency, officer, and committee charged with the expenditure of town money shall submit its budget requests for the ensuing fiscal year to the Town Administrator ~~by prior to~~ the ~~first day~~end of January of each year, or any other time fixed by by-law. Such budget requests shall include commentary regarding any changes from the amounts appropriated for the current fiscal year for the same purposes, and any additional work projects that will require additional expenditures.

~~a. Submission of Comprehensive Budget - On or before the first of February of each year, or any other time fixed by by-law, the Message - The Town Administrator shall submit to the Board of Selectmen and finance committee develop a comprehensive budget for all town functions for the ensuing fiscal year and an accompanying budget message.~~

**Commented [DD42]:** The paragraph 'd' designation should be inserted here, not below.

~~d. The budget message shall to~~ explain the budget both in fiscal terms and in terms of what specific projects are contemplated in the fiscal year ahead. It shall:

- ~~i. Outline~~ the proposed financial policies of the Town for the ensuing fiscal year
- ~~ii. Describe~~ the important features of the budget
- ~~iii. Indicate~~ any major changes from the current fiscal year in financial policies, expenditures, and revenues, together with the reasons for such changes
- ~~iv. Summarize~~ the Town's debt position; ~~and~~
- ~~v. Include~~ such other material as the Town Administrator may deem appropriate.

~~e. Budget Review Process - On or before the first of February of each year, or any other time fixed by by-law, the Town Administrator shall work with the Finance Committee to develop a schedule to review the Department Head budget requests submitted to the Town Administrator. The budget review process should be completed in six (6) to seven (7) weeks. At the beginning of April, the Select Board and the Finance Committee shall schedule a joint meeting to review and finalize a comprehensive budget for all town functions for the ensuing fiscal year.~~

**Commented [DD43]:** Revised to reflect terminology in paragraph c, above.

**Commented [DD44]:** This would seem to be the same meeting described in section 6-5.a below. Also, the concept of finalizing a budget at this meeting conflicts with the procedure described in 6-5.b: Select Board recommend a budget and submit it to Finance Committee. Recommend deleting this sentence or revising first sentence of 6-5.a to incorporate any wording variations.

~~d.f.~~ Comprehensive Budget - The budget shall provide a complete financial plan for all town funds and activities in such a format as the Finance Committee may suggest, provided the format suggested is compatible with the standards recommended by the State Association of Town Finance Committees. The budget shall indicate proposed expenditures for both current operations and capital projects during the ensuing fiscal year, detailed by departments, offices, multiple member bodies, and specific purposes and projects.

#### SECTION 6-5: ACTION ON THE PROPOSED BUDGET

- a. Joint Budget Review – ~~On~~ At the second Saturday in February beginning of April or earlier, the ~~Select Board of Selectmen~~ and the Finance Committee will hold a joint budget review meeting. In the course of the review, the ~~Select Board of Selectmen~~ and the Finance Committee may require the Town Administrator, and representatives of town departments, offices, or multiple member bodies to attend and present appropriate financial reports and budgetary information.
- b. ~~Adoption~~ Select Board Recommendation - The ~~Select Board of Selectmen~~ shall on or before the ~~second Saturday~~ fifteenth of March ~~April~~, or any other time fixed by by-law ~~adopt~~ recommend ~~the~~ budget, with or without amendments, and the estimated revenues. ~~The adopted/recommended~~ budget and estimated revenues are then submitted forthwith to the Finance Committee.
- c. ~~Finance Committee Review~~ Finance Committee Meeting for Citizen Comments - The Finance Committee shall conduct a minimum of one meeting specifically for public hearing comments on the proposed budget at least two weeks prior to Town Meeting ~~on the proposed budget. In preparing its recommendations~~ For this Finance Committee meeting, the Finance Committee may require the Town Administrator, any town department, office, or multiple member body to furnish it with appropriate financial reports and budgetary information.
- d. Publication - The ~~publication of the~~ proposed budget and the Finance Committee recommendations shall be included in the warrant ~~or~~ of the Town Meeting issued by the ~~Select Board of Selectmen~~ in accordance with the provisions of Article 2, of this Charter. ~~Articles are published a minimum of fourteen (14) days prior to Town Meeting. Where practical, all motions and recommendations are to be prepared and submitted to the Board of Selectmen and made public no later than seven (7) days prior to Town Meeting.~~
- e. Presentation - The ~~Select Board of Selectmen~~ shall be responsible for presenting the Town budget to the Town Meeting. The budget shall be first subject to amendments by the Finance Committee before any other amendments are proposed.

