

FAIRHAVEN CHARTER COMMITTEE MINUTES
September 9, 2021

MEMBERS PRESENT : Lillia Cabral-Bernard, Kyle Bueno, Morgan Dawicki ,Kevin Gallagher , Robert Grindrod, Ronnie Medina , Cathy Melanson, Brendalee Smith, Mark Sylvia, Marybeth Vargas

Members Absent: None

Others Present: Fairhaven Public TV

The meeting was called to order by Mr. Bueno, acting chair at 6:30 PM.

Pledge of Allegiance

There was a roll call of committee members.

Ms. Cabral-Bernard, Mr. Bueno, Mr. Dawicki, Mr. Gallagher, Mr. Grindrod, Mr. Medina, Ms. Melanson, Ms. Smith, Ms. Vargas

Introductions by each committee member , giving a brief overview of themselves to other committee members.

Mark Sylvia , Town Moderator gave a brief overview of previous committees charged with studying town government, once in 1987 and most recently in 2013.

Reorganization of Committee:

Discussion and vote on reorganization of committee:

Chair: nomination for Mr. Bueno made by Ms. Melanson ,seconded by Ms. Cabral-Bernardo. Mr. Bueno accepted the nomination. Roll call vote. Approved 9-0, unanimously

Vice Chair: Ms. Melanson nominated herself ,seconded by Ms, Cabral-Bernard. Ms. Melanson accepted the nomination. Roll call vote. Approved 9-0 , unanimously

Recording Secretary: Ms. Vargas nominated herself , seconded by Ms. Smith. Ms. Vargas accepted nomination.

Roll call vote. Approved 9-0 unanimously.

Public Comment: Discussion opened up by Mr. Bueno regarding public comment. He would like the committee to consider creating an opportunity for anyone to speak at every meeting ,for 2 minutes. Also recommendation is that this should be done at the start of committee meetings. Concerns brought forth from Ms. Smith regarding time constraints if 30 people spoke utilizing the 2 minutes , it would take 60 minutes prior to meeting even starting. Some other committee members feel it would be unlikely that 30 people will be attending meetings.

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Other suggestions involved establishing email that the public could utilize prior to meetings to ask questions, adding extra meetings for Q&A sessions if needed. Discussion regarding whether to limit comments to agenda or not.

Mr.Sylvia added it is good standard operating procedure to allow the public to speak for 2 minutes each and it is often limited to agenda.Often questions are emailed to committee. Committee agrees at this time Public Comment will be at the beginning of the meeting and limited to 2 minutes per person.

Discussion on the charge of the Charter Committee presented by Mark Sylvia , Town Moderator. Mr.Sylvia states it was voted at the annual town meeting on Article 48:Petitioned by citizens , 139 in favor , 32 opposed ,to create a charter committee. The committee is charged to make a report in 2022 at annual town meeting , or later if work is not completed .If more time is required then the town moderator can grant an extension.Mr. Sylvia suggests at the minimum the committee needs to work with due diligence to create a charter reflecting what currently exists and ultimately have recommendations to modernize and ultimately what best serves the community.

Discussions from committee members ensued regarding not rushing through such an important task, getting town, community support ,allowing adequate time to do research and whatever else is needed to complete the charter. It was suggested the committee should present a report of where we are at the annual town meeting and to work with the town moderator to determine if more time is needed.

Discussion and vote on the 9 values/expectations of the committee opened by Mr.Bueno. Each member shared values they feel are important to the committee.The following are the 9 values.

1. For all to keep an open mind and find common ground
2. Respect for ourselves and community
3. Best interest of the town
- 4.Listen to understand
5. Complete transparency
6. Should be accessible to everyone
7. Ensure public engagement, encourage public to come to meetings
8. Engage community, open communication
9. Openness among committee members,being together as a group and transparent with each other.

Also brought up by Ms.Melanson to have the goal to keep meetings to 2 hours or less.

Motion to approve 9 values by Ms.Melanson , seconded by Ms.Cabral-Bernard.

Roll call vote. 9-0 approved unanimously.

Discussion and possible timeline for Charter Committee. Recommendations for no vote at this time. Will need time for public engagement, interviewing department heads , and speaking with other communities that have gone through the process. Some members expressed that it is going to be a long process and it will be difficult at this time to know what a timeline for completion will look like.

Discussion on consultant for committee. Mr. Bueno distributed letters/information from the Collins Center , a consulting group. Possibly presenting at the next meeting. Mr. Grindrod feels consultants are not necessary and that the committee could do bulk of work, using resources available to the group. Ms. Cabral-Bernard brought up there may be language issues and may want to utilize town council as a resource. Also wonders if a proposal for a consultant may need 3 quotes. Consensus is that the group may want to wait for a consultant , using town council until further along in the process.

Upcoming Events

Meetings every other Thursday at 6:30 PM

Next meeting is September 23rd at 6:30 PM with a backup date of September 30th.

Other Business

Review documents that were sent to each member by Mr. Bueno for questions and discussion at next meeting

Possibility of contacting other communities regarding how they establish charters for their towns. Mr. Gallagher offered to contact someone he knew in Dartmouth that worked on a charter committee. Ms. Cabral- Bernard recommended getting the DOR report.

Recommended we also review the Open Meeting Laws sent to the group by Mr. Sylvia. Possibly have the town clerk attend a meeting and review the do's and don'ts regarding open meetings. Mr. Gallagher brought up at some point we may get some negative responses and it's important how the group responds to this. Best practice not to send or post information on our private pages/emails and to allow the chair to be the voice of the committee.

Mr. Bueno agrees he will be there to answer comments and does not respond to facebook . He will let the committee know if there are any issues.

Discussion continued that the group should hold ourselves to higher standards , envision email using town's website

Motion to adjourn made by Mr. Bueno, seconded by Ms. Cabral-Bernard. Approved 9-0 unanimously.

Adjourned at 8:29 PM.

Marybeth Vargas
Recording Secretary to Charter Committee



MASSACHUSETTS COMMUNITIES OPERATING UNDER HOME RULE CHARTERS

(prepared and adopted under provisions of the Home Rule Amendment and M.G.L., c. 43B)
as of 5/2008

CITIES:

MAYOR - COUNCIL MANAGER+

Agawam (1)
Amesbury (2)
Attleboro
Beverly
Easthampton (2)
Gloucester
Greenfield (2) (3)
Leominster (2)
Lynn
Methuen (1) (2)
Newton
West Springfield
Weymouth

COUNCIL - MANAGER*

Barnstable
Franklin (2)
Palmer (2)
Southbridge (2)
Watertown
Winthrop
Worcester

TOWNS:

REPRESENTATIVE TOWN MEETING - SELECTMEN -

Auburn	Dedham	<i>Plymouth (7)</i>	Swampscott
Billerica (2)	Falmouth	Reading	Walpole
Chelmsford	Natick	Stoughton	Winchester
Dartmouth			

OPEN TOWN MEETING - SELECTMEN - MANAGER+

<i>Abington (7)</i>	Hudson	Northborough	Townsend
Acton	Longmeadow	Northbridge	Truro
Acushnet	Lunenburg	Norton	Uxbridge
Ashland	Lynnfield	Norwell	Wakefield
Athol (5)	Mansfield	Orleans	Ware
Bedford	Marshfield	Oxford	Wareham
Bellingham	Mashpee	<i>Palmer (6)</i>	Webster
Blackstone	Maynard	Provincetown (2)	Wellfleet
Bourne	Medfield	Rockland (4) I	Westborough
Chatham	Middleton	Salisbury	Westwood
Dracut	Millbury	Scituate	Winchendon
Eastham	Millis (4)	Seekonk (5)	
Easton	Nahant	Stow	
Grafton	North Andover	Sturbridge (2)	
Harwich	North Reading	Sutton	
Hopkinton			

* Council-manager form most often associated with CITY government; however, the communities listed here, with the exception of Worcester, identify themselves as towns.

+ "Manager" is used here as a generic title, connoting a professional administrative position of similar responsibility, e.g., town administrator, executive secretary, town executive, town coordinator, etc.

NOTES:

(1) AGAWAM originally adopted council-manager charter in 1971; in 1988, town secured passage of a special act replacing the manager with an elected mayor (2 year term). The first mayor took office in 1989. METHUEN amended its charter in November, 1992 by special act and in November, 1993 elected a mayor (2 year term) to replace the appointed manager. Mayor assumed office January, 1994.

(2) had previously adopted home rule charter.

(3) Greenfield elected a mayor and council in **2003**; prior charter provided for election of a five-member board of selectmen, a town council, and appointment of a manager.

(4) charter does not provide for a management position, although all towns referenced subsequently created such a position.

(5) Seekonk revised its representative town meeting charter in 1995, Webster adopted a second charter in 1992, and Athol adopted a home rule charter in 2000; these towns returned to open town meeting.

(6) replaced by council -manager charter, effective 1/2005

(7) replaced home rule charter with special act charter, 2004

COMMISSIONS IN PROCESS: Saugus, Barnstable elected 11/07; South Hadley elected 4/08;

Sharon elected 5/08; Palmer elected 11/08 (special legislation required for Palmer election)



Local Charter Procedures



William Francis Galvin
Secretary of the Commonwealth

Elections Division
One Ashburton Place, Room 1705
Boston, MA 02108-1512
617-727-2828 or 800-462-8683



1995

Part One

Introduction

Local Charter Procedures for Organizing Local Government in Massachusetts Cities and Towns

This booklet may be of help to citizens who want to change the form, structure and organization of their local government. It is not a detailed legal treatise, although it may be useful to lawyers. Legal citations have been included after each section for easy reference.

The booklet explains the procedures which may be used to adopt or change local charters. For information and advice about the content of a charter, contact the Office of Planning & Management, Executive Office of Communities and Development, 100 Cambridge Street, Boston 02202, phone (617) 727-3253.

The Elections Division of the Office of the Secretary of the Commonwealth offers information and informal assistance to any citizen about the procedures in this booklet, at One Ashburton Place, Boston 02108, phone (617) 727-2828 or 800-462-8683.

What is a Local Charter ?

In this booklet, the term "charter" refers to the basic provisions which set up the form, structure, and organization, including the powers and duties of the important officials, of a city or town government in Massachusetts. The charter is the "constitution" of the city or town.

Any ordinances or bylaws which are passed by the local legislative body must be consistent with the charter.

- **Ordinances or bylaws cannot be used to change the composition, mode of election or appointment, or terms of office of the local legislative body, the mayor, the selectmen, or the city or town manager. These changes can only be accomplished by modifying the charter using certain procedures discussed in this booklet.**

Legal references:

- Mass. Const. amend. art. 2, as appearing in amend. art. 89 (the Home Rule Amendment, which will be referred to as "HRA"), § 6;
- M. G.L. ch. 4, § 7(5); ch. 43B, § 13.

What Kinds of Charters Are There ?

There are four different kinds of charters. They differ mostly in the way they are or have been obtained by the cities and towns.

1. Home Rule Procedures

Since the Home Rule Amendment to the state constitution was adopted in 1966, cities and towns have been able to adopt home rule charters through the method outlined in Part Two of this booklet.

2. Special Act Charters

Traditionally, the state Legislature has passed special laws for a city or town which wants to obtain a charter. This method is still available, and is described

in Part Three of this booklet. (Note, however, that if special laws governing a city or town were passed after 1966 they are not always considered "charters".)

