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# TOWN OF SCITUATE

## Charter

March 25, 1972

Amended July 1, 1978

Amended March 3, 1997

Revised March 29, 2003

[~~Revised~~       , ~~2021~~2022]

### **ARTICLE 1: INCORPORATION; SHORT TITLE; POWERS Section**

#### **1-1 ~~==~~ Incorporation**

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

#### **Section 1-2 ~~==~~ Short Title**

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

#### **Section 1-3 ~~==~~ Powers**

Subject ~~only to~~ ~~express~~ ~~limitation~~ ~~on~~ ~~the~~ ~~exercise~~ ~~of~~ ~~any~~ ~~power~~ ~~or~~ ~~function~~ ~~by~~ a municipality in the constitution or laws of the ~~commonwealth~~Commonwealth, it is the intent and the purpose of the voters of Scituate to secure through the adoption of the ~~charter~~Charter all of the powers it is possible to secure for a ~~town~~Town government under the constitution and ~~laws~~General Laws of the ~~commonwealth~~Commonwealth as ~~fully~~ ~~and~~ ~~as~~ ~~completely~~ ~~as~~ ~~though~~ ~~each~~ ~~such~~ ~~power~~ were specifically and individually enumerated herein.

#### **Section 1-4 ~~==~~ ~~Construction~~ ~~Interpretation of~~ ~~Powers~~**

The powers of the Town of Scituate under the ~~charter~~Charter are to be construed liberally in favor of the ~~town~~Town and the specific mention of a particular power is not intended to limit in any way the general powers of the Town of Scituate as stated in ~~section~~Section 1-3.

#### **Section 1-~~5~~ ~~==~~ ~~Continuation of Existing Laws~~**

All special laws, Town By-Laws, Town Meeting votes, and rules and regulations of or pertaining to the Town in force shall continue in full force and effect until they expire by their own limitation.

#### **Section 1-6 ~~==~~ Intergovernmental Relations**

Subject to the applicable requirements of any provision of the constitution or ~~statutes~~General Laws of the ~~commonwealth~~Commonwealth, the Town of Scituate 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 agency thereof.

## ARTICLE 2: LEGISLATIVE BRANCH

### Section 2-1 ~~---~~ Town Meeting

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

### Section 2-2 ~~---~~ Presiding Officer

The ~~moderator~~Moderator chosen as provided in ~~section~~Section 3-3 shall preside at all sessions of the ~~town-meeting~~Town Meeting. The Moderator 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 given to moderators under the constitution and General Laws of the Commonwealth, by By-Law, or other vote of the Town Meeting. The ~~Moderator~~moderator shall, at the first session of the ~~town-meeting~~Town Meeting held following the election, appoint a deputy moderator who shall preside at the sessions of the ~~town-meeting~~Town Meeting in the event of the absence or disability of the ~~moderator~~Moderator provided that the said appointment is ratified by the ~~town-meeting~~Town Meeting.

Subject to the provisions of the ~~charter~~Charter and such ~~by-laws~~By-Laws regarding committees as may be adopted, the ~~moderator~~Moderator shall ~~appoint~~ the ~~members~~ of the ~~advisory committee~~Advisory Committee and the members of such other committees of the ~~town-meeting~~Town Meeting, special or standing, as may from time-to-time be established.

The ~~moderator~~Moderator shall perform such other duties as may from time-to-time be assigned to the office of ~~moderator~~Moderator by ~~by-law~~By-Law, or other vote of the ~~town-meeting~~Town Meeting.

### Section 2-3 ~~---~~ Time of Meeting

The regular annual ~~town-meeting~~Town Meeting of the Town of Scituate for the transaction of business relating to the prudential affairs of the ~~town~~Town shall be held on such date as may from time-to-time be fixed in the ~~by-laws~~By-Laws of the ~~town~~Town.

### Section 2-4 ~~---~~ Availability of Town Officials at Town Meetings

Every ~~town~~Town officer, or in the case of a ~~multiple-member-body~~Multiple Member Body a designated representative of such ~~multiple-member-body~~Multiple Member Body, the head of each department and the head of each division within the said departments shall attend all sessions of the ~~town-meeting~~Town Meeting for the purpose of providing the ~~town-meeting~~Town Meeting with information pertinent to matters appearing in the warrant.

Any ~~town~~Town officer, department head or division head who is to be absent due to illness or other reasonable ~~cause~~, shall ~~designate~~ a ~~deputy~~ to ~~attend~~ to ~~represent~~ the ~~office~~, department or division.

If ~~any~~ ~~person~~ ~~required~~ to ~~attend~~ the ~~sessions~~ of ~~town-meeting~~Town Meeting under the preceding provisions of this section is not a voter such person shall, notwithstanding such fact, be entitled to speak to provide the ~~town-meeting~~Town Meeting with information on pertinent warrant articles.

### Section 2-5 ~~---~~ Procedures

(a) Clerk of the Meeting ~~---~~ The regular ~~town-clerk~~Town Clerk shall serve as clerk of the

meeting, give notice of all meetings, record the proceedings of all meetings and perform such other duties as may from time-to-time be assigned to the clerk of the meeting by ~~by-law~~By-Law or other vote of the ~~town meeting~~Town Meeting.

(b) Rules of Procedure — The ~~town meeting~~Town Meeting shall by ~~by-law~~By-Law adopt and may from time-to-time amend, revise—z or repeal such rules governing the conduct of the ~~town meeting~~Town Meeting as it may deem necessary or advisable.



(c) ~~Warrant Articles~~ ~~The board of selectmen~~ Select Board shall insert in the warrant for each ~~town meeting~~ Town Meeting all articles the subjects of which are requested of them in the manner provided by law. In preparation of the warrant the ~~board of~~ Select Board ~~selectmen~~ shall, insofar as it is practical ~~so to do~~ so, join into one (1) article all requests which deal with the same subject matter.

### ARTICLE 3: ELECTED OFFICIALS

#### Section 3-1 - General Provisions

(a) ~~Elective Offices~~ ~~The offices to be filled by the voters shall be a board of selectmen~~ Select Board, a ~~moderator~~ Moderator, a ~~school committee~~ School Committee, a ~~planning board~~ Planning Board, a ~~board~~ Board of Assessors, a Board of assessors, a ~~board of library trustees~~ Library Trustees, a ~~town clerk~~ Town Clerk, a ~~housing authority~~ Housing Authority and such members of regional authorities or districts as may be established by ~~statute~~ the General Laws, interlocal agreement or otherwise.

(b) ~~Eligibility~~ ~~Only~~ ~~individuals registered to vote in Scituate~~ voters shall be eligible to hold elective ~~town~~ Town office; but no elected ~~town~~ Town official shall simultaneously hold any other elected ~~town~~ Town office or be appointed to any office other than as a member of a ~~multiple member body~~ Multiple Member Body.

(c) ~~Election~~ ~~The regular elections for town~~ Town office shall be held annually on such date as may from time-to-time be fixed in the ~~by laws~~ By-Laws of the ~~town~~ Town.

(d) ~~Compensation~~ ~~Elected town~~ Town officials shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(e) ~~Coordination of Officials~~ ~~Notwithstanding the election by the voters of the officers named in this article, the said officers shall be subject to the call of the board of selectmen~~ Select Board or of the ~~town administrator~~ Town Administrator for consultation, conference and discussion of any matter relating to their respective offices.