**Commented [DD45]:** This change and the change in the preceding line suggest that the Select Board is 'recommending' a budget for further Finance Committee action, but the next paragraph does not include any provision for such action – only receipt of comments. Is that the intent? What is the reason for changing "adopt" to "recommend?" (Presentation of the budget at Town Meeting remains with the Select Board under paragraph e.)

#### SECTION 6-6: BUDGET ADOPTION

The Town Meeting shall adopt the budget as allowed by ~~state law~~ MGL ~~state law~~, with or without amendments, prior to the beginning of the ensuing fiscal year.

**Commented [DD46]:** There could be applicable statutory provisions that are not part of the General Laws.

#### SECTION 6-7: CAPITAL IMPROVEMENT ~~PLANS~~ PLAN

The Capital Program Committee shall prepare a ~~capital improvement plan~~ Capital Improvement Plan based on material developed by the Town Administrator and including:

**Commented [DD47]:** Section 4-2.i states that the Town Administrator shall develop a Capital Improvement Plan. If it is intended that preparation of the "Plan" is the role of this Committee, language in section 4-2.i should be revised to reflect the respective roles of Town Administrator and Capital Program Committee.

- ~~clear~~Clear and concise general summary of its contents;
- ~~list~~List of all capital improvements proposed to be undertaken during the next five (5) fiscal years together with supporting information as to the need for each capital improvement in prioritized order;
- ~~cost~~Cost estimates, methods of financing and recommended time schedules for each improvement; and
- ~~the~~The estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired.

The above information shall be revised and extended each year with regard to capital improvements pending or in the process of construction or acquisition.

The Capital Improvement Plan shall be submitted to the ~~Select Board of Selectmen~~ and the Finance Committee on or before the ~~first day~~middle of ~~January of each year~~March, or any other time fixed by by-law. The ~~Select Board of Selectmen~~ shall, on or before the ~~second Saturday~~first day of ~~March~~April or any other time fixed by by-law, accept the Capital Improvement Plan with or without amendments.

Commented [DD48]: See comment above at section 6-3.

The Capital Improvement Plan shall be part of the joint budget review as specified in Section 6-5 (a).

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SECTION 6-8: COLLECTIONS

Except as otherwise provided by ~~MGL General Law~~ or ~~by~~ by-law, all monies and fees received by any department, officer, or multiple member body shall be paid forthwith into the Town treasury.

The Select Board and Town Administrator shall inform the Finance Committee of all funds received from outside agencies such as the Federal Government, the Commonwealth of Massachusetts, etc.

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SECTION 6-9: PUBLIC RECORDS

The budget as adopted by the ~~town meeting~~Town Meeting and the ~~capital improvements plan~~Capital Improvements Plan shall be public records, and copies shall be available for inspection at the office of the Town Clerk.

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SECTION 6-10: AUDITS

The ~~Select Board of Selectmen~~ shall provide for an independent audit of all financial books and records of the Town, annually and whenever it deems an audit of the whole town or of any particular town agency to be necessary. The results of all audits shall be public records, and copies shall be available for inspection at the office of the Town Clerk. Audits of the Town's financial books and records shall be conducted by an auditing firm of such accountants, having no direct or indirect interest in the affairs of the Town. ~~The selection of an auditing firm for the Annual Audit shall be conducted at~~ at least no later than every (3) three ~~to (5) five~~ years through a public bidding process.

## ARTICLE 7: GENERAL PROVISIONS

### SECTION 7-1: CHARTER CHANGES

This Charter may be replaced, revised or amended in accordance with any procedures made available by Articles eighty-nine (89) and one hundred thirteen (113) of the amendments to the Constitution of the Commonwealth, commonly known as the Home Rule Amendment, and by ~~MGL Massachusetts General Laws~~, Chapter 43B, commonly known as the Home Rule Procedures Act, or by any other method allowed by the ~~states's constitution~~ Constitution of the Commonwealth or laws of the Commonwealth.

