

# SOUTHBRIDGE CHARTER REVIEW COMMITTEE

## DRAFT HOME RULE CHARTER CHANGES

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# PROPOSED CHANGES TO THE SOUTHBRIDGE HOME RULE CHARTER

## PREAMBLE

We, the people of Southbridge, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the Home Rule Amendment of the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter.

## CHAPTER 1

### INCORPORATION; SHORT TITLE; POWERS; DEFINITIONS

#### SECTION 1 - INCORPORATION

**1-1-1:** The inhabitants of the Town of Southbridge, within the corporate limits as established by law, shall continue to be a body politic and corporate with perpetual succession under the name "Town of Southbridge". (verbiage to include citing the special legislation that makes us a town for clarity to citizens).

#### SECTION 2 - FORM OF GOVERNMENT AND TITLE

**1-2-1:** This charter provides for a town council - town manager form of town government, and it shall be known by the title "Southbridge Home Rule Charter".

#### SECTION 3 - POWERS

**1-3-1:** Subject only to express limitations on the exercise of any power or function by a municipality in the Constitution or Laws of the Commonwealth, it is the intent and the purpose of the voters of Southbridge to secure, through the adoption of this charter, all of the powers it is possible to secure for a municipal government under the Constitution and Laws of the Commonwealth.

#### SECTION 4 - CONSTRUCTION

**1-4-1:** The powers of the Town of Southbridge under this charter are to be construed liberally in its favor and the specific mention of particular powers is not intended to limit in any way the general powers of the Town of Southbridge as stated in Section 1-3-1.

#### SECTION 5 - DEFINITIONS

**1-5-1:** "By-Law": The word "by-law" shall refer to a general and permanent legislative enactment by the town council establishing the structure of the town government or prescribing the activities of its citizens.

"Charter": The word "Charter" shall mean this document and any amendments to it that may hereafter be adopted.

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

"Measure": The word "Measure" shall refer to any enactment, vote, resolution or motion by the town council other than a by-law.

Regular meeting: The term regular meeting shall be as defined in "Robert's Rules of Order" and refers to the regularly scheduled Town Council business meeting as established by this Charter, the Town By-laws, and the Southbridge Town Council Rules and Regulations.

Special Meeting: The term special meeting shall be as defined in "Robert's Rules of Order" and refers to a meeting convened to address issues of an emergency or urgent matter that require action before the next regularly scheduled meeting.

## CHAPTER 2

### THE TOWN COUNCIL

#### SECTION 1 - COMPOSITION

**2-1-1:** A town council of nine members shall be nominated and elected from the town at large to serve three year staggered terms.

#### SECTION 2 - ELIGIBILITY

**2-2-1:** All qualified voters of the town shall be eligible to hold office of councilor except as otherwise limited by this charter.

**2-2-2:** No councilor shall hold any other town office during his or her term of office. Any person elected to the council while serving as a municipal employee or officer shall, prior to assuming the office of councilor, resign from said municipal employee or officer position. No councilor or former councilor shall be offered or accept any compensated town appointive office or employment until one year after his or her term shall have ended.

~~**2-2-3** — Terms of councilors shall be limited to three consecutive terms.~~

#### SECTION 3 - COMPENSATION

**2-3-1:** The town council may provide an annual salary for its members. No councilor shall receive said salary nor shall any increase thereof become effective until after the commencement of the next fiscal year.

**2-3-2:** Town councilors shall be reimbursed for actual expenses incurred in the performance of their official duties from an annual appropriation for such purpose.

#### SECTION 4 - GENERAL POWERS AND DUTIES

- 2-4-1:** Except as otherwise provided in this charter, all general, corporate, executive, legislative, policy-making, and appropriations powers of the town shall be vested in the town council.
- 2-4-2:** The council may enact by-laws and other measures and rules and regulations not inconsistent with this charter governing its own proceedings and other matters pertaining to the exercise of its powers and the performance of its duties.
- 2-4-3:** The council shall provide for keeping a journal of its proceedings which shall be a public record.
- 2-4-4:** The council may establish committees, sub-committees and advisory committees as it deems reasonable and necessary and such committees may include non-voting (O'Brien) non-councilor members; appointments to such committees shall be made by the council chairperson, non-council members appointed to such committees shall be subject to confirmation by the council.
- 2-4-5:** Town councilors shall interact with town officers and employees under the jurisdiction of the town manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately. This prohibition shall not preclude the council or its members from asking questions, seeking information, or conducting conversations with municipal employees.
- 2-4-6:** The council or its members may freely and fully discuss with the manager anything pertaining to the appointment or removal of any town officer and employee, but neither the council nor its members shall in any way dictate the appointment or removal of any officer or employee under the jurisdiction of the manager unless otherwise specified by the charter.

#### SECTION 5 - MEETINGS AND QUORUM

- 2-5-1:** The council shall meet regularly at least twice in every month. Special meetings may be held if called by the chairperson or by any three members of the council, provided that notice of such meeting shall have been delivered to each other member at least forty-eight hours in advance thereof and shall have been posted in accordance with state law. Special meetings shall only be called to consider matters of an emergency or urgent nature that require action before the next regularly scheduled meeting.
- 2-5-2:** All meetings of the council shall be public, except as provided by general law provisions respecting closed sessions. The agenda for such meetings shall be as determined by the chairperson and shall follow the order of business set forth in "Roberts Rules of Order." The rules of the town council shall provide that inhabitants and employees of the town shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat, except matters that could be subject to executive session.

- 2-5-3:** A majority of the members of the council shall constitute a quorum for the conduct of business. A lesser number than the quorum may organize any meeting lacking a quorum in order to adjourn it to a stated date, time and place.
- 2-5-4:** In no instance shall it be required that all members of the council be present at a meeting to allow the conduct of business.

