

## SAMPLE ARTICLES FOR AMHERST CHARTER COMMISSION: EXECUTIVE, LEGISLATIVE, AND CITIZEN RELIEF MECHANISMS

### ARTICLE 2: LEGISLATIVE BRANCH

#### SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

(a) Composition - There shall be a town/~~city~~ council consisting of 13 members which shall exercise the legislative powers of the town/~~city~~. Three of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Ten of these members, to be known as ward councilors, shall be nominated from and elected by the voters in each ward, with 1 such councilor to be elected from each of the 10 wards into which the town/~~city~~ is divided under section [Reference].

(b) Term of Office - The term of office for councilors at large shall be 4 years each, and the term of office for district councilors shall be 2 -years each, beginning on the first Monday in the January succeeding the councilor's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A ward councilor shall be a voter in the ward from which election is sought. If a ward councilor or a councilor-at-large removes from the town/~~city~~ during the councilor's term, that office shall immediately be deemed vacant and filled in the manner provided in section [reference]. A ward councilor who ~~removes~~ from the ward in which the councilor was elected and who remains a resident of the town/~~city~~ may continue to serve during the term for which the councilor was elected. The town/~~city~~ council shall determine whether a town/~~city~~ councilor has removed from the city.

**Comment [mjw1]:** Researching possibility of including non-voting residents in the eligibility to be councilors.

#### SECTION 2-2: PRESIDENT CHAIR AND VICE-PRESIDENT CHAIR, ELECTION; TERM; POWERS

(a) Election and Term - As soon as practicable after the councilors-elect have been qualified following each regular town/~~city~~ election, as provided in [reference], the members of the town/~~city~~ council shall elect from among its members a president chair and vice-president chair who shall serve for 1-year terms. The method of election of the president chair and vice-president chair shall be prescribed within the rules of the town/~~city~~ council. The rules of the then outgoing town/~~city~~ council shall govern the election of the president chair and vice-president chair.

(b) Powers and Duties - The president chair shall prepare the agenda for town/~~city~~ council meetings with advice from the council. The president chair shall preside at all meetings of the town/~~city~~ council, regulate its proceedings and decide all questions of order. The president chair shall appoint all members of committees of the town/~~city~~ council, whether special or standing. The president chair shall have the same powers to vote upon measures coming before the town/~~city~~ council as any other member of the town/~~city~~ council. The president chair shall perform any other duties consistent with the office that are established by charter, ordinance by law, or other vote of the town/~~city~~ council. The vice-president chair shall preside in the absence of the president chair.

SECTION 2-3: PROHIBITIONS

(a) Holding Other town/city Position – Except as otherwise provide by the charter, no member of the town/city council shall hold any other compensated town/city position. No former member of the town/city council shall hold any compensated appointed town/city position until 18 months following the date on which the former member's service on the town/city council has terminated unless such appointment is affirmed by a vote of 75% of members of the full town/city council. This section shall not prevent a town/city employee who vacated a position in order to serve as a member of the town/city council from returning to the same position upon the expiration of the term for which that person was elected.

(b) Interference with Administration - No town/city council or any member of the town/city council shall give orders or directions to any employee of the town/city appointed by the mayor, either publicly or privately.

SECTION 2-4: COMPENSATION

The members of the town/city council shall receive compensation for their services as set by ordinancebylaw. No ordinancebylaw increasing or reducing the compensation of the members of the town/city council shall be effective unless it is adopted by a vote of 75% of the full town/city council. No ordinancebylaw increasing or reducing the compensation of councilors shall be effective unless it is adopted during the first 18 months of the term for which the town/city council is elected and it provides that the compensation increase or reduction is to take effect upon the organization of the town/city government following the next regular town/city election at which at large councilors are to be elected.

**Comment [mjw2]:** Re-writing language to note 60 days before election.

SECTION 2-5: GENERAL POWERS

Except as otherwise provided by the General Laws or by this charter, all powers of the town/city shall be vested in the town/city council, which shall provide for the performance of all duties and obligations imposed upon the town/city by law.

SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) Exercise of Powers - Except as otherwise provided by the General Laws or by this charter, the legislative powers of the town/city council may be exercised in a manner determined by the town/city council.

(b) Quorum - The presence of 7 members shall constitute a quorum for the transaction of business. Except as otherwise provided by General Laws or by this charter, the affirmative vote, taken by a roll call vote, of [Depends on prior decisions] members of the town/city council shall be required to adopt any ordinancebylaw. All votes of the council that are not unanimous shall be taken and recorded as a roll call vote.

