Amherst Preliminary Charter

September 11, 2017

DRAFT

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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.

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 Charter.

For the purposes of classifying Amherst in those instances where the laws of the Commonwealth may distinguish between municipalities classified as "towns" and those classified as "cities", it is intended that this Charter shall be construed as providing a city form of government.

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 words “ex officio” shall mean by virtue or because of an office.

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

General Laws: The words “general laws" shall mean laws enacted by the state legislature which apply alike to all cities and towns, to all cities, to a class of 2 or more cities, or to a class of cities and towns of which Amherst is a member as well as 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.

Majority Vote: The words “majority vote” when used in connection with a meeting of the Town Council shall mean greater than one half of those present and voting, provided that a quorum is present, unless a different quantum of vote is required by this Charter, bylaw, or law.

Measure: The word “measure” shall mean any bylaw, order, resolution, or other vote or proceeding adopted, or that 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, School Committee, or Library Trustees~~, or the School Committee~~.

Officer: The word "officer" when used without further qualification or description, shall mean a town employee having charge of a department, division or office, who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the Town and whose duties are not simply ministerial in nature.

Public Forum: the word "public forum" shall mean a meeting during which a substantial portion of the meeting is devoted to public comment.

Quorum: The word "quorum" shall mean a majority of all seats of a multiple-member body even if 1 or more seats are vacant, unless some other number is required by this Charter or by law.

Resident: The word "resident" shall mean a person domiciled in Amherst.

Special Act: The word "special act" shall mean a law enacted by the state legislature that applies only to Amherst.

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, the display on the Town's website established and maintained by the Town as its online repository of municipal information, and the display at any other location(s) as may be designated from time to time by the Town Council.

Vacancy: The word "vacancy" shall mean an office or position that becomes open prior to the end of a person's elected or appointed term due to death, resignation, or removal of that person, or as a result of a failure to elect.

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

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 from and elected by the voters. Ten (10) of these members, to be known as District Councilors, shall be nominated from and elected by the voters in each district, with 2 such Councilors to be elected from each of the 5 districts 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 regular Town election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day. Members shall serve until successors have been sworn.

(c) Eligibility: Any voter shall be eligible to hold the office of Councilor-at-Large. A District Councilor must be a voter at the time of election in the district from which election is sought. If a District Councilor or a Councilor-at-Large moves 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 District Councilor who moves from the district from which the Councilor was elected, but who remains a resident of the Town, may continue to serve out the remainder of the term to which elected.

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 sworn following each regular Town election, and annually, the members of the Town Council shall elect a President who shall serve for a 1-year term~~. The members of the Town Council shall elect~~and a Vice President who shall serve for a 1-year term. The method of election of the President and Vice President shall be consistent with that prescribed by the rules of the Town Council.

(b) Powers and Duties: The President shall prepare the agenda for Town Council meetings with advice from members of 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 members of, and oversee, all 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, measure, 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 elected bodies and officers of the Town and the public on the state of affairs of the Town.

SECTION 2.3: PROHIBITIONS

(a) Holding Other Town Position: Except as otherwise provided by the Charter, no current member of the Town Council shall hold any other compensated Town position. No former member of the Town Council shall

be appointed to any compensated appointed Town office 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 10 members of the full Town Council. This provision shall not prohibit a former town employee or officer from resuming the same or similar position at the same pay grade of a town officer or employee within 18 months of the conclusion of such service as a council member.

(b) Interference with Administration: Neither the Town Council nor any individual member thereof shall give orders or directions either publicly or privately to any employee of the Town not appointed by the Town Council.

SECTION 2.4: COMPENSATION

The members of the Town Council shall, subject to appropriation, receive compensation for their services as set by the Town Council. No measure 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 measure increasing or reducing the compensation of Town Councilors shall be effective unless it is adopted during the first 18 months of the Town Councilors' term and such measure provides that the compensation increase or reduction is to take effect upon the reorganization of the Town government following the next regular Town election.

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 policy leadership and legislative powers of the Town Council may be exercised in a manner determined by the Town Council.

(b) Quorum: Unless otherwise provided by this Charter, the presence of 7 members of the Town Council shall constitute a quorum for the transaction of business.

(c) Adoption of Measures: Except in the event a higher quantum of vote is required by general laws or this Charter, the affirmative vote of a majority of the members present is required to adopt any measure.

(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 measure, 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 Town Council deems 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.

(iii) Emergency meetings, which shall be designated an emergency by the Town Council President, or the Vice President in the absence of the President, shall be posted and conducted in accordance with the general laws.

(iv) Minutes shall include a record of each vote taken by each member or shall indicate that the vote was unanimous.

(e) The Town Council shall determine its own standing or ad hoc committees.

SECTION 2.7: DISTRICT MEETINGS

The Town Councilors from each district shall convene a minimum of 2 District Meetings in their districts each year open to all residents to facilitate 2-way communication between the Town Council and other government representatives and the residents of the district. Residents may submit discussion topics to their District Councilors in advance, and district Meetings must include a period of public comment open to all residents of the district.

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. Town Council requests for information must comply with sections 2.8(b), (c) and (d) below.

(b) Information Requests: The Town Council may require a representative of a multiple-member body 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 body.

(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 of not less than 5 days to the representative of the multiple-member body and the Town Manager. The notice shall include specific questions on which the Town Council seeks information. 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

In addition to the appointment of the Town Manager, as set forth in Section 3.1 and Interim Town Manager as set forth in Section 3.6, Town Council shall have the following appointment authority:

(a) Clerk of the Council: The Town Council shall appoint a Clerk of the Town Council, who may be a town employee, to hold office at the Council's pleasure. The Clerk of the Town Council shall perform duties as may be assigned by this Charter or by other vote of the Town Council.

(b) Additional Staff: Subject to appropriation, the Town Council may employ additional staff to be under the supervision of the Council President as the Town Council 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 for staggered 3-year terms.