3. "Plan" City Charters

Before 1966, some cities accepted one of the "plan" city charters which the state Legislature made available (Plans A, B, C, D, E, or F). These plan charters may now be adopted or changed only by the methods in Parts Two and Three of this booklet.

4. Standard Representative Town Meeting

Similarly, between 1931 and 1966, the state Legislature made available for local acceptance the standard form of representative town meeting government. Like plan charters, this can now be adopted or changed only by using the methods in Parts Two and Three of this booklet.

Cities and towns may change their charters by using the methods in Part Two or Part Three of this booklet, regardless of which method was originally used in adopting their charter.

Legal references:

- Home rule charters: HRA §§ 2, 3, 4; G.L. ch. 43B.
- Special act charters: HRA § 9; G.L. ch. 4, § 7 (5); ch. 43B, § 19.
See *Opinion of the Justices*, 356 Mass. 761, 250 N.E. 2d 428 (1969).
- "Plan" city charters: G.L. ch. 43; ch. 43B, § 18.
- Standard form of representative town meeting government:
M. G.L. ch. 43A; ch. 43B, § 18.

Non-Charter Forms of Local Government

The following two forms of local government function like charters in some ways, but they are not considered "charters" in this booklet:

General Laws

Some towns which have no "charter" as the term is used here, are allowed to govern simply by using the Massachusetts General Laws which pertain to local government, together with various acceptance statutes and the town bylaws. However, every city must have a charter.

Optional Plans

The state Legislature can establish optional plans of local organization and government for adoption by the voters of a city or town. Boston voters have accepted one such plan—for district representation on their city council and school committee.

Legal References:

- General laws on local government: G.L. ch. 39, 41, etc.
- Optional plans: HRA § 8; G.L. ch. 43, §§ 128-134; G.L. ch. 43C §§ 1-15.
- Definition of "charter": G.L. ch. 43B, §§ 18, 19; Special Commission on Implementation of the Municipal Home Rule Amendment, Eighth Report, S. Doc. 1547, at 13-15 (1967). See Board of Selectmen v. Town Clerk, 370 Mass. 114, 345 N.E. 2d 699 (1976).

How Can A Local Charter be Changed ?

In general, the four kinds of charters can now be adopted or changed only by the two methods described in this booklet: Each method has advantages and disadvantages.

The Home Rule Charter Method

The home rule charter method permits greater local autonomy, but it can take more time.

There are some limitations on the contents of a home rule charter, which do not apply to the special act charter.

The Special Act Charter Method

The special act charter method can be faster, but it requires approval by the state Legislature.

Using either method, towns must have a population of at least 12,000 in order to adopt a "city" form of government; and must have at least 6,000 to adopt a "representative" town meeting. Consult the full descriptions of these methods in Parts Two and Three.

Legal References:

- *Two methods: Board of Selectmen v. Town Clerk*, 370 Mass 114, 345 N.E. 2d 699 (1976); *Marino v. Town Council*, 7 Mass. App. Ct. 461, 388 N.E. 2d 334 (1979).
- *City and town limitations: HRA, § 2, 8. See Chadwick v. Scarth*, 6 Mass. App. Ct. 725, 383 N.E. 2d 847 (1978).

Part Two

The Home Rule Charter Method

A city or town may adopt or change a charter without action by the state Legislature by using one of the two, home-rule charter procedures:

- adoption or revision, or
- amendment.

However, with either of these procedures there are content limitations which are not encountered using the Special Act method described in Part Two.

Content Limitations

Provisions adopted or changed must be consistent with laws passed by the state Legislature. However, most provisions concerning local government structure, officers, terms, and method of selection are automatically consistent with state law.

Unless the state Legislature expressly approves, no charter provision adopted or changed using the home rule charter method may:

- regulate elections (other than those involving these home rule charter procedures, themselves)
- levy, assess, or collect taxes

- borrow money or pledge the credit of the city or town
- dispose of park land
- govern civil relationships (such as those between landlords and tenants) except incidentally to an independent local power
- define and punish a felony, or impose imprisonment as a punishment

Within these limitations the adoption or revision procedure may be used either to adopt a new charter or to change a current charter or "special act" (unless the special act specifically provides otherwise), while the amendment procedure may be used to change a current charter or "special act" (unless the special act specifically provides otherwise).

Further, the amendment procedure may not be used to change the composition, mode of election or appointment, or terms of office of the local legislative body, the mayor, the selectmen or the city or town manager. A provision prohibiting dual office holding does not constitute a change in the mode of election of a town officer.

A charter adopted by home rule may provide:

- that any particular local office be elected or appointed (except a board of selectmen, school committee, moderator, or members of legislative body who must be elected);
- for the term of office to be served by any local elected officer, provided that no term shall be more than five years;
- for the merger of two or more local offices; or
- for the powers and duties of one office to be divided and exercised by two or more offices.

If a town wishes to elect a new board or officer, increase/decrease the number of members of a board, or fix the term of office of town officers, it can do so in accordance with chapter 41, §2, without using these procedures to amend its charter.

Legal References:

- Home rule charter method generally: HRA § 2; G.L. ch. 43B, §2.
- Consistent with state law: HRA § 2; G.L. ch. 41, § 1; ch. 43B, § 20.
See Anderson v. City of Boston, 376 Mass. 178, 380 N.E. 2d 628 (1978),
appeal dismissed, 439 U.S. 1060 (1979); *DelDuca v.*
Town Administrator, 368 Mass. 1, 329 N.E. 2d 748 (1975);
Bloom v. City of Worcester, 363 Mass. 136, 293 N.E. 2d 268 (1973).
See also Brown, Home Rule in Massachusetts: Municipal Freedom and
Legislative Control, 58 Mass. L.Q. 29 (1973).
- Express state approval required: HRA § 7.
- "Adoption or revision" procedure: HRA § 3.
- "Amendment" procedure: HRA § 4. Charter consistent with other laws: G.L. ch. 43 B, § 20
- Amending charter by general law: *Hayden v. Town of West Springfield*, 22 Mass. App. Ct. 902 (1986) *Harrington v Board of Selectmen*, 379 Mass. 652 342 N.E. 2nd 703 (1976) *Medeiros v. Board of Election Commissioners*, 376 Mass. 286, 291, 325 N.E. 2d 579 (1975)

Adoption or Revision Procedure

This is a rather complex, lengthy procedure. It can take two years to implement in a city and at least a year in most towns. It requires

- petitioning for a question to local voters,

- election of a charter commission to propose a charter or revision, and then
- approval of the proposal by local voters.

The steps outlined on the following pages are summarized in a chart on page 10 in the section titled "Adoption or Revision Procedure".

Step One

Petition to place the question on the ballot by collecting signatures, having the registrars certify them and file their report with the correct official.

To ensure that the question will appear on the ballot in a particular local election, it is advisable to file an adoption or revision petition with the local registrars of voters at least 100 days before that election. (Because of the flexibility in the amount of time needed for various official actions on the petition, the question might appear on the ballot if the petition is filed as late as 68 days before the election.) The petition must contain the signatures of 15% of the number of registered voters in that city or town at the time of the last state election.

Blank petition forms should be obtained in ample time from the city or town clerk or election commission to allow for adequate circulation before the filing deadline. Explicit signing instructions accompany the blank forms. Blank petitions may be photocopied if additional petitions are needed.

After collecting their signatures, the petitioners file the completed petition with the registrars. All the sheets of the petition need not be filed at the same time, but the petitioners must notify the registrars in writing when their filing is complete. The registrars, within ten days after the completed petition is filed, must certify the signatures and report the results to the city council or the board of selectmen by filing their report with the city or town clerk. Within two working days after the registrars make this report, any local registered voter may challenge the petition by filing a written objection. This objection procedure is fully described in Appendix I.

Within thirty days after the registrars have filed their certification report, showing that the petition is in proper form, the city council or board of selectmen must order the question to be submitted to the voters. This order is not subject to a referendum and, in a city, does not require the mayor's approval. The question will then appear on the ballot at the next regular (not special) local election which occurs at least 60 days after the order of the local body. Should the council or selectmen fail to act, then the question will automatically appear at the next regular election which occurs at least 90 days after the report was filed.

The question to be asked for a community which has never adopted a home rule charter is:

"Shall a commission be elected to frame a charter for
_____ (Name of community)"

For the community which already has a home rule charter, the question is:

"Shall a commission be elected to revise the charter of
_____ (Name of community)"

If the question passes, the city or town clerk notifies the state Department of Community Affairs. That department will then inform the newly elected charter

commission of the dates for submitting its reports and for placing its final report on the ballot (see steps two and three).

The candidates for charter commissioner, who will take office if the question passes, appear on the same ballot (see step two below).

Legal References:

- Form of petition and signatures: G.L. ch. 43B, § 15.
- Filing procedure: HRA § 3; G.L. ch. 43B, § 3.
- Objections: HRA § 3; G.L. ch. 43B, §§ 3, 4; ch. 53, § 11; ch. 55B, § 7.
- Ballot question: HRA § 3; G.L. ch. 43B, §§ 4, 6.

AGENDA OF EVENTS		
ADOPTION OR REVISION PROCEDURE BEFORE THE ELECTION OF A CHARTER COMMISSION		
TIME	EVENT	EXTRA PROCEDURE
ample time	obtain & circulate charter petitions	
	obtain & circulate nomination papers	
100 days before election	file charter petitions with registrars for certification	Notify registrars in writing when filing is complete
by ten days after petition is filed	registrars file certifi- cation report with officials	
within 2 working days after certi- fication report dead- line	local registered voter may file written objection	
within 30 days after certification report filed	officials order question submitted to voters*	
42 days before election by 5:00 p.m.	submit commission nomination papers for certification	
next regular elec- tion occurring at least 60 days after order by local officials	charter question and charter commission candidates submitted to voters	
* If community officials fail to order question submitted to the voters then the question and commission candidates will automatically appear on the ballot at the next regular election which occurs at least 90 days after the charter certification report was filed.		

Step Two

Nominate, elect and organize a commission to prepare the text of the charter or revision for submission to the local council or selectmen.

At the same local election in which they vote on the ballot question, the voters also elect nine candidates to the charter commission which will prepare the charter or revision if it is mandated.

Since these candidates must go through the normal process of filing nomination papers by deadlines which precede the election, they should begin circulating their papers almost as soon as the charter petitions are being circulated.

For a charter commission candidate's name to appear on the ballot, the nomination papers must be submitted to the registrars for certification by 5:00 p.m., 42 days before the election. Most of the other procedures and requirements for filing nomination papers are the same as those for any local office. Further instructions and deadlines are printed on the official nomination paper forms which are available only from the clerk or election commission.

The number of registered voter signatures required on a charter commission nomination paper is directly related to the total population of a community:

<u>POPULATION</u>	<u>REQUIRED SIGNATURES</u>
less than 6,000	10
6,000—11,999	25
12,000—49,999	50
50,000—99,999	100
100,000 or more	200

On election day, each voter may vote for nine candidates. Even a voter who votes against establishing the charter commission may vote for candidates. The nine who receive the highest numbers of votes become charter commissioners if the ballot question wins.