**Comment [mjw3]:** Need to confirm whether this is the intent of the Commission.

(c) Rules of Procedure - The town/city council shall adopt rules regulating the procedures of the town/city council, which shall include, but not be limited to, the following rules:

(i) regular meetings of the town/city council shall be held at a time and place fixed by ordinance/bylaw, but not less than once per month, and all regular meetings of the town/city council shall provide for a period of public comment; ~~provided, however,~~ the town/city council may promulgate rules that regulate the period of public comment as deemed appropriate;

**Comment [mjw4]:** Researching how charters handle the question of public comment at regular meetings of councils.

(ii) special meetings of the town/city council shall be held at the call of the ~~president~~chair or at the call of any 3 or more members, for any purpose; ~~provided, however, that~~ notice of the meeting shall, except in an emergency, which shall be designated by the ~~president~~chair, be delivered to each member at least 48 weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purposes for which the meeting is to be held; ~~provided further, that~~ a copy of each notice shall immediately be posted as the General Laws relative to such postings require;

(iii) all sessions of the town/city council and of every committee or subcommittee of the council shall, at all times, be open to the public, unless otherwise specified by law; and

(iv) a full, accurate, up-to-date account of the proceedings of the town/city council shall be maintained by the town/city clerk, which shall include a record of each vote taken ~~by each member~~ and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting; ~~provided, however, that~~ unless otherwise provided by law, the minutes of an executive session shall be made available as soon as publication of the minutes would not defeat the purpose of the executive session.

SECTION 2-7: ACCESS TO INFORMATION

(a) In General - The town/city council may make investigations into the affairs of the town/city and into the conduct and performance of any town/city agency.

(b) Information Requests - The town/city council may require a member of a multiple-member body or a town/city employee to appear before the town/city council to give any information that the town/city council may require in relation to the municipal services, functions and powers, or duties which are within the scope of responsibility of that person and not within the jurisdiction of the school committee.

**Comment [mjw5]:** Researching whether the school committee must be exempt.

(c) Mayor - The town/city council may request specific information from the mayor on any municipal matter and may request that the mayor be present to answer written questions relating to that information at a meeting to be held not earlier than 7 days from the date the mayor receives the questions. The mayor shall personally, or through a designee, attend such meeting and respond to the questions. The mayor, or the person designated to attend, shall not be required to answer questions relating to any other matter.

**Comment [mjw6]:** Re-writing to include "temporary absence" language.

(d) Notice - The town/city council shall give a minimum of 7 days notice to a person it may require to appear before it under this section. The notice shall include specific questions on which the town/city council seeks information and no person called to appear before the town/city council under this section shall be required to respond to any question not relevant or related to those questions presented in advance and in writing.

SECTION 2-8: APPOINTMENTS OF THE TOWN/~~CITY~~ COUNCIL

Example: Northampton

*Subject to appropriation, the city council may employ staff as it deems necessary.*

Example: Newton (proposed)

**SECTION 2-7. City Clerk; Comptroller of Accounts**

*As soon as practicable after the city council has been organized, it shall elect a city clerk and a comptroller of accounts as officers of the city to hold office for the term of 2 years and until their successors are qualified, unless they are removed by vote of a majority of the full council taken by ballot.*

*A vacancy in the office of city clerk or comptroller of accounts shall be filled for the balance of any unexpired term by the city council.*

- (a) City Clerk—The city clerk shall have such powers and perform such duties as the city council may prescribe in addition to such duties as may be prescribed by law.*
- (b) Comptroller of Accounts—The comptroller of accounts shall keep and have charge of the accounts of the city. The comptroller shall regularly audit the books and accounts of all city agencies and shall have such powers and perform such other duties as the city council may prescribe in addition to such duties as may be prescribed by law.*

**SECTION 2-8. Clerk of the Council; Other Staff**

*(a) Clerk of the Council—The city council shall elect a clerk of the council to hold office at its pleasure. The clerk of the council shall give notice of all meetings of the city council to its members and to the public, keep a record of its proceedings and perform duties as may be assigned by this charter, by ordinance or by other vote of the city council.*

*(b) Other Staff—The city council may by ordinance establish other staff positions, regular or special, as it shall deem necessary or desirable to assist the councilors in the performance of their duties.*

*(c) Salaries of Staff to the Council—The city council shall establish by ordinance, and may modify, a salary schedule and a job description for the clerk of the council and such other positions as it may create to serve as staff to the council.*

*(d) Legal Assistance to the Council — The city council may obtain legal assistance on any issue being examined by the council relating to its duties under the charter; provided that the council rules establish a process for the selection of such assistance.*

