

ARTICLE 10: TRANSITIONAL PROVISIONS

SECTION 10-1: CONTINUATION OF EXISTING LAWS

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to Amherst that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

SECTION 10-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All municipal agencies and municipal officials shall continue to perform their duties until reappointed, or until successors to their respective positions are duly appointed, or until their duties have been transferred and assumed by another municipal agency.

SECTION 10-3: TRANSFER OF RECORDS AND PROPERTY

All records and property of any municipal agency, or part thereof, the powers and duties of which are assigned in whole or in part to another municipal agency, shall be transferred forthwith to such agency.

SECTION 10-4: CONTINUATION OF PERSONNEL

Any person holding a municipal office, or a position in the administrative service of the municipality, or any person holding full-time employment under the municipality, shall retain such office, position, or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; no person in full-time service of the municipality shall forfeit accrued time in service of the municipality.

SECTION 10-5: EFFECT ON OBLIGATIONS, TAXES, ETC.

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

SECTION 10-6: DISPOSITION OF CERTAIN SPECIAL LAWS

a. Certain Special Acts Recognized and Retained: The following special acts are hereby especially recognized and retained:

1. [placeholder for acts to be retained]

b. Certain Obsolete Special Acts Repealed: The following special acts, and any amendment thereto, which were enacted for special purposes and were limited in time by their own provisions are hereby recognized as obsolete and are to stand repealed, but all acts taken under the authority of the said special laws are hereby preserved:

1. Chapter 216 of the Acts of 2001, An Act Relative to Amherst Town Government
[placeholder for additional acts to be repealed]

SECTION 10-7: TIME OF TAKING EFFECT

This charter shall take effect upon its ratification by the voters and in accordance with the following schedule:

- a. All municipal officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed prior to the adoption by the voters of the home rule charter, but, being mindful that on January 1, 2019, that the executive authority shall thereafter be vested in a town manager as determined by this charter and the legislative authority shall be vested in a town council.
- b. During the period of the adoption of the charter until January 1, 2019, the selectboard, town manager, and town meeting shall limit their respective actions during this transition period to those matters essential and necessary to the current operations of the municipality, such as the annual budget, taking no actions contrary to, or that frustrates the purpose of, this charter. Special town meetings shall be held only to address matters not admitting of delay, of which the selectboard shall be the sole judge. The selectboard shall maintain sufficient board and commission memberships as defined by this charter to assure a quorum for the conduct of business plus one member. No appointments shall be made that do not meet this criterion after the charter adoption unless necessary for matters not admitting of delay. The selectboard shall provide a list of vacancies on multi-member bodies to the council president and the manager.
- c. If a vacancy in any elected office other than representative town meeting shall occur prior to the assumption of the council to office, the selectboard shall make such interim appointment to fill any such vacancy for a period ending on January 1, 2019. Vacancies in representative town meeting shall be filled as provided in Chapter 216 of the Acts of 2001, An Act Relative to Amherst Town Government, as amended.
- d. Assuming the passage by the Massachusetts legislature of an act enabling this election calendar, the first election of officers under this charter shall be held on November 6, 2018 for the purpose of electing 13 councilors. Nomination papers will be available on June 1, 2018 and must be returned by August 1, 2018. If necessary, a preliminary election for the purpose of nominating candidates to be elected at such election shall be held on the same day as the Massachusetts gubernatorial election primary in September, 2018. So much of this charter shall become effective as is necessary to conduct such elections. The selectboard shall issue the warrants for such elections.
- e. The municipal election described in sub-section d above shall be to elect 10 ward councilors and 3 councilors at large for an initial term beginning January 1, 2019 and ending January 1, 2022. Two

ward councilors shall be elected from each of the five following wards, which shall be comprised as follows:

- Ward 1: Precincts 1 and 3
- Ward 2: Precincts 2 and 6
- Ward 3: Precincts 4 and 10
- Ward 4: Precincts 5 and 9
- Ward 5: Precincts 7 and 8

- f. The status of the Board of Library Trustees shall be as follows: All trustees in office at the time of the adoption of this charter shall have their terms either extended to January 1, 2022 or abbreviated on January 1, 2022, as appropriate. The first election under this charter for Board of Library Trustees shall be on November 2, 2021.
- g. The status of the School Committee shall be as follows: All school committee members in office at the time of the adoption of this charter shall have their terms either extended to January 1, 2022 or abbreviated on January 1, 2022, as appropriate. The first election under this charter for School Committee members shall be on November 2, 2021.
- h. The status of the selectboard shall be as follows: All selectboard members in office at the time of the adoption of this charter shall have their terms either extended to January 1, 2019 or abbreviated on January 1, 2019, as appropriate.
- i. The status of town meeting members shall be as follows: All town meeting members in office at the time of the adoption of this charter shall have their terms either extended to January 1, 2019 or abbreviated on January 1, 2019, as appropriate.
- j. The status of the moderator shall be: The moderator in office at the time of the adoption of this charter shall have their term extended to January 1, 2019.
- k. The status of the Housing Authority shall be as follows: All Housing Authority members elected on or before March 27, 2018 shall continue to serve for the balance of the terms for which they were elected or until January 1, 2019, whichever is later. Upon the expiration of the term of office or upon a sooner vacating of the office, such successor shall be appointed as provided in this Charter or appointed by the Selectboard if before January 1, 2019.
- l. The status of the Redevelopment Authority shall be as follows: All Redevelopment Authority members elected on or before March 27, 2018 shall continue to serve for the balance of the terms for which they were elected or until January 1, 2019, whichever is later. Upon the expiration of the term of office or upon a sooner vacating of the office, such successor shall be appointed as provided in this Charter or appointed by the Selectboard if before January 1, 2019.
- m. The status of the Planning Board shall be as follows: All Planning Board members in office at the time of this adoption of this charter shall continue to serve for the balance of the terms for which they were appointed or until January 1, 2019, whichever is later. Upon the expiration of the term of office or upon a sooner vacating of the office, such successor shall be appointed as provided in this Charter or appointed by the Selectboard if before January 1, 2019. The town council shall _____