The commission's funding, administrative support, duties and even its calendar of action are detailed in the General Laws. Commissioners serve without pay, but are reimbursed for expenses. Once elected, they must promptly elect a chairman, vice-chairman and clerk and notify the city or town clerk. Whenever a vacancy occurs, by death, resignation, a member's ceasing to be a registered voter, or if there is a failure to elect, or any other vacancy, the commission must fill it by majority vote.

The commission must hold a series of public hearings and prepare both preliminary and final reports on the proposed charter or revision, all within specified times (see Calendar of Action below); both reports must include the text of any proposed charter or charter revision and any explanatory information. Both reports must be furnished to the Department of Community Affairs and the Attorney General. The Attorney General must furnish the commission a written opinion setting forth any conflict between the proposed charter and the constitution and laws of the Commonwealth. In addition, the opinion is also sent to the Department of Community Affairs. The final report includes any comments, a comparison between the proposal and the current charter, and any

minority report which has been furnished to the commission chairman within two days after the final report has been approved.

Legal References:

- *Nomination and election:* HRA § 3; G.L. ch. 43B, § 6; ch. 53, § 7.
- *Organization, vacancies, pay:* G.L. ch. 43B, § 7.
- *Funding and administration:* G.L. ch. 43B, § 8.
- *Hearings and reports:* HRA § 3; G.L. ch. 43B, §§ 9, 10.

Charter Commission Calendar of Action

Time Elapsed	Required Action
1. within 45 days after election	<ul style="list-style-type: none"> • hold a public hearing
2. within sixteen months after election (may be accomplished within eight months in most towns)	<ul style="list-style-type: none"> • publish a preliminary report in a local newspaper • make the report available to any registered voter who requests it • Send two copies each to the state Attorney General and state Executive Office of Communities and Development.
3. within four weeks after publication of preliminary report	<ul style="list-style-type: none"> • The Attorney General shall furnish the commission with a written opinion which sets forth any constitutional conflict • hold a second public hearing
4. within four weeks after having received the preliminary report	<ul style="list-style-type: none"> • Attorney General provides legal opinion of the proposal
5. within eighteen months after the election (may be accomplished within ten months in most towns)	<ul style="list-style-type: none"> • submit final report to city council or board of selectmen • send copies to state Attorney General and Executive Office of Communities and Development

Step Three:

Submit commission's plan to local voters for approval; supply required copies for records and for the public.

If the final report of the charter commission recommends a new charter or charter revision, it must then be approved by the local voters. This would occur at the first regular (not special) local election two months or more after the report is submitted. This election is usually one year (in most towns) or two years (in cities) after the one in which the commission was elected.

The question to be asked is:

" Shall this (city or town) approve the (new charter or charter revision) recommended by the charter commission summarized below? "

A brief summary of the significant provisions, prepared by the charter commission, follows on the ballot.

By at least two weeks before the election, the city council or board of selectmen must distribute a copy of the charter commission's final report to each residence where registered voters live. Copies must also be made available in the office of the city or town clerk or election commission.

The city council or board of selectmen may not use public funds to solicit a "yes" or "no" vote on the new charter or charter revision.

If at the election the question receives more "yes" votes than "no" votes, it will take effect on the day specified in the charter. (If two or more alternative plans are submitted, and both receive a majority of "yes" votes, only the one with the higher number of "yes" votes takes effect.)

Copies of the new charter or charter revision and the clerk's certification of its approval must be sent to the local archives, the Secretary of the Commonwealth (Archives Division), the Attorney General, and the Secretary of Communities and Development. At least every ten years, the city council or board of selectmen must reprint the city or town's current charter and make it available to the public, at cost.

Legal References:

- HRA § 3; G.L. ch. 43B, §§ 10, 11, 12

Step Four:

Resubmitting a defeated plan or the "optional" charter procedure.*

* There is some doubt about the constitutionality of this procedure since it is not provided in the state constitution.

If a new charter is defeated at the election, but at least 35 percent of the voters voting on it voted "yes", then ten percent of the registered voters may petition to resubmit it at another regular local election in two years. The statute is not specific about when this petition must be filed, but at least two months before the election would allow a reasonable time for petition certification and ballot preparation. The city or town council or board of selectmen must make the appropriate changes in the dates which were mentioned in the original proposal.

Legal Reference:

- M.G.L. ch. 43B, § 12A.

Amendment Procedure

The amendment procedure, unlike the charter adoption or revision procedure just described, can be used to change an existing charter or special act. It is subject to the same content limitations as the adoption or revision procedure (See page 10) and further, it cannot be used to change the composition, mode of election or appointment, or terms of office of the local legislative body, the mayor, the selectmen or the city or town manager.

Step One.

The amendment must be proposed by a two-thirds vote of the local legislative body (the city council or board of aldermen of a city, and the town meeting or town council of a town).

In a city which has a popularly elected mayor as its chief executive, the mayor must also approve of any proposed amendment.

Note that although the amendment must be proposed by the local legislative body, the law also allows it to be suggested to that body by certain local officials or through a petition process. The local body must go through extra steps before it can vote to approve such a suggested amendment. (See page 15.)

Step Two.

The next step is to file copies of the proposed amendment with the state Department of Community Affairs and to submit copies to the Attorney General, who must render a legal opinion about the proposed amendment within four weeks. If this opinion is unfavorable, the amendment cannot be proposed to the voters unless the local legislative body approves a proposal again by a two-thirds vote. (The Department of the Attorney General takes the position that this second approval must incorporate the changes required by the unfavorable opinion.)

Step Three.

The final step in the charter amendment procedure is to submit the proposed amendment to the voters of the city or town. This is done at the first regular (not special) local election at least two months after the proposed amendment becomes final (either four weeks after the initial vote of the local legislative body if the Attorney General's report was favorable, or after the second approval vote, if the report was unfavorable.)

The question which appears on the ballot is:

"Shall this (city)(town) approve the charter amendment proposed by the (name of local legislative body) summarized below?"

A brief summary, prepared by the city solicitor or town counsel, follows on the ballot.

Step Four.

The requirements for publication and distribution to voters' households (of the full text of charter amendments), and for sending certified copies of approved amendments, apply to these charter amendments just as they do to new charters or charter revisions, as described on page 18.

Legal references:

- HRA § 4; G.L. ch. 43B, §§ 10, 11, 12.

Special Steps for Suggested Amendments

A suggested amendment may be filed in writing by the mayor, the city or town manager, any city councillor, or any selectman. Or, it may be made by petition filed with the city or town clerk or election commission, in the same form as the petition for the adoption or revision of a charter as described on page 9.

A petition for a suggested amendment must be signed by ten registered voters in a town, and by the number required to sign a charter commission nomination paper (page 11) in a city. The suggested amendment cannot have already been considered by the local legislative body within the last twelve months.

Within three months after the suggested amendment is filed, the city council or board of selectmen must order a public hearing to be held before it or its committee. The hearing must occur within four months after the filing, and the public must be given at least seven days' prior notice in a newspaper.

Finally, the local legislative body must vote in the usual way whether or not to approve the proposed amendment. In a city, this action must take place within six months after the suggestion was filed; in a town, it must occur either by the first annual town meeting held at least six months after the filing date of the petition, or earlier in a special town meeting called for that purpose through the usual petitioning procedure.

If the amendment is approved by the local legislative body, it must go through the normal steps (2-4) to be submitted to the voters as described above.

Legal Reference:

- M.G.L. ch. 43B, § 10(6).

Part Three

The Special Act Charter Method

A city or town may adopt or change a charter or special act by requesting the state Legislature to pass a special law. To do so, at least two steps are required:

- local approval and
- state legislative action

By tradition, a third step is usually added:

- Acceptance by the voters of the city or town

Local Approval

With a few narrow exceptions, the state legislature must obtain local approval before it can pass a special law relating to a single city or town. The local approval may be general, but it should be specific if the city or town wishes to limit the legislature's freedom of action.

Ordinarily, local approval simply means that the local legislative body votes to request the state Legislature to pass the special act. In a city, the local legislative body is the city council or board of aldermen (with approval of the mayor if ordinarily required) and, in a town, it is the town meeting or town council.

If the local body does not approve the request, in certain cities and towns it is possible to go directly to the voters for the local approval. The question can be placed before the voters by the local initiative petition process, where this process is available under the local charter. Petition requirements and proce-

dures vary with the form of local government. The Elections Division can explain the initiative process for specific situations.

Legal References:

- *Local approval required:* HRA § 8 (1). See *Board of Selectmen v. Town Clerk*, 370 Mass. 114, 345 N.E. 2d 699 (1976); *Belin v. Secretary of the Commonwealth*, 362 Mass. 530, 288 N.E. 2d 287 (1972); *Brown, Home Rule in Massachusetts: Municipal Freedom and Legislative Control*, 58 Mass. L.Q. 29 (1973).
- *Nature of local approval:* *Newell v. Rent Board*, 378 Mass. 443, 446-48, 392 N.E. 2d 837, 839-40 (1979); *Nugent v. Town of Wellesley*, 9 Mass. App. Ct. 202, 205, 400 N.E. 2d 279, 281 (1980).
- *Local legislative body:* *Opinion of the Justices*, 375 Mass. 843, 378 N.E. 2d 43 (1978); *Opinion of the Justices*, 365 Mass. 655, 311 N.E. 2d 44 (1974).
- *Local initiative:* *Marino v. Town Council*, 7 Mass. App. Ct. 461, 388 N.E. 2d 394 (1979). See G.L. ch. 43, §§ 37-41, 43-44. See also *Opinion of the Justices*, 370 Mass. 879, 352 N.E. 2d 678 (1976).

Legislative Action

Once a special act charter or charter change has received local approval, it can be filed as a bill by a member of the state legislature.

When filed, the bill will be assigned to a legislative committee for review—usually the Joint Committee on Local Affairs. After a public hearing and a period of study, the committee will report its recommendation on the bill to the legislative body whose member filed it, either the Senate or House of Representatives. If that body approves the bill, it is sent to the other body for consideration. If both houses pass it and it is signed by the Governor (or is passed over his veto by a two-thirds vote of each house), it becomes law.

Final Acceptance by Local Voters

The special act sometimes provides that it will not go into effect until the local voters, in response to a question on an election ballot, have voted to accept it. (This local acceptance is not constitutionally required.)

The city solicitor or town counsel must prepare a fair, concise summary of the act. This summary appears on the ballot unless the special act provides otherwise.

If the local acceptance step is not done, then the charter or special act or amendment will take effect either on the thirtieth day after it is signed or on an effective date specified in the legislation.

Legal References:

- *Legislative procedure:* Joint Rule 7B.
- *Effective date:* G.L. ch. 4, § 1.
- *Acceptance not required:* *Newell v. Rent Board*, 378 Mass. 443, 447 n.6, 392 N.E. 2d 837, 839 n.6 (1979); *Nugent v. Town of Wellesley*, 9 Mass. App. Ct. 202, 204, 400 N.E. 2d 279, 280 (1980).
- *Summary of Special Act:* M.G.L. ch. 54 section 58A.

Part Five**PROCEDURE FOR CHALLENGING ADOPTION OR
REVISION PETITIONS AS DEFECTIVE**

Registrars must certify the signatures on an adoption or revision petition and report the results to the city council or board of selectmen by filing their report within ten days after the completed petitions were filed.