*Any material produced by the attorneys for the city council, whether in document or electronic form, shall be clearly and prominently labeled as "Advisory to the Newton City Council." The same statement shall appear on any materials printed or distributed in electronic form at council meetings, other public meetings, or in any*

*other public venues. Copies of all materials produced by the attorneys shall be provided by the council to the city law department and the mayor at the same time such materials are distributed to the council members.*

**Comment [mjw7]:** For this section, 2-10, and 3-3, we are providing two very different examples for how these are handled: Northampton and Newton (proposed). We recommend reviewing and considering each City's three sections together, in order to get a sense of how they fit together. We are happy to provide additional examples if the Commission is interested.

SECTION 2-9: ORDINANCEBYLAWS AND OTHER MEASURES

(a) Measures- Except as otherwise provided by the charter, every adopted measure not vetoed shall become effective at the expiration of 10 days after adoption or upon the signature of the mayor, whichever occurs first. No ordinancebylaw shall be amended or repealed except by another ordinancebylaw adopted in accordance with the charter, or as provided in the initiative and referendum procedures.

(b) Emergency Measures- An emergency measure shall be introduced in the form and manner prescribed for measures generally, except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing the scope and nature of the emergency in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of 2/3 of the full town/city council. ~~An emergency measure may be passed with an amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure. Except as provided by the General Laws, such grant, renewal or extension shall be made by ordinance.~~ An emergency measure shall become effective upon adoption or at such later time as it may specify.

**Comment [mjw8]:** Researching how other charters handle this.

(c) ~~Charter Objection~~Right to Postpone - On the first occasion that the question on adoption of a measure is put to the town/city council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the town/city council, whether regular or special. If 2 members present object, such postponement shall be until the next regular meeting. If it is an emergency measure, at least 4 members must object. This procedure shall not be used more than once for any specific matter notwithstanding an amendment to the original matter. ~~A charter objection~~The use of this right to postpone shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

**Comment [mjw9]:** Placeholder while considering options for a better term for this.

SECTION 2-10: TOWN/CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

Example: Northampton

*The mayor shall refer to the city council and simultaneously file with the city clerk, the name of each person the mayor desires to appoint as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The city council shall refer each name submitted to a standing committee of the council which shall review each candidate for appointment and shall make a recommendation to the full city council not less than 7 nor more than 45 days after the referral. The committee may require any person whose name has been referred to appear before the committee or before the city council to give any information relevant to the appointment that the committee or the city council may require. Appointments made by the mayor shall become effective on the forty-fifth day after the*

*date on which notice of the proposed appointment was filed with the city clerk unless approved or rejected by the city council within the 45 days.*

Example: Newton (proposed)

(Silent in this section – confirmation handled in Mayoral appointment section.)

**Comment [mjw10]:** See comment in 2-8.

## SECTION 2-11: FILLING OF VACANCIES

- a) **Councilor-at-Large Vacancy**
- i. **Vacancy during Initial 16 Months of Term:** If a vacancy shall occur in the office of councilor-at-large during the first 16 months of the term for which councilors are elected, the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.
  - ii. **Vacancy between 17 and 21 Months of Term:** If a vacancy shall occur in the office of councilor-at-large during or after the 17<sup>th</sup> month, but before the 21<sup>st</sup> month of the term to which elected, the vacancy shall be filled at the next regular municipal election and the candidate elected shall serve for the remainder of the present term.
  - iii. **Vacancy after initial 21 Months of Term, but prior to 42nd Month of Term:** If a vacancy shall occur after the 21<sup>st</sup> month of the term to which elected, but before the 42<sup>nd</sup> month, the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.
  - iv. **Vacancy during or after 42<sup>nd</sup> month of Term:** Any vacancy in the office of councilor at large during or after the 42<sup>nd</sup> month of the term to which elected shall be filled at the next regular municipal election. The candidate so elected shall take office immediately, and serve for the remaining 2 months of the present term as well as to the term to which elected.
- b) **District Councilor Vacancy -** If a vacancy shall occur in the office of district councilor in the initial 20 months of the term the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term. Any vacancy occurring after the 20<sup>th</sup> month of the term shall be filled at the next regular municipal election. The candidate so elected shall take office immediately, and serve for the remaining months of the present term as well as to the term to which elected.
- c) **Filling of Vacancies by Council -** Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill the vacancy in the manner provided in section Article II, sections 11(a) or 11(b), the vacancy shall be filled by vote

Updated 02.07.17

of the remaining members of the council. Notice of said councilor vacancy shall be posted for a minimum of 21 days prior to the meeting at which the council shall fill any such vacancy.