(d) Non-voting Liaisons: The Town Council may select from among its membership non-voting liaisons to multiple-member bodies, the School Committee, and/or the Library Trustees.

(e) Suspension or Removal: The Town Council may suspend or remove persons appointed under this section following the opportunity for a hearing; members of multiple-member bodies appointed by the Town Council may also be removed in accordance with the provisions of Section 9.12 of this Charter.

SECTION 2.10: BYLAWS AND OTHER MEASURES

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

A proposed bylaw to amend or repeal a portion of any Town bylaw shall set out in full the portion to be so amended or repealed.

Prior to final passage, each proposed bylaw shall be read at 2 separate Council meetings, except in case of an emergency in accordance with Section 2.10(b) below.

The affirmative vote of a majority of the full Town Council shall be necessary for the final passage of any bylaw, except in the event a higher quantum of vote is required by general laws or this Charter. Unless otherwise provided by general law, every vote adopting, amending, or rescinding a measure shall become effective at the expiration of 14 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 and shall require the affirmative vote of 7 members of the Town Council. An emergency measure shall become effective upon adoption or at such later time as it may specify. An emergency measure may be passed, with or without amendment, or rejected at the same meeting at which such measure is introduced. Emergency measures shall stand repealed on the 61st day following their adoption, unless an earlier date is specified in the measure.

(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 when the matter is next taken up for a vote, 4 or more members object to the taking of the vote, the matter shall be further postponed for not

less than an additional 5 days. This procedure shall not be used more than once for any measure, notwithstanding any amendment made to the original measure.This procedure shall not be used more than once for any specific measure whether or not such measure is amended. The use of this right to postpone shall have privilege over all motions, must be raised prior to or at the call by the presiding officer for a vote, and, once invoked, all debate on the measure shall cease.

Comment [T1]: Watertown language

SECTION 2.11: TOWN COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

(a) Department Heads: 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. Appointment of a department head 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.

(b) Members of Multiple-Member Bodies: 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 member of a multiple-member body. Appointment of a member of a multiple-member body made by the Town Manager shall become effective on the 30th 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 30 days.

SECTION 2.12: FILLING OF VACANCIES

Whenever a vacancy occurs in the office of Councilor-at-Large or District Councilor, the vacancy shall be filled by roll call vote of the remaining members of the Town Council from eligible applicants. The Town Council shall fill the vacancy within 45 days of the vacancy. Notice of a Town Councilor vacancy shall be published on the Town bulletin board for a minimum of 21 days prior to the meeting at which the Town Council shall fill any such vacancy. District Councilor vacancies shall be filled by a voter of the District in which the vacancy occurs. Councilor-at-Large vacancies shall be filled by any voter of the Town. No Councilor elected under this section shall be entitled to be listed on the ballot as a "candidate for re-election" at the next regular Town election.

SECTION 2.13: PUBLIC FORUMS

The President of the Town Council shall call not fewer than 2 public forums a year to address the master plan and the budget, respectively. The public forums shall present the public with context, ~~collect feedback, and~~ alert the public to upcoming issues, and collect feedback from the public.

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 service 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 7 members of the Town Council and does not violate state ethics ~~and~~ or conflict of interest laws. The Town Manager need not be a resident of the Town at the time of appointment, but must establish residency within 1 year, unless the Town Council shall waive such residency requirement.

SECTION 3.2: EXECUTIVE AND 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 responsible for implementation of policy decisions and direction provided by the Town Council, as reflected by the Town Council's votes and resolutions, and by enactment of bylaws, appropriation orders, and loan authorizations. The powers, duties, and responsibilities of the Town Manager as set forth herein shall extend and apply to all municipal departments, excluding those powers, duties, and responsibilities vested in the School Committee, Regional School Committee, and Library 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 measure, or otherwise, including all officers appointed by the Town Manager and the officers' respective Town agencies;

(b) Coordinate activities of all Town agencies and appointed multiple-member bodies;

(c) Administer, either directly or through a person supervised by the Town Manager, in accordance with this Charter, all provisions of any general ~~or special~~ laws applicable to the Town, all ~~bylaws, and all regulations established~~measures adopted by the Town Council, and all regulations promulgated by Town agencies;

(d) Attend all meetings of the Town Council, unless excused by the Council President, and answer all questions which are related to matters under the general supervision of the Town Manager;

(e) Keep the Town Council fully informed of the needs ~~and affairs~~ of the Town;

(f) Make recommendations to the Town Council including, but not limited to, measures requiring action, development of policy, and development of annual and long-term goals;

(g) Determine the existence of a public emergency or danger and be responsible 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 the actions taken. Should the declaration of public emergency continue more than 24 hours, the Town Council may meet to review, ratify, or terminate said declaration.

(h) Ensure that complete records of the financial and administrative activity of the Town are maintained and render reports to the Town Council as may be required;

Comment [H2]: Can delete if we keep multiple-member bodies as included in Town Agency

Comment [H3]: Suggested language in response to Marilyn's Comment: "The Council neither prepares nor promulgates regulations. The council does not have approval authority over regulations enacted by boards with regulatory authority. Take this out of change to reflect circumstances."

