

BIENNIAL MUNICIPAL ELECTION

November 6, 1973

Question No. 1 - Approving new
charter

"Yes" 3452 votes

"No" 3604 votes

Blanks 425

7481

PROPOSED CHARTER

for the

CITY OF NORTHAMPTON

ALSO INCLUDING
BALLOT QUESTION
SUMMARY OF CHARTER
REPORT OF CHARTER COMMISSION
SUMMARY OF ARTICLES OF CHARTER

To be voted on at the municipal election to be held on Nov. 6, 1973.

Acts, Extra Session, 1966—Chap. 734 Sec. 825

The city council or board of selectmen shall cause the final report of a charter commission, or a charter amendment proposed in an order which has become effective under section ten, to be printed and a copy to be distributed to each residence of one or more registered voters. Such distribution shall occur not later than two weeks before the election at which the question of adopting, revising or amending the charter is to be submitted to the voters. Additional copies of such final report or proposed amendment shall be filed with the city or town clerk for distribution to registered voters requesting the same and one such copy shall be posted in his office.

BULK RATE
U.S. POSTAGE PAID
Northampton, MA.
PERMIT NO. 433

The following question will appear on the ballot at the city election on November 6, 1973:
Shall this city approve the new charter recommended by the charter commission, summarized below?

YES / / NO / /

SUMMARY: The proposed charter would not change the present system of electing a mayor every two years, as the chief executive officer of the city; the composition and method of election of the school committee and the city council would remain unchanged except that the terms of office of all school committeemen would be two years.

Principal changes would be as follows: (1) the partisan primary nomination system we now have would be replaced by a non-partisan preliminary election, (2) a new capital improvements budget would be required, (3) a simplified procedure for the reorganization of city departments and offices would be available, (4) a uniform system of procedures would be established for all multiple member bodies of the city government and (5) the city council would be authorized to establish on petition of neighborhood groups neighborhood governments.

The members of the charter commission recognize that this summary which will appear on the ballot is brief. We urge you to read the more detailed summary which is contained in this report and the full text of the charter itself.

INTRODUCTION

Some ninety years ago, in 1883, the existing charter of the city of Northampton was adopted. In the intervening years there have been more than fifty amendments made to that original instrument which have in one way or another changed or modified the government of Northampton.

Your charter commission, which was elected at the city election in 1971, has prepared a new charter for our city which retains the best features of our present form of government and introduces into that scheme of things some new features which, it is our hope, will provide greater flexibility for the future to enable our city government to adapt and react to changing times, conditions and circumstances.

On June 20, 1972 the charter commission published in the Daily Hampshire Gazette the full text of a preliminary charter. In a report which accompanied that draft we stated that:

Nothing which is contained in this preliminary draft should be construed to be final. We are completely open on any point about which there might be discussion and debate. We will reconsider all matters that are brought to our attention...

At a public hearing held on June 22 at the High School, a number of matters were brought to our attention. Subsequently the charter commission reconsidered these issues and did, in response to the public comments, modify and amend the preliminary draft.

Statement of Major Differences

The charter which we are proposing be adopted to replace our existing charter does not substantially change the way in which the major public officials of the city are chosen. We will continue to have a Mayor as our chief executive officer. He will be chosen by the voters every two years. We have retained the existing organization of the city council, two members elected by the voters at large and one member elected from each of the seven wards of the city. The members of the city council will continue to be elected every two years. The school committee will continue to be elected as it has been elected in the past, two members elected at large and seven members chosen by the voters at large but one to come from each of the seven wards of the city. The terms of office of school committee members which presently are two years for the at large members and four years for those with ward residency has been standardized at two years. This change, we believe, puts all elected officials on the same footing.

The city clerk, the elector under the Oliver Smith will, the Forbes library trustees, and the superintendents of the Smith's agricultural school will continue to be chosen as in the past by the voters. Of course the tenure which has been granted to certain city officers by the voters of our city will not be affected by the election provisions of the charter.

Perhaps the most significant change which the charter does contain is the change it will bring about in the way in which names of candidates reach the final election ballot. Presently in Northampton, the names which appear on the ballot in November are placed there as a result of partisan nomination elections held in October. The commission reached the conclusion, after many hours of discussion among ourselves and with other persons in our city, that this system was not providing the voters with a real choice in the regular elections.