**Comment [T11]:** New language reflecting commission's intent.

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**ARTICLE 3: EXECUTIVE BRANCH**

**SECTION 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION; PROHIBITIONS**

(a) Mayor Qualifications – The chief executive officer of the town/~~city~~ shall be a mayor, elected by the voters of the town/~~city~~ at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full-time to the office and shall not hold any other elective public office.

(b) Term of Office – The term of office of the mayor shall be [Decision – length of term] years, beginning on the first Monday in the January succeeding the mayor’s election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and shall continue until a successor has been qualified.

(c) Compensation – The town/~~city~~ council shall, by ordinance~~bylaw~~, establish the compensation for the mayor. No ordinance~~bylaw~~ increasing or reducing the compensation of the mayor shall be effective unless it has been adopted by a [Decision – majority or super-majority] vote of the full town/~~city~~ council. No ordinance~~bylaw~~ increasing or reducing the compensation of the mayor shall be effective unless it has been adopted during the first 18 months of the term for which the mayor is elected and unless it provides that the compensation increase or reduction is to take effect upon the organization of the town/~~city~~ government following the next regular town/~~city~~ election.

(d) Prohibitions – The mayor shall hold no other compensated town/~~city~~ position. No former mayor shall hold a compensated appointed town/~~city~~ office or town/~~city~~ employment until 1 year following the date on which the former mayor’s town/~~city~~ service has terminated. This subsection shall not prevent a town/~~city~~ officer or other town/~~city~~ employee who has vacated a position in order to serve as mayor from returning to the same office or other position of town/~~city~~ employment held at the time such position was vacated; provided, however, that no such person shall be eligible for any other municipal position until at least [Decision – length of “cooling off period” prohibiting service] year[s] following the termination of service as mayor. This prohibition shall not apply to persons covered by a leave of absence under section 37 of chapter 31 of the General Laws.

**SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCE~~BYLAW~~S**

The executive powers of the town/~~city~~ shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several town/~~city~~ agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, laws, ordinance~~bylaws~~ and other orders of the town/~~city~~ government to be enforced and shall cause a record of all official acts of the executive branch of the town/~~city~~ government to be kept. The mayor shall exercise general supervision and direction over all town/~~city~~ agencies, unless otherwise provided by law or by this charter. Each town/~~city~~ agency shall furnish to the mayor, upon request, any information or materials the mayor may request and as the needs of the office of mayor and the interest of the town/~~city~~ may require. The mayor shall supervise, direct and be responsible for the efficient administration of all town/~~city~~ activities and functions placed under the control of the mayor by law or by this charter. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the town/~~city~~ and may call together for consultation, conference and discussion, at reasonable times, all persons serving the city, whether elected directly by the voters, chosen by persons elected directly by the voters or otherwise. The mayor shall be, by virtue of the office, a member of every appointed multiple-member body of the city. The mayor may, as such ex officio member, attend a meeting of an



appointed multiple-member body of the city, at any time, including, so called executive sessions, to participate in the discussions of that body, but shall not have the right to vote.

### SECTION 3-3: APPOINTMENTS BY THE MAYOR

#### Example: Northampton

*The mayor shall appoint, subject to review by the city council under section 2-10, all city officers and department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter; provided, however, this shall not include persons serving under the school committee and persons serving under the city council. All appointments to multiple-member bodies shall be for terms established under article 6. Upon the expiration of the term of any member of a multiple-member body, a successor shall be appointed under article 6. The mayor shall fill a vacancy for the remainder of the unexpired term of any member of a multiple-member body.*

#### Example: Newton (proposed)

*(a) The mayor shall appoint all city officers, department heads and all volunteer members of city boards, commissions, committees and agencies for whom no other method of appointment is provided by this charter or by law.*

*(b) Appointments by the mayor of city officers and department heads shall take effect 30 days from the date of the first regularly scheduled city council meeting after notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within those 30 days.*

*(c) All officers and city agencies shall, subject to the civil service laws of the commonwealth, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but the mayor shall approve all appointments in the police and fire departments, and the mayor shall have the power of removal in the police and fire departments.*

*(d) Appointments by the mayor of volunteer members of city boards, commissions, committees and agencies shall take effect 60 days from the date of the first regularly scheduled city council meeting after the notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within those 60 days.*

*(e) Rejection by the city council of an appointment by the mayor under (b) or (d) shall require a 2/3 vote.*

*(f) Appointments to boards, commissions, committees and agencies may include city employees; provided that, unless otherwise required by law, such employees shall not serve as chair of the board, commission, committee or agency and such city employees shall not comprise more than 1/3 of the full membership of the board, commission, committee or agency.*

*(g) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in section 2-9(c).*

*(h) The mayor shall regularly, but not less frequently than annually, provide to the city clerk and the city council a listing of all vacancies on city boards and commissions, along*

with an indication of the appointing authority responsible for filling the vacancy. The city clerk shall make the listing available to the public electronically.

