

# Amherst Master DRAFT Charter

Version 07.07.17

**Note:**

*This iterative draft document will evolve as the Charter Commission makes and then revisits its decisions. Nothing in this document should be presumed finalized until a vote has been taken on the entire document at the end of the process.*

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## PREAMBLE

*We, the people of Amherst, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, do adopt this Home Rule Charter. We need and want a local government that represents all of us, supports vibrant neighborhoods, provides quality schools, protects public safety, values our elders, celebrates diversity, strengthens local businesses, promotes community participation, and cares for those in need. It is our intent that this Charter will increase voter participation, promote ethical, transparent, and responsive leadership, prompt wise use of public resources, forge respect for all in the community, and foster an engaged citizenry. We expect and intend that our government will promote equality and be welcoming and inclusive.*

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# ARTICLE 1: INCORPORATION, POWERS, ETC.

## SECTION 1-1: INCORPORATION

The inhabitants of Amherst, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Amherst."

## SECTION 1-2: SHORT TITLE

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

## SECTION 1-3: DIVISION OF POWERS

All legislative powers of the Town shall be exercised by a Town Council hereafter established by this Charter. The administration of all Town fiscal, prudential, and municipal affairs shall be vested in the executive branch headed by the Town Manager.

## SECTION 1-4: POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the Commonwealth, it is the intention and the purpose of the voters of Amherst through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated in this act.

## SECTION 1-5: CONSTRUCTION

The powers of Amherst under this charter are to be construed liberally in favor of the municipality, and the specific mention of any particular power is not intended to limit the general powers of the municipality as stated in this Article. To the extent that any provision of this charter shall conflict with any special act or general law adopted by the municipality to the contrary, the provision of this charter shall prevail.

## SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the Commonwealth, Amherst may exercise any of its powers or perform any of its functions, and may participate in their financing, jointly or in cooperation, by contract or otherwise, with the Commonwealth or any agency or political subdivision of the Commonwealth, or with the United States government or any of its agencies.

## SECTION 1-7: DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

Charter: The word "charter" shall mean the Amherst Home Rule Charter and includes any amendment to it hereafter adopted.

Emergency: The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

Ex-Officio: The word “ex-officio” shall mean by virtue or because of an office.

Full Council: The words “full Council” shall mean all 13 seats on the Town Council, even if there is one or more seats vacant.

general laws: The words “general laws” (all lower case letters) shall mean laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities, or cities and towns of which Amherst is a member.

General Laws: The words “General Laws” (initial letter of each word in upper case letters) shall mean the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

Law: The word “law” when used alone shall mean any statute enacted by the General Court of Massachusetts or any statute enacted by the Congress of the United States and whether otherwise called a General Law or a special law or a public law.

Local Newspaper: The words “local newspaper” shall mean a newspaper of general circulation within Amherst, with either a weekly or daily circulation.

Majority Vote: The words “majority vote” when used in connection with a meeting of a multiple-member body shall mean greater than one half of those present and not abstaining, unless another provision is made by charter, by bylaw, by law, or by its own rules.

Measure: The word “measure” shall mean any bylaw, order, resolution, or other vote or proceeding adopted, or which the Town Council might adopt.

Multiple-Member Body: The words “multiple-member body” shall mean any board, commission, committee, sub-committee, or other body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not including the Town Council, Board of Library Trustees, or the School Committee.

Officer: The word “officer” when used without further qualification or description, shall mean a person having charge of an office, or department, who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the Town.

Quorum: The word “quorum” shall mean a majority of all members of a multiple-member body even if there is one or more seats vacant, unless some other number is required by law or by bylaw.

Resident: The word “resident” shall be defined as domiciled in Amherst as defined in General Law.

Special act: The word “special act” shall mean a law enacted by the state legislature which applies only to Amherst.

Temporary Absence: The words “temporary absence” shall mean a period away from office after which the officeholder intends to return to office.

Town: The word “Town” shall mean the Town of Amherst.

Town Agency: The words “Town agency” shall mean any multiple-member body, any department, division, or office of the Town of Amherst.

Town Bulletin Board: The words “Town bulletin board” shall mean the display in the town hall on which the Town Clerk posts official notices of meetings and upon which other official Town notices are posted, on the Town’s website established and maintained by the Town as its online repository of municipal information, other official online repository of municipal information, whether on the internet or accessed through another comparable technology, or the display at any other location(s) as may be designated by the Town Council.

Vacancy: The word “vacancy” shall mean the permanent absence of an office holder from the position to which there is no intention to return.

Voters: The word “voters” shall mean registered voters of the Town of Amherst.

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## 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 policy leadership and legislative powers of the Town. Three (3) of these members, to be known as Councilors-at-large, shall be nominated and elected by and from the voters, at large. Ten (10) of these members, to be known as ward Councilors, shall be nominated from and elected by the voters in each ward, with 2 such Councilors to be elected from each of the 5 wards into which the Town is divided under Section 10-7(e).

(b) Term of Office: The term of office for Town 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 sworn.

(c) Eligibility: Any voter shall be eligible to hold the office of Councilor-at-large. A ward Councilor must 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 2-12. 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 out the remainder of the term. The Town Council shall determine whether a Town Councilor has removed from the Town.

### SECTION 2-2: COUNCIL PRESIDENT AND VICE PRESIDENT, ELECTION AND TERM; POWERS AND DUTIES; STATE OF THE TOWN

(a) Election and Term: As soon as practical after the Councilors-elect have been qualified following each regular Town election, as provided in Section 7-1, the members of the Town Council shall elect from among the 3 at-large members a President who shall serve for a 1-year term. The members of the Town Council shall elect from among all Councilors a Vice President. The method of election of the President and Vice President shall be prescribed within the rules of the Town Council. The rules of the then outgoing Town Council shall govern the election of the President and Vice President.

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

(c) State of the Town: Each year the Town Council President and the Town Manager shall address the Town Council, School Committee, Library Trustees, and the public on the state of affairs of the Town.

### 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 either publicly or privately to any employee of the Town who is not appointed by the Town Council.

#### 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 majority vote of the full Town Council. No bylaw increasing or reducing the compensation of Town Councilors shall be effective unless it is adopted during the first 18 months of the Town Councilors' terms and it provides that the compensation increase or reduction is to take effect upon the reorganization of the Town government following the next regular Town election at which Town 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 of the Town Council shall constitute a quorum for the transaction of business.

(c) Adoption of Bylaws: 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.

(d) 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;

(ii) Special meetings of the Town Council shall be held at the call of the President or at the call of any 3 or more members, for any purpose; notice of the meeting shall, 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 require;**

(iii) Emergency special meetings, which shall be designated an emergency by the Town Council President, or the Vice President in the absence of the President, shall be held in accordance with the General Laws;

(iv) All sessions of the Town Council and of every committee or subcommittee of the Town Council shall, at all times, be open to the public, unless otherwise specified by law; and

(v) 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; 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: WARD MEETINGS

The Town Councilors from each ward shall convene a minimum of 2 ward meetings in their wards each year open to all residents to facilitate 2-way communication between the Town Council and other government representatives and the residents of the ward. Residents may submit agenda items in advance and meetings must include a period of public comment open to all residents of the ward.