Comment [H4]: MC recommended change

(i) Prepare and submit to the Town Council an annual budget, a capital improvement program, and a long term financial forecast;

(j) Sign all bonds and notes for the borrowing of money;

(k) Be responsible for the rental, use, maintenance, and repair of all Town facilities, except for those under the jurisdiction of the School Committee, Regional School Committee, and Library Trustees, unless otherwise agreed upon by said entities;

(l) Be responsible for purchasing all supplies, materials, services, and equipment, for all departments and activities of the Town, and for awarding and executing procurement contracts, except for those under the jurisdiction of the School Committee, Regional School Committee, and Library Trustees, unless otherwise agreed upon by said entities;

(m) 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 administer all collective bargaining agreements entered into by the Town;

(n) 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;

(o) Be responsible for the negotiation and enforcement of all contracts and collective bargaining agreements with Town officers and employees, including ~~or~~ labor unions placed under the Town Manager's control by this Charter over wages, hours, and other terms and conditions of employment. The Town Manager may employ special counsel to assist in the performance of these duties. Insofar as such contracts or collective bargaining agreements require funding, such contracts or agreements shall be subject to appropriation by the Town Council ~~of the necessary funding thereof~~;

Comment [H5]: MC recommended change

(p) Investigate or inquire into the affairs of any Town agency under the authority of the Town Manager;

(q) Have the authority to prosecute, defend, and compromise all litigation to which the town is a party and employ special counsel whenever it may be necessary;

(r) Unless otherwise provided by inter-municipal or regional agreement, measure, or general law, serve as the Town's liaison to any regional entity of which the Town is a member and explore opportunities for intergovernmental cooperation;

(s) Promote dialogue and partnerships among the Town Council, Town staff, residents, businesses, and other local entities;

(t) Make a State of the Town Address with the Town Council President as referenced in Section 2.2(c) of this Charter;

(u) Attend and participate in not fewer than 3 public forums each year addressing the budget as provided in Article 5, master plan, and school issues;

(v) Communicate regularly with the public on behalf of the Town via appropriate means;

Comment [H6]: MC Comment: "This is an add use of "appropriate" – may want to require monthly update to appear on town bulletin board and website"

(w) 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 performed pursuant to such a delegation shall be considered to be the acts of the Town Manager;

(x) Perform such other duties as necessary or as may be assigned by this Charter or by vote of the Town Council.

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 the provisions of Section 2.11. The Town Council shall adopt a measure 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 an extension of time is approved by the Town Council.

(c) Appointments to Multiple-Member Bodies: Except as otherwise provided by this Charter, the Town Manager shall appoint all members of multiple-member bodies. Members of all appointed multiple-member bodies shall be residents of the Town at the time of appointment and throughout the term of the appointment, unless otherwise approved by Town Council. All appointments of these bodies shall be subject to the provisions of Section 2.11. The Town Manager shall establish a Residents' Advisory Committee to assist with evaluation and selection of candidates for appointment.

In making appointments, the Town Manager shall seek to identify individuals for appointment with relevant expertise, as well as diversity, including such categories as neighborhood of residence, age, ethnic or national origin, citizenship, disability, family status, socio-economic status, race, religion, gender, sexual orientation, gender identity or expression, political belief or activity, and the like.

(d) Community Participation Officer: The Town Manager shall appoint a Community Participation Officer to increase participation in local government by diverse residents as described in section (c). Such officer may be a current Town employee. The Community Participation Officer will:

(i) Provide support for individuals interested in being involved in local government;

(ii) Devise and implement strategies to enhance public engagement;

(iii) Conduct community outreach efforts to increase participation by underrepresented residents in Town government;

(iv) Aid in planning and conducting of District Meetings;

(v) Analyze data on resident engagement;

(vi) Regularly submit reports to the Town Manager and Town Council; and

(vii) Carry out any other duties designated by the Town Manager.

SECTION 3.4: POWERS OF SUSPENSION, REMOVAL

The Town Manager shall have the authority to discipline, suspend, or remove department heads, employees, appointed officers, and members of multiple-member bodies appointed by the Town Manager, following the opportunity for a hearing, except as may otherwise be provided by law, collective bargaining agreements, employment agreements, this Charter, or personnel rules. Members of multiple-member bodies may also be removed in accordance with the provisions of Section 9.12 of this Charter. The Town Manager may authorize an officer subject to the Town Manager's direction and supervision to exercise such authority with respect to subordinates in that officer's Town agency. Notwithstanding any other provision of this Charter, however, ~~non-reappointment following the~~failure to reappoint 1 or more members following the expiration of an appointed term shall not constitute "removal" for purposes of this section.

Comment [H7]: MC recommended change

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 Town Manager to perform the duties of 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 30 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.

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 immediately. 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 meeting by filing a written request for such meeting with the Town Council. If such a meeting is requested, the meeting shall be held at a meeting of the Town Council not later than 20 days from the date of request. At such meeting, the Town Manager shall be entitled to address the Town Council and make comments related to the preliminary resolution. If a public meeting 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 meeting, the Town Council may, at the conclusion of the meeting or within 5 days of the conclusion of the meeting, 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 meeting 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 Town Manager's performance.

ARTICLE 4: OTHER ELECTED OFFICES

SECTION 4.1: ELECTED OFFICES IN GENERAL

(a) Offices to be Filled by Election: In addition to a Town Council as provided in Article 2, the offices to be filled by ballot of the Town's voters shall be a School Committee, a Board of Library Trustees, a Housing Authority, an 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 shall be eligible for election to the Town offices listed in Section 4.1(a). Eligibility for election as a member of a regional authority or district will be in accordance with applicable general laws or inter-local agreements. Notwithstanding any other provision of this section to the contrary, however, no officer elected under said Section 4.1(a) shall simultaneously hold any other elected Town office. If an elected officer removes from the Town during the term for which they are elected, the office shall immediately be declared vacant and filled in the manner provided in Section 4.1(c).

(c) Whenever a vacancy occurs in the office of School Committee, Library Trustees, elected Housing Authority offices, or Oliver Smith Will Elector, the vacancy shall be filled by a roll call vote of the Town Council and the remaining members of the board, committee, or authority, if any from eligible applicants. Within 45 days of said vacancy occurring, the President of the Town Council shall call a special meeting of the Town Council and the remaining members of the relevant board, committee, or authority, 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. Vacancies shall be filled by a voter. No person appointed under this section shall be entitled to be listed on the ballot as a "candidate for re-election" at the next regular Town election. The process for filling vacancies in a regional authority or district membership will be in accordance with the applicable general laws or the inter-local agreements, or, if none are applicable, under this section.