#### SECTION 6 - BY-LAWS

- 2-6-1:** Proposed by-laws shall deal with one subject only and shall be introduced in writing and in the form required for final adoption.
- 2-6-2:** Any by-law which repeals or amends part of the town by-laws shall set out in full the section or sections of the by-laws to be repealed or amended, by the use of strikeout type, brackets, and/or underscoring.
- 2-6-3:** Every by-law shall be read at three separate meetings before its passage.
- 2-6-4:** The affirmative vote of at least five members, unless a greater number is prescribed by General Laws or by this charter, shall be necessary for the passage of any by-law and all votes thereon shall be taken by roll call and recorded in the journal.

#### SECTION 7 - ACTION REQUIRING A BY-LAW

- 2-7-1:** In addition to other acts required by law or by this charter to be done by a by-law, those acts of the town council shall be by a by-law which: adopt or amend administrative by-laws or establish, alter or abolish any town department, office or agency; provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed.

#### SECTION 8 - FILLING VACANCIES IN THE TOWN COUNCIL

- 2-8-1:** A vacancy in the office of town councilor whether caused by death, resignation, or removal shall be filled by a special election to be called within thirty days of said vacancy unless a regular town election will occur within one hundred eighty days.

#### SECTION 9 - THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE TOWN COUNCIL; ELECTION AND REMOVAL

- 2-9-1:** On the first regularly scheduled meeting on or after July 1 following the town elections, and after newly elected members shall have taken office, the council shall organize itself and elect one of its members to serve as chairperson of the council and a vice-chairperson of the council, both for a term expiring at the first regularly scheduled council meeting on or after July 1 following the town elections the next year. The chairperson pro tem of the organizational meeting would be the senior in point of service or if equal in service, senior in age.

- 2-9-2:** The chairperson shall preside at meetings of the town council, shall be recognized as head of the town government for all ceremonial purposes and by the Governor of the Commonwealth in the case of an emergency.
- 2-9-3:** The chairperson may be removed from said office by a two-thirds vote of the entire council (i.e., a minimum of 6 votes). Any member of the council at any point may make a motion to remove the chairperson, and if the motion is seconded, the motion shall be voted upon at that time, without exception, by the council.
- 2-9-4:** The vice-chairperson shall automatically become chairperson in the event of the permanent disability, death, resignation or removal of the chairperson. A new vice-chairperson shall be elected by a majority vote of the town council at the first regularly scheduled meeting called by the new chairperson.
- 2-9-5:** The vice-chairperson may be removed from said office by a two-thirds vote of the entire council (i.e., a minimum of 6 votes). Any member of the council at any point may make a motion to remove the vice-chairperson, and if the motion is seconded, the motion shall be voted upon at that time, without exception, by the council. A new vice-chairperson shall be elected by a majority vote of the town council at the next regularly scheduled meeting.

## CHAPTER 3

### OTHER ELECTED TOWN BOARDS AND OFFICERS

#### SECTION 1 - GENERAL PROVISIONS

- 3-1-1:** Members of town boards to be elected by the qualified voters of the town shall be, in addition to the town council: (a) a school committee as hereinafter set forth; (b) a regional vocational school committee; (c) a town clerk; (d) four members of a housing authority; (e) four members of a redevelopment authority; ~~and~~ (f) two part time members to the board of assessors, and (g) a three member Board of Health.
- 3-1-2:** Boards and commissions established under this charter shall perform their functions and duties in accordance with the Constitution, General Laws, this charter or by-laws.
- 3-1-3:** During the term for which he or she was elected and for one year following the expiration of this term, no member of any board or commission established under this charter shall be eligible to accept any appointed paid town position under jurisdiction of the board of which he or she was a member.
- \*3-1-3a:** During the term for which he or she was appointed, paid employees of the Town of Southbridge shall not be eligible to accept any appointed position to a board or commission established under this charter that has jurisdiction over the town department or agency for which the employee is a paid employee thereof.
- 3-1-4:** Members of boards and commissions established under this charter shall receive actual and necessary expenses incurred in the performance of their duties, within limits of an appropriation made for that purpose.

## SECTION 2 - VACANCIES

- 3-2-1:** Vacancies in the elected town boards established under this charter shall be filled by the town council in joint convention with the remaining members of the respective board within sixty days unless a regular town election shall occur within one hundred and twenty days, but only until the next town election.

## SECTION 3 - REGIONAL VOCATIONAL SCHOOL COMMITTEE

- 3-3-1:** Terms for the Southern Worcester County Regional Vocational School Committee (Bay Path) shall be for three years. The terms are to be staggered.

## SECTION 4 - TOWN CLERK

- 3-4-1:** The town clerk shall be elected to serve for a three-year term. The town clerk shall receive such compensation not to exceed the amount appropriated by the town council.

## SECTION 5 - HOUSING AUTHORITY

- 3-5-1:** A housing authority of five members, four of whom shall be elected and one of whom shall be appointed as provided by state law.

## SECTION 6 - REDEVELOPMENT AUTHORITY

- 3-6-1:** A redevelopment authority of five members, four of whom shall be elected and one of whom shall be appointed as provided by state law.

## SECTION 7 - BOARD OF ASSESSORS

- 3-7-1:** A board of assessors, two part-time members to be elected by the voters for three year staggered terms, the third member to be full time and appointed by the town manager for a staggered three year term who shall be the clerk of the board.

## SECTION 8 – BOARD OF HEALTH

- 3-8-1: A Board of Health of three members shall be elected by the voters for three year staggered terms.

## SECTION 8-9 - POWERS, DUTIES AND COMPENSATION

- 3-89-1** Officers and members of boards established under this chapter, unless otherwise provided herein, shall exercise such powers and duties as are and may be provided by General Law, this charter, by-law and/or order of the town council.
- 3-89-2** Officers and members of boards established under this chapter may receive such compensation as may be authorized and established by the town council within limits of an appropriation made for that purpose.