#### 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 or the library board of trustees.

(c) Town Manager: The Town Council may require the Town Manager to provide specific information to it on any matter within the jurisdiction of the Town Council. The Town Council may require the Town Manager to appear before it at any time to provide specific information on the conduct of any aspect of the business of the Town. The Town Manager may bring to such meeting any assistant, department head, or other Town official or employee or other resources to assist the Town Manager in responding to questions which may be posed by the Town Council.

(d) Notice: The Town Council shall give reasonable 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.

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

(a) Clerk of the Council: The Town Council shall appoint a Clerk of the Town Council to hold office at its pleasure, which may be the Town Clerk or another Town employee. The Clerk of the Town 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 bylaw, or by other vote of the Town Council.

(b) Additional Staff: Subject to appropriation, the Town Council may employ additional staff as it deems necessary.

(c) Planning Board and Zoning Board of Appeals: The Town Council shall appoint all members of the planning board and Zoning Board of Appeals.

(d) Non-voting Liaisons: The Town Council may appoint non-voting liaisons to multi-member bodies, including, but not limited to, the School Committee and the Board of Library Trustees.

#### SECTION 2-10: BYLAWS AND OTHER MEASURES

(a) Bylaws: Proposed bylaws shall address 1 subject only and shall be introduced in writing and in the form necessary for final adoption. Any proposed bylaw shall be published on the Town bulletin board, not less than 14 days prior to its second reading except for emergency bylaws.

Any bylaw which amends or repeals a portion of any Town bylaw shall set out in full the portion to be so amended or repealed, by the use of strikeout type, brackets or underscoring.

Prior to final passage, each introduced bylaw shall be read at 2 separate Council meetings, except in case of an emergency involving the health or safety of the people or their property.

The affirmative vote of 7 members of the Town Council membership, except as otherwise provided by the General Laws or this charter, shall be necessary for the final passage of any bylaw. Every adopted measure shall become effective at the expiration of 21 days after final passage or a specified later date.

(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 members present. An emergency measure shall become effective upon adoption or at such later time as it may specify. An emergency measure may be passed with an amendment or rejected at the meeting at which it is introduced.

(c) Right to Postpone: On the first occasion that the question on adoption of a non-emergency 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. This procedure shall not be used more than once for any specific measure whether or not amended. 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.

#### SECTION 2-11: TOWN COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

The Town Manager shall refer to the Town Council and simultaneously file with the Town Clerk, the name of each person the Town Manager desires to appoint as a Town department head or as a member of a multiple-member body, but not including any position which is appointed solely by the Town Council. Appointments made by the Town Manager shall become effective on the 14th day after the date on which notice of the proposed appointment was filed with the Town Clerk unless approved or rejected by a majority of the full Town Council within the 14 days.

#### SECTION 2-12: FILLING OF VACANCIES

Whenever a vacancy shall occur in the office of Councilor-at-large or in that of ward Councilor, the vacancy shall be filled by vote of the remaining members of the Town Council from eligible applicants. Notice of said Town Councilor vacancy shall be posted for a minimum of 21 days prior to the meeting at which the Town Council shall fill any such vacancy. Ward Councilor vacancies shall be filled by a voter of the ward in which the vacancy occurs. No Councilor appointed under this section shall be entitled to be listed as a "candidate for re-election" at the next regular Town election.

## ARTICLE 3: EXECUTIVE BRANCH

### SECTION 3-1: APPOINTMENT, QUALIFICATIONS, TERM OF OFFICE

The Town Council shall appoint a Town Manager by a majority vote of the full Town Council. The Town Manager shall be a person of proven administrative ability, especially qualified by education and training with prior experience as a city or Town Manager or an assistant city or Town Manager or the equivalent public or private sector level experience. The Town Council may establish additional qualifications as deemed necessary and appropriate. The Town Manager shall devote full-time to the duties of the office and shall not hold any other elective or appointive office in the Town, nor shall the Town Manager engage in other business unless such business is approved in advance by the Town Council. The Town Manager need not be a resident of the Town at the time of appointment, but must establish residency within one year, unless the Town Council shall waive such residency requirement.

### SECTION 3-2: ADMINISTRATIVE POWERS AND DUTIES

The Town Manager shall be the chief executive officer of the Town and shall be responsible to the Town Council for the proper operation of Town affairs for which the Town Manager is given responsibility under this charter. The Town Manager shall be the primary officer responsible for the implementation of Town Council policy, as reflected by the Town Council's votes and resolutions, enactments of bylaws, appropriation orders and loan authorizations. The powers, duties, and responsibilities of the Town Manager shall apply to all municipal departments, excluding those powers, duties, and responsibilities vested in the School Committee, Amherst-Pelham Regional School Committee, and Library Board of Trustees. These powers, duties, and responsibilities shall include, but shall not be limited to, the following:

- (a) Supervise, direct, and be responsible for the efficient administration of all Town activities placed under the Town Manager's control by the charter, by bylaw, or otherwise, including all officers appointed by the Town Manager and their respective agencies;
- (b) Administer either directly or through a person supervised by the Town Manager, in accordance with this charter, all provisions of any general or special law applicable to the Town, all bylaws, and all regulations established by the Town Council;
- (c) Coordinate all activities of Town departments or appointed multiple-member bodies or agencies;
- (d) Attend all meetings of the Town Council, unless excused, and answer all questions addressed to the Town Manager which are related to matters under the general supervision of the Town Manager;
- (e) Keep the Town Council fully informed as to the needs of the Town, and to recommend to the Town Council for adoption, such measures requiring action by them;
- (f) Make recommendations to the Town Council concerning the affairs of the Town and facilitate the work of the Town Council in developing policy;
- (g) Ensure that the Town Council is kept fully informed of the Town's emergency **operations** planning and preparation;
- (h) Determine the existence of a public emergency or danger and to assume responsibility for the maintenance of public safety, public order and enforcement of laws. The Town Manager shall notify the Town Council President as soon as practical, but within 24 hours, of such a public emergency or danger and of the actions taken. Should the public emergency continue more than 24 hours, the Town Council may meet to review, ratify, or terminate said public emergency.