#### Section 3-2 ~~Selectmen~~ Select Board: Composition, Term of Office; Powers, Duties, etc.

~~(a)~~ (a) ~~Composition, Term of Office~~ ~~There shall be a board of selectmen~~ Select Board consisting of five (5) members elected by the voters. The term of office of a ~~selectman~~ Select Board member shall be for three (3) years. The terms of office of ~~selectmen~~ Select Board members shall be so arranged that two ~~selectmen~~ (2) Select Board members shall be elected one (1) year, two ~~selectmen~~ (2) Select Board members shall be elected the next year, and one ~~selectman~~ (1) Select Board member shall be elected the third year. The election ballots for each year in which more than one ~~selectman~~ (1) Select Board member is to be elected shall set forth each position to be filled as a separate position, called position one and position two. A candidate for ~~selectman~~ Select Board shall be listed as a candidate for either position one or a candidate for position two, but not as a candidate for both. The candidate receiving the highest number of votes for each position shall be declared elected to that position.

~~(b) General Powers and Duties~~ ~~The~~ ~~board of selectmen~~ shall be the chief executive office of the town. ~~It shall serve as the chief policy-making agency of the town and it~~

(b) General Powers and Duties - The executive powers of the Town shall be vested in the

Select Board. The Select Board shall have the powers and duties given to Select Board under the constitution and General Laws of the Commonwealth, except those powers and duties assigned by this Charter to the Town Administrator, and shall have additional powers and duties as may be authorized by the Charter, by By-Law, or by other Town Meeting vote. The Select Board shall be the water and sewer commissioners of the Town. The Select Board shall cause the laws and orders for the government of the Town to be enforced and shall cause a record of all its official acts to be kept. To aid the Select Board, in its official duties, the board shall appoint a Town Administrator, as provided in Article 4.

The Select Board shall serve as the chief policy making agency of the Town and shall exercise its general supervisory powers through the adoption of policy directives and guidelines-it may establish to be implemented by officers and employees appointed or employed by or under it. Such policies shall include, but shall not be limited to the following: policies by which the legislative directives and intent of the town meetingTown Meeting may be implemented; policies governing a general oversight and evaluation of the administration of the townTown government; policies for the coordination and development of both short and long range planning for the future of the townTown; policies to support appropriate emergency response plans; and policies governing the development of an annual operating budget sufficient to perform all functions required by law and by legislative actions of the town meetingTown Meeting. All such policies shall be reviewed by the Select Board at least every three (3) years.

The board ofSelect Board-selectmen shall be responsible for the efficient and orderly operation of the townTown government through its \_\_\_\_\_, including the establishment of personnel and operating policies of all agencies of the town except for those under the direction of another separately elected townTown agency.

\_\_\_\_\_ agency. To assist the board of selectmen in all of the above functions, it shall appoint, as its chief administrative officer, a town administrator. \_\_\_\_\_

The Select Board shall be the license board of the Town and shall have the power to issue licenses, except those licenses issued by the Town Clerk in accordance with the General Laws, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all business for which it issues licenses.

The Select Board shall perform a review of the job performance of a new Town Administrator after the first six (6) months of the effective date of the initial contract. The job performance of the Town Administrator shall then be reviewed annually thereafter by the Select Board. The Select Board shall be required to publicly acknowledge that the performance reviews required under this subsection have occurred.

(c) Appointments — The board of Select Boardselectmen shall appoint a town administrator and a townTown Administrator and a Town counsel to serve indefinite terms, as allowed under the General Laws. It shall appoint, for fixed terms, a townTown accountant, a treasurer-collector, election officers, the veteran officers, constables and all individuals who are to serve as representatives or delegates of the townTown to governing or advisory bodies of other units of government. It shall also appoint for fixed terms, fence viewers, field drivers, and a measurer of wood and bark. It shall appoint, for fixed overlapping terms, the members of the board of appeals, registrars of voters, board of health and all other multiple member bodiesMultiple Member Bodies that are established for other than a temporary purpose, except those for which the charterCharter provides another appointing authority. Any person appointed to an office under this section may be removed in accordance with the procedures governing removal in sectionSection 7-12.

(d) Investigations — The board of Select Board-selectmen may investigate or authorize the town administratorTown Administrator, another officer of the townTown, or any agency, public or private, to investigate the conduct of any townTown department, office, or agency. The report of any such

investigation shall be filed in the ~~town administrator's~~Town Administrator's office, and a summary of that report shall be printed in the next annual ~~town~~Town report.

(e) Responsibility to Assure Charter Provisions are Met — It shall be the duty of the ~~board of selectmen~~ Select Board to see that the provisions of the ~~charter~~Charter are faithfully followed and complied with by all ~~town~~Town agencies and ~~town~~Town employees. Whenever it appears to the ~~board of Select Board~~selectmen that any ~~town~~Town agency or ~~town~~Town employee is failing to follow any provision of this ~~charter~~ Charter, the ~~board of Select Board~~selectmen shall, in writing, cause notice to be given to such agency or employee directing compliance with the ~~charter~~Charter. If ten ~~(10)~~ or more voters for an annual ~~town meeting~~Town Meeting or one hundred ~~(100)~~ or more voters for a special ~~town meeting~~Town Meeting believe the ~~board of Select Board~~selectmen itself is not following the procedures established in the ~~charter~~ Charter, a warrant article may be submitted to a ~~town meeting~~Town Meeting suggesting that the ~~board of Select Board~~selectmen is not following the provisions of the ~~charter~~Charter. The ~~town meeting~~Town Meeting, if it shall agree with the petitioners, shall, by resolution, direct the attention of the ~~board of Select Board~~selectmen to those areas in which the voters at the ~~town meeting~~Town Meeting believe there is a failure to comply with ~~charter~~Charter provisions.

The procedures made available in ~~chapter two hundred and thirty one~~ Ach. 231A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this ~~charter~~Charter, including any question of construction or validity which may be involved in such determination.

### **Section 3-3 — Moderator: Term of Office; Powers and Duties**

(a) Term of Office — At each ~~town~~Town election a ~~moderator~~Moderator shall be nominated and elected by the voters for a term of one ~~(1)~~ year.

(b) Powers and Duties — The ~~moderator~~Moderator shall have the powers and duties provided for that office by ~~statute~~the General Laws, by this ~~charter~~, Charter, as defined in Section 2-2, by ~~by-law~~By-Law and by other vote of the ~~town meeting~~Town Meeting.

### **Section 3-4 — School Committee: Composition, Term; Powers and Duties**

(a) Composition, Term of Office — There shall be a ~~school committee~~School Committee consisting of five ~~(5)~~ members elected by the voters. The term of office of a ~~school committee~~School Committee member shall be ~~for~~ ~~three~~ ~~(3)~~ years. The ~~terms of office of~~ ~~school committee~~ ~~School Committee~~ members shall be ~~so~~ arranged that two ~~school committee~~(2) School Committee members shall be elected one ~~(1)~~ year, two ~~school committee~~(2) School Committee members shall be elected the next year, and one ~~school committee~~(1) School Committee member shall be elected the third year. The election ballots for each year in which more than one ~~school committee~~(1) School Committee member is to be elected shall set forth each position to be filled as a separate position, called position one and position two. A candidate for ~~school committee~~

School Committee member shall be listed as a candidate for position one or a candidate for position two, but not as a candidate for both. The candidate receiving the highest number of votes for each position shall be declared elected to that position.

(b) Powers and Duties — The ~~school committee~~School Committee shall have all of the powers and duties school committees may have under the constitution and general lawsGeneral Laws of the ~~commonwealth, Commonwealth,~~ and it shall have such additional powers and duties as may be authorized by the ~~charter~~Charter or by by lawBy-Law.