## CHAPTER 4

### TOWN MANAGER

#### SECTION 1 - APPOINTMENT AND QUALIFICATIONS

- 4-1-1:** The town council, by a majority vote of its full membership (i.e., a minimum of 5 votes) shall appoint a town manager who shall administer and implement the directives and policies adopted by the town council.
- 4-1-2:** In seeking candidates the council chair shall appoint a search committee of five members, two of whom shall be members of the council and three of whom shall be citizens of the town who are not holding elective office and are not compensated employees of the town. The appointment of the non-councilor members of such committee shall be subject to confirmation by the council.

The committee may, in its discretion, engage a professional search firm and the council shall appropriate sufficient funds to allow the committee to engage such a firm, to place appropriate advertisements and to meet such other expenses as the council and the committee deem appropriate.

- 4-1-3:** The manager shall be appointed solely on the basis of educational, executive and administrative qualifications and experience, which shall include at least a bachelor's degree from an accredited four-year degree granting institution and shall include professional experience of at least three years full time, compensated, supervisory service in municipal administration or related administrative activity, and shall serve at the pleasure of the council. To be considered for appointment such experience shall be certified to the council by an appropriate official of the entity where such experience was obtained.

If a resident of the town, the successful candidate shall have held no elective municipal office for a period of one year prior to appointment.

- 4-1-4:** Upon appointment or reappointment, as the case may be, the council shall enter into a written contract with the manager. Nothing in said contract shall affect the appointment or removal powers of the council over the manager, as hereinafter set forth.

#### SECTION 2 – POWERS, DUTIES AND ROLE

- 4-2-1:** The town manager shall be the chief administrative officer of the town, and shall be directly responsible and accountable to the town council for the effective administration of all town affairs placed in his or her charge by the council or by this charter.

The manager shall serve as a resource to the council. The council shall provide policy and political leadership for the town. The manager shall bring policy issues to the council to consider in making policy choices and shall then implement the policies chosen by the council.

**4-2-2:** The town manager shall hold no elective or other appointive office, shall devote full-time to the duties of the office and shall engage in no other business or occupation without advance authorization of the council.

**4-2-3:** The manager shall:

(a) attend all council meetings, except when excused, and shall have the right to speak, but not to vote;

(b) keep the council fully informed regarding town and departmental operations, fiscal affairs, general problems and administrative actions; shall keep the town council fully advised as to the financial condition of the town by filing written reports with the council not less frequently than quarterly throughout the year; shall provide the councilors with such town records and shall generate such reports as may be requested by the chairperson of the council or a majority of the council;

(c) keep the council fully informed as to the long range needs of the town, the practices and governmental trends of other communities and the laws and regulations of the Commonwealth and make such recommendations to the council as deemed necessary and appropriate;

(d) prepare, assemble and present to the council the annual town operating and capital budgets, shall present said budgets to the council in a format acceptable to the council and cooperate with the council in all financial matters;

(e) serve as general ombudsman for the town;

(f) maintain an inventory of all town real and personal property;

(g) be responsible for the daily administration of the personnel system, including the maintenance of personnel records and enforcement of personnel rules and regulations;

(h) except as otherwise set forth in the General Laws, shall serve as central purchasing agent for all town departments;

(i) be responsible for the maintenance of all buildings and property owned or leased by the town;

(j) perform such other duties as may be required by this charter, by by-law or by order of the council;

(k) the town manager shall propose and the town council may adopt personnel rules providing for the job descriptions for all town positions, based on the duties, responsibilities, and authority of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances, and such other practices and procedures as may be deemed necessary for the administration of the town personnel system;

(l) execute all deeds conveying town real property, but any such conveyance shall have been previously authorized by the vote of the town council pursuant to the applicable provisions of the General Laws;

(m) to negotiate, or cause to be negotiated, all contracts involving any subject within the jurisdiction of the office of town manager; and

(n) be responsible for the coordination of the activities of all agencies under his or her control with the activities of all other town agencies, including those elected by the voters of Southbridge and those appointed by other elected officials.

**4-2-4:** Subject to confirmation by the town council, the town manager shall have the power to appoint, on the basis of merit and fitness alone:

A Fire Chief; a Police Chief; a Director of Public Works; a Town Treasurer; a Town Collector; a Veterans Agent; a Director of Inspection Services and all inspectors except as otherwise provided by General Law; upon recommendation of the Chief, a Police Department; upon recommendation of the Chief, a Fire Department; upon recommendation of the Director, a Department of Public Works; a Finance Director; a Town Accountant; one full time Assessor who will assume the duties of the clerk of the board of assessors; and, upon the recommendation of the Trustees of the library, a Head Librarian and such other individual Town officers as are authorized by the General Laws, this charter or town by-laws and for whom appointment is not otherwise provided.

The town may enter into contracts with such departments and individuals as may be allowed by civil service, collective bargaining and/or state law.

### SECTION 3 - POWER TO APPOINT TOWN BOARDS AND COMMISSIONS

**4-3-1:** The town manager shall have the power to appoint, subject to confirmation by the town council, the following boards and commissions: (a) a three member board of health, (b) a seven member planning board, with two alternate members; (c) a three member board of registrars, (d) a three member board of appeals, with two alternate members; (e) a seven member conservation commission, and the members of such other boards and commissions as the council deems appropriate to establish. The terms of the members of such boards and commissions shall be staggered.

**4-3-2:** The town manager shall have the power to appoint, subject to confirmation by the town council, the following town boards and commissions: constables, commissioners of trust funds and World War I memorial trustees.