- (i) Ensure that complete records of the financial and administrative activity of the Town are maintained and to render reports to the Town Council as may be required;
- (j) Be responsible for the rental, use, maintenance, and repair of all Town facilities, except for those under the jurisdiction of the School Committee, Amherst-Pelham Regional School Committee, and Library Board of Trustees, unless otherwise specifically requested by said entities;
- (k) Be responsible for purchasing all supplies, materials, services, and equipment, for all departments and activities of the Town, and for executing procurement contracts, except for those under the jurisdiction of the School Committee, Amherst-Pelham Regional School Committee, and Library Board of Trustees, unless otherwise specifically requested by said entities;
- (l) Administer personnel policies, practices, or rules and regulations, any compensation plan, and related matters for all Town employees placed under the Town Manager's control by this charter, and to administer all collective bargaining agreements entered into by the Town;**
- (m) Set the compensation of all Town employees and officers placed under the Town Manager's control by this charter within the limits established by appropriation and applicable compensation plan;
- (n) Be responsible for the negotiation of all contracts with Town employees placed under the Town Manager's control by this charter over wages and other terms and conditions of employment. The Town Manager may employ special counsel to assist in the performance of these duties. Insofar as they require appropriations, contracts shall be subject to the approval of the Town Council.
- (o) Keep the Town Council fully informed as to the financial condition of the Town and to make recommendations to the Town Council;
- (p) Prepare and submit an annual budget, capital improvement program, and a long term financial forecast;
- (q) Assist the Town Council to develop annual and long-term goals for the Town;
- (r) Investigate or inquire into the affairs of any Town department, agency, or office under the authority of the Town Manager;
- (s) Delegate, authorize, or direct a subordinate or employee of the Town to exercise any power, duty, or responsibility which the Town Manager may exercise; all acts that are performed under this delegation shall be considered to be the acts of the Town Manager;
- (t) Perform such other duties as necessary or as may be assigned by this charter, by bylaw, or by vote of the Town Council;
- (u) Unless otherwise provided by agreement, bylaw, or general law, to serve as the Town's liaison to any regional entity of which the Town is a member and to explore opportunities for intergovernmental cooperation;
- (v) Promote partnerships among Town Council, staff, residents, businesses, and other local entities in developing public policy and building a sense of community;
- (w) Communicate regularly with the public by appropriate means;
- (x) Make a State of the Town Address with the Town Council President as referenced in 2-2(c);
- (y) Call not less than 3 public forums each year addressing budget, master plan, and school issues with participation of the Town Council and/or School Committee as appropriate. The intention of the public forums is to present the public with context, collect feedback, and alert the public to upcoming issues.

### SECTION 3-3. POWERS OF APPOINTMENT

- (a) Town Staff: Except as otherwise provided by this charter, the Town Manager shall appoint, based upon merit alone, all department heads. All appointments of department heads shall be subject to the provisions of section 2-11. The Town Council shall establish a bylaw providing for the use and

composition of search committees for department heads. The Town Manager shall also appoint officers, subordinates, and employees for whom no other method of selection is provided in this charter.

(b) 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 Town Manager 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 Town Manager designates a person under this section, the Town Manager 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. No temporary appointment shall be for more than 150 days, unless approved by the Town Council.

(c) Appointments to Multiple-Member Bodies: Except as otherwise provided by this charter, the Town Manager shall appoint all multiple-member bodies. Members of all appointed multiple-member bodies shall be residents of the Town. All appointments of these bodies shall be subject to the provisions of section 2-11. The Town Manager shall form a residents' advisory committee to help in evaluating and selecting those individuals for appointment. The number and terms of office of the residents' advisory committee shall be established by the Town Council.

The Town Manager shall seek expertise in all appointments, as well as diversity, including such categories as neighborhood residence, age, ethnic or national origin, citizenship, disability, , family status, socio-economic status, race, religion, gender, sexual orientation, gender identity or expression, and political belief or activity.

(d) Community Participation Officer: The Town Manager shall appoint or designate a community participation officer to promote participation in local government by residents of diverse backgrounds, to work with Town departments and multiple-member bodies to develop and implement strategies to enhance public engagement, to provide resources and leadership development for individuals interested in getting more involved in local government either through elected or appointed positions, to assist in the execution of ward meetings, and any other such duties designated by the Town Manager. The community participation officer shall analyze data on resident engagement and shall regularly submit reports to the Town Manager and Town Council.

#### SECTION 3-4: POWERS OF SUSPENSION, REMOVAL

The Town Manager shall have the authority to suspend or remove department heads and appointive officers provided for by or under this charter, except as otherwise provided by law, collective bargaining agreements, this charter, or personnel rules adopted pursuant to this charter. The Town Manager may authorize an officer subject to the Town Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

#### SECTION 3-5: COMPENSATION

The Town Manager shall receive such compensation for services as the Town Council shall determine, but such compensation shall be within the limits of available appropriations.

#### SECTION 3-6: INTERIM TOWN MANAGER

A vacancy in the office of Town Manager shall be filled as soon as possible by the Town Council. Pending appointment of the Town Manager or the filling of any vacancy, the Town Council shall appoint a qualified person as interim the Town Manager.

#### SECTION 3-7: TEMPORARY TOWN MANAGER

The Town Manager shall designate by letter filed with the Town Council and Town Clerk, a qualified officer of the Town as temporary Town Manager to perform the duties of the Town Manager during a temporary absence or disability. The Town Council may not revoke such designation until at least 14 days have elapsed whereupon it may appoint such other person as temporary Town Manager to perform the duties of the Town Manager. In the event of failure of the Town Manager to make such designation or if the person so designated is for any reason unable to serve, or is deemed not qualified by the Town Council, the Town Council may designate some other qualified person as temporary Town Manager to perform the duties of the Town Manager until the Town Manager returns.

The powers of a temporary Town Manager shall be limited to matters not admitting of delay; no temporary Town Manager shall have authority to make any permanent appointment to, or removal from, any office or position under the Town.

#### SECTION 3-8: REMOVAL OF TOWN MANAGER

The Town Council, by affirmative vote of a majority of the full Town Council, may vote to terminate, remove, or suspend the Town Manager from office in accordance with the following procedure: Before removal or termination the Town Council shall adopt a preliminary resolution of removal by the affirmative vote of a majority of the full Town Council. The preliminary resolution may suspend the Town Manager for a period not to exceed 30 days. A copy of the resolution shall be delivered to the Town Manager forthwith. If so requested by the Town Manager, the Town Council shall provide a written statement setting forth the reasons for the removal or termination. Within 5 days after the receipt of the preliminary resolution, the Town Manager may request a public hearing by filing a written request for such hearing with the Town Council. If such a hearing is requested, the hearing shall be held at a meeting of the Town Council not later than 20 days from the date of request. At such hearing the Town Manager shall be entitled to address the Town Council and make comments related to the preliminary resolution. If a public hearing has not been requested by the Town Manager, the Town Council may adopt a final resolution of removal, which may be effective immediately, by the affirmative vote of a majority of the full Town Council at any time after 10 days following the date of delivery of a copy of the preliminary resolution to the Town Manager. If the Town Manager requests a public hearing, the Town Council may, at the conclusion of the hearing or within 5 days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of majority of the full Town Council. The Town Council may suspend, by an affirmative vote of the majority of the full Town Council, the Town Manager

pending and during any public hearing held pursuant to this section. The Town Manager shall continue to receive a salary until the final date of removal becomes effective unless provided otherwise. The action of the Town Council in terminating, removing, or suspending the Town Manager shall be final.