### SECTION 7-2: SEVERABILITY

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

### SECTION 7-3: SPECIFIC PROVISIONS TO PREVAIL

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

### SECTION 7-4: NUMBER AND GENDER

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

### SECTION 7-5 RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town agency shall be filed in the Office of the Town Clerk. No rule or regulation adopted by any town agency shall become effective until ten (10) days following the date it has been filed in the Office of the Town Clerk.

### SECTION 7-6: PERIODIC REVIEW

- a. Charter - The initial review committee shall convene five (5) years after the initial adoption of this Charter and subsequently at least every ten (10) years thereafter. ~~A special committee to consist or earlier if required by the Town Meeting (in accordance with Section 2-7). The~~ A Charter Review Committee consisting of nine (9) members shall be established for the purpose of reviewing the Charter and to make a report, with recommendations, to the Town Meeting concerning any proposed amendments which said committee may determine to be necessary or desirable. within the constraints of the M.G.L., Chapter 43B. The appointment shall expire after approval action on the proposed amendments of the Charter update by Town Meeting and, as applicable, the Commonwealth of Massachusetts, and the Town voters at an regular municipal election.

**Commented [DD49]:** There is only one "Charter" adoption.

**Commented [DD50]:** Recommend deletion of this phrase. There may be desired amendments not specifically allowed under Chapter 43B, but which could be accomplished by a special act of the Legislature and the Committee could make such a recommendation.

**Commented [DD51]:** Changes to account for possibility that proposed amendments are not approved, and possibility of a special act that provides for submission to the voters at other than an annual Town election.

The nine (9) members shall be chosen as follows:

One (1) member chosen by each of the following:

- i. [North Middlesex Regional](#) School Committee
- ii. Housing Authority
- iii. [Library](#) Board of ~~Library~~-Trustees
- iv. Town Moderator
- v. Council on Aging

Two (2) members chosen by each of the following:

- i. ~~Select~~ Board of ~~Selectmen~~
- ii. Finance Committee

Persons appointed by the said agencies may, but need not, be members of the agency by which they are designated. All members appointed to this committee shall be registered voters in the Town of Pepperell. The committee shall meet to organize forthwith following the final adjournment of the annual town meeting.

Priority shall be given to at least two (2) prior members of the original Charter Commission or the Charter Review Committee thereafter. ~~Upon submission of said report and recommendations to the Town Meeting, this special committee shall be discharged.~~

- b. ~~By-laws~~By-laws - ~~Forthwith~~ following the passage of ~~a revised this~~ Charter, ~~and any subsequent revised Charters,~~ a special committee of seven (7) members shall be appointed by the ~~Select~~ Board of ~~Selectmen~~ within thirty days following the adoption of the ~~revised is~~ Charter ~~Charter and any subsequent revised charters~~ to revise the by-laws of the Town to fully implement the provisions of this Charter. ~~The said Committee shall submit a report and recommendations to the Town Meeting for adoption by a warrant article at the Annual Town Meeting held in the year following the year in which this Charter or revised Charter is adopted.~~
- c. Copies of the said by-laws and this Charter shall be made available in suitable form in the office of the Town Clerk. ~~If a paper copy is requested, an amount not to exceed the actual cost per copy of reproduction may be charged.~~

**Commented [DD52]:** This paragraph has continuing applicability and 'life.' It already accounts for subsequent action to revise the Charter as adopted. Recommend against changes, except title and Select Board terminology.

#### SECTION 7-7: REMOVALS AND SUSPENSIONS

Except for the Town Administrator, whose removal and suspension are addressed in Article 4, Sections 4-1 and 4-4 of this Charter, any appointed officer, member of a multiple member body or employee of the Town not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority ~~and in accordance with Article 4, Section 4-2e of this Charter,~~ for good cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

**Commented [DD53]:** Section 4-2.c only relates to removals within the purview of the Town Administrator as appointing authority.

Any appointed officer, member of a multiple member body or employee of the Town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the Town. However, no suspension shall be for more than fifteen (15) business days.

Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

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

- a. A written notice of the intent to remove and a statement of the cause or causes thereof, shall be delivered in hand, or by registered mail, return receipt requested, or by any other service providing proof of delivery, to the last known address of the person sought to be removed.
- b. Within five (5) business days following delivery of such notice, the officer, member of a multiple member body or employee of the Town may request a public hearing, and may be represented by counsel at such hearing. He or she shall be entitled to present evidence, call witnesses and to question any witness at the hearing.
- c. Within ten (10) business days after the public hearing is adjourned, or if the officer, member of a multiple member body or employee of the Town fails to request a public hearing, within fifteen (15) business days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of the multiple member body or employee of the Town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed a rescission of the original notice and the officer, member of a multiple member body or employee of the Town shall, forthwith, be reinstated.