If the charter is adopted we will have in the future a single preliminary election, in October, which will have on one ballot the names of all candidates who wish to be nominated to city offices. No voter will have to declare himself as a member of a political party to receive a ballot. If two members of the same political party receive the highest number of votes for the office of Mayor then it will be their names which appear on the ballot in November. We think this change will make the November "real" election just that, as it should be. Other changes from our present charter which are proposed in the new charter and which we wish to call to your attention are as follows:

an improved budget adoption procedure with required public hearings;
a new capital improvements budget requirement;
a new method for creating and reorganizing city departments which will eliminate the need to seek special laws in Boston to change things in Northampton;
improved citizen access to his government through petition procedures to both the city council and the school committee;

a provision which would allow the establishment of "neighborhood" governments;
detailed procedures governing the conduct of meetings by the many elected and appointed boards, commissions and committees which constitute our city government.

Conclusion

The members of the charter commission have disagreed on many occasions as this charter has been prepared for submission to you. There is not a single member who is completely satisfied with every

single provision of this proposed charter, it has been found that one of them is doing all of the thinking. Your commission has not had anyone who fits that description!

The charter commission recognizing that this is a less than perfect world, does, despite their differences of opinion on some minor issues, unanimously agree that this is the best charter which can be proposed for Northampton at the present time. We unanimously agree that it will significantly improve some existing procedures in the city government structure and it is to be hoped will, in the long run, provide a higher quality of service to the citizens of our city than will be true if it is rejected.

The functions of local governments are becoming increasingly complex. When our present city government was established in 1883 there were few services provided to citizens by their city government. Some basic fire and police services, some public works functions, and a program of poor relief were the basic elements of local services. Education was but a small portion of what it is today. The services expected by citizens as we enter the last quarter of the twentieth century are far more sophisticated than our forefathers ever could have projected that city government would be providing. We need new governmental machinery to cope with those demands.

In conclusion we would like to state with all the vigor and conviction at our command that it is our sincere belief that Northampton has some of the finest public officials, both elected and appointed, which can be found anywhere. We sincerely hope that nothing we have said or done will be construed as a reflection on the services which have been provided by these officials either presently or in the past. Our emphasis has of necessity been on the future. By the changes we are proposing we hope that we will be able to continue to attract to the public service for our city the same quality of service. Nothing less would satisfy us.

Respectfully Submitted,

s/ Alvertus J. Morse	s/ John Lawlor	s/ Myron T. Andersen
s/ Carolyn K. Barrett	s/ Anne R. Gaffney	s/ Robert K. Finn
s/ Patrick M. Goggins	s/ Grace P. Asserson	s/ John J. Rockett

Summary of Articles

Article 1—This article, which is technical in nature, provides for the continuation of the city of Northampton as a corporate entity and reserves for the city all of the powers it is possible for a city to hold under the "Home Rule" amendment to the state constitution.

Article 2—This article establishes and defines the composition, method of election, term of office and powers and duties of the city council. The size, composition and term of office of the city council remains as it has been—two members elected at large and seven members elected by wards. The city council will in the future elect its own presiding officer. Special meetings of the council may be called by the mayor, the council president, or by three or more members of the council. Vacancies on the city council would be filled by special election unless the vacancy occurs in the last six months of the term. Council procedures would be more specifically detailed than is true today. The city council would be required to establish by ordinance minimum qualifications for officers to be filled by appointment of the mayor.

Article 3—This article establishes the office of mayor. It has been the intention of the charter commission to strengthen the office and truly make it the pivot point around which our city government revolves. The mayor would make all appointments to city offices except those officers who are elected, those appointed by the school committee or by state officers or for whom other provision is made by the charter. The mayor would be authorized to make temporary appointments to city offices pending the confirmation by the council of a permanent appointment. The mayor would be directed to make an annual "state of the city" report to the city council and to the public. A provision is included to provide for an "acting mayor" whenever the mayor is unable to perform his duties for a period of time. The mayor would continue to serve as chairman of the school committee, with the same voting power as any elected member.