#### SECTION 3-9: ANNUAL REVIEW OF THE TOWN MANAGER

The Town Council shall conduct an annual review for the purpose of assessing the strengths and weaknesses of the Town Manager's performance.

The review shall be based on a written list of performance criteria developed by the Town Council. Copies of the criteria with an invitation to submit written comments shall be available to the public in the Town Council office. After due consideration, the Town Council shall prepare a written report of its evaluation. The report shall be placed in the Town Manager's personnel file and a written summary may be released to the public.

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## ARTICLE 4: OTHER ELECTED OFFICES

### SECTION 4-1: ELECTED OFFICES IN GENERAL

(a) Offices to be Filled by Election: The offices to be filled by ballot of the Town's voters shall be a Town Council as provided in Article 2, a School Committee, Library Board of Trustees, Housing Authority, Oliver Smith Will Elector, and members of regional authorities or districts requiring election as may be established by General Law, inter-local agreements, or otherwise.

(b) Eligibility: Any voter of the Town shall be eligible to hold the position of any office in this Article, but no elected office-holder of any office in this Article shall simultaneously hold any other elected Town office. If an elected office-holder of any office in this Article moves from the Town during the term for which elected, the office shall immediately be considered vacant and filled in the manner provided in Section 1(c).

(c) Whenever a vacancy occurs in the School Committee, Library Board of Trustees, or Oliver Smith Will Elector, the vacancy shall be filled from eligible applicants by a vote of the Town Council and the remaining members of the board or committee, if any. The President of the Town Council shall call a special meeting of the Town Council and the remaining members of that board or committee, if any, to fill the vacancy. Notice of said vacancy shall be posted for a minimum of 21 days prior to the meeting at which the vacancy shall be filled. No person appointed under this section shall be entitled to be listed as a "candidate for re-election" at the next regular Town election.

(d) Compensation: Except for the Oliver Smith Will Elector, any compensation for office-holders of any office in this Article shall be set by the Town Council and in the annual Town Budget. No increase or reduction for the compensation of the members of the office-holders shall be effective unless it is adopted by a majority vote of the full Town Council.

### SECTION 4-2: SCHOOL COMMITTEE

(a) Composition and Term: There shall be a School Committee consisting of 5 members all of which shall be nominated and elected by and from the voters at large. The term of office for School Committee members shall be 2 years, beginning on the first Monday in the January succeeding the member'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.

(b) Officers: As soon as practicable after the members-elect have been qualified following each regular Town election, as provided in Section 7-1, the members of the School Committee 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 School Committee. The rules of the then outgoing School Committee shall govern the election of the Chair and Vice Chair.

(c) Powers and Duties: The School Committee shall have all powers which are conferred on School Committees by the general laws and any additional powers and duties that may be provided by the charter, by bylaw, or otherwise and are not inconsistent with the grant of powers conferred by the general laws. The powers and duties of the School Committee shall include, but not be limited by, the following:

(i) To appoint a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the School Committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as provided in General Laws chapter 71, section 59;

(ii) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the School Committee as may be considered necessary or desirable; and

(iii) To propose and to oversee the administration of an annual operating budget for the school department.

The School Committee shall make an annual report to Town Council.

#### SECTION 4-3: LIBRARY BOARD OF TRUSTEES

(a) Composition and Term: There shall be a Library Board of Trustees consisting of 6 members nominated and elected by and from the voters at large. The term of office for Trustees shall be 2 years, beginning on the first Monday in the January succeeding the Trustee'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.

(b) Officers: As soon as practicable after the Trustees-elect have been qualified following each regular Town election, as provided in Section 7-1, the members of the Library Board of Trustees 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 Library Board of Trustees. The rules of the then outgoing Library Board of Trustees shall govern the election of the Chair and Vice Chair.

(c) Powers and Duties: The Library Board of Trustees shall have all of the powers and duties Library Board of Trustees may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The Library Board of Trustees shall make an annual report to Town Council.

#### SECTION 4-4: HOUSING AUTHORITY

(a) Composition and Term: There shall be a Housing Authority consisting of 5 members, with 3 of those members nominated and elected by and from the voters at large, 1 of those members appointed by the Commonwealth, and 1 elected tenant member. The term of office for the elected members shall be 2 years, beginning on the first Monday in the January succeeding the member'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. The term of office for the appointed member shall be as provided by the Massachusetts General Laws.

(b) Officers: As soon as practicable after the members-elect have been qualified following each regular Town election, as provided in [reference], the members of the Housing Authority 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 Housing Authority. The rules of the then outgoing Housing Authority shall govern the election of the Chair and Vice Chair.

(c) Powers and Duties: The Housing Authority shall have all of the powers and duties housing authorities may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The Housing Authority shall make an annual report as specified in the Town bylaws.

#### SECTION 4-5: OLIVER SMITH WILL ELECTOR

There shall be 1 Oliver Smith Will Elector nominated and elected by and from the voters at large. The term of office for the Oliver Smith Will Elector shall be 2 years, beginning on the first Monday in the January succeeding the member'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 sworn.

## ARTICLE 5: FINANCIAL POLICIES AND PROCEDURES

### SECTION 5-1: FISCAL YEAR

The fiscal year of the Town shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

### SECTION 5-2: BUDGET COORDINATING GROUP

The Town Manager shall call a meeting of the Budget Coordinating Group before the commencement of the budget process and during the budget process, as necessary, to review the financial condition of the Town, revenue and expenditure forecasts, and other relevant information prepared by the Town Manager in order to develop a coordinated budget, budget guidelines, and coordinated budget calendar.

The Budget Coordinating Group shall consist of the Town Manager and representatives of the Town Council, elementary and regional schools, library, and any other persons the Town Council and Town Manager deem necessary.

### SECTION 5-3: PUBLIC FORUM

No later than March 15, before submitting a proposed budget to the Town Council, the Town Manager shall hold at least one public forum on the topic of the proposed budget intended to present the public with the Town Manager's priorities, context based on prior years' budgets and relevant information, as well as to solicit feedback from the public.

### SECTION 5-4: SUBMISSION OF BUDGET; BUDGET MESSAGE

(a) By April, the proposed budgets adopted by the local School Committee, regional School Committee, and library board of trustees shall be submitted to the Town Manager.

(b) Not later than May 1, the Town Manager shall submit to the Town Council a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The Town Manager shall simultaneously have the entire document publicly posted.

(c) The budget message of the Town Manager shall explain the proposed budget for all Town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the Town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current fiscal year in financial policies, expenditures and revenues, together with the reasons for these changes, summarize the Town's debt position, and include other material that the Town Manager considers desirable, or that may be required by the provisions of a Town bylaw. It shall also outline the progress being made on the capital improvement program.

(d) The proposed budget shall provide a complete financial plan for all Town funds and Town activities for the ensuing fiscal year. Except as may otherwise be required by general law or this charter, it shall be in the form that the Town Manager considers desirable or that a Town bylaw may require.