Within two working days after the deadline by which the Board of Registrars must have completed the certification of names on charter petitions, (ten days after the petition is filed), any local registered voter may challenge the petition by filing a written objection which states the reasons for the challenge. This objection is filed with the city or town clerk or the election commission.

The registrars must then hold a hearing on the objection. They must send notice of the hearing to both the objector and the petitioners, and both sides will have the opportunity to present evidence and arguments at the hearing. In a city, the city solicitor will sit as a member of the board at such hearings.

The board must reach a decision within four days after the deadline for filing objections or within fourteen days after the last day fixed for filing objections, if the timing of the decision will not prevent the question from qualifying for the ballot no later than thirty days before any previously scheduled election at which the question could appear. After the decision, the losing side may seek judicial review in court.

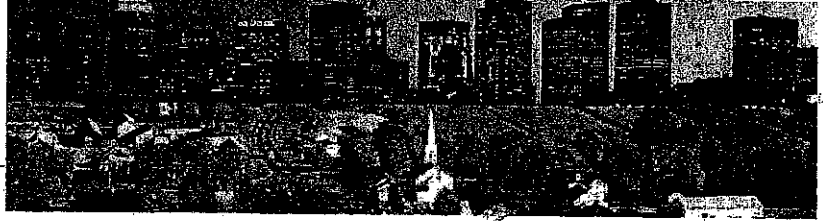
Legal references:

- MA Const. HRA § 3;
- M. G.L. ch. 43B, § 3; ch. 53, § 11; ch. 55B, § 7.

SYNOPSIS OF LOCAL CHARTER METHODS		
METHOD	LIMITATIONS	STEPS
Home rule charter method (in general) See page 7.	<ol style="list-style-type: none"> 1. Must be consistent with state laws. 2. May not address a number of important subjects. 	
Adoption or Revision Procedure, See page 9.	<ol style="list-style-type: none"> 1. Requires at least one or two years in most cases. 	<ol style="list-style-type: none"> 1. Petition. 2. Decision to elect and election of charter commission by voters. 3. Charter commission proceedings and reports. 4. Approval of proposed charter by voters.
Amendment Procedure, See page 14.	<ol style="list-style-type: none"> 1. Can be used only if city or town already has some charter. 2. Cannot change composition, mode of election appointment or term, of major local offices. 	<ol style="list-style-type: none"> 1. (Optional) "Suggestion" by officials or by petition. 2. Proposal by legislative body. 3. Approval by local voters.
Special Act Charter Method,	<ol style="list-style-type: none"> 1. Requires approval by state Legislature. 	<ol style="list-style-type: none"> 1. Local approval. 2. Action by the

City and Town

Navjeet K. Bai, Commissioner • Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



Volume 22, No. 7 November 2009

Inside This Issue

- DLS Commentary** a successful inaugural regionalism conference held in September has people asking for more 2
- Of Note** a summary of effects on municipalities from the new ethics reform legislation from the Technical Assistance Bureau 2
- Legal** mortgage foreclosures have been in the headlines, on the news, and in the courts. This month's legal focuses on the Land Court's recent decision to invalidate two foreclosures based on publication of notices 3
- Focus** valued once every four years, State Owned Land is a solid display of regional market movement. This article examines the changes in reimbursable State Owned Land from 2005 to 2009 4
- Local Option Acceptance Forms** for meals and rooms 12
- Municipal Calendar** 12

What is Home Rule?

Joe Markarian, Director of Technical Assistance

Home Rule is sometimes thought of as a relatively recent concept and unique to Massachusetts, but its roots actually date back to the 1700s and its relevancy extends throughout the nation. Missouri was the first state to adopt a Home Rule provision in 1875, followed by California, Washington and Wisconsin between 1879 and 1898. In Massachusetts, Home Rule authority was granted to cities and towns in 1966. Today, almost all states have adopted Home Rule provisions which, to varying degrees, are intended to enhance self-governance for cities, towns and counties.

In the strongest exercise of Home Rule rights, communities can enact charters.

The American Revolution confirmed the rights of the people to govern themselves. However, as the mid-1800s approached, corporations were drawn into the debate, and distinctions were made between the rights of municipal corporations (i.e., cities and towns) and private corporations. In many higher court decisions, the right to self-rule came under attack as railroad companies, whose lawyers were well entrenched at the state level, faced resistance as they pushed to extend rail lines across town boundaries. Then, with emergence of the so-called Dillon Rule, the struggle ensued, in earnest, between advocates of local autonomy and standard bearers for state supremacy. In 1868, an Iowa Supreme Court Justice, John F.

Dillon, put forward rules for interpreting the relationship between state law and local law when they came into conflict (*Clinton v. Cedar Rapids and Missouri River R.R.*, 24 Iowa 455, 1868). The intent and effect was to narrow the scope of municipal authority.

The Dillon Rule states that: "A municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words (from the state); second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation — not simply convenient, but indispensable; and fourth, any fair doubt as to the existence of a power is resolved by the courts against the corporation."

The United States Supreme Court adopted the Dillon Rule in 1907 (*Hunter v. City of Pittsburgh*, 207 U.S. 161, 178-79) stating: "Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be entrusted to them ... The state, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation ... In all these respects the state is supreme."

continued on page 11

Please consider the environment before printing this newsletter.



What is Home Rule? *continued from page 1*

Under the Dillon Rule, Massachusetts municipalities were among those that were viewed as political subdivisions or creatures of the state. As a practical matter, this meant that cities and towns received their right to organize from the state and had no authority to act other than in ways granted by the General Court, or as implied by powers conveyed. Municipalities were permitted, in a limited way, to enact local laws provided the provisions were "not repugnant" to the state constitution, but all local laws were subject to annulment by the General Court.

Beyond this charter commission process, however, the extent of Home Rule is limited.

With the adoption of Amendment Article 89 and M.G.L. Ch. 43B in 1966, Massachusetts created some separation from the Dillon Rule. In general, a city or town in the Commonwealth can exercise a power or function through the approval of its legislative body (town meeting, city council or town council) and its voters. They can exercise any power through the adoption of an ordinance, by-law or charter that the state legislature has the authority to delegate. In the strongest exercise of Home Rule rights, communities can enact charters (through a charter commission process), without state approval, in order to organize local government in a way that best meet the needs of their citizens.

However, there are significant limitations. Despite Home Rule, some local actions require approval of the state legislature. Others are allowed only through local acceptance of state statutes. In every instance, the legal doctrine of pre-emption prevails. That is, a provision of local law will stand only so long as it is not inconsistent with the state constitution or general laws. Lastly, specific constitutional language (Amendment Article 89, Section 7) reserves to the state sole authority to regulate elec-

tions; levy, assess and collect taxes; borrow money or pledge a municipality's credit; dispose of parkland; enact private or civil laws; and impose criminal penalties.

The initial responsibility to determine whether adopted local provisions may stand rests with the State Attorney General and specifically with the Municipal Law Unit within that office.

As explained on the Municipal Law Unit website, "whenever a town adopts or amends its general by-laws or zoning by-laws, within 30 days of adjournment of town meeting, the Town Clerk is required to submit them to the Attorney General for review and approval. The Attorney General then has 90 days in which to decide whether the proposed amendments are consistent with the constitution and the laws of the Commonwealth. If the Attorney General finds an inconsistency between the proposed amendments and state law, the amendments or portions thereof will be disapproved. The Municipal Law Unit is responsible for undertaking this review and for issuing a written decision approving or disapproving by-law amendments. The Municipal Law Unit does not, however, review proposed city ordinances.

In regard to charters, "whenever a city or town seeks to adopt or amend its charter pursuant to the Home Rule Procedures Act (General Laws, Chapter 43B), the proposed charter or charter amendments must be submitted to the Attorney General for his opinion as to the consistency between the charter (or charter amendments) and state law. The Attorney General then has 28 days in which to make this determination. The Municipal Law Unit is responsible for undertaking this review and for issuing a written decision."

Clearly, Home Rule, or self-governance, exists in Massachusetts when a city or town adopts a charter through the approval of its legislative body and its electorate. Beyond this charter commis-

According to the Massachusetts General Court website, during each annual session since 2001, approximately 70 percent of all legislation approved, or 230 new laws on average, have been special acts.

sion process, however, the extent of Home Rule is limited. Today, as municipalities struggle financially, they are more frequently seeking to generate new revenue sources, as well as to act on seemingly routine matters, only to find that they lack the requisite authority to do so.

For a city or town, the process of drafting, authorizing, filing and waiting for the approval of a special act creates financial, administrative and political burdens. For the Massachusetts Legislature, the sheer volume of special acts overwhelms the docket of each chamber and diverts time and attention from issues of global importance to the Commonwealth. According to the Massachusetts General Court website, during each annual session since 2001, approximately 70 percent of all legislation approved, or 230 new laws on average, have been special acts. Among requests, cities and towns must seek the State's permission to issue liquor licenses; to reorganize government or manage local elections; to reserve their money in special revenue funds; and to convey or lease certain property.

Ultimately, more than the Dillon Rule, it is the General Court's exclusive constitutional right to legislate on certain matters and, in particular, the doctrine of pre-emption that work to restrict local self-rule and to perpetuate the ongoing involvement of the state in municipal affairs. ■

FORMS OF MUNICIPAL GOVERNMENT

Abbreviations

AA	Administrative Assistant
AC	Administrative Coordinator
AO	Administrative Officer
AS	Administrative Secretary
CAFO	Chief Administrative and Financial Officer
CAO	Chief Administrative Officer
EA	Executive Administrator
ED	Executive Director
ES	Executive Secretary
EXA	Executive Assistant
GM	General Manager
MA	Municipal Administrator
MUA	Municipal Assistant
TA	Town Administrator
TC	Town Coordinator
TM	Town Manager
OTM	Open town meeting
RTM	Representative town meeting

Communities with a city form of government are listed in all capital letters.

Letters in parentheses for certain cities indicate the use of one of the optional plans of city government ("model city charters") as authorized by Massachusetts General Laws chapter 43 (Plan A, B, C, D, E, or F). Cities that are not identified by a letter in the final column are governed by provisions or special charters granted by the Legislature.

Some municipalities have adopted a home rule charter under the provisions of the Home Rule amendment and chapter 43B. The first year in which the home rule charter was adopted is in parentheses.

Massachusetts law provides that no town with a population of less than 12,000 may adopt a city form of government and no town with a population of less than 6,000 may adopt a representative town meeting form of government.

Information in this chart is compiled from an MMA survey of each city and town in the state. The surveys were completed by the municipal clerk in each community.

*Note: The Chief Municipal Official listed here was identified by each city and town through the MMA survey. In cases where none is listed, the chair of the board of selectmen fulfills that role.