The town manager shall have the power to appoint, subject to confirmation by the town council, such other members of boards and commissions as are authorized by the General Laws, this charter or by-laws and for whom appointment is not otherwise provided.

### SECTION 4 - POWER TO RESCIND APPOINTMENTS

**4-4-1:** The town manager shall have the power to rescind, subject to confirmation by the town council, for cause, including but not limited to excessive and un-excused absenteeism, incapacity other than temporary illness, inefficiency, insubordination or conduct unbecoming the officer, any appointment made by him or her to any board, commission, committee or individual office under the authority of this charter, provided that the appointee shall first have been served with written notice of the town manager's intention specifying the reasons for the proposed removal and informing the appointee of his or her right to be heard at a public hearing if requested.

**4-4-2:** Said power shall not apply to ~~quasi-judicial bodies as determined by the town attorney~~ the Board of Health, Board of Appeals, the Planning Board, or Conservation Commission.

#### SECTION 5 - REORGANIZATION PLANS BY THE TOWN MANAGER

**4-5-1:** The town manager may propose a plan, subject to applicable law and the terms of this charter, to establish, reorganize, consolidate or abolish any town agency ~~under his or her jurisdiction listed in paragraph 4-2-4 of this Charter.~~ Such reorganization plan may not be amended by the town council but shall either be approved or disapproved in the form as submitted.

4-5-2: Reorganization plans shall not apply to the Board of Health, Board of Appeals, the Planning Board, or Conservation Commission.

#### SECTION 6 - REMOVAL OF THE MANAGER

**4-6-1:** Final removal of the manager shall be effected by a majority vote of the entire council (i.e., a minimum of 5 votes) at an open council meeting.

#### SECTION 7 - ACTING TOWN MANAGER

**4-7-1:** During the absence or disability of the town manager, an acting town manager shall be appointed by the council to perform the duties of the town manager. Any vacancy in the office of the town manager shall be filled as soon as possible by the town council. The term of service of any person as acting town manager may not exceed twelve months. Compensation for such person shall be set by the town council. Except as otherwise prohibited by this charter, nothing in this section shall prevent an acting town manager from being appointed as town manager.

During a period of absence or disability of the town manager, pending the appointment of an acting town manager, the finance director shall perform the duties of the manager, provided however that an acting manager who is not a member of the council shall be appointed by the council as soon as possible.

## **CHAPTER 5**

### **SCHOOL COMMITTEE**

## SECTION 1 - COMPOSITION

**5-1-1:** There shall be a school committee of seven members. All members of the committee shall be elected for terms of three years. The terms shall be staggered so at least two members are elected each year. All school committee members will be elected by the voters at large. The members and chairperson of the school committee shall receive compensation identical to that received by the members and chairperson of the council, if any.

## SECTION 2 - POWERS AND DUTIES

**5-2-1:** The school committee established under this charter shall have general charge of the public schools of the town. The school committee shall have the power to select and terminate a superintendent of schools, establish educational goals and policies for the schools consistent with the requirements of the Laws of the Commonwealth and standards established by the Commonwealth. The school committee shall have all the powers and duties given to school committees by the Laws of the Commonwealth.

## **CHAPTER 6**

### **DEPARTMENT OF PUBLIC WORKS**

#### SECTION 1 – ESTABLISHMENT

**6-1-1:** There shall be established in the Town of Southbridge a department of public works administered by the town manager.

**6-1-2:** The responsibilities of the following departments shall be incorporated in the department of public works: highway department, engineering department, sewer department, parks department, maintenance function of the recreation committee, cemetery department, tree warden, moth superintendent, fence viewer, field driver, custodian of town structures, water department, and other related functions.

**6-1-3:** The town manager shall appoint, subject to confirmation by the town council, a director for the department of public works. The director shall be a Massachusetts licensed, professional engineer.

**6-1-4:** The director shall be appointed for a three-year term and shall report directly to the town manager. Upon a vacancy in the position the Town Manager may appoint an interim director for a period of three months. One three month extension may be granted with approval of the Town Council. and shall hold office until his or her successor is appointed. The director shall report directly to the town manager.

**6-1-5:** Said director may be removed in the same manner as other department heads as provided by this charter.

#### SECTION 2 – POWERS AND DUTIES OF THE DIRECTOR

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- 6-2-1:** The powers and duties, in addition to those otherwise conferred or imposed, shall include the power to establish divisions within the department of public works. Each division shall assume such management and control as determined by the director. The director shall have the power to make rules and regulations for the governing of the department of public works and divisions thereof and shall attend to the proper enforcement of the same. The director shall have jurisdiction over the divisions and over each member of each division. No person shall be hired as an employee of the department without the consent of the director.
  - 6-2-2:** In the event that the director is absent from the town, he or she shall notify the town manager, in writing, of the person designated to assume the responsibilities of the director during his or her absence.
  - 6-2-3:** The director shall attend meetings of the town council when requested, and recommend to the town manager measures, requiring action, as deemed necessary or expedient by the director.
  - 6-2-4:** The director shall keep full and complete records of the department, and shall render to the town manager as often as may be required a full report of all department operations during the period reported, and annually, or more often if required by the town council, make for publication a synopsis of his or her reports.
  - 6-2-5:** Each petition submitted to the town council and referred to the department of public works shall be returned to the town council with the recommendation of the director within thirty days after its referral to the department of public works.
  - 6-2-6:** The director shall keep the town manager and town council fully advised as to the needs of the town within the scope of his or her duties, and to furnish the town manager on or before the first day of March each year a detailed list of the appropriations required during the next ensuing fiscal year for proper conduct of all divisions under his or her control, and to furnish a master plan for all major public works for the town, giving priority to the projects in accordance with their necessity and importance and to establish long range planning as may be determined to be in the best interests of the town.
  - 6-2-7:** The director shall cause to be performed all of the work of construction, reconstruction, alteration, repair maintenance and upkeep and all other work incidental thereto of the departments specified in 6-1-2 in accordance with the policies of long range plans, priority of major projects and capital outlay requirements as may be authorized and established by the town manager.
  - 6-2-8:** The director shall inspect all streets and ways being constructed to ascertain whether said construction complies with plans filed with the planning board and with all planning board regulations, town by-laws and state statutes and to give to the planning board a report of his or her inspection prior to the approval of said street by the planning board.