Article 4—This article establishes the school committee as it is presently constituted—two members elected at large, seven members elected at large but with ward residency and the mayor. The term of office of school committee members under the proposed charter would be two years for all members. Vacancies on the school committee except those which occur in the last six months of the term) will be filled by special election. Procedures to be followed by the school committee in the conduct of their affairs are established. The school committee will be required to hold a public hearing on their proposed budget before it is submitted to the mayor for inclusion in the city clerk.

Article 5—This article continues as elected officials our city clerk, the elector under the will of Oliver Smith, The Forbes library trustees and the Superintendents of the Smith's Agricultural School.

The terms of office of all these officers would be two years.

Article 6—This article describes the procedures to be followed in the adoption of an annual operating budget and a long range capital improvements budget. The present balance of power between the council and mayor is retained. The mayor will submit to the council a proposed operating budget which the city council may decrease but not add to. Publication of a budget summary and a public hearing by the city council on the budget proposal will be required.

Article 7—This article establishes two procedures which may be used to reorganize the city government operating agencies to make them more efficient, more effective and more convenient. It will permit the city to make these changes without the need to seek special laws in Boston. The mayor is empowered to submit proposed reorganization plans to the city council which will become law exactly as he submits them unless the city council votes to reject the plan within a period of ninety days following

vide for reorganization as well.

Article 8—This article deals with the individual citizen's power through the ballot box to shape and direct the future of our city. First it provides that candidate nomination in the future shall be by a preliminary election instead of by partisan primary elections. All candidates at regular and preliminary elections will have their names listed by a drawing by lot to determine the order of names. Incumbents will not, as of right, have their names appear first in each column of candidates. The citizens' initiative and referendum rights which were contained in our existing charter have been broadened. Under the proposed charter any citizen would have a right to petition the city council or the school committee to take a certain action. Action by the council or the school committee would, however, be discretionary. A petition which is signed by fifty or more voters and addressed to either the city council or the school committee would require that body to hold a public hearing on the citizens' proposal and within three months of its filing take a definitive vote on the proposal. The percentage of citizen signatures which have been required for initiative proposals (which automatically go on the election ballot if not adopted by the city council or school committee) has been slightly reduced.

Article 9—This article authorizes the city council to establish neighborhood sub-units of government on the petition of voters in the proposed area. The purpose of such local units is to encourage greater citizen involvement in the governmental process. The units would have only those powers that are granted to them by the city council.

Article 10—This article deals with a number of matters which do not properly fall within any one of the more specific subject matter articles which have preceded it. There are some provisions regarding interpreting the charter, how it is to be amended, requiring the rules and regulations of all city agencies to be published and available for citizen review, annual up-dating of our city ordinances, and provisions establishing standard procedures to be followed by all multiple member city boards, commissions and committees.

ARTICLE I INCORPORATION; SHORT TITLE; POWERS

Section 1-1 Incorporation

The inhabitants of the City of Northampton within the corporate limits as established by law shall continue to be a body corporate and politic with perpetual succession under the name "City of Northampton".

Section 1-2 Short Title

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

Section 1-3 Form of Government

The administration of all fiscal, prudential and municipal affairs of the city, with the government thereof, shall be vested in an executive branch, to consist of the mayor, and a legislative branch, to consist of the city council.

Section 1-4 Powers of the City; Intent of Voters

Subject only to express limitations on the exercise of any power or function by a city in the constitution or statutes of the commonwealth, it is the intent and the purpose of the voters of Northampton, through the adoption of the charter, to confer upon the city all powers it is possible to confer under the constitution and statutes of the commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1-5 Construction

The powers of the city under the charter shall be construed liberally in favor of the city and the specific mention of particular powers is not intended to limit in any way the general powers of the city as stated in section 1-4.

Section 1-6 Intergovernmental Relations

Subject to express requirements of the constitution and statutes of the commonwealth, the city may exercise any of its powers and perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth or any civil division or agency thereof or the United States government or any agency thereof.