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

SECTION 7-8: PROCEDURES GOVERNING APPOINTED MULTIPLE MEMBER BODIES

- a. Meetings - ~~All~~In accordance with the Commonwealth of Massachusetts Open Meeting Law, all multiple member bodies shall meet regularly at such times and public places within the Town, as they may by their own rules prescribe. ~~Times and places for all regularly scheduled meetings shall be posted on the Town bulletin board, homepage of the Town's municipal website. Notices eanshall also be made available for viewing~~ed at the Town Clerk's office during normal business hours. Special meetings of any multiple member bodies shall be held on the call of the respective chairperson or by one-third of the members thereof by suitable written notice delivered to the residence, place of business, or by email of each member and shall be posted on the ~~Town bulletin board~~homepage of the Town's municipal website ~~at~~ at least forty-eight (48) hours in advance of the time set. ~~Except as authorized by MGL or by~~ by law, all meetings of all multiple member bodies shall be open and public. All meetings shall be held in places to which members of the public have ~~a~~ convenient access.
- b. Rules and Journal - Each multiple member body shall determine its own rules and order of business unless otherwise provided by this Charter, ~~M-G-L~~, or by ~~by-law~~, and shall

**Commented [DD54]:** Is there a reason for only directing compliance by appointed bodies? The text reads as applicable to all bodies and the law applies to appointed and elected bodies, so recommend against this addition

provide for the keeping of a journal of its proceedings. These rules and journals shall be public records, and shall be kept available for public inspection. Chairpersons of multiple member bodies are encouraged to allow comments from the public.

**Commented [DD55]:** Note that even with this language, allowing for public comment is only required during a public "hearing."

- c. Voting - Except on procedural matters all votes of all multiple member bodies shall be a call of the roll and the vote of each member shall be recorded in the journal, provided, however, that if the vote is unanimous only that fact need be recorded.
- d. Quorum -- A majority of the members of the multiple member body shall constitute a quorum.
- e. Vacancies - Filling of Vacancies—Whenever a vacancy shall occur in the membership of an appointed multiple member body the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If, at the expiration of thirty (30) days following the delivery of such notice to the appointing authority said appointing authority has not appointed some person to fill the vacancy the remaining members of the multiple member body shall fill such vacancy for the remainder of any unexpired term by majority vote of the remaining members. If the remaining members do not fill the vacancy within sixty (60) days following delivery of the notice of vacancy to the appointing authority cannot make a decision, the Select Board shall make the appointment.

**Commented [DD56]:** Recommend a time period be specified so as to avoid possible disputes on inability to 'make a decision.'

#### SECTION 7-9: NOTICE OF VACANCIES

Unless otherwise provided by by-law, whenever a vacancy occurs in any town office, position, or employment, or whenever by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority shall forthwith cause public notice of such vacancy to be advertised for two (2) weeksten (10) business days, posted on the Town bulletin board in homepage of the Town HallTown's municipal website for not less than fourteen (14)ten (10) business days, and if available, on the official Town website and local cable access station for the duration of the posting. Notices can shall also be made available for viewing at the Town Clerk's office during normal business hours. Such notice shall contain a description of the duties of the office, position, or employment, and a listing of the necessary or desirable qualifications to fill the office, position, or employment. - No permanent appointment to fill such office, position, or employment shall be effective until twenty-one (21)fifteen (15) business days following the date such notice was initially advertised in a local publication to permit reasonable consideration of all applicants. - This section shall not apply to positions covered by the civil service law and rules.

#### SECTION 7-10: LOSS OF OFFICE, EXCESSIVE ABSENCE

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

#### SECTION 7-11: TERMS OF OFFICE

Notwithstanding any other provision of this Charter which may appear to be to the contrary, whenever a person after having served for the initial term of ~~years stated in the Personnel Policies and Procedures~~ in a full time appointed town office, including, but not limited to the offices of Town Clerk, Town Accountant and Town Treasurer-Collector, is reappointed to the same office to succeed herself/himself, such reappointment shall be for an indefinite term not subject to further periodic reappointment, ~~provided however, that the reappointment provision shall apply only to those incumbents in such offices who have been reappointed at least once, and the reappointment provision shall expire upon the vacating of office of any such incumbents.~~ All such offices shall be subject to removal and/or suspension in accordance with the procedures of Section 7-7 of this Charter.