## **CHAPTER 7**

### **TOWN ATTORNEY**

SECTION 1 - APPOINTMENT AND DUTIES

**7-1-1:** The ~~town manager~~ Town Council Chairman shall, subject to confirmation by the town council, appoint a town attorney to serve at the pleasure of the council as chief legal advisor to the town council, the town manager, and all town departments, offices and agencies. The town attorney shall represent the town in all legal proceedings and shall perform such other duties as may be prescribed by the General Laws, this charter or town by-laws. Provided however that nothing in this section shall prevent the town from engaging or being represented by other counsel, where appropriate subject to confirmation by the town council.

In advising the town with regard to intra-town matters, the attorney shall exercise independent and impartial judgment.

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## CHAPTER 8

### TOWN AUDITOR

#### SECTION 1 - APPOINTMENT AND DUTIES

**8-1-1:** The town manager shall, subject to confirmation by the town council, appoint an auditor who shall annually, in accordance with generally accepted auditing standards for governmental financial audits, audit all town accounts and financial statements with regard to compliance with applicable laws, regulations, contract provisions and/or grant agreements. The audits may be made by a certified public accountant, or firm of such accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the town. All documents and reports presented to the town or any employee thereof, by the auditor as a result of said audit shall, upon submission, be filed with the town clerk and shall be deemed public records.

## CHAPTER 9

### LICENSING

#### SECTION 1 – LIQUOR LICENSING BOARD

**9-1-1:** There shall be a liquor licensing board established in accordance with the laws of the Commonwealth, provided however, the town manager is authorized to appoint three members to said board, subject to the approval of the town council. Provided further, the town manager shall appoint one alternate member, subject to the approval of the town council, and said alternate member shall be appointed without regard to party enrollment. Provided further, the three-member board shall designate their chairperson and vice-chairperson. All members so appointed shall have been residents of the Town of Southbridge for at least two years immediately preceding such appointment and shall serve for terms of three years each so arranged that the term of one member shall expire each— year. The alternate member shall sit on the board at the designation of the chairperson in the case of absence, inability to act or conflict of interest on the part of any member of the board, or in the event of a vacancy on the board until such vacancy is filled by the town manager. All vacancies shall be filled by the town manager for the remainder of the unexpired term in the manner provided for an original appointment.

**9-1-2:** A person appointed to the liquor licensing board shall not be engaged, directly or indirectly, in the commercial manufacture or sale of alcoholic beverages, and if once appointed a member engages in such commercial manufacture or sale, that member's office shall immediately become vacant.

#### SECTION 2 – LICENSING OTHER THAN LIQUOR

**9-2-1:** With respect to licenses and permits, other than those relating to alcoholic beverages, the

town manager shall grant all such licenses and permits and shall have all the powers and duties of a licensing authority under the General Laws, provided however, that the town council retains the power to delegate to one or more town agencies, the powers vested in the town council by the laws of the Commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such town agency, and may in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

## **CHAPTER 10**

### **FINANCIAL PROVISIONS AND PROCEDURES**

#### **SECTION 1 - APPLICABILITY OF GENERAL LAW**

**10-1-1:** In all matters concerning finances and financial procedures of the town, the provisions of the General Laws shall apply, together with such other requirements as are provided by this charter or by-law.

#### **SECTION 2 – CONTRACTS**

**10-2-1:** All contracts or amendments thereto for services negotiated by the town manager shall be ratified by a majority vote of the town council. In no case shall any such authority be delegated to any other agent of the town.

#### **SECTION 3 – SUBMISSION OF BUDGET AND BUDGET MESSAGE**

**10-3-1:** At least ninety days prior to the start of each fiscal year, the town manager shall submit to the town council a budget for the ensuing year and an accompanying message, unless otherwise provided for by the General Laws.

**10-3-2:** The town manager's message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the town's debt position and include such other material as the town manager deems desirable.

#### **SECTION 4 - PROPOSED BUDGET**

**10-4-1:** The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year, including the proposed school budget and, except for the school budget, or as required by law or this charter, shall be in such form as the town council deems desirable and shall require. It shall indicate in separate sections (1) proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies, and the method of financing such expenditures; and (2) proposed capital expenditures during the ensuing fiscal year, detailed by offices,

departments, and agencies when practicable and the proposed method of financing each such capital expenditure.

- 10-4-2:** In submitting the proposed budget, the town manager shall utilize ~~modern~~ generally accepted fiscal principles so as to afford maximum information and financial control. The budget shall detail all estimated revenue from the property tax levy and other sources and all proposed expenditures, including debt service for the previous, current and ensuing years, and shall indicate separately: (a) proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, purpose and position, together with proposed financing methods; and (b) estimated surplus revenue and free cash available at the close of the fiscal year, including estimated balance in special accounts and enterprise funds.

#### SECTION 5 - NOTICE OF PUBLIC HEARING ON PROPOSED BUDGET

- 10-5-1:** The town council shall publish, in one or more newspapers of general circulation in the town, the general summary of the budget and a notice stating: (1) the times and places where copies of the budget are available for inspection; and (2) the date, time and place, not less than two weeks after such publication, when a public hearing on the budget shall be held.