## SECTION 5-5: ACTION ON THE BUDGET

(a) Public Hearing: Immediately upon its receipt of the proposed budget, the Town Council shall refer the budget to the Town Council's Finance Subcommittee. The Finance Subcommittee shall hold a public hearing on the proposed budget, providing no less than 10 days' notice of such hearing. The Subcommittee will thoroughly review the budget and make a presentation and recommendation to the full Town Council within 21 days.

(b) Finance Subcommittee: The Finance Subcommittee of the Town Council shall consider any or all questions which it deems appropriate for the purpose of considering the budget. The Finance Subcommittee as a whole shall have authority at any time to investigate the books, accounts, and management of any department of the Town and to require officers and employees of the Town to appear before it and to provide information. The Finance Subcommittee may include non-voting members of the public.

(c) Action by Town Council: The Town Council shall adopt the budget, with or without amendments, within 21 days after the day the proposed budget is reported out by its Finance Subcommittee. In amending the budget, the Town Council may delete or decrease any programs or amounts except expenditures required by law; except on the recommendation of the Town Manager, the Town Council shall not increase any item in or the total of the proposed budget, unless otherwise authorized by the General Laws. If the Town Council fails to take action on an item in the proposed budget within said 21-day period, that amount shall, without any action by the Town Council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified. The vote to approve the budget shall be by roll call vote. If Town Council determines it prudent to separately consider and act on a portion of the budget due to legal requirements, agreements with regional entities of which Amherst is a participant, or for other substantial cause, it may do so, by roll call vote, provided sections 5-5(a) and (b) have been complied with.

## SECTION 5-6: SUPPLEMENTARY BUDGETS, OTHER APPROPRIATIONS

Whenever the Town Manager shall submit to the Town Council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual budget or for an item, or items, not included in the annual budget as adopted, the Town Council shall not act upon the request until it has been reviewed by the Finance Subcommittee, been publicly posted for a minimum of 10 days, and held a public meeting concerning the request.

## SECTION 5-7: CAPITAL INVENTORY AND CAPITAL IMPROVEMENT PROGRAM

(a) Capital Inventory: The Town Manager shall establish and update not less frequently than annually an inventory of significant capital assets such as buildings, infrastructure (water, sewer, storm water, and roads), moveable equipment and such other property as determined by the Town Council. The Town Council shall establish the requirements of the inventory, such as age, condition, maintenance and repair history, remaining useful life and other features as the Town Council may deem appropriate.

(b) Capital Improvement Program: The Town Manager, with the advice of a joint capital planning committee comprised of, at a minimum, representatives from the Town Council, School Committee, and

library board of trustees, shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the facilities and/or equipment included. The above information shall be revised and extended each year.

(c) Submission: Not later than May 1, the Town Manager shall prepare and submit to the Town Council the inventory and the 5-year capital improvement program.

(d) Public Meeting: The Town Council shall make the proposed capital improvement program available to the public and shall hold at least one public meeting on the capital improvement program.

(e) Adoption: At any time after the public meeting but before June 1, the Town Council shall adopt the capital improvements program, which may be amended, provided that each amendment shall be voted on separately and that an increase in the capital improvements program as submitted shall clearly identify the method of financing to accomplish the proposed increase.

#### SECTION 5-8: EXTENSION OF TIME

The Town Manager, in extraordinary circumstances, may request an extension of deadlines in this Article, specifying the reasons for the request. The extension may be granted at the discretion of the Town Council, but must provide for a reasonable and timely review of the proposed budget.

#### SECTION 5-9: INDEPENDENT AUDIT

The Town Council shall annually provide for an outside audit of the books and accounts of the Town to be conducted by a certified public accountant or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the Town or any of its officers. The Town Manager shall annually provide to the Town Council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the Town Manager, in writing, by the Town Council. The award of a contract to audit shall be made by the Town Council on or before September 15 of each year. The Clerk of the Town Council shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the Town Council not later than March 1 in the year following its award.

## **ARTICLE 6: ADMINISTRATIVE ORGANIZATION**

### **SECTION 6-1: REORGANIZATION OF TOWN AGENCIES**

(a) The Town Manager may prepare and submit to the Town Council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any Town agency, in whole or in part, or establish new Town agencies as the Town Manager considers necessary or expedient. Reorganization plan shall refer to any plan which proposes the abolition, creation, or consolidation of one or more Town agencies, including the reassignment of functions from one agency to another, or the establishment of one or more new Town agencies as deemed necessary to deliver one or more Town services. The reorganization plan shall be accompanied by an explanatory memo which shall include: (i) reference to any bylaws to be repealed or modified; (ii) a summary of proposed bylaw language changes to be put into effect by the plan; and (iii) a summary of the estimated financial impact of the proposed changes.

(b) Every reorganization plan shall, upon receipt by the Town Council, be referred to an appropriate committee of the Town Council which shall, not more than 30 days after receipt of the plan, hold a public meeting on the matter and shall, not later than the second regular meeting of the Town Council following the meeting, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 60 days after the date it is received by the Town Council unless the Town Council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the Town Manager to the Town Council under this section shall not be amended by the Town Council but shall either be approved or rejected as submitted. Reorganization plans shall not be subject to the Right to Postpone as provided in section 2-10(c).

### **SECTION 6-2: PRINCIPLES IN APPOINTING AND HIRING**

All appointments and promotions of Town officers and employees shall be made on the basis of merit demonstrated by examination, past performance, or by other evidence of competence. Each person appointed to fill an office or position shall be a person especially fitted by education, training, and previous work experience to perform the duties of the office or position. All appointments and removal of personnel shall be subject to the provisions of state and federal anti-discrimination laws, collective bargaining agreements, the limitations of existing appropriations and the Town's personnel policies. All appointments and promotions of Town officers and employees shall seek diversity, including such categories as neighborhood residence, age, ethnic or national origin, citizenship, disability, family status, socio-economic status, race, religion, gender, sexual orientation, gender identity or expression, and political belief or activity.

### **SECTION 6-3: BOARD OF LICENSE COMMISSIONERS**

There shall be a Board of License Commissioners which shall have the power to grant and issue licenses and permits as delegated to the board by the Town Council by bylaw.

The Board of License Commissioners shall consist of 5 residents appointed by the Town Manager and confirmed by the Town Council. Such appointed members shall serve for 3 year terms. No person while a member of the Board of License Commissioners shall have any connection, directly or indirectly, with the sale or distribution of alcoholic beverages (or marijuana) in any form.

The Town Clerk, the Building Inspector, the Director of Public health, the Fire Chief, and the Police Chief (or persons performing similar duties under any other title) shall be advisory to Board of License Commissioners.

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## ARTICLE 7: ELECTIONS

### SECTION 7-1: TOWN ELECTIONS

The regular general Town election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the Town Clerk, which shall be open to the public.

### SECTION 7-2: NON-PARTISAN ELECTIONS

All elections for Town offices shall be non-partisan and election ballots shall be printed without any party mark, emblem, or other incumbent designation..