**Commented [DD57]:** This phrase, un-capitalized, is used in section 4-2.d. As used here is the phrase intended to refer to the Personnel Bylaw? The revision presumes that at least the stated positions of Clerk, Accountant and Treasurer-Collector are addressed in such policies and procedures. Suggested alternative phrase: "having served for the applicable initial term specified for the appointment in a full time appointed town office"

**Commented [DD58]:** See comments above re: Personnel Bylaw

## ARTICLE 8: ~~TRANSITIONAL~~CONTINUATION PROVISIONS

### SECTION 8-1 ~~CONTINUATION~~ OF EXISTING GOVERNMENT:

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

**Commented [DD59]:** This section, as worded, has continuing 'life' and is a point of historical reference. Recommend against deletion.

### SECTION 8-2 CONTINUATION OF GOVERNMENT:

All town agencies shall continue to perform their duties until reappointed, or reelected, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another town agency. Where provisions of this Charter conflict with provisions of town ~~by laws by-laws, rules, regulations and special acts, and~~ ~~acceptances of provisions of MGL accepted by the Townances of MGL~~ General Laws, the Charter provisions shall govern. All provisions of town ~~by laws by-laws, rules, regulations, orders, and~~ special acts not ~~supereeded~~superseded by this Charter shall remain in force.

**Commented [DD60]:** See comment above.

**Commented [DD61]:** Note that a subsequently enacted special act could take precedence. It would be appropriate and/or necessary to include in such an act language such as "Notwithstanding any provision of . . . the charter to the contrary, . . ."

### SECTION 8-3~~2~~ TIME OF TAKING EFFECT:

This Charter ~~revision~~ shall become fully effective upon its approval by the voters, except as otherwise provided in this section:

**Commented [DD62]:** See comments above re: continuing 'life.'

- a. ~~The~~ incumbents of ~~the following~~ offices, including those elected at the same election at which this Charter ~~revision~~ is adopted, ~~to wit; the Town Treasurer/Collector, Town Clerk and Tree Warden which offices prior to the adoption of this Charter were filled by election,~~ shall continue to serve in their respective offices for the duration of the term for which they were elected. Upon the expiration of such term, or if a vacancy in any such office should sooner occur, such office shall be filled in the manner provided in this Charter.
- b. Forthwith, following the election at which this Charter ~~revision~~ is adopted, the ~~Select Board of Selectmen shall in the manner provided in Section 3-1 (f) (but such authority to include other offices now filled by election as enumerated in (a) above)~~ provide for the coordination in the most orderly and expeditious manner possible of all steps necessary and proper to implement the provisions of this Charter.

**Commented [DD63]:** Same comment as for introductory sentence. Recommend against these revisions.

**Commented [DD64]:** Same comment as for paragraph a. (Terminology change to Select Board may be retained.)

a. ~~The Town Administrator is to be afforded a reasonable period of time within which to assimilate to the office all of the functions contemplated by the said section 4-2. It is further the intention of the Charter that all town agencies shall cooperate with the office of the Town Administrator in the transfer of powers, duties and responsibilities and in the establishment of the office.~~

**Commented [DD65]:** See comments above. Recommend against deletion.

c. All incumbent officers, board members and commission members shall continue to hold the office to which they were elected or appointed for the term for which they were elected or appointed and until their successors hereunder have been elected or appointed and qualified to succeed them.

d. The Town Administrator in office at the time of this Charter revision is adopted shall be retained in such position until the position becomes vacant due to resignation, retirement, removal or otherwise. At such time, the provisions relating to the selection of the Town Administrator in Article 4, Sections 4-1 and 4-5 shall take effect.