ARTICLE 2 LEGISLATIVE BRANCH

Section 2-1 Composition; Eligibility; Election; Term

(a) Composition—There shall be a city council of nine members which shall exercise the legislative powers of the city. Two of the members, to be known as councilors at large, shall be nominated and elected by the voters at large. Seven of the members, to be known as ward councilors, shall be nominated and elected by and from the voters of each ward, one ward councilor to be elected from each of the seven wards of the city.

(b) Eligibility—Only voters shall be eligible to hold the office of councilor. A member of the city council shall, notwithstanding his removal from one ward of the city to another, continue to serve and perform his duties during his term of office.

(c) Election and Term—The terms of councilors shall be two years beginning the first secular day of January after their election and until their successors are qualified.

Section 2-2 Compensation; Expenses

The city council shall by ordinance determine an annual salary and expense allowance for councilors but no ordinance establishing or increasing such salary or expense allowance shall become effective until the date of commencement of the terms of councilors elected at the city election held at least six months following the adoption of such ordinance.

Section 2-3 President and Vice-President of the City Council

After the mayor elect and a majority of the councilors elect have been sworn to the faithful performance of their duties the city council shall be called together by the mayor who shall preside.

The city council shall then elect from among its members officers of the city council who shall have

the titles of president and vice-president. The president shall preside at meetings of the city council and perform such other functions as may be assigned by the charter, by ordinance or by vote of the city council. The vice-president shall act as president during the absence or disability of the president.

Section 2-4 General Powers and Duties

Except as otherwise provided by law or the charter, all powers of the city shall be vested in the city council which shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2-5 Prohibitions

(a) **Holding Other Office**—No member of the city council shall, while a member of the city council, hold any city office or city employment for which a salary or other emolument is payable from the treasury.

This section shall not apply to an office or employment under the jurisdiction of the school committee.

(b) **Appointment after Expiration of Term**—No former councilor shall hold any compensated appointive city office or city employment until one year after the expiration of his service on the city council.

(c) **Interference in Administration**—No member or committee of the city council shall directly or indirectly take part in the conduct of the executive or administrative business of the city.

Section 2-6 Filling of Vacancies

(a) **By Special Election**—If there be a vacancy, by failure to elect or otherwise, on the city council within the first fifteen months of the term for which councilors are elected, the city council shall forthwith call a special election to fill such vacancy. If said vacancy shall occur after fifteen months of the term has expired but not later than eight months of the term has expired, the city council may order a special election to be held to fill the vacancy. Such election shall be by the voters of the whole city in the case of a councilor at large and by the voters of the ward in which the vacancy exists in the case of a ward councilor.

(b) **After Regular City Election**—If such vacancy shall occur after fifteen calendar months of the term for which councilors are elected, unless the council has voted to hold a special election as provided in (a) above, no special election shall be held. In such event the person elected at the next regular city election to the seat in which the vacancy exists shall immediately be sworn and shall, in addition to the term for which he was elected, serve for the balance of the then unexpired term.

Section 2-7 Exercise of Powers; Quorum; Rules of Procedure

(a) **Exercise of Powers**—Except as otherwise provided by law or the charter, the legislative powers of the city council may be exercised in a manner determined by it.

(b) **Quorum**—A majority of the city council then in office shall constitute a quorum. The affirmative vote of a majority of the full council shall be necessary to adopt any appropriation order. Except as otherwise provided by law or the charter, any other motion or measure may be adopted by a majority vote of those present.

(c) **Rules of Procedure**—The city council shall from time to time establish rules for its proceedings. Regular meetings of the city council shall be held at a time and place fixed by ordinance. Special meetings of the city council may be held on the call of the mayor, as provided in section 3-7 (b), or on the call of the president of the city council, or on the call of any three or more members, by written notice delivered in hand or to the place of residence or business of each member, except in case of emergency, at least twenty-four hours in advance of the time set. Except as otherwise authorized by general laws, all sessions of the city council shall be open to the public and press. Every matter coming before the city council for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate and up-to-date record of all the proceedings of the city council shall be kept and shall be open to inspection by the public.

Section 2-8 City Auditor; Clerk of the Council; Other Staff; Salaries

(a) **City Auditor**—As soon as practicable after the city council has been organized, it shall elect, by ballot or otherwise, a city auditor to hold office for the term of two years and until his successor is qualified.