### SECTION 7-3: SIGNATURE REQUIREMENTS

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of ward Councilor, a minimum of 25 signatures, all of which shall be from the ward from which the nomination is sought, for the office of Councilor-at-large, and all other elected offices, a minimum of 50 such signatures.

### SECTION 7-4: WARDS

The territory of Amherst shall be divided into 5 wards based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits. Each of the 5 wards shall consist of nearly an equal number of inhabitants as it is possible to achieve and shall cluster together centers of common interest or neighborhoods, considering, but not limited to, places where people congregate, recreate, worship, shop, learn and live. Each such ward shall be composed of voting precincts established in accordance with general laws. The Town Council shall from time to time, but at least once in each 10 years, review such wards to ensure their uniformity in number of inhabitants and conformity with state and federal law.

Every 10 years, upon receipt of the final results of the decennial federal census, the Town Council shall appoint a Districting Advisory Board composed of 9 members from diverse geographical areas of the Town, plus the Town Clerk or the Town Clerk's designee as a nonvoting member ex officio.

### SECTION 7-5: APPLICATION OF GENERAL LAWS

Except as provided in this charter, all Town elections shall be governed by the laws of the Commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of general and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

SECTION 7-6: CANDIDATE STATEMENTS ON TOWN WEBSITE

The Town Council shall by bylaw establish a process for enabling candidates who meet the required signature requirements to post brief statements on the Town's bulletin board.

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## ARTICLE 8: PARTICIPATION MECHANISMS

### SECTION 8-1: OPEN MEETING OF THE RESIDENTS

Upon the request in writing of 100 residents 18 years or older, including names and addresses, to the Town Council, School Committee, or Board of Library Trustees stating one or more specific issues or concerns, the President or Chair of said entity shall confirm the validity of the signatures and, if the President or Chair determines they are valid, call a meeting of the residents of the Town setting forth the specific purpose or purposes thereof. The President or Chair of said entity or other designee of said entity shall preside and regulate the proceedings of such meetings. The presiding officer shall allow the opportunity to speak to those in attendance wishing to address the Town Council. The Town Manager shall cause the attendance of Town officials and employees necessary to respond to the issues and concerns raised by petitioners. The Town Council may call meetings of the residents of the Town upon its own initiative.

### SECTION 8-2: FREE PETITION

(a) Resident Petitions, Action Discretionary: The Town Council, School Committee, and Library Trustees shall receive all petitions signed by one or more residents and addressed to any 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 Town Council shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least 150 voters as certified by the Town Clerk. The hearing shall be held by the Town Council, or in any case, by a committee or subcommittee thereof, and the action by the Town Council shall commence not later than 3 months after the petition is filed with the Clerk of the Town Council. Hearings on 2 or more petitions filed under this section may be held at the same time and place. The Clerk of the Town Council shall mail notice of the hearing to the 10 petitioners whose names first appear on each such petition at least 7 days before the hearing. The Town Council shall publish a general summary of the subject matter of such petitions and a notice stating: (1) the times and places where copies of the group petitions are available for inspection by the public, and (2) the date, time, and place not less than 2 weeks after such publication, when a public hearing on said petitions will be held by the Town Council. No hearing shall be heard upon any one subject more than once in any given 12-month period.

### SECTION 8-3: INITIATIVE MEASURES

(a) Commencement: Initiative procedures shall be started by the filing of a proposed initiative petition with the Clerk of the Town Council. The petition shall be addressed to the Town Council, 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 150 voters. The signatures must be certified by the Town 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. 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. The Town 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 Town 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.

(b) Referral to Attorney: The Clerk of the Town Council shall immediately following receipt of each proposed petition deliver a copy of the petition to the Town attorney. The Town Attorney shall, within 21 days after receipt of a copy of the petition, in writing, advise the Town Council 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 Town Council. If the opinion of the Town 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 Attorney shall also be mailed to the petitioners committee.

(c) Action on Petitions: If the opinion of the Town Attorney is that the petition is in a proper form, the Town 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 Attorney, together with the names and addresses of the petitioners committee who signed the originating petition. Within 60 days after the date a petition has been returned to the Clerk of the Town Council and after publication under Section 2-10(a), the Town Council 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 Town Council fails to act with respect to any initiative measure that is presented to it within 60 days after the date it is returned to it by the Clerk, the measure shall be considered to have been approved on the 60th day. If an initiative measure is rejected, the Clerk of the Town Council shall promptly give notice to the petitioners committee, by certified mail.

(d) Supplementary Petitions: Thirty (30) days after the date an initiative petition has been rejected by the Town Council, a supplemental initiative petition may be filed with the Clerk of the Town Council, 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 5% percent of the total number of registered voters as of the date of the most recent Town election. If the number of signatures to the supplemental petition is found to be sufficient by the Town Clerk, the Town 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 Town 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 Town election is to be held within 120 days after the date of the certification, the Town Council may omit the calling of the special election and cause the question to appear on the election ballot at the next Town election for determination by the voters.

(e) Publication: The full text of any initiative measure which is submitted to the voters shall be published not less than 7 nor more than 21 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, and on the Town bulletin board.

(f) 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 as provided in the Town charter, take effect?

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

YES \_\_\_\_\_

NO \_\_\_\_\_

(g) Time of Taking Effect: If a majority of the votes cast on the question is in the affirmative or other affirmative percent as required by state law, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

(h) Required Voter Participation: For any measure to be effective under initiative petition, at least 20 percent of the registered voters as of the date of the most recent Town election shall vote at the election upon which an initiative question is submitted to the voters.

#### SECTION 8-4: VETO PROCEDURES

(a) Petition, Effect on Final Vote: If, within 14 days following the date on which the Town Council has voted finally to approve any measure, a petition signed by a minimum of 5% registered voters as of the date of the most recent Town election and addressed to the Town Council protesting against the measure or any part of it is filed with the Clerk of the Town Council, the effective date of that measure shall be temporarily suspended. The Town Council shall immediately reconsider its vote on the measure or part thereof protested against, and if the measure is not rescinded, the Town 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 or at the next regular Town election. 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 Town Clerk 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 Council. 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 Attorney: The Clerk of the Town Council shall, immediately following receipt of the petition, deliver a copy of the petition to the Town Attorney. The Town Attorney shall, within 21 days following receipt of a copy of the petition, in writing, advise the Town Council and the Town Clerk whether the measure may lawfully be protested by the veto process. If the opinion of the Town 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 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 Attorney shall be mailed to the first 10 voters who signed the petition.

(d) Publication: The full text of a veto measure which is submitted to the voters shall be published not less than 7 nor more than 21 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 voters through the veto procedure provided in the Town charter take effect?

(Here insert the text of the measure or part thereof protested against as originally voted by the Town Council.)

YES \_\_\_\_\_

NO \_\_\_\_\_

(f) Time of Taking Effect: If a majority of the votes cast on the question is in the affirmative or other affirmative percent as required by state law, the measure as originally approved by the Town Council, School Committee, or Library Trustees shall be deemed to be effective immediately.