#### SECTION 6 - ADOPTION OF THE BUDGET

- 10-6-1:** The town council shall adopt the budget, with or without amendments, on or before the end of the eleventh month of the fiscal year currently ending. In amending the budget, it may by majority vote of the full council (i.e., a minimum of 5 votes) delete or decrease any programs or amounts except expenditures required by law or for debt service. It may by two-thirds vote of the full council (i.e., a minimum of 6 votes) increase any amount in, or the total of, the proposed budget. Adoption of the budget shall constitute an appropriation of the amounts specified therein as expenditures from the funds indicated.

#### SECTION 7 - CAPITAL IMPROVEMENTS PROGRAM

- 10-7-1:** Within the period provided by General Law, the town manager shall submit to the town council a six year capital improvements program which shall include: (a) a clear summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next six fiscal years with supporting data; (c) cost estimates, method of financing, and recommended time schedules; and (d) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.
- 10-7-2:** The above information may be revised and extended each year with regard to capital improvements pending or in process of construction or acquisition.

## SECTION 8 - NOTICE OF PUBLIC HEARING ON CAPITAL PROGRAMS

- 10-8-1:** The town council shall publish, in one or more newspapers of general circulation in the town, the general summary of the capital program and a notice stating: (1) the times and places where copies of the capital improvements program are available for inspection by the public; and (2) the date, time and place, not less than two weeks after such publication, when a public hearing on said program shall be held.
- 10-8-2:** After the public hearing, and on or before the end of the eleventh month of the current fiscal year, the town council shall adopt the capital improvements program by resolution, with or without amendment, provided that each amendment must be voted separately and that any increase in the capital improvements program as submitted must clearly identify the method of financing proposed to accomplish this increase.

## SECTION 9 - SUPPLEMENTAL APPROPRIATIONS

- 10-9-1:** If during the fiscal year the town manager certifies, through the finance director, that revenues in excess of those estimated in the budget are available for appropriation, the town council may make supplemental appropriations for the year up to the amount of such excess.

## SECTION 10 - EMERGENCY APPROPRIATIONS

- 10-10-1:** To meet a public emergency affecting life, health, property, or the public peace, the town council may make emergency appropriations. Any such emergency order shall be so declared in an emergency preamble thereto, separately voted on and receiving the affirmative vote of at least two-thirds of the full council membership (i.e. a minimum of 6 votes).

## SECTION 11 - REDUCTION OR RESTRICTION OF USE OF APPROPRIATIONS

- 10-11-1:** If at any time during the fiscal year it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, he or she shall report to the town council without delay, indicating the estimated amount of the deficit and any remedial action taken by him or her and his or her recommendations as to any other steps to be taken. The town council shall then take such further action as it deems necessary and for that purpose may reduce, restrict or limit the use of the unexpended balance of appropriations.

## SECTION 12 - TRANSFER OF APPROPRIATIONS

- 10-12-1:** At any time during the fiscal year the town council may, upon recommendation of the town manager through the finance director, transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency and may transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

## SECTION 13 – LIMITATION: EFFECTIVE DATE

**10-13-1:** No appropriation for debt service may be reduced, restricted, limited or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

## SECTION 14 – LAPSE OF APPROPRIATIONS

**10-14-1:** Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

## SECTION 15 – PAYMENTS AND OBLIGATIONS PROHIBITED

**10-15-1:** No payment shall be made or obligation incurred against any appropriation except in accordance with appropriations duly made and unless the town manager or his or her designee first certifies that there is a sufficient unencumbered balance in such appropriation to cover the claim or meet the obligation when it becomes due and payable.

**10-15-2:** Any authorization or payment or incurring of obligations in violation of this charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the town for the payment for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payment or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payment beyond the end of the fiscal year, provided that such obligation is funded by appropriation or authorized by the General Law.

## **CHAPTER 11**

### **NOMINATIONS AND ELECTIONS**

#### SECTION 1 - TOWN ELECTIONS

**11-1-1:** The regular election for all town offices shall be by official ballot held on the **last Tuesdayfirst Friday** in June.

**11-1-2:** Any person duly elected to any office or board shall take up the duties of his or her office on the first weekday of July, provided that he or she first shall have been sworn in to the faithful performance of his or her duties.

**11-1-3:** All provisions of the General Law with regard to town elections shall apply except as may herein be provided by this charter.

## SECTION 2 - ELIGIBILITY OF TOWN VOTERS

**11-2-1:** Any registered voter of the town shall be eligible for election to any elective office or board of the town except as otherwise limited by this charter.

## SECTION 3 - FILLING OF VACANCIES IN ELECTED TOWN OFFICES

**11-3-1:** A vacancy in the office of town councilor whether caused by death, resignation, removal or recall shall be filled by a special election to be called within thirty days of said vacancy unless a regular town election will occur within one hundred and eighty days.

Filling of vacancies in town boards other than the town council shall be by joint convention of the council and the remaining members of said board.

## SECTION 4 - RECALL OF ELECTIVE OFFICERS

**11-4-1:** An elective officer of the town may be recalled and removed from public office by the voters of the town as herein provided. Any voter of the town may file with the town clerk a petition containing the name and title together with a statement of the grounds for his or her removal. Said petition shall be signed in ink or indelible pencil by qualified voters of the town equal to at least ten percent of the voters registered at the last municipal election, provided that no recall petition may be filed against any officer until he or she shall have held office for at least six months. Said petition shall be accompanied by affidavits as to the authenticity of signatures, signed and sworn to by each circulator. Said petition shall then be filed with the board of registrars of voters for certification. Within ten days from such filing, the board of registrars of voters shall check each name to be certified, and shall certify thereon the number of signatures so checked, and shall report the results to the persons filing the petition, the town clerk and the town council.