### **Section 3-5 - Planning Board: Composition, Term of Office; Powers and Duties**

(a) Composition, Term of Office — There shall be a ~~planning board~~Planning Board consisting of five (5) members elected by the voters. The voters shall also elect one (1) person as an alternate member of the ~~planning board~~Planning Board. The term of office for ~~planning board~~Planning Board members, including the alternate member, shall be for three (3) years. The terms of office of the ~~planning board~~Planning Board members shall be so arranged that two ~~planning board~~(2) Planning Board members shall be elected one (1) year, two ~~planning board~~(2) Planning Board members shall be elected the next year, and one ~~planning board~~(1) Planning Board member and the alternate member shall be elected the third year. The election ballots for each year in which two ~~planning board~~(2) Planning Board members are to be elected shall set forth each position to be filled as a separate position called position one and position two. A candidate for ~~planning board~~Planning Board member shall be listed as a candidate for either position one, or as a candidate for position two, or as a candidate for alternate (but not both positions appearing on the ballot). The candidate receiving the highest number of votes for each position shall be declared elected to that position.

Whenever a member of the ~~planning board~~Planning Board is absent, or because of a conflict of interest or other disability is unable to sit on a particular matter the chair shall designate the alternate to sit as a member of the ~~planning board~~Planning Board during such absence or disability.

(b) Powers and Duties — The ~~planning board~~Planning Board shall have all of the powers and duties planning boards may have under the constitution and lawsGeneral Laws of the ~~commonwealth~~Commonwealth. The ~~board~~Planning Board may also exercise such additional powers and duties as may from time-to-time be assigned to them by the ~~charter~~Charter, by by lawBy-Law or by other vote of the ~~town meeting~~Town Meeting.

### **Section 3-6 — Board of Library Trustees: Composition, Term of Office; Powers and Duties**

(a) Composition, Term of Office — There shall be a ~~board~~Board of ~~library trustees~~Library Trustees consisting of six (6) members nominated and elected by the voters. Two (2) of these members shall be elected each year for terms of three (3) years.

(b) Powers and Duties — The ~~board~~Board of ~~library trustees~~Library Trustees shall have general charge of the ~~care and~~ management of ~~town~~Town libraries, and of all non-facility property of the ~~town~~Town relating thereto.

### **Section 3-7 - Town Clerk: Term ~~Of~~ Office; Powers ~~And~~ Duties**

(a) Term of Office — There shall be a ~~town clerk~~Town Clerk nominated and elected by the voters for the term of three (3) years.

(b) Powers and Duties — The ~~town clerk~~Town Clerk shall have all of the powers and duties town clerks may have under the constitution and lawsGeneral Laws of the ~~commonwealth~~Commonwealth. The ~~town clerk~~Town Clerk may also exercise such additional powers and duties as may from time-to-time be assigned to that office by the ~~charter~~Charter, by by lawBy-Law or by other vote of the ~~town meeting~~.

Town Meeting.

**Section 3-8 — Board of Assessors: Composition, Term of Office; Powers and Duties**

(a) Composition, Term of Office — There shall be a ~~board~~Board of ~~assessors~~Assessors consisting of three (3) members ~~who shall be nominated and elected by the voters.~~ One (1) of these members shall be elected each year to serve for the term of three (3) years.

(b) Powers and Duties — The ~~board~~Board of ~~assessors~~Assessors shall have all of the powers and duties which ~~boards of assessors may have under the constitution and laws~~General Laws of ~~the commonwealth~~Commonwealth. The ~~board~~Board of ~~assessors~~Assessors may also exercise such additional powers and duties as may from time-to-time be assigned to that office by the ~~charter~~Charter, by ~~by-law~~By-Law or by other vote of the ~~town meeting~~Town Meeting.

**Section 3-9 — Housing Authority: Composition, Term of Office; Powers and Duties**

(a) Composition, Team of Office — There shall be a ~~housing authority~~Housing Authority to consist of five (5) members serving five (5) year overlapping terms such that the term of one (1) member term expires each year. ~~Four of these Such~~ members shall be ~~nominated and elected by the voters, and the fifth member shall be a resident of the town~~ appointed ~~as provided or elected~~ in ~~section 5 of chapter 121B of~~accordance with the General Laws of the Commonwealth.

(b) Powers and Duties — The ~~housing authority~~Housing Authority shall have all of the powers and duties housing authorities may have under the constitution and ~~general laws~~.

## ARTICLE 4 TOWN ADMINISTRATOR

### Section 4-1 ~~—~~ Qualifications:

The ~~town administrator~~Town Administrator shall be appointed solely on the basis of executive and administrative qualifications and experience. The ~~town administrator~~Town Administrator shall be a person especially fitted by education, training and professional experience in full-time service in public administration to perform the duties of the office. The ~~town administrator~~Town Administrator need not be a resident of the ~~town when appointed~~Town, but shall be subject to such residency requirements as may be fixed in the ~~by laws~~Town. The ~~town administrator~~Town Administrator shall not have served in elective office in the ~~town's~~Town's government for at least two (2) years prior to appointment. The ~~town administrator~~Town Administrator shall devote full-time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during the term, unless such other service is approved in advance by vote of the ~~board of selectmen~~Select Board. The ~~office of town administrator shall not~~Select Board shall fix compensation for the ~~office~~Town Administrator within the amount appropriated by the ~~town~~Town, provided for in the Town Administrator's contract along with all other requirements for the Town Administrator, including performance, benefits, and other items relating thereto.

### Section 4-2 ~~—~~ Powers ~~And~~ Duties:

The ~~town administrator~~Town Administrator, the chief administrative officer of the ~~town~~Town, shall be responsible to the ~~board of selectmen~~Select Board, and shall be accountable to the said board, for the efficient and orderly conduct of the departments, offices, and functions placed in the charge of the ~~town administrator~~Town Administrator by the ~~charter~~Charter and for the proper execution of the powers and duties that follow:

(a) The ~~town administrator~~Town Administrator shall be the personnel director of the ~~town~~Town responsible for the administration of all personnel matters, including personnel ~~by laws~~By-Laws and all personnel policies and regulations that the board of ~~selectmen~~Select Board may adopt.

(b) The ~~town administrator~~Town Administrator shall appoint and may remove, subject to the civil service law where applicable, all department heads, all officers and all subordinates and employees of the ~~town~~Town except those appointments for which another method of appointment is provided in the ~~charter, employees~~Charter, appointments of the ~~school committee~~School Committee, and appointments made by representatives of the ~~commonwealth~~Commonwealth. Appointments made by the ~~town administrator~~Town Administrator shall become effective on the fifteenth (15<sup>th</sup>) day following the day notice of the appointment is filed with the ~~board of selectmen~~Select Board unless the said board shall within that period by a majority of all of its members vote to reject the said appointment. Within said fifteen (15) day period the ~~board of selectmen~~Select Board may, by a majority of all of its members vote to waive its power to reject the appointment, whereupon the appointment shall become effective forthwith.

(c) The ~~town administrator~~Town Administrator shall exercise a general supervision over all ~~town~~Town agencies for which the ~~town administrator~~Town Administrator is the appointing or employing authority.

(d) The ~~town administrator~~Town Administrator shall fix the compensation of all ~~town~~Town officers and employees appointed by the ~~town administrator~~Town Administrator, within the limits established by existing appropriations and the ~~by laws~~By-Laws.