- n. The status of the Zoning Board of Appeals shall be as follows: All Zoning Board of Appeals members in office at the time of this adoption of this charter shall continue to serve for the balance of the terms for which they were appointed or until January 1, 2019, whichever is later. Upon the expiration of the term of office or upon a sooner vacating of the office, such successor shall be appointed as provided in this Charter or appointed by the Selectboard if before January 1, 2019. The town council shall _____
- o. Forthwith following the first election under this charter on November 6, 2018, the persons elected as councilors shall begin the process of transition from the existing form of government to the new form of government.
- i. The councilors-elect may meet for the sole purposes of electing officers, adopting interim rules that will govern the conduct of the business of the council until such time following assumption of office when the council adopts permanent rules, and commencing review of the town manager's nominees to the board of license commissioners established in Article V. Such meetings shall be called by the councilor-elect most senior in age and shall be open to the public, although the business of any such meetings shall be confined to the topics identified here. The town clerk shall serve as an advisor to the town council-elect in this endeavor. The town council shall adopt permanent rules within six months of the assumption of office; any rules adopted, whether interim or permanent, must meet the provisions for council rules as stated in _____
 - ii. The town shall provide suitable offices in a municipal building and access to clerical services and office equipment to the town council-elect to allow them to undertake their transitional assignments.
 - iii. By noon on January 1, 2019 the officials elected at the election of November 6, 2018 shall be sworn to office in accordance with _____. At that time, the terms of office of the members of the selectboard, the town moderator and of the representative town meeting members shall all be terminated, and their offices abolished upon the assumption of office of the town council. The town council shall organize as provided in Article ____ Every appointed municipal officer and employee shall continue to serve in the same office or position until some other provision is made in accordance with the provisions of _____, respectively. The school committee and board of library trustees shall continue to operate under existing bylaws and procedures, to the extent applicable, until such time as members are elected according to the provisions of the charter.
- p. The board of license commissioners established by Article ____ section ____ of this charter shall be appointed by the town manager within 60 days of the town council's assumption of office. The initial terms of office for the members shall be as follows: 2 members shall serve 1 year terms, 2 members shall serve 2 year terms, and 1 member shall serve a 3-year term. Following the completion of such terms, their successors shall serve 3 year terms.
- q. The selectboard and its staff shall keep the nominees for the board of license commissioners as proposed by the town manager fully apprised of its activities. The board of license commissioners shall assume full authority under General Laws chapter 138 and chapter 140 upon being administered the oath of office, and any other authority delegated to it by bylaw, on the sixtieth day following the assumption to office of the town council. The town manager shall exercise said authority only to the extent necessary until the board is duly constituted to allow the council adequate time to review the nominees.

- r. Until such time as another salary is established for the office of the town council in accordance with the procedure provided in Article II, the initial stipend for the councilors shall be \$5,000 and \$7,000 for the town council president. The town manager then in office shall receive the salary in place for the town manager as of June 30, 2019. The initial stipend for the members of the school committee shall be \$3,000 for each person elected as a school committee member and \$4,000 for the chair of the school committee.
- s. If there is a permanent town manager when the council assumes office, the town manager shall continue in the new capacity outlined in this charter unless and until the town council hires a new manager.
- t. Should an interim manager be serving at the time that the council assumes office, the council shall vote to either retain such interim manager until a town manager is appointed by the council or to replace the interim manager with another interim manager. The town council shall immediately begin a recruitment process for a new manager. If an officer or employee of the town is serving as the interim manager at the time the council take office, and is replaced as interim manager by the council, such officer or employee will return to their position in the municipality.
- u. Not later than thirty days following the election at which this charter is adopted, the selectboard shall appoint 7 people to a committee to begin a review of the town by-laws for the purpose of preparing such revisions and amendments as may be necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. The committee shall submit a report, with recommendations, to the council-elect forthwith following the election held on May 7, 2019. The review shall be conducted under the supervision of the town attorney, or, by special counsel appointed for that express purpose.
- v. Upon the assumption of the office, the town council shall be responsible for the continuation of the review of town bylaws, and shall appoint 7 people to be a committee to review the town by-laws for the purpose of preparing such revisions and amendments as may be necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. Upon the appointment of such committee, the committee established under the paragraph above shall be terminated. The town council may retain any members of the prior committee, or appoint new members. The committee shall submit a report, with recommendations, within one year following its creation and may submit interim reports with recommendations at any time. The review shall be conducted under the supervision of the town attorney, or by special counsel appointed for that express purpose.
- w. Unless continued by a bylaw adopted in accordance with the authority contained in sub-section ____, the terms of all members of appointed multiple-member bodies, unless otherwise provided for by this charter, shall continue for the balance of the terms for which they were appointed. Upon the expiration of the term of office or upon a sooner vacating of the office by any multiple-member body such successor shall be appointed as provided in this Charter or by the Selectboard if before January 1, 2019.
- x. The town manager shall negotiate an amendment to the existing regional school agreement to _____.