Community	Chief Municipal Official*	Policy Board	Legislative Body
Abington (1974)	TM	Selectmen (5)	OTM
Acton (1960)	TM	Selectmen (5)	OTM
Acushnet (1971)	TA	Selectmen (3)	OTM
Adams (1983)	TA	Selectmen (5)	RTM
AGAWAM (1972) (A)	Mayor		Council (11)
Alford		Selectmen (3)	OTM
AMESBURY (1996) (A)	Mayor		Council (9)
Amherst	TM	Selectmen (5)	RTM
Andover	TM	Selectmen (5)	OTM
Aquinnah	TC	Selectmen (3)	OTM
Arlington	TM	Selectmen (5)	RTM
Ashburnham	TA	Selectmen (3)	OTM
Ashby	TA	Selectmen (3)	OTM
Ashfield	TA	Selectmen (3)	OTM
Ashland	TM	Selectmen (5)	OTM
Athol	TM	Selectmen (5)	OTM
ATTLEBORO (1973)	Mayor		Council (11)
Auburn (1969)	TA	Selectmen (5)	RTM
Avon	TA	Selectmen (3)	OTM
Ayer	TA	Selectmen (5)	OTM
BARNSTABLE (1989)	TM		Council (13)
Barre	TA	Selectmen (3)	OTM
Becket	TA	Selectmen (3)	OTM
Bedford (1974)	TM	Selectmen (5)	OTM
Belchertown	TA	Selectmen (5)	OTM
Bellingham	TA	Selectmen (5)	OTM
Belmont (1926)	TA	Selectmen (3)	RTM
Berkley		Selectmen (3)	OTM
Berlin	AA	Selectmen (3)	OTM
Bernardston	AA	Selectmen (3)	OTM
BEVERLY	Mayor		Council (9)
Billerica (1979)	TM	Selectmen (5)	RTM
Blackstone (1974)	TA	Selectmen (5)	OTM
Blandford	TA	Selectmen (3)	OTM
Bolton	TA	Selectmen (3)	OTM
BOSTON	Mayor		Council (13)
Bourne	TA	Selectmen (5)	OTM
Boxborough	TA	Selectmen (5)	OTM
Boxford	TA	Selectmen (5)	OTM
Boylston	TA	Selectmen (3)	OTM
BRAINTREE	Mayor		Council (9)
Brewster	TA	Selectmen (5)	OTM
Bridgewater	MA	Selectmen (5)	OTM
Brimfield		Selectmen (3)	OTM
BROCKTON	Mayor		Council (11)
Brookfield	AA	Selectmen (3)	OTM
Brookline	TA	Selectmen (5)	RTM

Forms of Municipal Government

Community	Chief Municipal Official*	Policy Board	Legislative Body
Buckland	TA	Selectmen (3)	OTM
Burlington	TA	Selectmen (5)	RTM
CAMBRIDGE (1941) (E)	Mayor-Manager		Council (9)
Canton	TA	Selectmen (5)	OTM
Carlisle	TA	Selectmen (5)	OTM
Carver	TA	Selectmen (5)	OTM
Charlemont		Selectmen (3)	OTM
Charlton	TA	Selectmen (5)	OTM
Chatham	TM	Selectmen (5)	OTM
Chelmsford (1989)	TM	Selectmen (5)	RTM
CHELSEA	Manager		Council (11)
Cheshire	TA	Selectmen (3)	OTM
Chester		Selectmen (3)	OTM
Chesterfield	TA	Selectmen (3)	OTM
CHICOPEE	Mayor		Aldermen (13)
Chilmark	ES	Selectmen (3)	OTM
Clarksburg		Selectmen (3)	OTM
Clinton	TA	Selectmen (5)	OTM
Cohasset	TM	Selectmen (5)	OTM
Colrain	AA	Selectmen (3)	OTM
Concord (1957)	TM	Selectmen (5)	OTM
Conway	AA	Selectmen (3)	OTM
Cummington	ES	Selectmen (3)	OTM
Dalton	TM	Selectmen (5)	OTM
Danvers	TM	Selectmen (5)	RTM
Dartmouth	EA	Selectmen (5)	RTM
Dedham (1974)	TA	Selectmen (5)	RTM
Deerfield	TA	Selectmen (3)	OTM
Dennis	TA	Selectmen (5)	OTM
Dighton		Selectmen (3)	OTM
Douglas	TA	Selectmen (5)	OTM
Dover	TA	Selectmen (3)	OTM
Dracut (1985)	TM	Selectmen (5)	OTM
Dudley	TA	Selectmen (5)	OTM
Dunstable		Selectmen (3)	OTM
Duxbury	TM	Selectmen (3)	OTM
East Bridgewater	TA	Selectmen (3)	OTM
East Brookfield		Selectmen (3)	OTM
Eastham	TA	Selectmen (5)	OTM
EASTHAMPTON (1996)	Mayor		Council (9)
East Longmeadow	ES	Selectmen (3)	OTM
Easton (1972)	TA	Selectmen (5)	OTM
Edgartown	TA	Selectmen (3)	OTM
Egremont		Selectmen (3)	OTM
Erving	AC	Selectmen (3)	OTM
Essex	TA	Selectmen (3)	OTM
EVERETT	Mayor	Council-Aldermen (18 & 7)	
Fairhaven	ES	Selectmen (3)	RTM
FALL RIVER (A)	Mayor-Manager		Council (9)
Falmouth	TA	Selectmen (5)	RTM
FITCHBURG (B)	Mayor		Council (11)

Community	Chief Municipal Official*	Policy Board	Legislative Body
Florida	TA	Selectmen (3)	OTM
Foxborough	TM	Selectmen (5)	OTM
Frammingham	TM	Selectmen (5)	RTM
FRANKLIN (1978)	TA		Town Council (9)
Freetown	TA	Selectmen (3)	OTM
GARDNER (B)	Mayor		Council (11)
Georgetown	TA	Selectmen (3)	OTM
Gill	AA	Selectmen (3)	OTM
GLOUCESTER (1975)	Mayor		Council (9)
Goshen		Selectmen (3)	OTM
Gosnold		Selectmen (3)	OTM
Grafton (1987)	TA	Selectmen (5)	OTM
Granby	TA	Selectmen (3)	OTM
Granville	AA	Selectmen (3)	OTM
Great Barrington	TM	Selectmen (5)	OTM
GREENFIELD (2003)	Mayor		Council (13)
Groton	AO	Selectmen (5)	OTM
Groveland		Selectmen (3)	OTM
Hadley	TA	Selectmen (5)	OTM
Halifax	EA	Selectmen (3)	OTM
Hamilton	TA	Selectmen (3)	OTM
Hampden	AA	Selectmen (3)	OTM
Hancock		Selectmen (3)	OTM
Hanover	TA	Selectmen (3)	OTM
Hanson	TA	Selectmen (5)	OTM
Hardwick	AA	Selectmen (3)	OTM
Harvard	TA	Selectmen (5)	OTM
Harwich	TA	Selectmen (5)	OTM
Hatfield	TA	Selectmen (3)	OTM
HAVERHILL (A)	Mayor		Council (9)
Hawley		Selectmen (3)	OTM
Heath		Selectmen (3)	OTM
Hingham	TA	Selectmen (3)	OTM
Hinsdale	AA	Selectmen (3)	OTM
Holbrook	TA	Selectmen (5)	RTM
Holden	TM	Selectmen (5)	OTM
Holland	ES	Selectmen (3)	OTM
Holliston	TA	Selectmen (3)	OTM
HOLYOKE (A)	Mayor		Council (15)
Hopedale	TC	Selectmen (3)	OTM
Hopkinton	TM	Selectmen (5)	OTM
Hubbardston	TA	Selectmen (3)	OTM
Hudson (1971)	ExA	Selectmen (5)	OTM
Hull	TM	Selectmen (5)	OTM
Huntington	AA	Selectmen (3)	OTM
Ipswich	TM	Selectmen (5)	OTM
Kingston	TA	Selectmen (5)	OTM
Lakeville	TA	Selectmen (3)	OTM
Lancaster	TA	Selectmen (3)	OTM
Lanesborough	TA	Selectmen (3)	OTM
LAWRENCE (1983)	Mayor		Council (9)

Forms of Municipal Government

Community	Chief Municipal Official*	Policy Board	Legislative Body
Lee	TA	Selectmen (3)	RTM
Leicester	TA	Selectmen (5)	OTM
Lenox	TM	Selectmen (5)	OTM
LEOMINSTER (1969) (A)	Mayor		Council (9)
Leverett	AA	Selectmen (3)	OTM
Lexington	TM	Selectmen (5)	RTM
Leyden	MuA	Selectmen (3)	OTM
Lincoln	TA	Selectmen (3)	OTM
Littleton	TA	Selectmen (5)	OTM
Longmeadow	TM	Selectmen (5)	OTM
LOWELL (E)	Mayor-Manager		Council (9)
Ludlow	TA	Selectmen (5)	RTM
Lunenburg	CAFO	Selectmen (5)	OTM
LYNN (A)	Mayor		Council (11)
Lynnfield (1971)	TA	Selectmen (3)	OTM
MALDEN (A)	Mayor		Council (11)
Manchester-by-the-Sea	TA	Selectmen (5)	OTM
Mansfield (1920)	TM	Selectmen (5)	OTM
Marblehead	TA	Selectmen (5)	OTM
Marion	TA	Selectmen (3)	OTM
MARLBOROUGH (B)	Mayor		Council (11)
Marshfield (1976)	TA	Selectmen (3)	OTM
Mashpee	TA	Selectmen (5)	OTM
Mattapoisett	TA	Selectmen (3)	OTM
Maynard	TA	Selectmen (5)	OTM
Medfield (1972)	TA	Selectmen (3)	OTM
MEDFORD (A)	Mayor		Council (7)
Medway	TA	Selectmen (5)	OTM
MELROSE (B)	Mayor		Aldermen (11)
Mendon	AA	Selectmen (3)	OTM
Merrimac	TA	Selectmen (3)	OTM
METHUEN (1972)	Mayor		Council (9)
Middleborough	TM	Selectmen (5)	OTM
Middlefield		Selectmen (3)	OTM
Middleton (1974)	TA	Selectmen (5)	OTM
Milford	TA	Selectmen (3)	RTM
Millbury	TM	Selectmen (5)	OTM
Millis (1977)	TA	Selectmen (3)	OTM
Millville	ES	Selectmen (5)	OTM
Milton (1927)	TA	Selectmen (3)	RTM
Monroe		Selectmen (3)	OTM
Monson	TA	Selectmen (3)	OTM
Montague	TA	Selectmen (3)	RTM
Monterey		Selectmen (3)	OTM
Montgomery		Selectmen (3)	OTM
Mount Washington		Selectmen (3)	OTM
Nahant (1980)	TA	Selectmen (3)	OTM
Nantucket	TA	Selectmen (5)	OTM
Natick (1980)	TA	Selectmen (5)	RTM
Nearham	TM	Selectmen (5)	RTM
New Ashford		Selectmen (3)	OTM