(e) The ~~town administrator~~Town Administrator shall see that all provisions of the ~~general laws~~General Laws, the ~~charter~~Charter, and the ~~by-laws~~By-Laws, and all votes of the ~~town meeting~~Town Meeting and the ~~board of Select Board~~selectmen,~~——~~ that require enforcement by the ~~town administrator~~Town Administrator or officers subject to the supervision of the ~~town administrator~~Town Administrator, are faithfully carried out.

(f) The ~~town administrator~~Town Administrator shall prepare and submit the annual budget as provided in ~~article~~

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

(h) The ~~town administrator~~ Town Administrator shall keep the ~~board of Select Board~~ selectmen informed as to the financial condition and needs of the ~~town~~ Town and shall make such recommendations to the ~~board of Select Board~~ selectmen as is deemed to be necessary or expedient.

(i) The ~~town administrator~~ Town Administrator shall have full jurisdiction over the rental and use of all ~~town~~ Town facilities except schools and properties designated by ~~by laws~~ By-Laws or other vote of the ~~town~~ Town as Scituate Historical Sites. The ~~town administrator~~ Town Administrator, as directed by the Select Board, shall be responsible for the maintenance and repair of all ~~town~~ Town property, including school buildings, placed under the control of the ~~town administrator~~ Town Administrator by the ~~charter~~ Charter, by ~~by laws~~ By-Laws or otherwise; provided, however, that the approval of the ~~school committee~~ School Committee shall be obtained for all school maintenance and repair plans.

(j) The ~~town administrator~~ Town Administrator may, without notice, examine the activities of any agency under the control of the ~~town administrator~~ Town Administrator or the conduct of any officer or employee thereof. The ~~town administrator~~ Town Administrator shall have access to all ~~town~~ Town books and records necessary for the performance of the duties of the office.

(k) The ~~town administrator~~ Town Administrator shall keep a full and complete inventory of all property of the ~~town~~ Town, both real and personal.

(l) The ~~town administrator~~ Town Administrator shall be responsible for the negotiation or bidding of all contracts involving any matter within the responsibility of the ~~town administrator~~ Town Administrator. All contracts for purchases or services exceeding an amount fixed by the ~~board of selectmen~~ Select Board shall be subject to final approval and execution by the ~~board of Select Board~~ selectmen.

(m) The ~~town administrator~~ Town Administrator shall be responsible for purchasing all supplies, materials and equipment for all departments and activities of the ~~town~~ Town, excluding all operational expenditures of the school department ~~food for schools and Town instructional materials and equipment, or library books and related materials~~, unless specifically requested to do so by the ~~school committee~~ School Committee or the ~~board~~ Board of ~~library trustees~~ Library Trustees, as applicable.

(n) The ~~town administrator~~ Town Administrator shall perform any other duties required by the ~~by laws~~ By-Laws or votes of the ~~town meeting~~ Town Meetings the Select Board, or General Laws ~~board of selectmen~~ the Commonwealth.

(o) The Town Administrator shall be the Town's risk administrator and be responsible for ensuring that all pertinent insurance policies are in effect, that adequate insurance coverage is provided, and that claims are properly processed.

(p) Powers and duties shall include, in addition to those set forth in the Charter, any reasonable assignment by the Select Board or Town Meeting that does not conflict with the powers and duties of other Town officials or Multiple Member Bodies, or the Charter.

### **Section 4-3 – Acting Town Administrator**

(a) During a temporary absence, the ~~town administrator~~ Town Administrator shall designate by letter filed with the ~~board of~~ Select Board ~~selectmen~~, a qualified administrative employee or officer to exercise the powers and perform the duties of ~~town administrator~~ Town Administrator.



If the ~~town administrator~~Town Administrator fails to do so, or the person appointed fails to serve to the satisfaction of the ~~board of Select Board selectmen~~, the board of selectmen, ~~the Select Board~~ may appoint a qualified administrative employee or officer to so serve. In the event of suspension of the ~~town administrator~~Town Administrator or a vacancy in the office the ~~board of Select Board selectmen~~ shall appoint an acting ~~town administrator~~Town Administrator within fourteen (14) days. Appointment of a new ~~town administrator~~Town Administrator must be made within five (5) months of the effective date of a vacancy in that office, except that such period may be extended by a period not to exceed two ~~months by vote of the board of selectmen~~ months by vote of the Select Board.

- ~~(b)~~
- ~~(c)~~
- ~~(d)~~

#### **Section 4-4 – Hiring Procedures for Town Administrator**

The Select Board is responsible for recruiting, interviewing, and hiring of the Town Administrator. They will be assisted in this duty by appointing a search committee comprised of qualified Town officials and residents. The composition of this committee is determined by the Select Board or, if defined, by Town By-Law. Finalists for the position of Town Administrator shall be interviewed in a public meeting posted in accordance with the Town By-Laws. Selection of the Town Administrator shall require a majority affirmative vote by the Select Board.

#### **Section 4-5 – Removal of the Town Administrator**

The Select Board may remove the Town Administrator from office after first applying the following procedures:

(a) Notice: The Select Board, by a super majority affirmative vote consisting of not less than four (4) of its members, shall adopt a preliminary resolution of removal setting forth in reasonable detail the reason(s) for the proposed removal. This resolution may suspend the Town Administrator for a period not to exceed forty-five (45) days. Notice of this resolution will immediately be delivered to the Town Administrator and filed with the Town Clerk.

(b) Public Hearing: Within five (5) days of delivery of said resolution, the Town Administrator may request a public hearing. Such a hearing must take place not more than thirty (30) days from receipt of the request. Notice of the hearing date must be publicly posted and directly provided to the Town Administrator at least five (5) days prior to the hearing. The Town Administrator shall be entitled to present evidence, have counsel, call witnesses, or question any witnesses during the hearing.

(c) Removal: If the Town Administrator does not request a hearing, the Select Board may vote by super majority to affirm the resolution and permanently remove the Town Administrator. If the Town Administrator requests a hearing, the Select Board must wait at least five (5) days after the conclusion of the hearing to vote by super majority to affirm the resolution and permanently remove the Town Administrator. Failure to adopt a final resolution within forty-five (45) days of the preliminary resolution shall nullify the resolution.

(d) The Town Administrator shall continue to receive salary and benefits included in a valid contract until a final resolution of removal becomes effective.

### **ARTICLE 5: ADMINISTRATIVE ORGANIZATION**

## **Section 5-1 — Creation of Departments, Divisions, Agencies, and Offices**

The organization of the ~~town~~Town into operating agencies may be accomplished through either of the methods provided in this article.

(a) ~~By laws—Laws —~~ Subject only to express prohibitions in the constitution and ~~general laws~~General Laws of the Commonwealth, and provisions ~~of the charter, the town meeting Charter, the Town Meeting~~ may, ~~by by law, By-Law,~~ reorganize, consolidate, or abolish any ~~town~~Town agency, in whole or in part; establish such new ~~town~~Town agencies as it deems necessary or advisable and may prescribe the functions of any such ~~town~~Town agency; provided, however, that no function assigned by the ~~charter~~Charter to a particular ~~town~~Town agency may be ~~discontinued -or, -unless -the -charter~~Charter specifically ~~-so provides, assigned to any other.~~

(b) Administrative Code — The ~~board of Select Board~~selectmen—, after consultation with the ~~town administrator, —may~~Town Administrator, shall from time-to-time prepare and submit to the ~~town meeting~~Town Meeting plans of organization or reorganization, which establish ~~town~~Town agencies for the orderly, efficient or convenient conduct of the business of the ~~town~~Town. Whenever the ~~board of Select Board~~selectmen— prepares such a plan it shall hold one ~~(1)~~ or more public hearings on the proposal giving notice ~~by publication in a newspaper of general circulation in the town —as required by the General Laws or special mandate of the Commonwealth~~ not less than ~~—five (5) seven-~~ days in advance, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held. Following such public hearing, the ~~board of Select Board~~selectmen— shall submit to the ~~town meeting~~Town Meeting by warrant article their proposal which may have been amended subsequent to the public hearing.