(d) Compensation: Except for the Oliver Smith Will Elector, compensation for elected offices, if any, shall be set in the annual Town Budget. Once compensation is set for elected offices, no increase or reduction of compensation shall be effective unless it is adopted by a majority vote of the full Town Council.

Comment [H8]: MC Comment: "what is the exception for? Does this person serve uncompensated? This looks odd as written." MJH response: compensation is set by the will, not individual towns.

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 from and elected by the voters. The term of office for School Committee members shall be 2 years, beginning on the first Monday in the January succeeding the regular election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day. Members shall serve until successors have been sworn.

(b) Officers: As soon as practicable after the members-elect have been sworn following each regular Town election, and annually, 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 consistent with that prescribed by the rules of the School Committee.

(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 to, the following:

(i) To appoint a superintendent of the schools who shall serve as the chief executive officer 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 Massachusetts General Laws chapter 71, section 59;

(ii) To make all reasonable policies and rules 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 review and approve an annual operating budget for the Amherst public schools. The School Committee shall make an annual report to Town Council.

(d) The Chair of the School Committee shall call at least 1 public forum a year to address items relevant to the public schools. The public forum shall present the public with context, ~~collect feedback, and~~ alert the public to upcoming issues, and collect feedback from the public.

SECTION 4.3: LIBRARY BOARD OF TRUSTEES

(a) Composition and Term: There shall be a Library Board of Trustees consisting of 6 members nominated from and elected by the voters. The term of office for Trustees shall be 2 years, beginning on the first Monday in the January succeeding each Trustee's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day. Members shall serve until successors have been sworn.

(b) Officers: As soon as practicable after the Trustees-elect have been sworn following each regular Town election, and annually, the members of the Library 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 consistent with that prescribed by the rules of the Library Trustees.

(c) Powers and Duties: The Library Trustees shall have all of the powers and duties Library Trustees may have under the laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said laws, as may be authorized by this Charter or by bylaw. The Library 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 from and elected by ~~and from~~ the voters, 1 ~~of those~~ member~~s~~ appointed by the Commonwealth, and 1 member elected by the Housing Authority tenants as provided by the general laws. The term of office for the Town-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. Members shall serve until successors have been sworn. The term of office for the appointed member and the tenant member shall be as provided by the general laws.

Comment [H9]: MC recommended change

(b) Officers: As soon as practicable after the members-elect have been sworn following each regular Town election, and annually, 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 consistent with that prescribed by the rules of the Housing Authority.

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

SECTION 4.5: OLIVER SMITH WILL ELECTOR

There shall be 1 Oliver Smith Will Elector nominated from and elected by the voters. 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. The Elector shall serve until a successor has been sworn.

ARTICLE 5: FINANCIAL POLICIES AND PROCEDURES

Comment [H10]: MC Comment: Just a general note that the word "town" is very prevalent here in contrast to Article 1 which uses "Amherst" or "municipality"."

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.

SECTION 5.2: BUDGET COORDINATING GROUP

The Town Manager shall call a meeting of the Budget Coordinating Group as defined below before the commencement of the budget process, and further meetings during the budget process as necessary. The role of this group shall be 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 coordinated budget guidelines and calendar and to coordinate the process of budget development.

Comment [H11]: MC recommended change

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

Comment [H12]: MC Comment: If we mean Librrary Trustees and School Committee, say so. Or provide them an option o designate someone "representatives of" seem odd phrasing here."

SECTION 5.3: PUBLIC FORUM

Not later than March 15, before the Manager's submission of a proposed budget to the Town Council, the President of the Town Council with the cooperation of the Town Manager shall call at least 1 public forum on the topic of the proposed budget. This forum is intended for the Town Council and the Town Manager to present priorities, context based on prior years' budgets, revenue and expenditure forecasts, and other relevant information, ~~as well as~~and to solicit feedback from the public.

Comment [H13]: MC recommended change

SECTION 5.4: SUBMISSION OF BUDGET; BUDGET MESSAGE

(a) Not later than April 1, the proposed budgets adopted by the Amherst School Committee, Regional School Committee, and Library 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, including municipal, school, and library components as ~~ultimately~~ determined by the Town Manager, with an accompanying budget message and supporting documents. The Town Manager shall simultaneously post the proposed budget.

Comment [H14]: MC recommended change

(c) The budget message of the Town Manager shall explain the proposed budget for all Town agencies in fiscal terms, priorities, and 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 current capital improvement program.

Comment [H15]: MC recommended change

(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 as may be required by bylaw.

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 30 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, via a request to the Town Manager, to require officers and employees of the Town to appear before it and to provide information. The Finance Subcommittee may include members of the public, who shall have a voice but no vote in the Subcommittee's deliberations. Council rules shall address the appointment of such members.

(c) Action by Town Council: The Town Council shall adopt the budget, with or without amendments by June 30.. 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. In the case of the school budget or in the case of a regional school district assessment, the Town Council, on the recommendation of the School Committee or on recommendation of a Regional School Committee, may by a two-thirds vote of the full Town Council increase the total amount appropriated for the support of the schools or for the regional schools over that requested by the Town Manager; no such increase shall be voted if it would render the total annual budget in excess of the property tax limitations set forth in Massachusetts General Law Chapter 59, Section 21C. If the Town Council fails to take action on an item in the proposed budget by June 30, 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 the 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 the Council complies with Sections 5.5(a) and (b).

Comment [H16]: MC Comment: "What is this about?"

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, it has been publicly posted for a minimum of 10 days, and the Town Council has held a public forum concerning the request, unless supplemental funds are needed immediately in the case of a declared emergency, per Section 2.10 (b).

SECTION 5.7: CAPITAL INVENTORY AND CAPITAL IMPROVEMENT PROGRAM

(a) Capital Inventory: The Town Manager shall establish and update at least annually an inventory of significant capital assets such as buildings, infrastructure (for water, sewer, storm water, as well as roads), moveable equipment, and such other property as determined by the Town Council. The Town Council shall

establish the requirements for 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 composed of, at a minimum, representatives from the Town Council, School Committee, and Library 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 Forum: The Town Council shall make the proposed capital improvement program available to the public and shall hold at least one public forum on the capital improvement program.