Comment [mjw12]: See comment in 2-8.

#### SECTION 3-4: TEMPORARY APPOINTMENTS TO TOWN/~~CITY~~ OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a town/~~city~~ office and the needs of the town/~~city~~ require that such office be filled, the mayor may designate a person to perform the duties of the office on a temporary basis until the position can be filled as provided by law or by this charter. When the mayor designates a person under this section, the mayor shall file a certificate with the town/~~city~~ clerk in substantially the following form:

*I designate (name of person) to perform the duties of the office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular procedure for filling the vacancy, or when the regular officer shall return). I certify that this person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the town/~~city~~ of Pittsfield.*

Persons serving as temporary officers under this section shall have only those powers of the office indispensable and essential to the performance of the duties of the office during the period of temporary appointment and no others. Notwithstanding any general or special law to the contrary, no temporary appointment shall be for more than 90 days; provided, however, that not more than 2 extensions of a temporary appointment, which shall not exceed a total of 60 days, may be made when a permanent vacancy exists in the office.

#### SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

(a) Communications to the Town/~~City~~ Council - The mayor shall, by written communications, recommend to the town/~~city~~ council for its consideration measures as, in the judgment of the mayor, the needs of the town/~~city~~ require. The mayor shall, by written communication, keep the town/~~city~~ council fully informed of the financial and administrative condition of the town/~~city~~ and shall specifically indicate in any such reports any fiscal, financial, or administrative issues facing the city.

(b) Special Meetings of the Town/~~City~~ Council - The mayor may call a special meeting of the town/~~city~~ council for any purpose. Notice of the meeting shall, except in an emergency, which shall be designated by the mayor, be delivered at least 48 weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purpose for which the meeting is to be held. A copy of the notice shall be posted immediately or as required by the General Laws relative to such a posting.

#### SECTION 3-6: APPROVAL OF MAYOR, VETO

Every order, ordinance/bylaw, resolution or vote adopted or passed by the town/~~city~~ council relative to the affairs of the city, except memorial resolutions, the selection of town/~~city~~ officers by the town/~~city~~ council and any matters relating to the internal affairs of the town/~~city~~ council, shall be presented to the mayor for approval within 3 business days of such adoption or passage. If the mayor approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure, the mayor

shall return the measure with the specific reason for such disapproval attached to the measure in writing to the town/city council. The town/city council shall enter the objections of the mayor on its records and not less than 10 business days nor more than 30 days from the date of its return to the town/city council, shall again consider the same measure. If the town/city council, notwithstanding such disapproval by the mayor, shall again pass the order, ordinance/bylaw, resolution or vote by a 2/3 vote of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve the same. If the mayor has neither signed a measure nor returned it to the town/city council within 10 days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

#### SECTION 3-7: TEMPORARY ABSENCE OF THE MAYOR

(a) Acting Mayor – Whenever, by reason of sickness or other cause, the mayor is unable to perform the duties of the office, the president/chair of the town/city council shall be the acting mayor. The town/city council, by the affirmative vote of [Decision – number of members to declare acting mayor] members, shall determine whether the mayor is unable to perform the duties of the office. Notwithstanding any general or special law to the contrary, the vote shall be taken in public session by a roll call vote.

(b) Powers of Acting Mayor – The acting mayor shall have only those powers of the mayor as are indispensable and essential to conduct the business of the town/city in an orderly and efficient manner and on which action may not be delayed. The acting mayor shall have no authority to make a permanent appointment or removal from town/city service unless the disability or absence of the mayor shall extend beyond 60 days nor shall an acting mayor approve or disapprove of any measure adopted by the town/city council unless the time within which the mayor must act would expire before the return of the mayor. The town/city council president/chair serving as acting mayor shall not vote as a member of the town/city council.

(c) In the event that the town/city council president/chair is unable to serve as acting mayor under this section, the town/city council shall elect, from among its membership, a person to serve as acting mayor.