(g) Required Voter Participation: For any measure to be declared null and void under a referendum procedure, at least 20 percent of the registered voters as of the date of the most recent Town election shall vote at the election upon which the referendum question is submitted to the voters.

#### SECTION 8-5: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the veto procedures outlined in Section 8-3 and Section 8-4:

- (a) proceedings relating to the internal organization or operation of the Town Council, the School Committee, or the Library Trustees;
- (b) an emergency measure adopted in conformity with the charter;
- (c) the Town budget, the Library Trustees budget, or the School Committee budget as a whole;
- (d) votes for the temporary borrowing of money in anticipation of revenue;
- (e) an appropriation of any sum of money, for any purpose amounting to less than one percent of the total annual budget of the Town;
- (f) any appropriation for the payment of the municipality's debt or debt service;
- (g) an appropriation of funds to implement a collective bargaining agreement;
- (h) proceedings relating to election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- (i) any proceedings repealing or rescinding a measure or part thereof which is protested by veto procedures;
- (j) any proceedings providing for the submission or referral to the voters at an election; and
- (k) memorial resolutions.

#### SECTION 8-6: SUBMISSION OF OTHER MATTERS TO VOTERS

The Town Council may of its own motion, and shall, at the request of the School Committee or Library Trustees, if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular Town election for adoption or rejection any measure with the same force and effect as is hereby provided for submission by petitions of voters.

#### SECTION 8-7. CONFLICTING PROVISIONS

If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

## **ARTICLE 9: GENERAL PROVISIONS**

### **SECTION 9-1: CHARTER CHANGES**

This charter may be replaced, revised or amended under any procedure made available under the Massachusetts constitution or by statute.

### **SECTION 9-2: SEVERABILITY**

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

### **SECTION 9-3: SPECIFIC PROVISION TO PREVAIL**

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

### **SECTION 9-4: REFERENCES TO GENERAL LAWS**

All references to General Laws contained in the charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to those chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

### **SECTION 9-5: COMPUTATION OF TIME**

In computing time under this charter, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; when the period is 7 days or more, every day shall be counted.

### **SECTION 9-6: PERIODIC REVIEW OF CHARTER**

The Town Council shall provide, in every year ending in a 5, for a review of the charter by a special committee to be established by bylaw. The committee shall file a report within 1 year recommending any changes to the charter which it deems necessary or desirable, unless an extension is authorized by vote of the Town Council. All members of the committee shall be voters of the Town. The Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations.

### **SECTION 9-7: PERIODIC REVIEW OF BYLAWS**

The Town Council shall provide for a review of the Town's general bylaws by a special committee to be established by bylaw not less than every 10 years. The committee shall file a report within 1 year recommending any changes to the bylaws which it deems necessary or desirable, unless an extension is authorized by vote of the Town Council. All members of the committee shall be voters of the Town. The

Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations.

#### SECTION 9-8: MASTER PLAN

(a) Content: There shall be a master plan containing the plan elements described in General Laws chapter 41, section 81D and shall include, but shall not be limited to, arts, culture, recreation, open space, economic development, conservation, energy use, and housing. The Town may also undertake planning activities relating to particular services or specific geographic areas within the Town as the Town Manager may direct or Town Council may vote.

(b) Adoption: The plan shall be approved by the planning board as required by section 81D. Once approved by the board, the Town Manager shall submit to the Town Council the plan. Upon receipt of the board-approved new master plan, or a proposed modification of the master plan, the Town Council shall hold at least 1 public hearing on the proposed modification or new master plan and shall, by resolution, adopt the new master plan or modification of the master plan with or without amendments.

(c) Revising the Plan: The Town Manager shall regularly review the plan to determine if revisions, amendments, and/or additions are necessary and present such proposals to the planning board for deliberation and approval. Any revisions, amendments and additions shall be subject to the adoption process as provided in (b) above.

(d) New Master Plan: A new master plan shall be prepared every 20 years. A new plan shall be prepared and adopted as provided in (a) and (b) above within 3 years of the expiration of the plan then in effect.

(e) Public Participation: At the outset of the planning process and throughout the process, the planning board shall solicit the participation of local residents and organizations by holding informal working sessions that suit the needs of the local residents.

(f) Effect: The Town Council shall make reasonable efforts to ensure that the bylaws of the Town, including but not limited to, the zoning bylaws, shall be not inconsistent with the master plan.

(g) Action by the Town Council and the Planning Board: If any proposed bylaw involves a matter addressed in the master plan concerning land use or development regulations, the Town Council shall first refer the proposed bylaw to the planning board. The board shall report its recommendations in writing to the Town Council on the proposed bylaw in accordance with section 5 of chapter 40A of the General Laws, along with an explanation as to whether the proposed bylaw furthers the master plan.

#### SECTION 9-9: RULES AND REGULATIONS

A copy of all rules and regulations adopted by multiple-member bodies which are subject to the Massachusetts Public Records Act shall be placed on file in the office of the Town Clerk when approved by vote of the board or committee and shall be available for review by any person who requests such information at any reasonable time. All such rules or regulations shall be posted on the Town bulletin board as soon as administratively possible.

#### SECTION 9-10: CERTIFICATION OF ELECTION OR APPOINTMENT

Every person who is elected or appointed to an office or as a member of a multiple-member body shall receive a certificate of that election or appointment from the Town Clerk. Except as otherwise provided by law, every person who is elected or appointed to an office or as a member of a multiple-member



body, before performing any act under this election or appointment, shall take and subscribe to an oath or affirmation to qualify to enter upon the duties. A record of this oath or affirmation shall be kept by the Town Clerk.

#### SECTION 9-11: UNIFORM PROCEDURES APPLICABLE TO MULTIPLE MEMBER BODIES

(a) Meetings: All multiple-member bodies of the Town shall meet regularly at such times and places as they may, by their own rules, prescribe, unless some other provision is made by bylaw. Special meetings of any multiple-member body may be held if called by the Chair or by one-third of the members thereof but not fewer than 2, provided that at least 48 hours' notice listing the item or items to be acted upon shall be given to each member. All meetings must be posted and comply with the Open Meeting Laws of the Commonwealth.

(b) Rules and Minutes: Each multiple-member body shall determine its own rules and order of business unless another provision is made by bylaw and shall provide for the keeping of minutes and supporting documentation of its proceedings. These minutes shall be a public record and published on the Town bulletin board.

(c) Voting: If requested by any member, any vote of any multiple-member body shall be taken by a call of the roll and the vote of each member shall be recorded in the minutes; if the vote is unanimous only that fact need be recorded.

(d) Composition of Appointed Multiple-Member Bodies: All appointed multiple-member bodies, when established, shall be composed of an odd number of members, not less than 3. Whenever the terms of office of an appointed multiple-member body are for more than one year, such terms of office shall be so arranged that as nearly as possible an equal number of terms will expire each year.