The city auditor shall keep and have charge of the accounts of the city. He shall regularly audit the books and accounts of all city agencies and he shall have such powers and perform such other duties as the city council may prescribe in addition to such duties as may be prescribed by law.

(b) **Clerk of the Council**—The city council shall elect, by ballot or otherwise, a clerk of the council, who may also be the city clerk, to hold office for the term of two years and until his successor is qualified. The clerk of the council shall give notice of all meetings of the city council to its members and to the public, keep a record of all its proceedings and perform such duties as may be assigned by the charter, by ordinance, or by other vote of the city council.

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

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

Section 2-9 Measures; Emergency Measures; Charter Objection

(a) **In General**—No measure shall be passed finally on the date on which it is introduced except in cases of special emergency involving the health or safety of the people or their property. Except as otherwise provided by the charter every adopted measure shall become effective at the expiration of thirty days after adoption or at any later date specified therein. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum provisions.

(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 its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the city council then in office. An emergency measure may be passed with or without amendment or rejection at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency measure and, except as provided in general laws chapter 186, sections 70 and 71 relating to utility lines, no such grant, renewal or extension shall be made otherwise than by ordinance. After its adoption an emergency measure shall be published as prescribed for other adopted measures. It shall become effective upon adoption or at such later time as it may specify.

(c) **Charter Objection**—On the first occasion that the question of adoption of a measure is put to the city council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council whether regular or special. If two or more other members shall join the member in his objection, such postponement shall be until the next regular meeting; but for an emergency measure at least four members must object. This procedure shall not be used more than once for any measure notwithstanding any amendment to the original matter.

(d) **Ordinances; Publication**—Every proposed ordinance or loan order, except emergency measures as hereinbefore defined and revenue loan orders, shall be published once in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance, at least ten days before its final passage. After such final passage it shall, in the same manner as before, again be published once as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall be so published at the earliest practicable moment; provided, that if any ordinance or proposed ordinance, or combination of ordinances or proposed ordinances, shall exceed in length eight octavo pages of ordinary book print, then, in lieu of the publication required by this section, the same may be published by the city council in a municipal bulletin or printed pamphlet and if so published in full at least ten days before its final passage and thereafter, as amended and completed, again published in such bulletin or pamphlet, said publications shall be deemed sufficient without the newspaper publication as herein required.

Section 2-10 Delegation of Power

The city council may delegate to one or more city agencies the powers vested in the city council by the laws of the commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such city agency, and may, in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

Section 2-11 Inquiries and Investigations

The city council may require any city officer or member of a board or commission to appear before it and give such information as it may require in relation to his office, its function and performance. The city council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section.

The city council, or a duly authorized committee of the city council, special or standing, may make investigations into the affairs of the city and into the conduct of any city agency, and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

Section 2-12 Appointments to City Offices; Standards to be Established; Confirmation of Appointments; Confirmation of Removals

(a) **Standards to be Established**—The city council shall by ordinance establish and may from time to time amend minimum standards of competence and suitability required of candidates for appointments to city offices in order to qualify for confirmation. Such standards shall be based upon education, training and experience but no change adopted by the city council in such ordinances shall apply to the incumbents of an office at the time the ordinance or change in such ordinance is adopted.

(b) **Confirmation of Appointments**—The mayor shall submit to the city council the names of all persons whom he desires to appoint to city offices, except the city solicitor and except appointments under the civil service law. The city council shall refer all such nominations to a standing committee, which shall investigate the candidates and make a report with recommendations to the council on each such candidate not less than one week following its referral to them. Said appointments will become effective on the forty-fifth day following the date the name has been received by the council unless the council has within that period voted to reject the appointment or has sooner confirmed it. The provisions of section 2-9 (c) shall not apply to this section.

(c) **Confirmation of Removals**—Whenever under section 3-5 (a) notice of removal has been filed by the mayor and the person sought to be removed has requested a hearing by the council, the council shall at its next regular meeting take up the question of such hearing. It shall schedule such hearing not less than fourteen nor more than twenty-one days following the meeting at which the request is received. Within fourteen days following such hearing the council may by majority vote of the full council reverse the decision of the mayor.