#### SECTION 3-8: DELEGATION OF AUTHORITY BY MAYOR

The mayor may authorize a subordinate officer or employee of the town/city to exercise a power or perform a function or a duty which is assigned by this charter, or otherwise, to the mayor and the mayor may rescind or revoke an authorization previously made; provided, however, that all acts performed under any such delegation of authority during the period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate the powers and duties of a school committee member, the power of appointment to town/city office or employment, or to sign or return measures approved by the town/city council.

#### SECTION 3-9: VACANCY IN OFFICE OF MAYOR

Whenever a vacancy occurs in the office of mayor by death, removal, resignation or any other reason during the first through [Decision – number of months] months of the term for which the mayor was elected, the town/city council shall call a special election to be held within 90 days following the date the vacancy is created to fill the vacancy for the remainder of the unexpired term. The town/city council president~~chair~~ shall serve as acting mayor until the vacancy is filled. If a regular town/city election is to be held within 150 days after the date the vacancy is created, a special election need not be held and the position shall be filled by vote at the regular town/city election and the person elected shall serve for the remained of the unexpired term.

If a vacancy occurs during the [Decision – at what month the acting mayor is left in place] month through the end of the term for which the mayor was elected, the president~~chair~~ of the town/city council shall become acting mayor, shall exercise all the rights and powers of the mayor and shall be sworn to the faithful discharge of the mayoral duties. In the event that the town/city council president~~chair~~ is unable or unwilling to serve, a special meeting of the town/city council shall be called by the president~~chair~~ and the council shall elect, by majority vote, 1 of its members to serve as acting mayor for the remainder of the unexpired term. The individual serving as acting mayor under this section shall not be entitled to have the words “candidate for reelection” printed with that person’s name on the election ballot. Any person serving as mayor under this section shall receive the compensation then in effect for the position of mayor.

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**ARTICLE [?]: CITIZEN RELIEF MECHANISMS**

**SECTION [?]-1. FREE PETITION**

- a) Individual Petitions, Action Discretionary — The city council and the school committee shall receive all petitions signed by one or more voters and addressed to either of them and may, in their discretion, take such action in regard to such petitions as they deem necessary and advisable.
- b) Group Petitions, Action Required — The city council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least [Decision – number of signatures required] voters. The hearing shall be held by the city council or the school committee, or in either case, by a committee or subcommittee thereof, and the action by the city council or school committee shall commence not later than three months after the petition is filed with the clerk of the council or secretary of the school committee. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the ten petitioners whose names first appear on each such petition at least seven days before the hearing. The city council or the school committee shall publish in one or more local newspapers a general summary of the subject matter of such petitions and a notice stating: (1) the times and places where copies of the citizen petitions are available for inspection by the public, and (2) the date, time, and place not less than two weeks after such publication, when a public hearing on said petitions will be held by the city council or school committee.

**SECTION [?]-2. CITIZEN INITIATIVE MEASURES**

- a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the clerk of the council or the secretary of the school committee, as the case may be. The petition shall be addressed to the council or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least [Decision – number of signatures required] voters comprised of at least [Decision – number of signatures required in each district, if this is a requirement] voters from each district. The signatures must be certified from each district by the municipal clerk. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.
- b) Referral to Attorney - The clerk of the council or the secretary of the school committee, as the case may be, shall immediately following receipt of each proposed petition deliver a copy of the petition to the town/city attorney. The town/city attorney shall, within [Decision – number of days] days after receipt of a copy of the petition, in writing, advise the council or the school committee, as may be appropriate, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the council or the school committee. If the opinion of the town/city attorney is that the measure is not in proper form, the reply shall state the reasons for this opinion in full. A copy of the opinion of the town/city attorney shall also be mailed to the petitioners committee
- c) Submission to Clerk - If the opinion of the town/city attorney is that the petition is in a proper form, the town/city clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed measure, as determined by the town/city

attorney, together with the names and addresses of the petitioners committee who signed the originating petition. Within 60 days after the date the blank forms are issued by the town/city clerk, the petitions shall be returned and filed with the town/city clerk signed by at least [Decision – percent of voters required] percent of the total number of voters as of the date of the most recent town/city election. Signatures to an initiative petition need not all be on 1 paper but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, containing on the petition the street and number of the residence of each signer accompanied by the endorsement of the name and residence address of the person designated as filing the petition. Within 10 days after the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent municipal election. The town/city clerk shall attach to the petition a certificate showing the results of the board’s examination and shall return the petition to the clerk of the council, or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of registrars of voters’ certificate shall also be mailed to the petitioners committee.