An organization or reorganization plan shall become effective at the expiration of ninety days ~~—(90)~~ following the date of the ~~town meeting~~Town Meeting at which the proposal is submitted unless the ~~town meeting~~Town Meeting shall, by a majority vote within that time, vote to disapprove the plan. The ~~town meeting~~Town Meeting may vote only to approve or disapprove the plan and may not vote to amend or alter it.

The ~~board of Select Board~~selectmen— may ~~through the -administrative -code, -and -subject only -to express prohibitions in the constitution, general laws~~General Laws and the ~~charter~~Charter, reorganize, consolidate or abolish all ~~town~~Town agencies in whole or in part; establish such new ~~town~~Town agencies as they deem necessary; and for such purpose may transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the ~~town~~Town, transfer the appropriation of one ~~town~~Town agency to another; provided, however, that ~~no function -assigned -by -this -charter -Charter to -a -particular -town -Town agency -may -be discontinued, or, unless this charter~~Charter specifically so provides, assigned to any other.

## **Section 5-2 — Personnel Plan**

The ~~town administrator~~Town Administrator shall ~~prepare annually be responsible for preparing and -maintain a plan -establishing~~maintaining personnel policy manual to support the professional management of the Town and its employees. Such requirements ~~of the agencies created by the charter, by by law, or by administrative code, and it shall become effective upon approval by the board of selectmen.~~

## **Section 5-3 — Publication of Administrative Code and Personnel Plan**

~~included in the~~ For the convenience of the public, any actions taken under the administrative code and any amendments thereto shall be printed as an appendix to, but not an integral part of, the ~~by-laws. The personnel plan as prepared by the town administrator shall be available in the town clerk's office. —consistent with the Charter, By-Laws, and the General Laws; and shall be approved by the Select Board.~~

### **Section 5—~~34~~— Merit Principle**

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

### **Section 5—~~45~~— Department of Public Works**

The ~~department~~Department of ~~public works~~Public Works shall be headed by a director, who shall be appointed by the ~~town administrator for an indefinite term.~~Town Administrator. The director of ~~public works~~the Department of Public Works shall be a person especially fitted by education, training, and previous experience to perform the duties of the office.

The ~~director of public works of the Department of Public Works~~ shall ~~be~~ responsible to ~~the town administrator~~Town Administrator for the efficient and orderly operation of the department. The director of ~~public works~~the Department of Public Works shall be responsible for the supervision of all public works operations of the ~~town~~Town placed under the control of the director of public works by the ~~charter~~Charter, the ~~by-laws~~By-Laws, administrative codes, ~~statutes~~the General Laws or otherwise, including but not limited to the department's principal functions, as well as refuse disposal, forestry service, protection of natural resources, and maintenance of physical plant.

The ~~town administrator~~Town Administrator shall be responsible to the ~~board of selectmen~~Select Board— for the planning and coordination of ~~public works~~Department of Public Works projects. To assist in the planning and coordinating function, the ~~town administrator~~Town Administrator may appoint a public works advisory board of three (3) members ~~for indefinite terms, whose training, occupation or experience~~ indicate qualification for service on such a board. This board shall serve in an advisory capacity to the ~~town administrator~~Town Administrator and director and shall not become involved in the day-to-day operations of the department.

Other functions and duties, the nature of which are related to a department of public works, may be assigned to the department from time-to-time by ~~by-law~~By-Law or administrative code as provided in ~~section~~Section 5-1.

### **Section 5—~~56~~— Public Building Maintenance**

The responsibility for the maintenance and repair of all ~~town~~Town owned buildings and grounds shall be consolidated under the ~~Select Board, who shall oversee maintenance~~board of ~~selectmen~~ ~~all Town buildings as set forth in Section 4-2(i).~~ The ~~board of~~Select Board~~selectmen~~—, after consultation with the ~~school committee, School Committee where appropriate,~~ shall determine the manner in which such responsibility shall be assumed and the services delivered. The ~~board of selectmen~~— Select Board and the ~~school committee~~School Committee may from time to time—, ~~but no less than annually,~~ meet or otherwise communicate to assure the proper maintenance of all school buildings.

Nothing in this section shall be construed so as to interfere in any way with the appointment by the ~~school committee~~School Committee, or by other school department personnel serving under it, of the maintenance personnel in school buildings who perform, so-called, ~~ordinary~~ maintenance. It is the intention of this provision however, that standards for the work to be performed will be established jointly by the ~~school department~~— and the ~~board of selectmen~~—.

School Committee and the Select Board.

## ARTICLE 6: FINANCES AND FISCAL PROCEDURES

### Section 6-1 ~~==~~ Fiscal Year

The fiscal year of the ~~town~~Town shall be as required by the ~~general laws~~General Laws.

### Section 6-2 ~~==~~ Submission ~~Of~~ Budget ~~And~~ Budget Message

On or before a date determined by the ~~board of selectmen~~Select Board, the ~~town administrator~~Town Administrator shall submit to the ~~board of selectmen~~Select Board a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

### Section 6-3 ~~==~~ Budget Message

The message of the ~~town administrator~~Town Administrator shall explain the budget for all departments and agencies both in fiscal terms and in terms of work programs, point out all major deviations from the current year and the reasons therefore, provide an outline of general problems, summarize the ~~town's~~Town's debt position, and include such other material as the ~~town administrator~~Town Administrator may deem desirable or the ~~board of~~Select Board ~~selectmen~~ may instruct.

The budget message shall include all the expected revenues and expenses of the ~~town~~Town (including the schools) projected over, at least, a five (5) year period, and this message is to be included in the report of the ~~advisory committee~~Advisory Committee.

When the budget is subject to an amendment at Town Meeting which adjusts a line item upward, said amendment must identify the funding source as either: (i) from available revenue, (ii) a decrease in another line item, or (iii) a combination of available revenue and a decrease in another line item.

### Section 6-4 ~~==~~ The Budget

The budget shall provide a complete financial plan of all ~~town~~Town funds and activities, including the budget adopted by the ~~school committee~~School Committee, for the ensuing year. Except for the school budget, or as may be required by ~~statute~~the General Laws or by the ~~charter~~Charter, it shall be in the form which the ~~town administrator~~Town Administrator deems desirable or the ~~board of selectmen~~Select Board may require. In the presentation of the budget, the ~~town administrator~~Town Administrator shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and at least the next five fiscal years and shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by agency and position in terms of work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by ~~town~~Town agency, and the proposed method of financing each such capital expenditure; and,

(c) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

### **Section 6-5 — Action on the Budget**

~~(a)~~ (a) The ~~board of selectmen~~Select Board— shall review the proposed budget and make such changes as it considers necessary to reflect its stated policies. It shall return the proposed budget to the ~~town administrator~~Town Administrator for revision and arranging for the delivery of the document to the ~~advisory committee~~Advisory Committee on or before a date agreed upon by the ~~advisory committee~~Advisory Committee, which shall in no event be less than ~~—seventy-five (75)—~~90 days prior to the annual ~~town meeting~~Town Meeting. At least ~~—fourteen (14)—~~ days before ~~town meeting~~Town Meeting, the ~~board of selectmen~~—Select Board and the ~~advisory committee~~Advisory Committee shall jointly hold one (1) or more public hearings on the proposed budget.