ARTICLE 3 EXECUTIVE BRANCH

Section 3-1 Mayor; Election; Term

There shall be a mayor elected by and from the voters. He shall be the chief executive officer of the city. He shall hold office for the term of two years from the first secular day of January following his election and until his successor is qualified. He shall receive for his services such salary as the city council shall determine by ordinance for the office and shall receive no other compensation from the city other than reimbursement for the actual and necessary expenses incurred in the performance of his duties as mayor.

Section 3-2 Executive Powers; Enforcement of Ordinances; Assistants

The executive powers of the city shall be vested solely in the mayor and may be exercised by him either personally or through the several city agencies under his general supervision and control. The mayor shall cause the laws, ordinances and orders for the government of the city to be enforced and shall cause a record of all of his official acts to be kept. He may appoint one or more assistants to aid him in his official duties.

Section 3-3 Appointments by Mayor

The mayor shall appoint all city officers, department heads and members of the boards and commissions for whom no other method of appointment or selection is provided by the charter, excepting only officers serving under the school committee and officials appointed by state officers. Appointments made by the mayor shall become effective in accordance with the provisions of section 2-12 (b).

Section 3-4 Certificate of Appointment

In making his appointments the mayor shall sign and file with the city clerk a certificate in the following form:

CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion he is a recognized expert in the work which will devolve upon him, and that I make the appointment solely in the interest of the city.

Mayor

Or in the following form as the case may be:

CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion he is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Mayor

Section 3-5 Removal of Officials; Exceptions

The mayor may initiate the removal of any person appointed by the mayor by filing a written statement with the city clerk setting forth in detail the specific reasons therefor, a copy of which shall be delivered or mailed to the person sought to be removed. Except for the city solicitor said person may make a written reply which, if he so desires, may be filed with the city clerk and may, if he so desires, contest his removal by requesting a hearing before the city council. This section shall not apply to officers subject to the provisions of the civil service law.

Section 3-6 Temporary Appointments

Whenever a vacancy in an office appointed by the mayor occurs, whether by reason of disability, death, resignation or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed three months. Whenever a vacancy continues beyond three months, the mayor may make a second three-month appointment, but no temporary appointment shall be continued beyond six months.

Section 3-7 Communications to the City Council; Special Meetings of the City Council

(a) Communications—Within six weeks following the start of each fiscal year, the mayor shall submit to the city council, and make available for distribution to the public, a complete report on the financial and administrative activities of the city for the preceding fiscal year. He shall from time to time throughout the year by written communications to the city council, keep it fully informed as to the financial condition and future needs of the city and shall recommend such measures to it as, in his judgment, the needs of the city require.

(b) Special Meetings—The mayor may at any time call a special meeting of the city council by causing a written notice of such meeting specifying the matters which he desires to be considered to be delivered in hand or to the place of residence or business of each member of the council and public notice of said meeting to be posted at least twenty-four hours in advance of the time set for such meeting; provided, however, that in the event of an emergency, of which the mayor shall be the judge, a lesser period shall suffice.

Section 3-8 Mayor's Veto

No later than ninety-six hours after the adjournment of any meeting of the city council, the clerk of the council shall present to the mayor the record of the proceedings of the said meeting and all measures passed at the meeting except:

- (1) any relating to the internal affairs of the city council.
- (2) any relating to the election of officers whose election by the city council is authorized by the charter or ordinance, and
- (3) the budget

Every other measure relative to the affairs of the city passed by the city council shall be presented to the mayor for his approval. If he approves it he shall sign it; if he disapproves it he shall return it, with his written objections, to the city council which shall enter the objections on its records and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such measure by a two-thirds vote of the full council, it shall then be considered adopted, but such vote shall not be taken for seven days after its return to the city council. Every such measure shall be considered adopted if not returned by the mayor within ten days after it has been presented to him.

Section 3-9 Temporary Absence from Office of Mayor

Whenever by reason of sickness, absence from the city or other cause, the mayor shall be unable to attend to the duties of his office, the president of the city council, or in the event of his disability through sickness or absence, then the vice-president of the city council, shall be acting mayor. The acting mayor shall have all the rights and powers of the mayor except that he shall not make any

permanent appointment or removal unless the disability of the mayor has continued for a period of sixty days, nor shall he approve or disapprove any measure until within twenty-four hours of the time it would take effect without the approval of the mayor. During any period in which the president or the vice-president of the city council is serving as acting mayor, he shall not serve as the presiding officer of the city council.