**Commented [DD66]:** See comments above.

## GLOSSARY

~~b.—ADMINISTRATIVE CODE — The selection process and appointment Administrative Code provides the structure of the initial Fire Chief shall proceed according to the following timeline and procedure:~~

~~No sooner than twenty-nine months (29) but no later than thirty-one (31) months from the acceptance government of this Charter by the Town of Pepperell, the Board of Selectmen shall appoint a 7 member Search Committee for the position of Fire Chief. Said Search Committee shall be chaired by the Town Administrator and must be comprised of the following: including all elected and appointed officials, boards and committees organizations and their staffing levels.~~

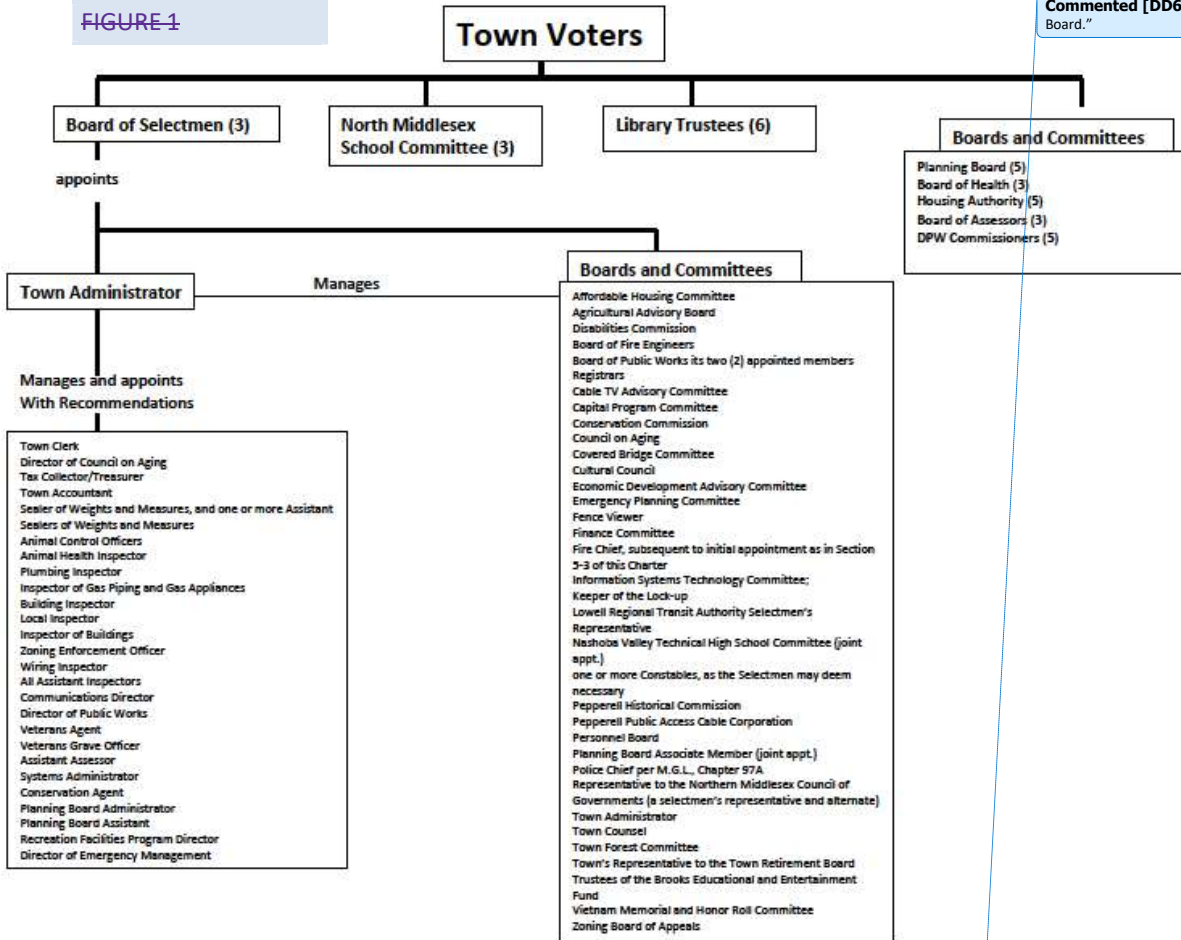
- ~~• Town Administrator~~
- ~~• Police Chief~~
- ~~• Pepperell Volunteer Firefighter (not to include a member of the Board of Fire Engineers that has served in this capacity at any time during the previous three (3) calendar years)~~
- ~~• Pepperell Paramedic/EMT (not to include a member of the Board of Fire Engineers that has served in this capacity at any time during the previous three (3) calendar years)~~
- ~~• Communications Director~~
- ~~• D.P.W. Director~~
- ~~• Resident At Large (must be a registered voter in the Town of Pepperell)~~