(e) Adoption: At any time after the public forum 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 may request that the Town Council grant an extension of the deadlines established by this Article, specifying the reasons for such request. The extension may be granted at the discretion of the Town Council. Such extension shall be within the statutory parameters of the general laws.

Comment [H17]: MC recommended change

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 include in the annual budget 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 Town Council shall adopt procedures for selection of such accountant or firm. 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 and the Town Manager 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. The term "reorganization plan" shall mean 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 Town services. The reorganization plan shall be accompanied by an explanatory memorandum which shall include: (i) reference to any bylaws to be repealed or modified; (ii) a summary of proposed bylaw changes to be put into effect ~~by the plan~~should the plan be adopted; and (iii) a summary of the estimated financial impact of the proposed changes.

Comment [H18]: MC recommended change

(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 forum on the matter and shall, not later than the second regular meeting of the Town Council following the public forum, 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 termination of personnel shall be subject to applicable provisions of state and federal law, collective bargaining agreements, and Town personnel bylaws and policies and shall further be subject to the limits imposed by existing appropriations. All appointments and promotions of Town officers and employees shall seek to address the diversity of the Town's workforce~~,~~ including such categories as 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.

Comment [H19]: MC recommended change

SECTION 6.3: BOARD OF LICENSE COMMISSIONERS

There shall be a Board of License Commissioners which shall have the power to issue licenses for innholders or common victuallers, the powers of a licensing board appointed under General Laws chapter 138, section 4, and shall be the licensing authority for the purposes of General Laws chapters 138 and 140. The Board shall have all powers with respect to other licenses for which the Town has statutory and regulatory authority unless otherwise assigned to another Town office or officer by general law. The Board of License Commissioners may grant licenses relating to alcoholic beverages under General Laws chapter 138 and those licenses under General Laws chapter 140 which are not, by the provisions of said chapter, placed within the jurisdiction of another Town officer or agency. The Board of License Commissioners shall consist of 5 voters appointed by the Town Manager and confirmed by the Town Council as provided in section 2.11. Such appointed members shall serve for 3-year terms. No person while a member of the Board of License

Commissioners shall have any financial interest, directly or indirectly, in the sale or distribution of alcoholic beverages or marijuana in any form.

Comment [H20]: Could possibly add "or any regulated substance that may come under the purview of the Board"

The Building Inspector, the Director of Public Health, the Fire Chief, and the Police Chief, or their designees, or persons performing similar duties under any other title, shall advise the Board of License Commissioners.

ARTICLE 7: ELECTIONS

SECTION 7.1: TOWN ELECTIONS

The regular 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, on the next business day following the last day for withdrawals, which drawing shall be open to the public and notice of which shall be posted on the Town bulletin board.

SECTION 7.2: NON-PARTISAN ELECTIONS; BALLOT DESIGNATIONS

All elections for Town offices shall be non-partisan and election ballots shall be printed without any party mark, emblem, or other 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 an election shall be as follows: for the office of District Councilor, 25 signatures, all of which shall be from the district from which the nomination is sought; for the office of Councilor-at-Large, and for all other elected offices, 50 signatures ~~from voters~~.

Comment [H21]: MC recommended change

SECTION 7.4: DISTRICTS

The territory of Amherst shall be divided into 5 districts 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 districts shall consist of as nearly an equal number of inhabitants as it is possible to achieve and shall, to the extent possible, cluster together centers of common interest or neighborhoods, considering, but not limited to, places where people live, congregate, recreate, worship, shop, and learn~~, and live~~. Each such district shall be composed of voting precincts established in accordance with general laws. 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, to review such districts to ensure their uniformity in number of inhabitants and conformity with state and federal law.

Comment [H22]: MC recommended change

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: PUBLIC POSTING OF CANDIDATE STATEMENTS ~~ON TOWN WEBSITE~~

The Town Council shall establish a process compliant with state campaign and political finance laws for candidates whose names will appear on the election ballot to post statements regarding their candidacy on the Town's ~~bulletin board~~website or future equivalent.

ARTICLE 8: PUBLIC PARTICIPATION MECHANISMS

SECTION 8.1: OPEN MEETING OF THE RESIDENTS

Upon the request in writing of 200 residents 18 years or older, including names and addresses, submitted to the Town Council, School Committee, or Library Trustees stating one or more specific issues or concerns related to matters upon which the requested body may act, the President or Chair of said entity shall 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, School Committee, or Library Trustees. The Town Council, School Committee, or Library Trustees may also call meetings of the residents of the Town upon their own initiative. No such open meeting shall be held upon any one subject more than once in any given 12-month period.

SECTION 8.2: FREE PETITION

(a) Resident Petitions, Action Discretionary: The Town Council, School Committee, and Library Trustees shall receive all petitions signed by 1 or more residents and addressed to any of them concerning a matter upon which they could act and may, in their respective 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 by a committee or subcommittee thereof, and the Town Council shall act 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 14 days before the hearing. The Town Council shall publish a general summary of the subject matter of the petition and a notice stating: (1) the times and places where copies of the group petition are available for inspection by the public, and (2) the date, place, and time not less than 2 weeks after such publication, when a public hearing on the petition will be held by the Town Council. No hearing shall be heard upon any 1 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 on a form prepared by the Town 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 250 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 addresses 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 number and street of the residence of each signer accompanied by the endorsement of the name and residence address of the person designated as filing the petition. The Town Clerk shall attach to the petition a certificate showing the results of the Town Clerk's examination and shall return the petition to the Clerk of the Town Council. A copy of the Town Clerk's certificate shall also be mailed to the petitioners committee.