Section 3-10 Vacancy in Office of Mayor

If a vacancy occurs in the office of mayor by death, resignation, or removal from office or otherwise at any time preceding the last nine months of the term for which he was elected, the clerk of the council shall forthwith call a special meeting of the city council which shall order a special election to be held forthwith to fill such vacancy for the remainder of the unexpired term. If a vacancy occurs in the office of mayor during the last nine months of the term for which he was elected, the clerk of the council shall become acting mayor, shall exercise all the rights and powers of mayor and shall be sworn to the faithful performance of his duties. Upon the election and qualification of any member of the city council as acting mayor under the provisions of this section, a vacancy shall exist in his seat on the council.

Section 3-11 Disability of Mayor

(a) Suspension of Powers

(1) By Mayor

Whenever the mayor transmits to the city council a written declaration that he is unable to discharge the powers and duties of the office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the president of the city council as acting mayor.

(2) By President of the City Council

Whenever the president of the city council submits to the city council a written declaration signed by the city physician, or other licensed medical practitioner performing similar duties for the city, that the mayor is unable to discharge the powers and duties of his office, and until a written declaration is submitted to the contrary, the president of the city council shall serve as acting mayor.

(b) Resumption of Powers by Mayor

(1) Whenever an assumption of the powers of mayor by the city council president has occurred and the mayor thereafter believes he is capable of resuming the duties of his office, he shall file a written declaration with the city council that the disability no longer exists. The mayor shall resume the powers and duties of the office unless within seven days following the date on which he transmits the said declaration the city physician, or other licensed medical practitioner performing similar duties for the city, files a written declaration with the city council stating that in his opinion the mayor continues to be disabled.

(2) If the city physician, or other licensed medical practitioner performing similar duties for the city, files a declaration as aforesaid, then the city council shall at the session at which it receives the said report immediately select a panel of three physicians, or other licensed medical practitioners, who shall forthwith examine the mayor and submit a report of their findings in writing to the city council within seven days following the said appointment. If after a reading of the findings of the medical panel the city council shall determine by a two-thirds vote of all of its members that the mayor is unable to discharge the duties of his office, then the president of the city council shall continue to discharge the duties of acting mayor; otherwise the mayor shall resume the powers and duties of his office.

ARTICLE 4

SCHOOL COMMITTEE

Section 4-1 Composition; Eligibility; Election; Term

(a) Composition—There shall be a school committee of ten members which shall exercise control and management of the public schools of the city. Seven of the members, to be known as school committee members, shall be nominated and elected by the voters at large, one school committee member to be elected by the voters at large, one school committee member to be elected from each of the seven wards of the city. Two of the members, to be known as school committee members at large, shall be nominated and elected by and from the voters at large. The mayor shall serve ex officio as chairman of the school committee with the same power to vote as an elected school committee member.

(b) Eligibility—Only voters shall be eligible to hold the office of school committee member. A member of the school committee shall, notwithstanding his removal from one ward of the city to another, continue to serve and to perform his duties during his term of office.

(c) Election and Term—The terms of school committee members shall be two years beginning the first secular day of January after their election and until their successors are qualified.

Section 4-2 Officers of the School Committee

After the mayor elect and a majority of the school committee members elect have been sworn to the faithful performance of their duties, the school committee shall be called together by the mayor who shall preside.

The school committee shall then elect, from among its members, officers of the school committee who shall have the titles of vice-chairman and secretary or the committee may elect the superintendent of schools to be their secretary. The vice-chairman shall preside at meetings of the school committee when the mayor is absent and perform such other functions as may be assigned by vote of the school committee.

Section 4-3 General Powers and Duties

The school committee shall have all the powers and duties which school committees may have under the general laws and may have such additional powers and duties as the city council may by

ordinance from time to time assign. The powers of the school committee shall include but not be limited to the power to: (1) appoint a superintendent; (2) appoint all other officers and employees connected with the schools, fix their compensation and define their duties, make rules concerning their tenure of office and discharge them; (3) furnish all school buildings with proper fixtures, furnishings and equipment, and (4) make all reasonable rules and regulations, consistent with law, for the management of the public schools of the city and for conducting the business of the committee.