#### SECTION 9-12: REMOVAL OF MEMBER OF MULTIPLE MEMBER BODIES

Any person appointed by the Town Manager or Town Council to a multiple-member body may be removed from office by the Town Manager or Town Council if said person fails to attend regularly scheduled meetings for a period of 3 consecutive months without express leave from the Chair of such multiple-member body, unless the Town Manager or Town Council shall determine otherwise. Any such appointed official shall be automatically removed from office if such person is convicted of a felony while in office or if such person is absent from such duties for the period of one year notwithstanding the permission from the Chair to be absent.

#### SECTION 9-12: LIMITATION ON OFFICE HOLDING

No person shall simultaneously hold more than 1 full-time Town office or position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

#### SECTION 9-13: NOTICE OF VACANCIES

Whenever a vacancy occurs, or is about to occur, in any Town office or Town employment, the appointing authority shall immediately cause public notice of the vacancy, or impending vacancy, to be posted on the Town bulletin board for a period of not less than 14 days. Any person who desires to be considered for appointment to the office or employment may file with the appointing authority a statement in clear and specific terms setting forth the person's qualifications for the position. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least 14 days have elapsed following the posting, and until all persons who have filed statements in application have been considered.

#### SECTION 9-14: FELONY CONVICTION

An elected official who has been convicted of a state or federal felony while holding office shall be deemed to have vacated the office.

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## ARTICLE 10: TRANSITION 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 ACTS

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 actions taken under the authority of the said special acts 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 December 3, 2018 (or a later date under section \_\_\_\_), 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 December 3, 2018 (or a later date under section \_\_\_\_), the Select Board, 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 Select Board shall be the sole judge. The Select Board shall maintain sufficient multiple member body 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 Select Board shall provide a list of vacancies on multiple 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 Select Board shall make such interim appointment to fill any such vacancy for a period ending on December 3, 2018 (or a later date under section \_\_\_\_). 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 town councilors 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. As much of this charter as is necessary to conduct such elections shall become effective. The Select Board shall issue the warrants for such elections.

For the purpose of this election only, the determination of candidates shall be as follows: If only 1 person is to be elected to an office, the 2 persons receiving at a preliminary election the highest number of votes for nomination for any office shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular general town election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If 2 or more persons are to be elected to the same office at such regular election, the several persons, in number equal to twice the number so to be elected, receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names shall be printed on the official ballots. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have his or her name printed on the official ballots for the election, all candidates participating in said tie vote shall have their names printed on the official ballots, although in consequence thereof there shall be printed on such ballots the names of candidates exceeding twice the number to be elected.

If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the board of registrars for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the board of registrars shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding general election, and the board of registrars shall not print their names on the ballots to be used at said preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballots, no preliminary election shall be held.

- 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 December 3, 2018 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 as of July 1, 2018 shall have their terms end on December 3, 2018. The first election under this charter for Board of Library Trustees shall be on November 5, 2019.
- g. The status of the School Committee shall be as follows: All school committee members in office as of July 1, 2018 shall have their terms end on December 3, 2018. The first election under this charter for School Committee members shall be on November 5, 2019.
- h. The status of the Oliver Smith Will Trustee shall be as follows: The Oliver Smith Will Trustee in office as of July 1, 2018 shall have their term end on December 3, 2018. The first election under this charter for the Oliver Smith Will Trustee shall be on November 5, 2019.

- i. The status of the Housing Authority shall be as follows: All elected Housing Authority members in office as of July 1, 2018 shall have their terms end on December 3, 2018. The first election under this charter for elected Housing Authority members shall be on November 5, 2019.
- j. 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 Town Manager if before December 3, 2018.
- k. The status of the Select Board shall be as follows: All Select Board members in office at the time of the adoption of this charter shall have their terms end on December 3, 2018.
- l. The status of town meeting members shall be as follows: The terms of all town meeting members in office as of July 1, 2018 shall have their terms end on December 3, 2018.
- m. The status of the moderator shall be: The term of the moderator in office as of July 1, 2018 shall end on December 3, 2018.
- n. The status of the Planning Board shall be as follows: The Planning Board shall be 7 members as of December 3, 2018. 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 December 3, 2018, 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 town manager if before January 1, 2019. The town council, or the town manager if before December 3, 2018, shall not reappoint or appoint new members if the membership would exceed 7 members.
- o. The status of the Zoning Board of Appeals shall be as follows: The Zoning Board of Appeals shall be 5 members as of December 3, 2018. 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 town manager if before January 1, 2019. The town council shall appoint additional members on or after December 3, 2018 to increase the size of the Board.
- p. 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 Select Board, 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.
- q. 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.
  - r. The Select Board 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.
  - s. 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 annual stipend for the councilors shall be \$5,000 and \$7,500 for the town council president effective January 1, 2019. The initial annual stipend for the members of the school committee under this charter shall be \$3,000 for each person elected as a school committee member and \$4,000 for the chair of the school committee effective January 1, 2019. The town manager then in office shall receive the salary in place for the town manager as of December 2, 2018.
  - t. 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.
  - u. 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 may return to their position in the municipality.

- v. Not later than thirty days following the election at which this charter is adopted, the Select Board shall appoint 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 following the election held on November 6, 2018. The review shall be conducted under the supervision of the town attorney, or, by special counsel appointed for that express purpose.
- w. Upon the assumption of the office, the town council shall be responsible for the continuation of the review of town bylaws, and shall appoint 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.
- x. 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 an early vacancy in any multiple-member body such successor shall be appointed as provided in this Charter or by the Select Board if before December 3, 2018.
- y. The Amherst School Committee shall negotiate an amendment to the existing regional school agreement to bring its references to Amherst's legislative and executive bodies in conformity with this charter.

#### SECTION 10-8: SPECIAL ACT REGARDING INITIAL ELECTION

As soon as practicable after the passage of this charter Town Meeting and the Select Board 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:

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 of town councilors 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 under items \_\_\_ to \_\_\_ shall be extended, abbreviated, or terminated as outlined above except that they will align with the new

dates instituted by the town clerk. Elections under \_\_\_ to \_\_\_ shall occur on the dates stated in \_\_\_ to \_\_\_. Councilors shall be sworn in on February 4, 2019.

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 adopting 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, 3 residents appointed by the town council, and 3 residents appointed by the town manager. The commission shall propose a bylaw by September 1, 2020. The town council shall act by voting upon the proposed bylaw with or without amendments within 90 days of receipt.

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 adopting participatory budgeting or other similar methods of resident participation in the budgeting process in Amherst. The commission shall consist of 7 members: one of whom shall be the finance director or designee, 1 town council member, 2 residents appointed by the town council, and 3 residents appointed by the town manager. The commission shall propose a bylaw by December 1, 2020. The town council shall act by voting upon the proposed bylaw with or without amendments within 90 days of receipt.

SECTION 10-\_\_\_: TOPICS FOR STUDY

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

- a) Creating the position of ADA coordinator
- b) Permitting non-citizens to vote and hold office
- c) Lowering the voting age
- d)

SECTION 10-\_\_\_: ADOPTION OF MEASURES TO ASSIST WITH TRANSITION

The Town Council and Select Board 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.