(b) Referral to Attorney: Immediately following certification of 250 signatures, the Clerk of the Town Council shall deliver a copy of the petition to the Town Attorney. Within 21 days after receipt of a copy of the petition, the Town Attorney shall advise the Town Council in writing whether the measure as proposed may lawfully be utilized 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, within 60 days 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 has been notified by the Town Attorney that it is in proper form, 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 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 shall be posted 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 described in the Town Charter, take effect?
>
> (Here, insert a fair, concise summary prepared by the Town Attorney.)
>
> YES_____
>
> NO _____

(g) 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 is submitted to the voters.

(h) 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, and if the 20 percent voter participation requirement is met, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

SECTION 8.4: VOTER 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 on a form prepared by the Town and signed by a minimum of 5% of the 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 sole discretion 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, Town Clerk 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 Town Clerk's certificate shall also be mailed to the first 10 voters who signed the petition.

(c) Referral to the Town Attorney: Immediately following receipt of the Town Clerk's certificate, the Clerk of the Town Council shall 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, advise the Town Council and the Town Clerk in writing whether the measure may lawfully be protested by the voter 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, and 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 voter 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 and shall be published on the Town bulletin board. 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 voter veto procedure described 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) Required Voter Participation: For any measure to be declared null and void under a voter veto 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 voter veto question is submitted to the voters.

(g) Time of Taking Effect: If a majority of the votes cast on the question is in the affirmative or if the 20 percent voter participation requirement is not met, the measure as originally approved by the Town Council, shall be effective immediately.

SECTION 8.5: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the voter 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 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 Town's debt or debt service;

(g) An appropriation of funds to implement a contract or collective bargaining agreement;

(h) Proceedings relating to election, appointment, removal, discharge, employment, promotion, transfer, or demotion of employees or appointed or elected officials or members of multiple-member bodies or any other personnel action;

(i) Any proceedings repealing or rescinding a measure or part thereof which is protested by voter veto procedures;

(j) Any proceedings providing for the submission or referral of a matter 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, 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. Such measures must originate within the Town Council, School Committee or Library Trustees and pertain to affairs under said bodies' jurisdiction.

Pursuant to the provisions of Section 18A of Chapter 53 of the Massachusetts General Laws, non-binding public opinion advisory questions may be placed on the ballot at a regular Town election. Notwithstanding the provisions of said Section 18A, at the Town Council's sole discretion, a non-binding public opinion advisory question may be placed on a special election ballot.

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 general laws.

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 Massachusetts General Laws contained in the Charter refer to the General Laws 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 General Laws 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 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 4, for a review of the Charter by a special committee to be established by Town Council. 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 not holding elective office when appointed. The Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations. Implementation of all charter changes shall be governed by general law.

SECTION 9.7: PERIODIC REVIEW OF BYLAWS

The Town Council shall provide, in every year ending in a 6, for a review of the Town's general bylaws by a special committee to be established by Town Council. 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 not holding elective office when appointed. 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 Massachusetts General Law Chapter 41, Section 81D that shall include, but shall not be limited to, arts, culture, recreation, open space, economic development, 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 the Town Council may vote.

(b) Adoption: The master plan or any amendments thereto shall be approved by the Planning Board and then submitted by the Town Manager to the Town Council which shall hold at least 1 public hearing thereon. The Town Council shall adopt 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/or additions shall be subject to the adoption process as provided in Section (b) above.

(d) New Master Plan: A new master plan shall be prepared at least every 20 years. A new plan shall be prepared and adopted as provided in Sections (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 through working sessions.

(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 Planning 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 Massachusetts General Laws, along with an explanation as to whether the proposed bylaw is not inconsistent with the master plan.

SECTION 9.9: RULES AND REGULATIONS

A copy of all rules and regulations adopted by multiple-member bodies shall be placed on file in the office of the Town Clerk and 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 before entering 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 measure. 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.

(b) Rules~~ and Minutes~~: Each multiple-member body shall determine its own rules and order of business unless another provision is made by Town Council.

(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 1 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. Any such appointed person 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 1 year notwithstanding the permission from the Chair to be absent.

SECTION 9.13: 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 9.14: 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 shall 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.

SECTION 9.15: FELONY CONVICTION

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

ARTICLE 10: TRANSITION PROVISIONS

SECTION 10.1: CONTINUATION OF EXISTING LAWS

All general laws, special laws, Town bylaws, 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 a prior law and this Charter shall be decided in favor of this Charter.

SECTION 10.2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All Town agencies and Town 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 Town agency.

SECTION 10.3: TRANSFER OF RECORDS AND PROPERTY

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

SECTION 10.4: CONTINUATION OF PERSONNEL

Any person holding a Town office, or a position in the administrative service of the Town, or any person holding full-time employment under the Town, 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 Town agency. No person in full-time service of the Town shall forfeit accrued time in service of the Town.

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 Town before the adoption of this Charter, shall continue to be obligations of the Town and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the Town, 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 Town 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: Chapter 369 of the Acts of 1951, Chapter 418 of the Acts of 1970, provided, however, that the Town Council shall elect one of its own members to serve as the Town's liaison to the University of Massachusetts Board of Trustees; Chapter 512 of the Acts of 1972, provided however that repeal of certain provisions as provided in Chapter 216 of the Acts of 2001 remains in effect; Chapter 455 of the Acts of 1973, Chapter 416 of the Acts of 1984; Chapter 72 of the Acts of 1986, Chapter 268 of the Acts of 1987, provided, however that the Manager shall appoint the membership with Town Council approval as provided in Section 2.11 of this Charter, Chapter 61 of the Acts of 1989, ~~Chapter 83 of the Acts of 1996,~~ Chapter 93 of the Acts of 1995, provided, however that the Manager shall appoint the membership with Town Council confirmation as provided in Section 2.11 of this Charter, and Chapter 83 of the Acts of 1996.