~~(a)~~—

~~(b) When the~~The proposed budget,~~including shall include~~ the budget adopted by the School Committee,~~school committee~~ insofar as permitted by law,~~is before the town meeting for action, it shall first be subject to amendments, if any, proposed by the advisory committee before any other amendments may be proposed.~~fund the operations and equipment of the schools.

## **Section 6-6 = Capital Improvement Program**

~~(a) The capital planning program shall consist of a schedule of proposed capital expenditures for at least the next five fiscal years and the proposed methods of financing each such expenditure. The objectives of the program shall be: (1) to establish priorities that will best serve the town as a whole; and (2) to so schedule and finance capital outlay that it will have as level an effect as possible upon the tax rate from year to year.~~

~~Select Board~~(b) ~~The board of selectmen~~ shall be responsible for preparation and annual revision of the capital ~~planning~~improvement program. To assist it in doing so and to advise the ~~town meeting~~Voters at Town Meeting on capital planning matters, there shall be a ~~capital planning committee~~Capital Planning Committee consisting of five ~~(5) voting members who shall be residents of the Town~~ appointed by the ~~town moderator~~Moderator for overlapping three- ~~(3) year terms, the town administrator and.~~ The Capital Planning Committee shall also consist four ~~(4) non-voting advisory members, including the Town Administrator, one (1) member designated, annually, by the school committee of the Select Board, one (1) member of the Advisory Committee, and one (1) member of the School Committee, in each case designated annually by their respective Multiple Member Body.~~

~~(e) (b) The capital improvement program shall include: (i) a clear, concise, summary of its contents; (ii) a list of all capital improvement projects and needs to be undertaken during the ensuing five (5) years with supporting documentation, in such form as the Town Administrator shall prescribe, describing the need for each project; (iii) cost estimates, methods of financing and~~ ~~(e) The~~ capital planning committee shall submit annually to the board of selectmen a revised and updated report, which shall contain: (1) a list of proposed capital expenditures for the next fiscal year and the ensuing five years; ~~(2)~~ a recommended time schedule for ~~each project; and executing them;~~ (3) cost estimates and recommended financing method for each; and ~~(4) the~~; (iv) the estimated ~~annual~~additional cost of operating and maintaining each ~~new~~ facility and ~~major~~ piece of ~~major~~ equipment involved.

~~(b) It shall also prepare a summary of its report, and shall submit such summary to the board for inclusion as a separate entity in the advisory committee's annual report to the town meeting.~~

~~(d)~~

~~(c) The~~ board of selectmen shall base its final capital planning program on the capital planning committee's report with such changes as it considers necessary to reflect its stated policies and shall deliver it to the ~~advisory committee~~ Town Administrator shall submit annually to the Select Board and Capital Planning Committee recommendations for the capital improvement program not less than ~~five~~ (5) months prior to the annual Town Meeting.

~~(d)town meeting.~~ The ~~Capital Planning Committee~~advisory committee shall submit annually to the Select Board a report summarizing their recommendations not less than three (3) months prior to the annual Town Meeting. The Select Board shall base its final capital improvement program on the Capital Planning Committee's report with such changes as it considers necessary. The Select Board shall deliver this plan to the Advisory Committee not less than sixty

~~(60) days prior to the annual Town Meeting. The Advisory Committee shall~~ forthwith proceed to consider the program and shall, in its report to the annual ~~town meeting~~Town Meeting, make such recommendations as it deems to be in the best interests of the ~~town~~Town, both with respect to the capital budget for the next fiscal year and the schedule for the ensuing years.

~~(c) The annual report of the capital planning committee shall be summarized and a copy of the summary shall be published in the Annual Town Report and a copy of the summary shall be included in the Report of the Advisory Committee.~~

### **Section 6-7 – Financial Forecasting Committee**

(a) Composition – There shall be a ~~financial forecasting committee~~Financial Forecasting Committee which shall consist of ~~–nine (9) members,~~ as follows: the ~~town administrator~~Town Administrator, the treasurer/collector, the ~~town~~Town accountant, the director of assessing, the business manager of the school department, a member of the ~~advisory committee~~Advisory Committee, a member of the ~~capital planning committee~~Capital Planning Committee, a member of the ~~board of selectmen~~Select Board — and a member of the ~~school committee~~School Committee.

(b) Powers and Duties – The ~~financial forecasting committee~~Financial Forecasting Committee shall, annually, ~~–prepare a –five (5) year, non–binding financial forecasting plan which projects revenues, revenue sources and expenditures for the five (5) years next ensuing. The forecast shall include all elements of revenue, operating expense and debt service.~~

The ~~financial forecasting committee~~Financial Forecasting Committee shall prepare quarterly updates of its projections to the ~~board of selectmen~~ — Select Board. The quarterly update for the last quarter of the calendar year shall be delivered to the ~~advisory committee~~Advisory Committee not later than the last Friday in January.

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The report of the financial forecasting committee shall be shared not only with the ~~board of~~Select Board selectmen— and the ~~school committee~~School Committee but it is also to be shared with the voters of Scituate. The report shall be included in the report of the ~~advisory committee~~Advisory Committee published for ~~town meetings~~Town Meetings, in the annual ~~town~~Town report, on the ~~town's~~Town's internet site and in any other media as the committee may from time to time designate.

### **Section 6-8 ~~=~~ Approval of Warrants**

The ~~town administrator~~Town Administrator shall be the chief fiscal officer of the ~~town~~Town. Warrants for the payment of ~~town~~Town funds prepared by the ~~town~~Town accountant in accordance with the provisions of the ~~general laws~~General Laws shall be submitted to the ~~town administrator~~Town Administrator or the Town Administrator's designee. The approval of any such warrant by the ~~town administrator~~Town Administrator shall be sufficient authority to authorize payment by the ~~town~~Town treasurer. If ~~the town administrator~~Town Administrator is ~~absent,~~ or ~~for other cause~~ cannot sign the warrant, the acting ~~town administrator~~Town Administrator shall have the authority to do so.



## ARTICLE 7: GENERAL PROVISIONS

### Section 7-1 ~~+~~ ~~—~~ Nominations and Elections

(a) Nominations ~~—~~ The number of signatures of voters required to place the name of a candidate on the official ballot for use at a ~~town~~Town election shall be not less than one- hundred ~~(100)~~ signatures. Nomination papers shall not contain the name of more than one ~~(1)~~ candidate.

(b) Elections ~~—~~ The articles in the warrant for every ~~town meeting~~Town Meeting, as far as they relate to the election of the ~~board of selectmen~~Select Board ~~—, school committee, moderator, planning board, School Committee, Moderator, Planning Board~~ and ~~housing authority~~Housing Authority, other ~~town~~Town officers, to referenda and all other matters to be acted upon and determined by ballot shall be acted upon and determined by the voters ~~in their respective precincts~~.

The regular ~~town~~Town elections shall be taken on official ballots without party or political designation on the date fixed in the ~~by-laws~~By-Laws of the ~~town~~Town.

### Section 7-2 ~~—~~ Charter Changes

The ~~charter~~Charter may be replaced, revised or amended in accordance with the procedures made available ~~by article~~Article LXXXIX ~~of the~~ ~~amendments~~ ~~to the~~ ~~constitution~~ ~~and~~ as provided for in ch. 43B, any ~~— legislation enacted to implement the said amendment.~~Home Rule Procedures Act, of the General Laws.