Community	Chief Municipal Official*	Policy Board	Legislative Body
NEW BEDFORD (B)	Mayor		Council (11)
New Braintree	ES	Selectmen (3)	OTM
Newbury	AA	Selectmen (3)	OTM
NEWBURYPORT (1919) (B)	Mayor		Council (11)
New Marlborough		Selectmen (3)	OTM
New Salem	TC	Selectmen (3)	OTM
NEWTON (1972) (A)	Mayor		Aldermen (24)
Norfolk	TA	Selectmen (3)	OTM
NORTH ADAMS (A)	Mayor		Council (9)
NORTHAMPTON (B)	Mayor		Council (9)
North Andover (1986)	TM	Selectmen (5)	OTM
North Attleborough	TA	Selectmen (5)	RTM
Northborough (1970)	TA	Selectmen (5)	OTM
Northbridge	TM	Selectmen (5)	OTM
North Brookfield	AA	Selectmen (3)	OTM
Northfield	AA	Selectmen (3)	OTM
North Reading (1970)	TA	Selectmen (5)	OTM
Norton (1989)	TM	Selectmen (5)	OTM
Norwell (1973)	TA	Selectmen (3)	OTM
Norwood	GM	Selectmen (5)	RTM
Oak Bluffs	TA	Selectmen (5)	OTM
Oakham	AA	Selectmen (3)	OTM
Orange	TA	Selectmen (3)	OTM
Orleans (1987)	TA	Selectmen (5)	OTM
Otis	TA	Selectmen (3)	OTM
Oxford (1972)	TM	Selectmen (5)	OTM
PALMER (2004)	TM		Town Council (9)
Paxton	TA	Selectmen (3)	OTM
PEABODY (D)	Mayor		Council (11)
Pelham	AA	Selectmen (3)	OTM
Pembroke	TA	Selectmen (5)	OTM
Pepperell	TA	Selectmen (3)	OTM
Peru		Selectmen (3)	OTM
Petersham	AC	Selectmen (3)	OTM
Phillipston	AA	Selectmen (3)	OTM
PITTSFIELD (B)	Mayor		Council (11)
Plainfield		Selectmen (3)	OTM
Plainville	TA	Selectmen (3)	OTM
Plymouth (1973)	TM	Selectmen (5)	RTM
Plympton		Selectmen (3)	OTM
Princeton	TA	Selectmen (3)	OTM
Provincetown (1990)	TM	Selectmen (5)	OTM
QUINCY (A)	Mayor		Council (9)
Randolph	ES	Selectmen (5)	RTM
Raynham	TA	Selectmen (3)	OTM
Reading (1986)	TM	Selectmen (5)	RTM
Rehoboth	ES	Selectmen (3)	OTM
REVERE (B)	Mayor		Council (11)
Richmond	TA	Selectmen (3)	OTM
Rochester	TA	Selectmen (3)	OTM
Rockland (1970)	TA	Selectmen (5)	OTM

Forms of Municipal Government

Community	Chief Municipal Official*	Policy Board	Legislative Body
Rockport	TA	Selectmen (5)	OTM
Rowe		Selectmen (3)	OTM
Rowley	TA	Selectmen (5)	OTM
Royalston		Selectmen (3)	OTM
Russell	AA	Selectmen (3)	OTM
Rutland	TA	Selectmen (5)	OTM
SALEM (B)	Mayor		Council (11)
Salisbury (1988)	TM	Selectmen (5)	OTM
Sandisfield		Selectmen (3)	OTM
Sandwich	TA	Selectmen (5)	OTM
Saugus (1947)	TM	Selectmen (5)	RTM
Savoy		Selectmen (3)	OTM
Scituate (1972)	TA	Selectmen (5)	OTM
Seekonk (1976)	TA	Selectmen (5)	OTM
Sharon	TA	Selectmen (3)	OTM
Sheffield	TA	Selectmen (3)	OTM
Shelburne	ES	Selectmen (3)	OTM
Sherborn	TA	Selectmen (3)	OTM
Shirley	TA	Selectmen (3)	OTM
Shrewsbury	TM	Selectmen (5)	RTM
Shutesbury	TA	Selectmen (3)	OTM
Somerset	TA	Selectmen (3)	OTM
SOMERVILLE (A)	Mayor		Aldermen (11)
Southampton	TA	Selectmen (5)	OTM
Southborough	TA	Selectmen (3)	OTM
SOUTHBRIDGE (1974)	TM		Town Council (9)
South Hadley	TA	Selectmen (5)	RTM
Southwick	CAO	Selectmen (3)	OTM
Spencer	TA	Selectmen (5)	OTM
SPRINGFIELD (A)	Mayor		Council (9)
Sterling	TA	Selectmen (3)	OTM
Stockbridge (1737)	TA	Selectmen (3)	OTM
Stoneham	TA	Selectmen (5)	OTM
Stoughton (1972)	TM	Selectmen (5)	RTM
Stow	TA	Selectmen (5)	OTM
Sturbridge (1973)	TA	Selectmen (5)	OTM
Sudbury	TM	Selectmen (3)	OTM
Sunderland	TA	Selectmen (3)	OTM
Sutton (1988)	TA	Selectmen (5)	OTM
Swampscott (1969)	TA	Selectmen (5)	RTM
Swansea	TA	Selectmen (3)	OTM
TAUNTON	Mayor		Council (9)
Templeton	TC	Selectmen (5)	OTM
Tewksbury	TM	Selectmen (5)	OTM
Tisbury	TA	Selectmen (3)	OTM
Tolland	AA	Selectmen (3)	OTM
Topsfield	TA	Selectmen (5)	OTM
Townsend	TA	Selectmen (3)	OTM
Truro	TA	Selectmen (5)	OTM
Tyngsborough	TA	Selectmen (5)	OTM
Tyringham		Selectmen (3)	OTM

Community	Chief Municipal Official*	Policy Board	Legislative Body
Upton		Selectmen (3)	OTM
Uxbridge	TM	Selectmen (5)	OTM
Wakfield	TA	Selectmen (7)	OTM
Wales	ES	Selectmen (3)	OTM
Walpole (1973)	TA	Selectmen (5)	RTM
WALTHAM (B)	Mayor		Council (15)
Ware	TM	Selectmen (5)	OTM
Wareham (1977)	TA	Selectmen (5)	OTM
Warren	AA	Selectmen (3)	OTM
Warwick	TC	Selectmen (3)	OTM
Washington		Selectmen (3)	OTM
WATERTOWN (1980)	TM		Town Council (9)
Wayland	TA	Selectmen (5)	OTM
Webster (1987)	TA	Selectmen (5)	OTM
Wellesley	ED	Selectmen (5)	RTM
Wellfleet (1986)	TA	Selectmen (5)	OTM
Wendell	TC	Selectmen (3)	OTM
Wenham	TA	Selectmen (3)	OTM
Westborough (1974)	TC	Selectmen (5)	OTM
West Boylston	TA	Selectmen (5)	OTM
West Bridgewater	AA	Selectmen (3)	OTM
West Brookfield		Selectmen (3)	OTM
WESTFIELD (B)	Mayor		Council (11)
Westford	TM	Selectmen (5)	OTM
Westhampton	AA	Selectmen (3)	OTM
Westminster	TC	Selectmen (3)	OTM
West Newbury	AA	Selectmen (3)	OTM
Weston	TM	Selectmen (3)	OTM
Westport	TA	Selectmen (5)	OTM
WEST SPRINGFIELD (2000) (A)	Mayor		Council (9)
West Stockbridge	AA	Selectmen (3)	OTM
West Tisbury	ES	Selectmen (3)	OTM
Westwood (1970)	TA	Selectmen (3)	OTM
WEYMOUTH (1999)	Mayor		Council (11)
Whately	TA	Selectmen (3)	OTM
Whitman	TA	Selectmen (5)	OTM
Wilbraham	TA	Selectmen (3)	OTM
Williamsburg		Selectmen (3)	OTM
Williamstown	TM	Selectmen (5)	OTM
Wilmington (1950)	TM	Selectmen (5)	OTM
Winchendon (1981)	TM	Selectmen (5)	OTM
Winchester (1975)	TM	Selectmen (5)	RTM
Windsor		Selectmen (3)	OTM
WINTHROP (2005)	TM		Council (9)
WOBURN	Mayor		Aldermen (9)
WORCESTER	Mayor-Manager		Council (11)
Worthington		Selectmen (3)	OTM
Wrentham	TA	Selectmen (5)	OTM
Yarmouth	TA	Selectmen (5)	OTM

CHANGING MASSACHUSETTS LOCAL GOVERNMENT STRUCTURE

Massachusetts state law provides several routes for cities and towns to make changes in the organizational structure of local government:

- election of a charter commission and subsequent adoption of the commission's proposed charter;
- a petition for enactment of special municipal legislation; and
- using bylaws and "permissive" legislation to enact structural change -

Each route is described briefly below.

HOME RULE CHARTER COMMISSION: Over 130 charter commissions have been elected since the adoption of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts in 1966. The procedures for creation of a charter commission are outlined in Massachusetts General Laws, (M.G.L.) Chapter 43B (see DHCD publication, *The Home Rule Amendment and the Home Rule Procedures Act*). In summary, any city or town, upon petition of 15% of the registered voters may vote to elect a nine-member charter commission to prepare a charter. A charter serves as the basic framework of the government structure, identifying officials to be elected and appointed, size and composition of the legislative body, appointment authority, operating and capital budget preparation, organization of departments, etc. A charter commission has a maximum of 18 months to prepare a proposed charter, but may choose to complete the task in 10 months. Following its election, a commission considers the options for changing local government structure, and seeks participation from the residents via public meetings, public hearings, publication of a preliminary report, and issuance of a final report. The requirements for public participation are described in Chapter 43B. To take effect, a charter proposal must be adopted by a majority of the voters at a municipal election. In towns, some charter commissions follow a 10 month schedule, and present a charter proposal to the voters at the annual election one year following the commission's election. If the commission chooses to follow the 18 month schedule provided in the law, the charter proposal would be presented to the voters at the municipal election two years following the election of a commission. (This procedure is most applicable to cities with biennial elections.)

The election of a commission, the preparation of a charter, and the submission of a proposal to the voters is a major undertaking; most towns make one or more significant changes in their structure, including, but not limited to:

- create a general management position (town administrator, town manager, etc.)
- change elected boards, commissions, and officials to appointed status
- establish or consolidate local departments; include enabling provisions to allow organizational changes as circumstances require
- establish budget and capital plan procedures

The DHCD publication, *Summary of Home Rule Charter Provisions in Massachusetts Municipalities*, highlights the major features of charters.

SPECIAL MUNICIPAL LEGISLATION: Prior to the adoption of the Home Rule Amendment, the most comprehensive changes in local government were made by means of a petition for special legislation (the "special act"). Prior to 1966, towns used the special act route to adopt "special act charters." Towns using this route to create the selectmen-town manager form of administration included Norwood, Middleborough, Holden, Wilmington, and Danvers. This option remains available today and has been used in approximately 35 communities, including Westford, Great Barrington, Lee, Lenox, Ashburnham, Sheffield, and Yarmouth.

The procedures governing special act adoption are:

1. passage by majority vote of warrant article or resolution proposing the special legislation
2. petition to the General Court (state legislature) to enact the proposed legislation
3. approval of the petition by state House of Representatives and state Senate
4. signing by the Governor

In some instances, the petition may require that the act become effective only upon acceptance by a majority of voters at the next regular municipal election (sometimes referred to as ratification). In other instances, the act may contain a certain date when the provisions take effect, or the act may state that its provisions become effective upon passage. Municipalities can be guided by the Home Rule Amendment that defines changes in

the legislative body, chief executive, or town manager as requiring the election of a charter commission, and a ballot vote on recommended changes.

Communities can also use the special act route to make more discrete changes -- e.g., combining the positions of an appointed collector and treasurer, changing an elected board or commission to an appointed one, creating a consolidated department, and adopting recall provisions.