SECTION 10-8: SPECIAL ACT ____

As soon as practicable after the passage of this charter the [town meeting and selectboard?] shall submit to the Massachusetts legislature the following proposed act or one with similar intent to allow for the election to take place on the above schedule:

Chapter 264. AN ACT AUTHORIZING THE STATE SECRETARY TO PLACE OFFICES ON THE STATE ELECTION BALLOTS IN THE CITY KNOWN AS THE TOWN OF AMHERST.

Whereas, The city known as the town of Amherst has changed its form of government and desires to elect its first town council as soon as practicable.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding any general or special law or charter provision of the city known as the town of Amherst to the contrary, the state secretary shall print on the official state election ballots in 2018 for the city known as the town of Amherst candidates for the office of town councilor during both the preliminary and general elections. Preliminary candidates for the office of town council shall be printed on the primary ballot and final candidates for the office of town council shall be printed on the general ballot.

SECTION 2. Notwithstanding section 7 of chapter 53 of the General Laws or any other general or special law or charter provision to the contrary, nomination papers for the office of town council member shall be filed with the board of registrars of the city known as the town of Amherst for certification of signatures on or before 5:00 p.m. on August 1, 2018.

SECTION 3. Notwithstanding any other general or special law or charter provision to the contrary, the registrars shall complete certification of signatures on these nomination papers on or before 5:00 p.m. on August 3, 2018.

SECTION 4. Notwithstanding section 10 of chapter 53 of the General Laws or any other general or special law or charter provision to the contrary, certified nomination papers shall be filed with the town clerk on or before 5:00 p.m. on August 6, 2018.

SECTION 5. Notwithstanding section 11 of chapter 53 of the General Laws or any other general or special law or charter provision to the contrary, a candidate who has filed nomination papers to fill the vacancy in the office of town council member may withdraw his or her nomination by filing a notarized withdrawal no later than 5:00 p.m. on August 9, 2018.

SECTION 6. The town clerk shall certify to the state secretary on or before 5:00 p.m. on August 13, 2018 a list of candidates, with address, in the order in which the candidates are to appear on the ballot, to fill the offices of town council members.

SECTION 7. This act shall take effect upon its passage.

SECTION 10-___: ALTERNATIVE ELECTION DATES

Should the act outlined in Section 10-___ or a similar act not be passed, the first election under this charter shall be held on January 24, 2019. The town clerk shall determine all other dates relevant to the election including the preliminary election, nomination paper availability and deadlines, swearing in date, and other similar items. All terms of office shall be extended, abbreviated, or terminated as outlined above except that they will align with the new dates instituted by the town clerk.

SECTION 10-___: CREATION OF ELECTION STUDY COMMISSION

Within 6 months of the assumption of office by the town council, there shall be appointed an Election Study Commission for the purpose of studying the feasibility of rank-choice voting or other similar methods of voting in Amherst. The commission shall consist of 7 members, one of whom shall be the town clerk or designee and 3 residents appointed by the town council and 3 appointed by the town manager. The commission shall make a report with recommendations by September 1, 2020. The town council shall act by voting upon these recommendations with or without amendments within 90 days of receiving the report.

SECTION 10-___: CREATION OF PARTICIPATORY BUDGETING COMMISSION

Within 6 months of the assumption of office by the town council, there shall be appointed a Participatory Budgeting Commission for the purpose of studying the feasibility of participatory budgeting or other similar methods of voter participation in the budgeting process in Amherst. The commission shall consist of 7 members, one of whom shall be the finance director or designee and 3 residents appointed by the town council and 3 appointed by the town manager. The commission shall make a report with recommendations by December 1, 2020. The town council shall act by voting upon these recommendations with or without amendments within 90 days of receiving the report.

SECTION 10-___: TOPICS FOR STUDY

The town council and town manager shall investigate the feasibility and efficacy of taking the following actions within 12 months of taking office. The list below is in no particular order or priority:

- a) Whether the town council should be the special permit granting authority
- b) Funding a full-time ADA coordinator
- c) The feasibility of non-citizens to vote and hold office
- d) Lowering the voting age

SECTION 10-___: ADOPTION OF MEASURES TO ASSIST WITH TRANSITION

The town council shall have authority to adopt measures that clarify, confirm, or extend any of the transition provisions in order that the transition may be made in the most expeditious and least contentious manner possible.