~~The Board of Selectmen is to solicit applications from town residents to serve as the Resident At Large Representative on the search Committee no later than twenty-eight (28) months following the adoption of the Town Charter.~~

- ~~i.—The Search Committee is to provide a full list of candidates that were considered for this position, as required by the Public Records Law, in a report to the Board of Selectmen. The Search Committee shall recommend no more than two (2) candidates to the Board of Selectmen for appointment or may recommend only one (1) candidate if voted by a unanimous vote of the Committee. This recommendation shall be made to the Board of Selectmen no later than thirty-four (34) months from the adoption of this Charter by the Town of Pepperell. The Board of Selectmen must make an appointment of a Fire Chief no later than thirty-five (35) months following the acceptance of this Charter by the Town of Pepperell with the understanding that the Fire Chief position will be filled no later than thirty-six (36) months from the acceptance of this Charter by the Town of Pepperell. The exact starting date may be delayed for up to two (2) months to accommodate any transition of staff.~~
- ~~ii.—The initial appointment for the Fire Chief is not to exceed twenty-four (24) months but in any situation, the term cannot exceed the five (5) year anniversary of the acceptance of this Charter by the Town of Pepperell. The Board of Selectmen may appoint the Fire Chief to a longer term after the five (5) year Charter review is complete and along with any action by the town meeting on any recommendation related to this position. If no recommendation is made nor action taken by the town meeting regarding the Fire Chief position following the initial five (5) year review of the Charter, the Board of Selectmen can then proceed with renewal or appointment.~~
- ~~e.—Upon the taking of the office of the Fire Chief, the terms of all members of the Board of Fire Engineers shall be terminated, and the Board of Fire Engineers abolished.~~

**Commented [DD67]:** See comments above. Recommend against deletions of the section 8-3 provisions. Town Counsel edits here are for purposes of new Glossary language.

FIGURE 1



Commented [DD68]: Change "Board of Selectmen" to "Select Board."

AFFORDABLE HOUSING COMMITTEE - The Affordable Housing Committee is a 7-member appointed town agency charged with making studies of the housing needs of the community.

Commented [DD69]: Recommend against including this provision in the Charter. It singles out a particular body without a stated basis for doing so.

ANNUAL TOWN REPORT - The Annual Town Report documents the significant accomplishments of the previous fiscal year and goals for the current fiscal year. The Annual Town Report may also include reports from boards and committees, election results and Town Meeting information.

Commented [DD70]: This is addressed in section 2-11.b. Recommend against additional language here.

Commented [DD71]: Addressed in body of document

BY-LAWS OF THE TOWN OF PEPPERELL - A set of rules approved at Pepperell Town Meetings that are governed by and consistent with the Pepperell Town Charter.

Commented [DD72]: Recommend against this provision. By-laws have a broader meaning than a 'set of rules.' In my view, the subject is sufficiently addressed in section 2-12.

HOUSING AUTHORITY BOARD OF COMMISSIONERS - The Housing Authority Board's powers and responsibilities are regulated by the state under the M.G.L.: Chapter 23B - Department of Housing and Community Development (DHCD). (Defined in Section 3-4)

**Commented [DD73]:** See comments above at section 3-4. Recommend deletion of this item

MGL - Massachusetts General Laws

MULTIPLE MEMBER BODY (BOARD, COMMITTEE, COMMISSION, OR COUNCIL) - A Town body of ~~one~~two or more persons, whether appointed or elected, and whether called a board, committee, commission, or otherwise to consider, or investigate, or take action in regard to, certain matters or subjects, or to do all of these things.

**Commented [DD74]:** Recommend a more generic, all-inclusive definition. "multiple member body" is the term used in the Charter.

TOWN AGENCY - Any board, commission, committee, department, division, or office of the town government.

VOTERS — Registered ~~V~~voters ~~are of the Town of Pepperell residents who are currently registered to vote in Federal, State, and Pepperell elections.~~

**Commented [DD75]:** This is a generally understood term, so recommend a simpler definition.

WARRANT — A Warrant is a document issued by the Select Board that states the time and place at which an Annual or Special Town Meeting is to convene and, by separate articles, the subject matter to be acted upon.

**Commented [DD76]:** This is already addressed in section 2-6. Recommend against repeating here.