USING BYLAWS AND PERMISSIVE LEGISLATION (review options with counsel prior to proceeding):

Towns may accomplish some structural, administrative, and organizational changes through adoption of bylaws. In several management areas, notably personnel administration, there have been recent efforts to adopt comprehensive bylaws. Other towns have used bylaws to encourage coordination among related offices (e.g., all those with financial duties). Also, the Massachusetts General Laws provide some organizational options for communities through "permissive" or enabling legislation, such as:

- **Chapter 41, section 1B** (enacted in 1997) allows a vote of town meeting followed by a ballot vote at the annual town meeting/election to change certain elected positions to appointments of the board of selectmen (applies to clerk, treasurer, tax collector, assessors, auditor, highway surveyor, sewer commissioners, road commissioners, tree warden, constables, boards of health). Elected officials in office at the time of such vote would complete their terms before the appointment provisions took effect. (**Note:** Section 1B does not apply to boards of selectmen or school committees, which must remain elected.)

- **Chapter 41, section 21** allows selectmen to act as certain offices (Water and Sewer Board, Water Commission, Water and Municipal Light Commissioners, Municipal Light Board, Sewer Commissioners, Park Commissioners, Board of Public Works, Board Health, Board of Assessors, Commission on Public Safety).

For Chapter 41, Section 1B and Section 21, the question/questions of authorizing the board of selectmen to appoint particular offices or multiple member bodies must be placed on the ballot at an annual election. The question(s) may be placed on the ballot by a vote of the town meeting held at least sixty days before the annual town meeting. For Section 21, the question(s) authorizing selectmen to act as certain boards may be also be placed on the ballot upon petition by 10 per cent of qualified voters and filed with the selectmen at least 60 days before the annual town meeting.

- **Chapter 41, section 2** sets out a procedure for increasing or decreasing the number of members of elected boards (not applicable to boards of selectmen -- see MGL, c. 43B, section 13).

- Selectmen may be granted the authority to appoint cemetery commissioners, chiefs of police and fire departments, assessors, superintendent of streets, or board of health. (see also **Chapter 41, section 21**)

Other enabling options include:

- Appointment of assessors by the selectmen (**Chapter 41, section 25**)

- Combining the positions of treasurer and collector. The town may vote to authorize the treasurer to act as collector. (**Chapter 41, section 1**).

- The town clerk may be appointed town accountant, if he/she holds no other office involving the disbursement or receipt of funds. (**Chapter 41, section 55**)

- **Chapter 40N** allows the establishment of a water and sewer commission as a body corporate and politic.

- **Chapter 43C** provides a procedure for creating three consolidated departments -- finance, community development, and inspections. Chapter 43C defines the features of bylaws establishing these departments.

Any procedural option under consideration should be reviewed by local legal counsel prior to proceeding. Cities and towns are guided by the Home Rule Amendment, which defines changes in the legislative body, chief executive or town manager as requiring either adoption/revision of a home rule charter or enactment of special legislation.

SUMMARY

CHARACTERISTICS OF FORMS OF GOVERNMENT DESCRIBED IN MASSACHUSETTS LAW

CITY FORMS:

Mayor - Council

- Population must be 12,000 or more
- Mayor serves as chief executive
- Council usually contains members elected at-large and members from districts
- Size of council determined locally within state parameters (size of wards/precincts); must be an odd number of members.
- Council in continuous session (not called by warrant as town meeting)
- Term for mayor and council usually 2 years; several communities have 4-year terms for mayor. Winthrop and Barnstable have 4-year term for councilors.
- School committee elected (usually at large, a few by district) Mayor usually serves on school committee

Council-Manager

- Population must be 12,000 or more
- Council appoints manager to serve as chief executive
- Council serves as policy-making body.
- Council may elect one of its own members to serve as "mayor" or "council president." May be variations to this practice. For example, voters elect the "council president" directly in Watertown and Winthrop, and, in Worcester, the candidate receiving the highest vote total among the at-large council candidates serves as mayor. Duties of this position are usually ceremonial, or based on local protocol or tradition.
- Size of council determined locally within state parameters; must be an odd number of members
- Council in continuous session (not called by warrant as town meeting)
- School committee continues to be elected.

NOTES: (1) Mayor and council in mayor - council form MUST be elected. (2) School committee must be elected. (3) Most councils in Massachusetts contain a combination of at-large and district members, although several are composed of all at-large members -- Springfield, Franklin, North Adams, Cambridge, Lowell, Fall River, Haverhill, Taunton, and Medford. (4) Communities above 12,000 population may adopt a "city" form of government, either Mayor-Council or Council-Manager, and continue to refer to the municipality as a town.

TOWN FORMS:

Representative Town Meeting - Board of Selectmen

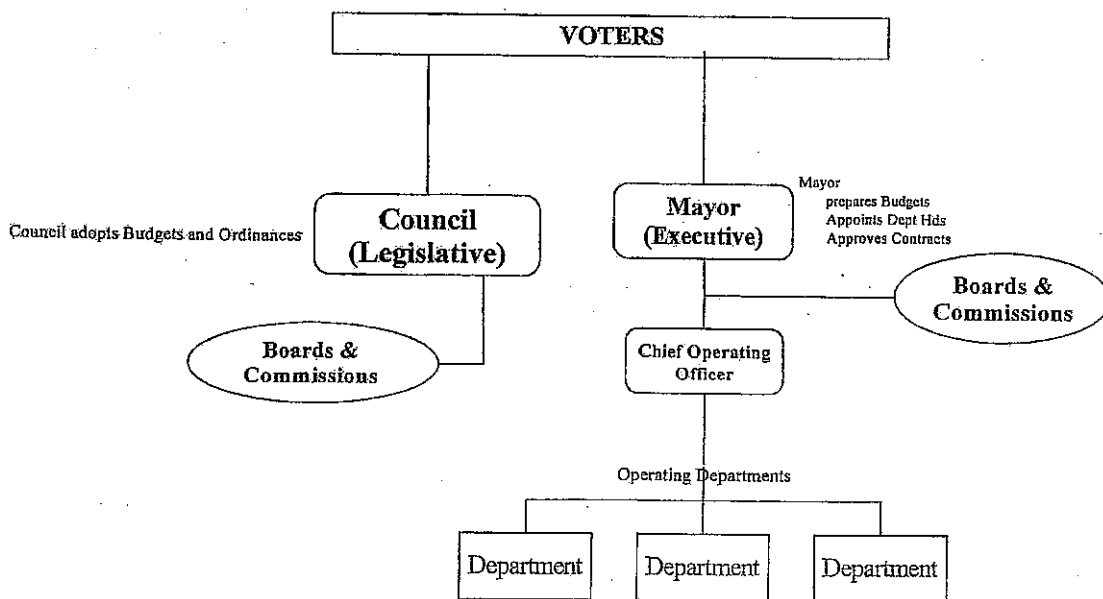
- Population requirement of 6,000 or more
- Town meeting representatives elected from precincts of the town. Size determined locally; most are in the range of 200-250 voters; 39 communities have representative town meeting.
- Representatives usually serve for a 3-year term, with 1/3 of the members elected yearly
- Board of Selectmen serves as chief executive; must be odd number of members, serving staggered terms.
- Board of Selectmen may appoint town manager/administrator -- the majority of RTM communities have a management position. Position found in all RTM home rule charters.
- Powers and duties of the manager/administrator determined by special act or charter.
- School committee continues to be elected.

Open Town Meeting - Board of Selectmen

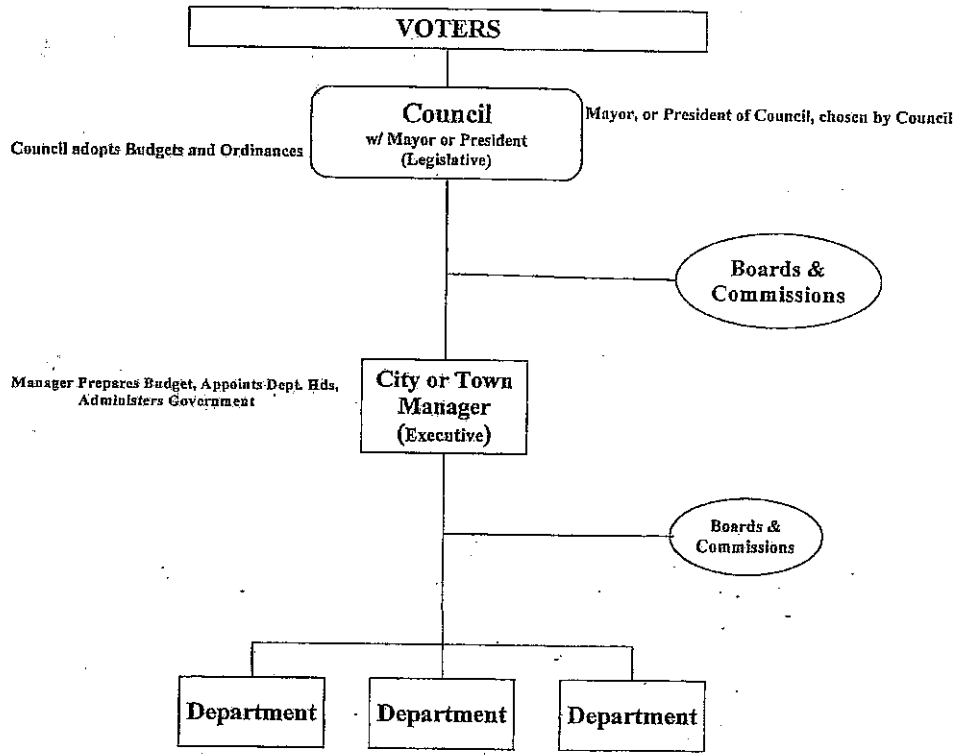
- Only form of government available to towns below 6,000 population
- All registered voters may participate in town meeting.
- *All other features as described above (representative town meeting) Most towns above 10,000 population have manager/administrator position.*

NOTES: 1) Selectmen, school committee, and representative town meeting members MUST be elected. 2) There is no state statute defining the powers and duties of town managers or administrators. 3) State law requires representative legislative bodies (either a council or a representative town meeting), be elected. 4) With a home rule or special act charter, the clerk, treasurer, collector, planning board, board of health, board of library trustees, board of assessors, etc. may be either elected or appointed. Town accountant must be appointed.

