

**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 council consisting of 13 members which shall exercise the legislative powers of the town. 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 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 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 moves from the ward in which the councilor was elected and who remains a resident of the town may continue to serve during the term for which the councilor was elected. The town council shall determine whether a town councilor has removed from the city.

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

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

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

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

**SECTION 2-3: PROHIBITIONS**

(a) Holding Other town Position – Except as otherwise provide by the charter, no member of the town council shall hold any other compensated town position. No former member of the town council shall hold any compensated appointed town position until 18 months following the date on which the former

member's service on the town council has terminated unless such appointment is affirmed by a vote of 75% of members of the full town council. This section shall not prevent a town employee who vacated a position in order to serve as a member of the town 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 council or any member of the town council shall give orders or directions to any employee of the town appointed by the mayor, either publicly or privately.

#### SECTION 2-4: COMPENSATION

The members of the town council shall receive compensation for their services as set by bylaw. No bylaw increasing or reducing the compensation of the members of the town council shall be effective unless it is adopted by a vote of 75% of of the full town council. No bylaw increasing or reducing the compensation of councilors shall be effective unless it is adopted during the first 22 months of the ward councilors' terms and the first 46 months for the at-large councilors' terms and it provides that the compensation increase or reduction is to take effect upon the organization of the town government following the next regular town election at which at large councilors are to be elected.

#### SECTION 2-5: GENERAL POWERS

Except as otherwise provided by the General Laws or by this charter, all powers of the town shall be vested in the town council, which shall provide for the performance of all duties and obligations imposed upon the town 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 council may be exercised in a manner determined by the town 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 7 members of the town council shall be required to adopt any bylaw. ~~All votes of the council that are not unanimous shall be taken and recorded as a roll call vote.~~

**Comment [mjw2]:** Deleted this due to concerns, but can be discussed.

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

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

**Comment [T3]:** There was some question as to whether to apply this to ALL regular meetings. This is fairly standard language. One alternative would be not to mention public comment and leave it to the council rules.

(ii) special meetings of the town council shall be held at the call of the chair or at the call of any 3 or more members, for any purpose; notice of the meeting shall, except in an emergency, which shall be designated by the 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; a copy of each notice shall immediately be posted as the General Laws relative to such postings require;

(iii) all sessions of the town 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 council shall be maintained by the town 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; 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: NEIGHBORHOOD MEETINGS

Every ward councilor shall convene a minimum of \_\_\_\_ neighborhood meetings in his or her ward each year open to all residents to facilitate two-way communication between the town council and other government representatives and the residents of the ward. MORE DETAILS?

#### SECTION 2-8: ACCESS TO INFORMATION

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

(b) Information Requests - The town council may require a member of a multiple-member body or a town employee to appear before the town council to give any information that the town 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.

(c) Mayor - The town 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 [mjw4]:** Researching whether the school committee must be exempt.

(d) Notice - The town 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 council seeks information and no person called to appear before the town 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.

**Comment [mjw5]:** Re-writing to include "temporary absence" language.

#### SECTION 2-9: APPOINTMENTS OF THE TOWN COUNCIL

(a) Clerk of the Council—The town 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 town 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 town council.

(b) Subject to appropriation, the town council may employ staff as it deems necessary.

SECTION 2-10: BYLAWS 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 bylaw shall be amended or repealed except by another bylaw 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 council. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c) Right to Postpone - On the first occasion that the question on adoption of a measure is put to the town 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 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. 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 [mjw6]:** Placeholder while considering options for a better term for this.

SECTION 2-11: TOWN COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

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 city officer, 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 a majority of the city council within the 45 days.

**Comment [T7]:** Should be parallel with 3-3

SECTION 2-12: 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 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 42nd 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 18 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.

**Comment [mjw8]:** Investigate if rank choice voting.

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 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.

**ARTICLE 3: EXECUTIVE BRANCH**

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

(a) Mayor Qualifications – The chief executive officer of the town shall be a mayor, elected by the voters of the town 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 4 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 council shall, by bylaw, establish the compensation for the mayor. No bylaw increasing or reducing the compensation of the mayor shall be effective unless it has been adopted by a two-thirds vote of the full town council. No 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 government following the next regular town election.

(d) Prohibitions – The mayor shall hold no other compensated town position. No former mayor shall hold a compensated appointed town office or town employment until 18 months following the date on which the former mayor’s town service has terminated. This subsection shall not prevent a town officer or other town employee who has vacated a position in order to serve as mayor from returning to the same office or other position of town 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 18 months 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.

**Comment [mjw9]:** Discuss 2 in transitions.

**Comment [mjw10]:** Research question: what are other mayor salaries? This will go in transition provision.

**Comment [mjw11]:** Review committee on compensation? Find language.

**Comment [T12]:** Probably we should put a review committee in another article if it references mayor and council.

**SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF BYLAWS**

The executive powers of the town shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several town agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, laws, bylaws and other orders of the town government to be enforced and shall cause a record of all official acts of the executive branch of the town government to be kept. The mayor shall exercise general supervision and direction over all town agencies, unless otherwise provided by law or by this charter. Each town 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 may require. The mayor shall supervise, direct and be responsible for the efficient administration of all town 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 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.

All contracts entered into by, for, or on behalf of, the town by any officer or town agency shall be subject to the approval of the mayor, unless otherwise required by law.

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SECTION 3-3: APPOINTMENTS BY THE MAYOR

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; 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.

Comment [T13]: Cross-check

Comment [T14]: Cross-check

Comment [T15]: Currently we have not included this in the Admin Org article.

The mayor shall seek expertise in all appointments as well as diversity in neighborhood residence, age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex and sexual orientation (ANY OTHERS?).

Comment [T16]: New section. Should anything else be included?

SECTION 3-4: TEMPORARY APPOINTMENTS TO TOWN OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a town office and the needs of the town 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 clerk.

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 150 days, unless approved by the council..

SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

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

(b) Special Meetings of the Town Council - The mayor may call a special meeting of the town 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.

(c) State of the Town: Each year in the month of January the mayor shall make an address to a joint meeting of the town council, school committee, all elected and appointed members of municipal

committees, boards, commissions and officers, department heads reporting on the state of affairs of Amherst.

(d) Communications to the Public: The Mayor shall, no less than once a month, communicate with the public by appropriate means.

(e) Public Forums – With consultation from the Council, the Mayor shall call 3 public forums each year addressing budget, master plan, and school issues. The intention of the public forums is to present the public with context, collect feedback, and alert the public to upcoming issues.

Comment [mjw17]: Find language

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

Every order, bylaw, resolution or vote adopted or passed by the town council relative to the affairs of the city, except memorial resolutions, the selection of town officers by the town council and any matters relating to the internal affairs of the town 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 council. The town 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 council, shall again consider the same measure. If the town council, notwithstanding such disapproval by the mayor, shall again pass the order, 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 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 chair of the town council shall be the acting mayor. The town council, by the affirmative vote of two thirds of the 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 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 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 council unless the time within which the mayor must act would expire before the return of the mayor. The town council chair serving as acting mayor shall not vote as a member of the town council.

(c) In the event that the town council chair is unable to serve as acting mayor under this section, the town 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 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 office or employment, or to sign or return measures approved by the town 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 42nd month of the term for which the mayor was elected, the town 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 council chair shall serve as acting mayor until the vacancy is filled. If a regular town 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 election and the person elected shall serve for the remained of the unexpired term.

If a vacancy occurs during the 43<sup>rd</sup> month through the end of the term for which the mayor was elected, the chair of the town 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 council chair is unable or unwilling to serve, a special meeting of the town council shall be called by the 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.