Comment [H23]: MC Comment and change: reordered so in chronological order

(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: Chapter 149 of the Acts of 1955; Chapter 49 of the Acts of 1959, Chapter 54 of the Acts of 1963, Chapter 631 of the Acts of 1973, Chapter 1087 of the Acts of 1973, Chapter 56 of the Acts of 1975, Chapter 117 of the Acts of 1980, Chapter 157 of the Acts of 1993, Chapter 216 of the Acts of 2001, provided, however that the provisions of the act relating to the Town Meeting as appearing in Section 7 of the act remain in effect until the Town Meeting is abolished as provided in this Charter, and Chapter 263 of the Acts of 2006.

Comment [H24]: MC Comment and change: Probably should note that c. 216 remains in effect as provided in section 1.7 of this charter (filling RTM vacancies).

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 Town 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 10.9), the executive authority shall thereafter be vested in a Town Manager as determined by this Charter and the policy leadership and legislative authority shall be vested in a Town Council.

(b) During the period ~~of~~ between the adoption of the Charter ~~until~~ and December 3, 2018 (or a later date under section 10.9), 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 Town, such as the annual budget, taking no actions contrary to, or that frustrate 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 1 member. No appointments shall be made that do not meet this criterion after the Charter is adopted unless necessary for matters not admitting of delay. The Select Board shall provide a list of vacancies on multiple-member bodies to the Town Council President and the Town Manager.

Comment [H25]: MC suggested edit

(c) If a vacancy in any elected office other than Town Meeting shall occur prior to the assumption of the Town Council to office, the Select Board together with the remaining members of the affected body shall make such interim appointment to fill any such vacancy for a period ending on December 3, 2018 (or a later date

under section 10.9). Vacancies in 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~~ enactment by the Massachusetts legislature of an act ~~enabling~~ authorizing 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 election primary in September, 2018. As much of this Charter as is necessary to conduct such election shall become effective. The Select Board shall issue the warrants for such election.

For the purpose of this election only, if necessary there shall be a preliminary election to determine the selection of twice the number of candidates to appear on the ballot for the initial election of the Council. All candidates for Councilor-at-Large meeting the requirements of Article 7 shall appear on the preliminary election ballot. The 6 candidates receiving the highest vote totals in the preliminary for the Councilor-at-Large seats shall appear on the ballot to elect the Town Council. If there is a tie vote in the preliminary results for Councilor-at-Large, all Councilor-at-Large candidates ~~meeting the criterion of receiving votes among the~~receiving the 6 highest vote totals~~, such candidate~~ shall appear on the ballot for the election of the Town Council notwithstanding that more than twice the number of candidates to be elected shall appear on the ballot. All candidates for District Councilor in each district meeting the requirements of Article 7 shall appear on the ballot by district on the preliminary election ballot. The 4 candidates receiving the highest vote totals in each district shall appear on the ballot to elect the council. If there is a tie vote in the preliminary votes for any District Councilor in any district, all District Councilor candidates ~~in the particular ward~~~~District~~ receiving the 4 highest vote totals in a particular district shall appear on the ballot for the election of such District Councilor notwithstanding that more than twice the number of candidates to be elected shall appear on the ballot. Ballots in all districts shall contain the Councilor-at-Large candidates and ballots will contain the District Councilor candidates only in the district from which the candidates are nominated in the preliminary for each district.

If there are not more than twice the number of candidates for an office, there shall be no preliminary election for that office. If none of the offices to be elected has more than twice the number of candidates then there shall be no preliminary election.

(e) The Town election described in sub-section (d) above shall be to elect 10 District Councilors and 3 Councilors-at-Large for an initial term beginning December 3, 2018 and ending the first Monday in January, 2020. Two District Councilors shall be elected from each of the five following districts, which shall be comprised as follows:

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

(f) The status of the Library Trustees shall be as follows: All Trustees in office as of July 1, 2018 shall have their terms end on January 7, 2020. The first election under this Charter for 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 January 7, 2020. The first election under this Charter for School Committee members shall be on November 5, 2019.

Comment [H26]: MC suggested edit

Comment [H27]: Tow match MC changes below

Comment [H28]: MC suggested edit

(h) The status of the Oliver Smith Will Trustee shall be as follows: The term of the Oliver Smith Will Trustee in office as of July 1, 2018 shall end on January 7, 2020. 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 January 7, 2020. The first election under this Charter for elected Housing Authority members shall be on November 5, 2019. All appointed Housing Authority positions shall ~~have their terms continue as originally appointed~~serve their terms as determined by the general laws.

Comment [H29]: MC suggested edit

(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 December 3, 2018, whichever is later. Upon the expiration of the term of office or upon a sooner vacating of the office, a successor shall be appointed as provided in this Charter or appointed by the Town Manager if ~~before~~ any vacancy occurs prior to December 3, 2018.

Comment [H30]: MC suggested edit

(k) The status of the Select Board shall be as follows: All Select Board members in office as of July 1, 2018 shall have their terms end on December 3, 2018 (or a later date under section 10.9).

(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 (or a later date under section 10.9).

(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 (or a later date under section 10.9).

(n) The status of the Planning Board shall be as follows: The Planning Board shall be 7 members as of December 3, 2018 and shall remain such size until and unless the Town Council adopts a measure increasing or decreasing the size. 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 December 3, 2018. 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.

Comment [H31]: Addition here and at ZBA to reflect that we want the TC to be able to change the size by bylaw.

(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 and shall remain such size until and unless the Town Council adopts a measure increasing or decreasing the size. 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 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 December 3, 2018. The Town Council shall appoint additional members on or after December 3, 2018 to increase the size of the Board to 5 members.

(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 Town Council until such time following assumption of office when the Town Council adopts permanent rules, and commencing review of the Town Manager's nominees to the Board of License Commissioners established in Article 5. 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 6 months of the assumption of office; any rules adopted, whether interim or permanent, must meet the provisions for Town Council rules as stated in Section 2-.6 (d).