- d) Action on Petitions - Within [Decision – number of days] days after the date a petition has been returned to the clerk of the council, or the secretary of the school committee, and after publication under Article II, section [reference], the council or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered to be a rejection of the initiative measure. If the council or the school committee fails to act with respect to any initiative measure that is presented to it within 30 days after the date it is returned to it by the clerk, the measure shall be considered to have been rejected on the thirtieth day. If an initiative measure is rejected, the clerk of the council, or the secretary of the school committee, shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.
- e) Supplementary Petitions - Within [Decision – number of days] days after the date an initiative petition has been rejected by the council, a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to [Decision – percent of voters required] percent of the total number of voters as of the date of the most recent municipal election, and the signatures on the initial petition filed under subsection (c), above, and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least [Decision – percent of voters required] percent of the total number of voters in Amherst, and in each of the districts into which the municipality is divided for the purpose of elections. If the number of signatures to the supplemental petition is found to be sufficient by the municipal clerk, the council shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days after the date the council votes to call for the special election and shall submit the proposed measure, without alteration, to the voters for determination, but if any other municipal election is to be held within 120 days after the date of the certificate, the council may omit the calling of the special election and cause the question to appear on the election ballot at the next regular municipal election for determination by the voters.
- f) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than [Decision – number of days] nor more than [Decision – number of days] days preceding the date of the election at which the question is to be voted upon.

Additional copies of the full text shall be available for distribution to the public in the office of the municipal clerk, and in such other locations as may be determined by the clerk, including, but not limited to, the public library, and the official municipal web site or similar electronic posting.

- g) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by an initiative petition, take effect?

(Here, insert a fair, concise summary prepared by the solicitor.)

YES \_\_\_\_\_

NO \_\_\_\_\_

- h) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

#### SECTION [?]-3. CITIZEN REFERENDUM PROCEDURES

- a) Petition, Effect on Final Vote - If, within [Decision – number of days] days following the date on which the Town/city Council or the School Committee has voted finally to approve any measure, a petition signed by a minimum of [Decision – number of voters required] voters and addressed to the Town/city Council or to the School Committee, protesting against the measure or any part of it is filed with the Clerk of the Town/city Council or the Secretary of the School Committee, the effective date of that measure shall be temporarily suspended. The Town/city Council or the School Committee shall immediately reconsider its vote on the measure or part thereof protested against, and if the measure is not rescinded, the Town/city Council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, within such time as may be requested by the School Committee or at the next regular town election; provided, however, that pending this submission and determination, the effect of the measure shall continue to be suspended.
- b) Submission to Town Clerk - Within 10 days following the filing of the petition, the registrars of voters shall ascertain the number of voters that signed the petition. The registrars of voters shall cause a certificate showing the results of its examination to be attached to the petition and shall return the petition to the Clerk of the Town/city Council or the Secretary of the School Committee, depending on how the petition is addressed. A copy of the registrars of voters' certificate shall also be mailed to the first 10 voters who signed the petition, if applicable.
- c) Referral to the Town/city Attorney – The Clerk of the Town/city Council or the Secretary of the School Committee shall, immediately following receipt of the petition, deliver a copy of the petition to the Town/city Attorney. The Town/city Attorney shall, within 21 days following receipt of a copy of the petition, in writing, advise the Town Council or the School Committee and the Town/city Clerk whether the measure may lawfully be protested by the referendum process. If the opinion of the Town/city Attorney is that the protest of the measure is not in proper form, the reply shall state the reasons for this opinion in full. If the Town/city Attorney finds it is not in proper form, the suspension on the measure shall be immediately lifted. A copy of the opinion of the Town/city Attorney shall be mailed to the first 10 voters who signed the petition.

- d) Publication - The full text of a referendum measure which is submitted to the voters shall be published in a local newspaper not less than [Decision – number of days] nor more than [Decision – number of days] days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the Town Clerk. Publication shall be at the town’s expense.
- e) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:  
  
Shall the following measure or part thereof protested against by referendum take effect?  
  
(Here insert the text of the measure or part thereof protested against as originally voted by the Town/city Council or School Committee.)  
  
YES \_\_\_\_\_  
NO \_\_\_\_\_
- f) Time of Taking Effect – If a majority of the votes cast on the question is in the affirmative, the measure as originally approved by the Town/city Council or School Committee shall be deemed to be effective immediately.