### Section 7-3 ~~—~~ Severability

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

### Section 7-4 ~~—~~ Specific Provisions Shall Prevail

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

### Section 7-5 ~~—~~ References ~~To~~ General Laws

All references to the ~~general laws~~General Laws contained in the ~~charter~~Charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement ~~of the~~ ~~general laws~~General Laws enacted ~~subsequent to the~~ ~~adoption of the~~ ~~charter~~Charter.

### Section 7-6 ~~—~~ Computation ~~Of~~ Time

In computing time under the ~~charter~~Charter, if seven ~~(7)~~ days or less, "days" shall refer to ~~business~~secular days and shall not include ~~—~~ ~~Saturdays~~, Sundays or legal holidays. If more than seven ~~—~~ ~~(7)~~ days ~~—~~ is noted, every day shall be counted.

### Section 7-7 ~~—~~ Definitions

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

~~(a) Charter~~ –

(a) Advisory Committee – shall mean the word "charter" Multiple Member Body appointed by the Moderator as described in Section 2-2.

(b) By-Laws – shall mean the By-Laws of the Town.

(c) Capital Planning Committee – shall mean the Multiple Member Body described in Section 6-6.

(d) Charter – shall mean this ~~charter~~ Charter and any amendments to it made through any of the methods provided under article LXXXIX of the amendments to the state constitution.

~~(a)(e) (b) Town~~ – the word "town" Commonwealth – shall mean the Town Commonwealth of Scituate Massachusetts.

~~(f) (c) Town Agency~~ – The words "town agency" Financial Forecasting Committee – shall mean any board, commission, committee, department or office the Multiple Member Body described in Section 6-7.

~~(b)(g) General Laws~~ – shall mean the general laws of the town government. Commonwealth.

~~(d) Majority Vote~~ – the words "majority vote" – shall mean a majority of those present and voting; (e)(h) provided that a quorum of the body is present.

~~(d)(i) (e) Voters~~ – Moderator – shall mean the word "voters" shall mean registered voters person elected to serve as the Moderator of the Town of Scituate as described in Section 3-3.

~~(e)(j) (f) Multiple Member Body~~ – The words "multiple member body" – shall mean any board, commission or committee consisting of two or more persons whether elected or appointed.

~~(k) (9) Policy~~ – the word "policy" – shall mean a statement of general purpose or a goal, from which specific administrative procedures or regulations may be developed.

~~(h) Personal pronoun~~ – the use of the words he/his him is intended to cover either male or female reference, whichever is applicable.

(l) School Committee – shall mean the persons elected to serve on the Multiple Member Body as described in Section 3-4.

(m) Select Board – shall mean the persons elected to serve on the Multiple Member Body as described in Section 3-2.

(n) Town – shall mean the Town of Scituate.

(o) Town Administrator – shall mean the person hired in accordance with the provisions of Article 4 responsible for the administration of the Town.

(p) Town Agency – shall mean any board, commission, committee, department or office of the Town government.

(q) Town Clerk – shall mean the person elected to serve as the clerk of the Town as described in Section 3-7.

(r) Town Meeting – shall mean any annual or special Town Meeting held by the Voters to conduct Town business.

(s) Voters – shall mean registered voters of the Town of Scituate.

## **Section 7-8 – Rules and Regulations**

A copy of all rules and regulations adopted by any ~~town~~Town agency shall be filed in the office of the Town Clerk and made available for review by any person who requests such information. Such rules and regulations shall become effective when filed or as otherwise provided by law.

## **Section 7-9 – Re-Enactment and Publication of By-Laws**

At intervals of not more than five (5) years, proposed revisions or recodification of the ~~by-laws~~By-Laws shall be presented to the ~~town-meeting~~Town Meeting for re-enactment. Immediately following the annual ~~town-meeting~~Town Meeting preceding the year in which such presentation is to be made, the ~~board of~~Select Board ~~selectmen~~ shall appoint a special ~~by-law~~By-Law review committee to prepare such revisions or recodifications. In reviewing the ~~by-laws~~By-Laws, the committee shall have the assistance of ~~town-counsel~~Town Counsel or a special counsel appointed for that purpose.

Within eight (8) months following appointment, the committee shall prepare a preliminary report and cause its report to be published ~~in a newspaper having general circulation within the town~~ as required by the General Laws or special mandate of the Commonwealth and posted to the Town website.

~~(1) A~~The report shall include (i) a summary of its recommendations; ~~(2)ii~~ the places where the complete report is available for inspection; and ~~(3)iii~~ the date (not less than two (2) weeks following such publication), time, and place of a public hearing to be held on the report.

Copies of revised ~~by-laws~~By-Laws enacted by the ~~town-meeting~~Town Meeting shall be made available for public distribution at the office of the ~~town-clerk~~Town Clerk.

## **Section 7-10 – Recall Petitions**

(a) Who can be Recalled – Any holder of an elective office, as defined in section 3-1(a), may be recalled there from by the voters as herein provided.

(b) Recall Petition – Any twenty-five (25) voters, of the ~~town~~Town may file with the ~~town clerk~~Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall. The ~~town-clerk~~Town Clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, printed forms of which shall be kept available. The blanks shall be issued with the signature and official seal of the

~~town clerk~~ Town Clerk attached thereto. They shall be dated, shall be addressed to the ~~board of selectmen~~ Select Board— and shall contain the names of all persons to whom they are issued, the name of- the person whose recall is sought, the grounds for recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the ~~town clerk~~ Town Clerk. The recall -petitions -shall -be returned -and -filed -with -the ~~town clerk~~ Town Clerk within -twenty (20) days following the date of the filing of the affidavit, and shall have been signed by at least fifteen percent (15%) of the voters of the ~~town~~ Town. Each voter who signs the petition shall also add the street and number, if any, of their residence.

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

(c) ~~Selectmen~~— Select Board's Action on -Receiving Petition — If -the -petition -shall -be found -and certified by the ~~town clerk~~ Town Clerk to be sufficient, it shall be submitted, with the certificate, to the ~~board of selectmen~~ Select Board— without delay. Upon its receipt of the petition and certificate the ~~board of selectmen~~ Select Board— shall forthwith -give -written -notice -of such -petition- and certificate to the officer sought to be recalled. If the officer sought to be recalled does not resign from office within five (5) days after delivery of the notice by the ~~board of selectmen~~ Select Board—, the ~~board of selectmen~~ Select Board— shall order an election of the ~~town~~ Town to be held on a date fixed by them not less than— ~~sixty-four~~— ~~thirty-five~~ (64) nor more than —~~seventy-four~~ (—74—) ~~forty-five~~ days after the date of the ~~town clerk's~~ Town Clerk's certificate that a sufficient petition is filed; provided, however, that if -any- other ~~town~~ Town election is to -occur -within -ninety (90) days -after -the -date -of -the certificate, the ~~board of selectmen~~ Select Board— shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(d) Nomination of Candidates — Any officer sought to be removed may be a candidate to be re-elected to the office, and unless the person being recalled requests otherwise in writing, the ~~town clerk~~ Town Clerk shall place the name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

(e) Incumbent Holds Office Until Election — The incumbent shall continue to perform the duties -of- the -office -until -the -recall -election. If -then -re-elected, -such -person- shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this section. If not re-elected in the recall election, such person shall be deemed removed upon the qualification of the successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

(f) Propositions on Ballot — Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

~~Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of the said propositions.~~— Under the proposition shall appear the word "candidates", ~~the directions to voters required in section 42 of chapter 54 of the General laws~~, and beneath this the names of candidates nominated as herein before provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate

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

~~(g) Repeat of Recall Petition — No recall petition shall be filed against an officer within three months after taking office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least three months after the election at which the recall was submitted to the voters.~~

~~(h) Appointment of Person Recalled—~~

~~(g) Appointment of Person Recalled —~~ No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against them, shall be appointed to any ~~town~~Town office within two ~~(2)~~ years after such recall or such resignation.