**11-4-2:** Upon presentation of the certified petition to the town council, it shall become the duty of the town council within thirty days after the receipt thereof to order a special election, which shall take place within ninety days but no sooner than sixty-five days after presentation of the certified petition to the council. No such election shall be ordered if the term of office of such elective official shall expire within one hundred twenty days from the date of the original filing or if such elective officer shall resign from such office before the election. Said recall election shall be called and conducted in the same manner as is provided in the General Laws for the call and conduct of a special election.

**11-4-3:** The form of the question to be voted upon shall be substantially as follows: "Shall (here insert the name and title of the elective officer whose recall is sought) be recalled?" A majority vote of the voters to recall such elective officer shall not be effective unless a total of at least ~~twenty-five~~fifteen percent of the electorate entitled to vote on the question shall have voted. Recall of such elective officer shall become effective upon certification of the results of the voting thereon, regardless of any technical deficiency in the recall petition.

**11-4-4:** No person, having been recalled or having resigned from office while recall proceedings were pending against him or her, shall be appointed to any town office within two years following said recall or resignation.

#### SECTION 5 - ELECTION TO BE BY PLURALITY VOTE

**11-5-1:** Election to all town offices established by this charter shall be by plurality of those voting on each office.

### **CHAPTER 12**

#### **GENERAL PROVISIONS**

#### SECTION 1 - INITIATIVE PETITION AND REFERENDUM

**12-1-1:** The voters of the town shall have the power to propose by-laws and other measures within the authority of the town council by initiative petition and to review by-laws and other measures as set forth in section 12-4-1 of this charter by referendum in accordance with the procedures established by this charter.

**12-1-2:** At any election at which an initiative petition or a referendum is submitted to the voters the polls shall be opened at seven o'clock in the morning and shall be closed not earlier than eight o'clock in the evening, and all votes upon any questions so submitted shall be taken by ballot.

#### SECTION 2 - INELIGIBLE MEASURES

**12-2-1:** None of the following shall be subject to the initiative or the referendum procedures: (1) proceedings relating to the internal organization or operation of the town council or of the school committee; (2) an emergency measure adopted in conformity with the charter; (3) the town budget or the school committee budget as a whole; (4) revenue loan orders; (5) any appropriation for the payment of the town's debt or debt service; (6) an appropriation of funds to implement a collective bargaining agreement; (7) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion or other personnel action; (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures,

and ( 9) any proceeding providing for the submission or referral to the voters at an election.

### SECTION 3 - INITIATIVE PETITION

- 12-3-1:** The voters of the town may initiate legislation by submitting a petition to the town council which requests the submission of the proposed by-law or measure to a vote of the town council. Said petition must be signed by qualified voters of the town equal in number to not less than five percent of the total number of voters registered at the last regular town election. Each copy of the petition shall have attached to it a copy of the proposed legislation. Said petition shall then be filed with the board of registrars of voters for certification.
- 12-3-2:** Within ten days from such filing, the board of registrars of voters shall check each name to be certified, and shall certify thereon the number of signatures so checked, and shall report the results to the persons filing the petition, the town clerk and the town council.
- 12-3-3:** Upon presentation of the certified petition to the town council, it shall become the duty of the town council, within thirty days of receipt thereof, to pass and adopt or reject such by-law or measure without alteration as to meaning or effect. Should the town council reject the proposed legislation, it shall be the further duty of the town council to forthwith submit the question to a vote at the next regular town election at which the qualified voters of Southbridge shall vote on the question of adopting or rejecting the proposed legislation.

### SECTION 4 - REFERENDUM

- 12-4-1:** A vote passed by the town council authorizing the expenditure of two hundred fifty thousand (\$250,000.00) dollars or more as a special appropriation or establishing a new board or office or abolishing an old board or office or merging two or more boards or offices, or fixing the term of town officers, where such term is optional, or increasing or reducing the number of members of a board, or adopting a new by-law, or amending an existing by-law, shall not be operative until after the expiration of fourteen-thirty days.
- 12-4-2:** If, within said fourteen-thirty days, a petition, signed by not less than five-two and one-half percent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the town clerk asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, then the town council, after the expiration of fourteen days, shall forthwith call a special election for the sole purpose of presenting to the registered voters at large the question or questions so involved.

- 12-4-3:** Each copy of the referendum petition shall have attached to it a copy of a brief description of the substance of the town council vote sought to be reviewed. The town clerk shall forthwith, upon the receipt of a referendum petition, cause the signatures appearing thereon to be certified by the board of registrars of voters who shall certify thereon within ten days the number of signatures so checked and shall report the results to the persons filing the petition, the town clerk and the town council. Upon presentation of the certified referendum petition to the town council it shall become the duty of the town council within thirty days after the receipt thereof to order a special election as aforesaid.
- 12-4-4:** The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereon, but no action of the town council shall be reversed unless at least twenty-five percent of the registered voters shall vote. Each question so submitted shall be in the form of the following question which shall be placed upon the official ballot: "Shall the town vote to approve the action of the town council whereby it was voted (brief description of the substance of the vote)? If such petition is not filed within said period of fourteen days, the vote of the town council shall become operative and effective upon the expiration of said period."

#### SECTION 5 - CHARTER AMENDMENT AND BY-LAW REVIEW

- 12-5-1:** This charter may be revised or amended with the provisions of Article LXXXIX of the Amendments to the Constitution and General Laws implementing said amendment.
- 12-5-2:** The chairperson of the town council shall appoint a charter review committee every five years. The committee shall consist of five members, and shall report its recommendations to the town council within one year from the date of its appointment.
- 12-5-3:** In every year following the issuance of a report by a charter review committee, the chairperson of the town council shall appoint a by-law review committee. The committee shall consist of five members, and shall report its recommendations to the town council within one year from the date of its appointment.