SECTION [?]-3. INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the referendum procedures:

- a) proceedings relating to the internal organization or operation of the council or the school committee;
- b) an emergency measure adopted in conformity with the charter;
- c) the municipal budget or the school committee budget as a whole;
- d) revenue loan orders;
- e) any appropriation for the payment of the municipality’s debt or debt service;
- f) an appropriation of funds to implement a collective bargaining agreement;
- g) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- h) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures;
- i) any proceedings providing for the submission or referral to the voters at an election; and
- j) memorial resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

SECTION [?]-5. SUBMISSION OF OTHER MATTERS TO VOTERS



The council may of its own motion, and shall at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular municipal election for adoption or rejection any measure in the same manner and with the same force and effect as is hereby provided for submission by petitions of voters.

#### SECTION [?]-6. CONFLICTING PROVISIONS

If two or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

#### SECTION [?]-7. RECALL ELECTIONS

- a) Application\_- Any person holding an elected municipal office may be recalled from that office by the voters under the procedures made available in this section.
- b) Recall Affidavit
  - i) Office Elected by Voters at Large - [Decision – number of voters required] or more voters may file with the board of registrars of voters an affidavit demanding the recall of an officer containing the name of the officer sought to be recalled and a statement of the grounds for recall. The affidavit shall be signed by 10 voters and contain their residential address stating they will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form.
  - ii) Officer Elected by District - [Decision – percent of voters required] or more voters from the district where an officer elected by said district is sought to be recalled may file with the board of registrars of voters an affidavit demanding the recall of an officer containing the name of the officer whose recall is sought and a statement of the grounds for recall. The signatures on this affidavit shall contain the names only of voters in the district from which the officer was elected. The affidavit shall be signed by 10 voters and contain their residential address stating they will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form.
- c) Recall Petition: At Large, or by District - If the affidavit is found to be valid, the town/city clerk shall deliver to the petitioners committee, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the council; they shall contain the names and residence addresses of petitioners committee and they shall contain the grounds for recall as stated in the affidavit and they shall be dated and signed by the town/city clerk. The recall petitions shall be returned to the office of the board of registrars of voters within [Decision – number of days] days after the date they are issued, signed by not less than [Decision – percent of voters required] % of the total number of voters in the district for an official elected by the district, or of the municipality for an official elected at large, as of the date of the most recent regular municipal election. For the recall petition of an official elected at large, the signatures on these petitions shall contain the names and addresses of at least

[Decision – percent of voters required] % of the voters in each of the districts into which Amherst is divided for the purpose of elections. The sheets constituting a petition need not all be filed at the same time. For the purposes of this section, a petition shall be considered filed whenever the petitioners committee notifies the board of registrars of voters in writing, that the filing is complete. Before receiving such notice, the board of registrars of voters may, but shall not be required to, certify signatures on the sheets already filed. The board of registrars of voters, shall within [Decision – number of days] days following the date the petition forms are filed certify the number of signatures on them which are the names of voters and the percentage that number represents of the total number of voters in each district as of the date of the most recent regular municipal election.

- d) Recall Election - If the petitions are certified by the board of registrars of voters to contain a sufficient number of signatures, the board shall immediately submit the petitions, with their certificate, to the council. Upon receipt of the certified petition forms, the council shall immediately give written notice to the officer whose recall is sought of the validity of the petitions. If the officer whose recall is sought does not resign the office within [Decision – number of days] days after delivery of the notice, or by its having been delivered to the last known place of residence of the officer, the council, after consultation with the town/city clerk, shall order a special election to be held on a date no less than [Decision – number of days] nor more than [Decision – number of days] days after the date of its notice to the officer whose recall is sought.
  
- e) Ballot Question - Ballots used at the recall election shall state the proposition in substantially the following form:  

Shall (insert name of officer) be recalled from the office of (insert name of office held)?

YES \_\_\_\_\_

NO \_\_\_\_\_
  
- f) Officeholder - If the officer whose recall is sought has not resigned the office, the officer shall continue to hold and perform the duties of the office until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be deemed recalled, and the office shall be vacant upon the certification of the election results. If a majority of the votes cast on the question is in the negative, the person whose recall was sought shall continue in the office until the expiration of the term for which elected.
  
- g) Restriction on Recall Petition - No recall petition shall be filed against any officer until at least 6 months following the commencement of a term of office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than 6 months of the term of office of the person whose recall is sought remains at the time of the certification of the petition forms.
  
- h) Filling of Vacancy:
  - i) If the office of mayor is declared vacant as the result of a recall election, the council shall immediately call a special election to be held on a date fixed by it not less than 90 nor more than 120 days after the date of the recall election. The person elected at that special election shall serve for the balance of the unexpired term remaining at the time of election.

- ii) Vacancies in any other elected office shall be filled under sections [reference]. No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by that recall.
- i) Prohibition on Officeholder Recalled - No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any municipal office within two years after such recall or such resignation.

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