(ii) The town shall provide suitable ~~offices~~ space in a Town 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 December 3, 2018 the officials elected at the election of November 6, 2018 shall be sworn to office. At that time, the terms of office of the members of the Select Board, the Town Moderator and the 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 2. Every appointed Town 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 this Charter. The School Committee and 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 this Charter.

(q) The Board of License Commissioners established by Article 6 Section 3 of this Charter shall be appointed by the Town Manager and confirmed by the Town Council 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 Board of License Commissioners shall assume full authority under Massachusetts General Laws Chapter 138 and Chapter 140 upon being administered the oath of office ~~, and any other authority delegated to it by Town Council, on~~ , to occur no later than 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 Town Council adequate time to review the nominees.

Comment [H32]: MC suggested edit and comment: "see email discussion accompanying this transmission – this section contradicts s. 6.3 – may have been borrowed wholesale from Framingham."

Comment [H33]: Reflects that they could be sworn earlier

Comment [H34]: Can we combine into paragraph above?

(s) Until such time as another salary is established for the office of the Town Council in accordance with the procedure provided in Article 2, the initial annual stipend for the Councilors shall be $5,000, and $7,500 for the Town Council President. Until such time as another salary is established for School Committee Members in accordance with the procedure provided in Article 4, 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. All stipends shall be 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 Town 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 Town Manager be serving at the time that the Town Council assumes office, the Town Council shall vote to either retain such Interim Town Manager until a permanent Town Manager is appointed by the Town Council or to replace the Interim Town Manager with another Interim Town Manager. In such case, the Town Council shall immediately begin a recruitment process for a new Town Manager. If an officer or employee of the Town is serving as the Interim Town Manager at the time the Town Council takes office, and is replaced as Interim Town Manager by the Town Council, such officer or employee may return to their position in the Town.

(v) Not later than 30 days following the election at which this Charter is adopted, the Select Board shall appoint a committee to begin a review of the town bylaws 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 Town 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 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 bylaws 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 1 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) The terms of all members of appointed multiple-member bodies shall continue for the balance of the terms for which they were appointed, unless otherwise provided for by this Charter or extended by Town Council. Upon the expiration of the term of office or upon an earlier vacancy in any multiple-member body, a successor shall be appointed as provided in Section 10.7(b) above. ~~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 into conformity with this Charter.

Comment [H35]: MC Comment: "Why does the Town Council have authority to extend terms when the appointments are made by the Town Manager; except for PB and ZBA – already addressed elsewhere? Also this section contradicts (b) above where SB discretion in making appointments is somewhat curtailed, so I have changed the reference to be more specific."

Comment [H36]: MC suggested edit

SECTION 10.8: SPECIAL ACT REGARDING INITIAL ELECTION

As soon as practicable after the passage of this Charter, the Select Board shall submit to the Massachusetts legislature the following proposed act or one with similar intent to allow for the initial 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 allow the city known as the Town of Amherst to hold a general election for the office of Town Councilor on November 6, 2018 and a preliminary election for the office of Town Councilor on the same day as the state election primary in September, 2018.
>
> SECTION 2. Notwithstanding Section 7 of Chapter 53 of the Massachusetts General Laws or any other general or special law or Charter provision to the contrary, nomination papers for

Comment [H37]: MC Comment: See separate attachment "SPA council election."

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 8, 2018.

SECTION 4. Notwithstanding Section 10 of Chapter 53 of the Massachusetts 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 10, 2018.

SECTION 5. Notwithstanding Section 11 of Chapter 53 of the Massachusetts 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 13, 2018.

SECTION 6. The Town Clerk shall certify to the state secretary on or before 5:00 p.m. on August 15, 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 10.9: ALTERNATIVE ELECTION DATES

Should the act outlined in Section 10.8 or a similar act not be passed, the first election of Town Councilors under this Charter shall be held on January 24, 2019. Nomination papers will be available on September 1, 2018 and must be returned by October 21, 2018. If necessary, a preliminary election for the purpose of nominating candidates to be elected at such election shall be held on December 11, 2018. All terms of office under Section 10.7 (e), (j), (k), (l), (m), (n), and (o) shall be extended, abbreviated, or terminated as outlined above except that they shall align with the new dates instituted herein. Elections under Section 10.7 (f), (g), (h), and (i) shall occur on the dates outlined in those sections. Councilors shall be sworn in on February 4, 2019.

Comment [T38]: Contains new proposed dates.

SECTION 10.10: CREATION OF RANKED-CHOICE VOTING COMMISSION

Within 6 months of the assumption of office by the Town Council, there shall be appointed an Ranked-Choice Voting Commission for the purpose of proposing a measure to adopt and implement ranked-choice voting in Amherst. A voting method shall be considered ranked-choice voting if the voter ranks candidates in order of preference and a voter's lower ranked choice does not impact the likelihood of a higher ranked choice being elected. The commission shall consist of 7 members: one of whom shall be the Town Clerk or designee, 3 shall be residents appointed by the Town Council, and 3 shall be residents appointed by the Town Manager. The commission shall propose a measure by September 1, 2020. The Town Council shall adopt the proposed measure with or without amendments within 90 days of receipt.

SECTION 10.11: 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 proposing a measure to adopt participatory budgeting or other similar method 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 shall be a Town Council member, 2 shall be residents appointed by the Town Council, and 3 shall be residents appointed by the Town Manager. The commission shall propose a measure by December 1, 2020. The Town Council shall act by voting upon the proposed measure with or without amendments within 90 days of receipt.

SECTION 10.12: TOPICS FOR STUDY

The Town Council and Town Manager shall investigate the feasibility of taking the following actions by December 31, 2019. The list below is in no particular order or priority:

(a) Creating the position of Americans With Disabilities Act coordinator
(b) Permitting non-citizens to vote in Town elections and to seek and hold Town office
(c) Lowering the voting age for Town elections

Comment [H39]: MC suggested edit

SECTION 10.13: 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.