## **Section 7-11 — Procedures**

(a) In General — All ~~multiple member bodies~~Multiple Member Bodies, whether elected or appointed, shall conduct their meetings as provided by the ~~general laws~~General Laws, with respect to prior posted notices, quorums, use of executive sessions, maintenance of records, and the public availability of those records. Upon being sworn in, each person elected or appointed to such a body shall be given a copy of the applicable laws by the ~~town clerk~~Town Clerk.

(b) Agendas — At least ~~— forty-eight (48) — 24 —~~ hours, ~~or as required by the General Laws or special mandate of the Commonwealth,~~ before each meeting of a ~~multiple member body, it~~Multiple Member Body, such committee shall post an agenda of all matters on which it will act at that meeting on the ~~— town Town~~ bulletin board(s). No action taken on a matter not on the posted agenda shall be valid, unless such body first adopts, by a separate vote, a resolution declaring that an emergency exists and that action must be taken for the immediate preservation of peace, health, safety, or convenience of the ~~town~~Town.

(c) Rules — Each ~~multiple member body~~Multiple Member Body shall determine its own rules and order of business unless otherwise provided in the ~~by laws~~By-Laws.

(d) Voting — Except on procedural matters, all votes of ~~multiple member bodies~~Multiple Member Bodies shall be taken by calling the roll and recording the ayes and nays in the minutes. If, however, a vote is unanimous, only that fact need be recorded.

(e) Petitions for Meetings — Should a ~~multiple member body~~Multiple Member Body fail to hold a meeting within a reasonable time, based on its normal schedule, or persist in refusing to consider a matter requested of it by a citizen, any fifty ~~(50)~~ voters or one-third ~~(1/3)~~ of the members of that body may deliver a petition, calling for a special meeting and stating the purpose for which it is to be held, to the ~~town clerk~~Town Clerk who shall promptly post notice of the meeting, to be held within seven ~~(7)~~ days, and so notify the members of that body in writing. In the case of an appointed body, if such meeting then fails to take place for lack of a quorum, any fifty ~~(50)~~ voters or one-third ~~(1/3)~~ of its members may petition its appointing authority to declare vacant the offices of the absent members.

## **Section 7-12 — Removals ~~And~~ Suspensions**

Any appointed officer or full-time salaried employee of the ~~town~~Town, not subject to the provisions of the ~~state~~Commonwealth civil service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for ~~good~~ cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed officer or full-time salaried employee of the ~~town~~Town may be suspended from office by the appointing authority if such action is deemed by them to be necessary to protect the interests of the ~~town~~Town. Suspension may be conterminous 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 or employee shall act in accordance with the following procedure:

(a) A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered by registered mail to the last known address of the person sought to be removed.

(b) Within five (5) days of delivery of such notice the officer or employee may request a public hearing at which ~~he~~they may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

(c) Between one (1) and ten (10) days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six (6) and fifteen (15) days after delivery of the notice of the intent to remove. ~~the~~The appointing authority shall take final action either removing the officer or employee or notifying ~~him~~them that the notice is rescinded.

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 ~~his~~their original term expires. The action of the appointing authority in suspending or removing an officer or employee under this section shall be final.

**Section 7-13**     ~~=~~  
**Vacancies**

A vacancy occurring in any office shall be filled in the manner provided by ~~statute~~the General Laws, except as provided elsewhere in the ~~charter~~Charter or by ~~by-law~~.

By-Law.

## ARTICLE 8: TRANSITIONAL PROVISIONS

### SECTION 8-1: CONTINUATION OF EXISTING LAWS

All General Laws, special laws, ~~town-by-laws~~Town By-Laws, and rules and regulations of or pertaining to Scituate that are in force when this revised ~~charter~~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.

In any case in which the provisions of this ~~charter~~Charter are found to be inconsistent with the provisions of any general or special law which would otherwise be applicable, the provisions of this ~~charter~~Charter shall be deemed to prevail. Every inconsistency between the prior law and this ~~charter~~Charter shall be decided in favor of this ~~charter~~Charter.

### SECTION 8-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All ~~town~~Town agencies shall continue to perform their duties until re-elected, re-appointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another ~~town~~Town agency.

### SECTION 8-3: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the ~~town~~Town before the adoption of this ~~charter~~Charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the ~~town~~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~~Charter; and no legal act done by or in favor of the ~~town~~Town shall be rendered invalid by reason of the adoption of this ~~charter~~Charter.

### SECTION 8-4: TIME OF TAKING EFFECT

~~(a)~~ This ~~charter~~Charter shall take effect upon its ratification by the voters and in accordance with the following schedule:—

~~1. Until such time as the town meeting acts, by by-law, to amend, to repeal, or to revise their provisions, the following shall have the force and effect of town by-laws:~~

(a) Time of meetings

~~The~~Saturday Town  
~~Meetings~~

~~By-Laws control when the annual~~Notwithstanding the provisions of section 2-3 of the Scituate Home Rule Charter, or of any by-law adopted in implementation of the authority of said provision, beginning in the year 2004 the Annual Town Meeting shall convene. Special Town Meetings shall be convened at such times at may be called for~~by the first Saturday in March.~~

~~Select Board~~No vote to change the date of the annual town meeting to a date other than the first Saturday in March shall take effect earlier than the date for the annual town meeting in 2005, or any subsequent year.

~~No vote to change the date on which the annual town meeting is to meet (from the first Saturday in March to any other date) shall be effective unless it is adopted at a session of an annual town meeting.~~



Zero Quorum Requirements

~~by petition of registered voters necessary to be present to conduct any session of the annual town meeting in the years 2004, 2005 and in 2006 shall be valid. It is the intention of this provision that the annual town meeting in said years shall be conducted with a, so-called, zero quorum requirement.~~

The town may, as provided in Scituate Home Rule Charter section 2-5(b), adopt a by-law to establish a quorum requirement for special town meetings held in said years by law, or at such other time or times as may be provided by By-Law of the Town.

~~No vote to change or to establish the number of voters necessary to constitute a quorum to do business at an annual town meeting other than zero shall take effect earlier than for the annual town meeting in 2007, or any subsequent year.~~

Internet Responsibility

~~It shall be a duty of the chairperson of every multiple member body of the town, whether such multiple member body is elected or appointed, to assure that the agendas for meetings, the minutes of meetings, the notices and other information relating to the affairs of the multiple member bodies are sent in electronic format to the webmaster of the town web site for posting in a timely manner.~~

2. The person serving in the office of treasurer-collector when this charter revision is adopted shall continue to serve in such office for the balance of the term for which such person was elected. At the expiration of such term, or earlier if a vacancy should otherwise occur in the said office, the position shall become an appointive office. It is the intention of this provision that the person serving in such office at the time the change takes place should, without formal application, be considered an applicant for appointment for such position

3. The provisions of section 5-6 of the revised charter shall take effect on July 1, 2004. It is the intention of this delay to allow a sufficient time period for the board of selectmen and the school committee to meet and amicably agree on an arrangement and method for the centralization of the building and grounds maintenance functions.

~~I hereby certify the~~

~~foregoing to be~~

~~a true copy.~~

Barbara J. Maffucci, Town Clerk, C.M.C.

**Section 8-5: Town Meeting Quorum**

Town By-Laws shall define quorum requirements for annual and special Town Meetings.