#### SECTION 6 - SEVERABILITY

- 12-6-1:** If any provision of this charter is held invalid by a court of competent jurisdiction such holding shall not affect the validity of the remainder of this charter.

#### SECTION 7 - SPECIFIC PROVISIONS TO PREVAIL

- 12-7-1:** To the extent that any specific provision of this charter shall conflict with any general provision thereof, the specific provision shall prevail.

#### SECTION 8 - COUNTING OF DAYS

**12-8-1:** In counting days under this charter, every calendar day shall be counted, including Sundays and all holidays.

## **CHAPTER 13**

### **TRANSITIONAL PROVISIONS**

#### **SECTION 1 - CONTINUATION OF EXISTING LAWS**

**13-1-1:** All General Laws, special laws, town by-laws, town council votes and rules, and rules and regulations of or pertaining to the town that are in force when this charter takes effect, and are 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.

**13-1-2:** Where provisions of this charter conflict with provisions of town by-laws, rules, regulations, orders and special acts and acceptances of General Law, the charter provisions shall govern. All provisions of town by-laws, rules, regulations, orders and special acts not superseded by this charter shall remain in force.

#### **SECTION 2 - DISPOSITION OF CERTAIN SPECIAL ACTS**

**13-2-1:** Chapter 790 of the Acts of 1975, titled, An Act Clarifying the Charter of the Town of Southbridge, is repealed and shall no longer apply to the Town of Southbridge.

#### **SECTION 3 - CONTINUATION OF GOVERNMENT AND ADMINISTRATION**

**13-3-1:** Except as otherwise provided in this charter, all town agencies shall continue to perform their duties until reelected, or until successors to their respective positions are duly appointed or elected and qualified, or until their duties have been transferred and assumed by another agency.

#### **SECTION 4 - TRANSFER OF RECORDS AND PROPERTY**

**13-4-1:** All records, property and equipment whatsoever of any town agency, or part thereof, the powers and duties of which are assigned in whole or in part to another town agency, shall be transferred forthwith to such agency.

#### **SECTION 5 - EXISTING OFFICIALS AND EMPLOYEES**

**13-5-1:** Any person holding a town office or employment with the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit pay grade or time in service.

SECTION 6 - EFFECT ON OBLIGATIONS, TAXES, ETC

**13-6-1:** All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the town before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter, and no legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.

SECTION 7 - TIME OF TAKING EFFECT

**13-7-1:** This charter shall become effective on the first business day of July in the year following the year in which this charter is adopted by the voters. A nine-member town council, as provided for in this charter, shall be elected at the first regular town election following the regular town election at which this charter is adopted.

At such election, the terms of office of all members of the town council then serving shall expire notwithstanding the term for which they were elected or appointed. At such election, a new nine-member town council, as provided for in this charter, shall be elected as follows:

The three candidates receiving the first, second and third greatest number of votes among those elected shall each serve a three-year term.

The candidates receiving the fourth, fifth and sixth greatest number of votes among those elected shall each serve a two-year term.

The candidates receiving the seventh, eighth and ninth greatest number of votes among those elected shall each serve a one year term.

Ties shall be resolved by flip of a coin.

Prior service as town councilor under the Southbridge Home Rule Charter adopted March 2, 1973, shall not be considered with respect to the term limit imposed by 2-2-3 of this charter.

**13-7-2: UPON IMPLEMENTATION OF THIS CHARTER:**

The town council shall enter into contractual negotiations with the incumbent town manager (unless already under contract) pursuant to section 4-1-4 of this charter.

The town council shall immediately review the rules and regulations of the town council to insure that they are in compliance with the charter.

**13-7-3: UPON ADOPTION OF THIS CHARTER:**

Section 4-3-2 of the Southbridge Home Rule Charter adopted March 2, 1973, as amended, shall be repealed as of the first day of the fiscal year beginning immediately after adoption of this charter.

Within three months after the adoption of this charter, the town council shall appoint a by-law review committee to review the town by-laws to insure they are in compliance with the charter. Said committee shall report its recommendations to the town council within six months following their appointment. The committee may, in its discretion, engage a legal consultant and the town council shall appropriate sufficient funds to allow the committee to engage such services.

**CHAPTER 14**

**CHARTER COMMISSIONS' NOTES**

SECTION 1 – INTENT OF NOTES

The following notes are intended by the nine member Charter Commission elected on June 7, 2002, to clarify selected provisions of the charter.

**Note 1:** The intent of Section **2-2-3** is to limit the term of office of town councilors to three consecutive terms. A councilor reaching the end of such three terms would be eligible to hold the office of councilor following a one year hiatus.

**Note 2:** The Commission clarifies that if it is ever unclear as to the proper way in which any power of the town is to be exercised, or by whom any power of the town is to be exercised, the town council shall, consistent with Section **2-4-1**, provide for the exercise of such power and for the performance of all duties and obligations imposed upon the town by law.

**Note 3:** The Commission includes non-councilor members of committees in Section **2-4-4** to reduce the work load on councilors and to utilize expertise in the community. The Commission emphasizes that all committees established by the council are advisory and all committee members, including non-councilor members, shall have a vote for the purpose of committee business.

**Note 4:** Section **2-5-4** is intended to emphasize that the presence of all nine members of the town council shall under no circumstances be required in order for the council to conduct business.

**Note 5:** It is the intent of the Commission that the three non-council members of the five member search committee provided for in Section **4-1-2** be chosen on the basis of their proven expertise in hiring upper level management. Further, while the hiring of a professional search firm is discretionary, the Commission strongly recommends that the committee engage such a firm.

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**Note 6:** The finance director's performance of the duties of the manager in Section 4-7-1 is intended to last only as long as it takes the Council to appoint an acting town manager.

**Note 7:** The purpose of Section 12-2-1, ineligible measures, is to promote stability in the management of the town's affairs.

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