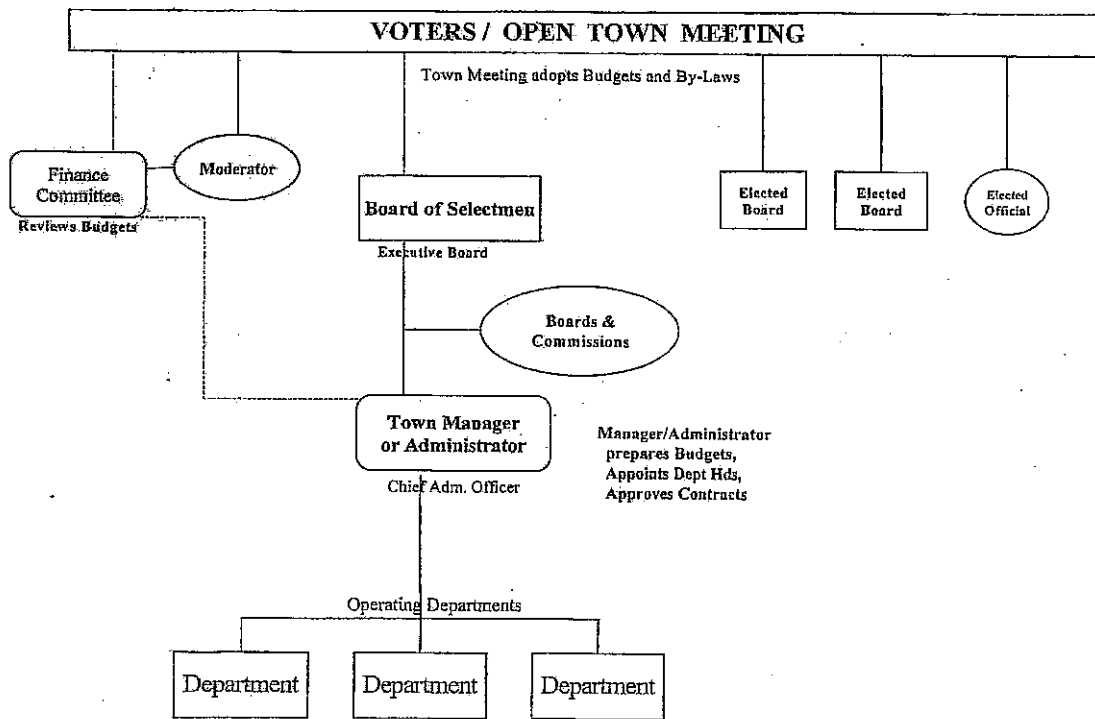
MAYOR / COUNCIL
(Strong Mayor
w/ Chief Operating Officer)



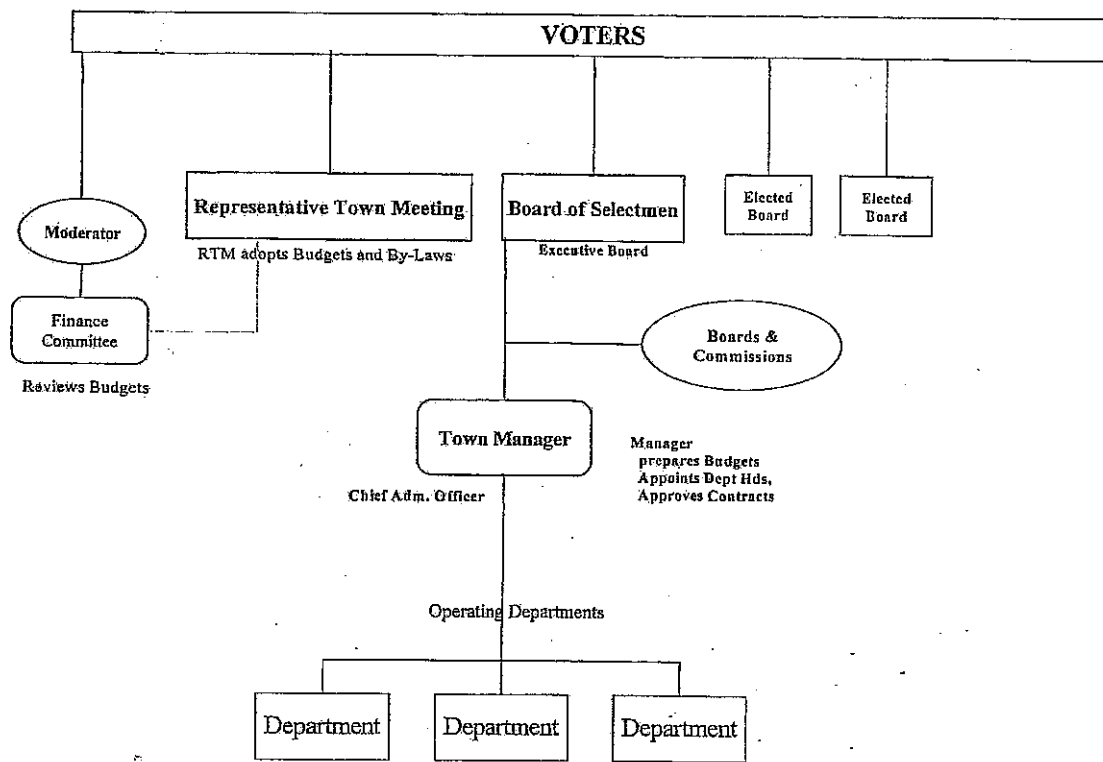
COUNCIL / MANAGER



OPEN TOWN MEETING / SELECTMEN / TOWN MANAGER or ADMINISTRATOR



REPRESENTATIVE TOWN MEETING / SELECTMEN / TOWN MANAGER or ADMINISTRATOR



FORMS OF LOCAL GOVERNMENT

Commonwealth of Massachusetts

	Page
Overview	2
Form 1 Mayor / Council	3
Form 2 Council / Manager	4
Form 3 Open Town Meeting / Selectmen / Town Manager	5
Form 4 Representative Town Meeting / Selectmen / Town Manager	6

Forms of Government in Massachusetts

OVERVIEW

There are 351 cities and towns in Massachusetts. Of these, 50 are cities and 301 are towns. There are numerous variations of local government structure. Generally the term "city" refers to a small legislative body such as a Council or Board of Aldermen (which meets frequently) and either an elected or appointed chief executive called a Mayor or Manager. Towns generally have a large legislative body, either an Open Town Meeting or a Representative Town Meeting (which meets at least annually and sometimes a few times a year). Towns also usually have a small (three or five member) elected executive Board of Selectmen as well as an appointed administrator called a Manager or Administrator.

CITIES

Most of the cities in Massachusetts operate with a Mayor/Council form of government such as Boston, Lawrence, Springfield, Fall River, and Taunton. However, some fairly large cities have a Council/Manager form of government such as Worcester, Cambridge and Lowell. In the last 30 years or so, since the adoption of the Home Rule Amendment to the Massachusetts Constitution, a few medium to larger size towns have adopted a so-called city form of government, either with a Mayor/Council form or a Council/Manager form. In many of these instances the municipality still calls itself a town. For example Amesbury and Greenfield now have a Mayor/Council form of government, while Barnstable and Franklin have a Council/Manager government.

TOWNS

Most towns (263) operate with an Open Town Meeting where any voter is permitted to attend and vote on legislative matters: budgets, bylaws, zoning, etc. Fewer than 50 towns operate with a Representative Town Meeting where voters elect representatives to attend town meeting. These representative legislative bodies vary from slightly less than 100 to more than 300. Towns of less than 12,000 may not have a city form of government and towns of less than 6,000 must have an open town meeting. The executive authority in towns is performed by elected boards of selectmen together with an appointed chief administrative officer called a Town Manager or Town Administrator.

The following attachments describe the more common characteristics of the varied forms of local government found in Massachusetts. Also attached are representative tables of organization for four of these described forms. Through use of the Home Rule Amendment, cities and towns may structure their local government in almost any manner they chose to adopt.

Mayor / Council

Features

Voters directly elect a mayor and Council. The Council size varies from 7 to 15. The mayor is the chief executive who appoints key officials and all or some boards, and prepares budget, approves contracts, negotiates with unions and oversees administration. A mayor may be empowered to veto some Council actions. The elected Council is the legislative body, and adopts budgets, adopts laws (ordinances, zoning, etc.), approves indebtedness (bonding), and may be empowered to approve or veto some Mayor appointments. The council also may appoint some boards and committees. Mayor is also usually a voting member of school committee. A limited number of boards and/or commissions may be elected.

Pros

- Chief executive elected directly
- Small legislative body
- Frequent meeting of legislative body

Cons

- Potential for political appointments to administrative positions
- Smaller citizen participation in decision-making
- Less potential for professional administration in technical areas

See Charters for:

Fall River: fallriverma.org/ordinances_link.htm

Newton: www.ci.newton.ma.us/Legal/Ordinance/title.htm

Town Council / Town Manager

Features

Voters elect Council and the Council appoints a City or Town Manager. Manager is chief executive, appoints key officials, prepares budget; approves contracts, negotiates with unions and oversees administration. The elected Council is the legislative body and adopts budgets, adopts laws (ordinances, bylaws, zoning, etc.), approves indebtedness (bonding), and may be empowered to approve or veto some Manager appointments. A town 'manager' is voting member of school committee but only on union contracts; a town 'administrator' sometimes serves in this role. A limited number of boards and/or commissions may be elected.

Pros

- Smaller legislative body
- Frequent meeting of legislative body
- Ability to establish experience and qualifications for chief executive
- Ability to remove appointed chief executive at any time by vote of elected council

Cons

- Smaller citizen participation in decision-making

See Charters for:

Franklin: www.franklin.ma.us/auto/town/charter/default.htm

Cambridge: www.cambridgema.gov/cmanager.cfm

Open Town Meeting / Selectmen Town Manager or Administrator

Features

All voters are eligible to debate and vote on budgets, bylaws and all matters brought before town meetings, and approve indebtedness (bonding). Town Meeting acts as the legislative body of the town. The executive branch of government consists of the selectmen and manager. An elected board of selectmen (usually 3 or 5) appoint a manager, sets policy, appoints boards and committees and may be authorized to approve or veto some of manager's appointments and approve union contracts. The manager is the chief administrative officer (CAO), appoints department heads and other employees, prepares budgets, awards contracts, negotiates with unions, and oversees administration. A town 'manager' is voting member of school committee but only on union contracts; a town 'administrator' sometimes serves in this role. Fair number of boards and/or commissions may be elected.

Pros

- Direct and broad citizen participation in government
- Ability to establish qualification for appointed chief executive
- Appointed executive can be removed at any time by elected board

Cons

- Cumbersome decision making by legislative body
- Legislative body less likely to be knowledgeable on issues
- Shared executive authority between elected board and appointed manager can obscure responsibilities.

See Charters for:

Bedford: www.town.bedford.ma.us

Sturbridge: www.town.sturbridge.ma.us

Representative Town Meeting (RTM) Selectmen / Town Manager or Administrator

Features

A limited number of voters are elected, usually by district, to represent all voters in a representative town meeting (RTM). Size can vary widely (less than 100 to more than 300). RTM is the legislative body of town and it debates and approves budgets, bylaws, and all matters brought before town meeting. RTM also approves indebtedness (bonding). The executive branch of the government consists of the selectmen and the manager. An elected board of selectmen (usually 3 to 5) appoint a manager, set policy, appoint boards and committees and may be authorized to approve or veto some manager's appointments. The board also approves union contracts. The manager is the chief administrative officer (CAO), appoints department heads and employees, prepares budgets, awards contracts, negotiates with unions, and oversees administration. A town 'manager' is voting member of school committee but only on union contracts; a town 'administrator' sometimes serves in this role. Smaller number of boards and/or commissions may be elected.

Pros

- Somewhat larger (than Council) representative legislative body participates directly in government
- Legislative body more likely to be informed on issues that open town meeting.
- Ability to establish qualifications for appointed chief executive
- Ability to remove appointed executive at any time by elected board.

Cons

- Difficulty in achieving broad community 'representation', achieving quorums, and keeping the 'status' of town meeting members up to date
- The size of the legislative body can present challenges in trying to educate and provide information to this group prior to the decision making process

See Charters for:

Danvers: www.danvers-ma.org/bylaw.htm

Shrewsbury: www.shrewsbury-ma.gov