Section 4.4 Location and Erection of Schools; Approvals Required

No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first obtained. No plans for the construction or alterations in a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless with the approval of the school committee and mayor. The mayor shall notify the school committee in writing prior to or at the time of each change in plans after work is begun. This section shall not require such approval for the making of ordinary repairs.

Section 4.5 Prohibitions

(a) **Holding Other Office**—No member of the school committee shall hold any other city office or city employment under the jurisdiction of the school committee while serving on the school committee for which a salary or other emolument is payable from the city treasury.

(b) **Appointment after Expiration of Term**—No former school committee member shall hold any compensated appointive city office or city employment under the school committee until one year after the expiration of his service on the school committee.

(c) **Interference in Administration**—No member or subcommittee of the school committee shall directly or indirectly take part in the conduct of the administrative business of the schools.

Section 4.6 Filling of Vacancies

(a) **By Special Election**—If there be a vacancy, by failure to elect or otherwise, on the school committee within the first fifteen months of the term for which school committee members are elected, the city council shall forthwith call a special election to fill such vacancy. Such election shall be by the voters of the whole city. If the vacancy occurs after fifteen months, but within the first eighteen months, of the term the school committee may request the city council to call a special election to fill such vacancy.

(b) **After Regular City Election**—If such vacancy shall occur after fifteen calendar months of the term for which school committee members are elected, unless a special election requested by the school committee to fill the vacancy is scheduled by the city council, no special election shall be held. In such event the person elected at the next regular city election to the seat in which the vacancy exists shall immediately be sworn and shall, in addition to the term for which he was elected, serve for the balance of the then unexpired term.

(a) **Exercise of Powers**—Except as otherwise provided by law or the charter, the powers of the school committee may be exercised in a manner determined by it.

Section 4.7 Exercise of Powers; Quorum; Rules of Procedure

(b) **Quorum**—A majority of the school committee then in office shall constitute a quorum. The affirmative vote of a majority of the full committee shall be necessary to adopt any financial matter. Except as otherwise provided by law or the charter, any other motion or measure may be adopted by a majority vote of those present.

(c) **Rules of Procedure**—The school committee shall from time to time establish rules for its proceedings. Regular meetings of the school committee shall be held at a time and place fixed by their rules. Special meetings of the school committee may be held on the call of the mayor, or on the call of the vice-chairman of the school committee, or on the call of any three or more members, by written notice delivered in hand or to the place of residence or business of each member except, in the case of emergency, at least twenty-four hours in advance of the time set. Except as otherwise authorized by general laws all sessions of the school committee shall be open to the public and press. Every matter coming before the school committee for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate and up-to-date record of the proceedings of the school committee shall be kept and shall be open to inspection by the public.

(d) **Budget Hearing**—At least thirty days before the meeting at which the school committee is to vote on the budget request it will make to the mayor for inclusion in the budget the mayor is required to submit to the city council, which shall be not more than fourteen days after the earliest date a budget may be submitted by the mayor, the school committee shall cause to be published in a local newspaper a general summary of their proposed budget which specifically indicates areas of increase from the prior budget, if any, and a notice stating: (1) the times and places where copies of the proposed budget will be available for inspection by the public and (2) the date, time and place not less than seven nor more than fourteen days after such publication when a public hearing will be held by the school committee on the proposed budget. The action of the school committee in adopting the budget shall be summarized and the results of a roll call vote taken on each amendment proposed shall be duly recorded.

ARTICLE 5 OTHER ELECTED OFFICIALS AND THEIR DEPARTMENTS

Section 5.1 City Clerk

(a) **Election**—There shall be a city clerk elected by and from the voters.

(b) **Term of Office**—The city clerk shall serve for two years from the first secular day in January following his election and until his successor is qualified.

(c) **Powers and Duties**—The city clerk shall have the powers and duties with respect to the keeping of records and vital statistics, the conduct of elections and the issuance of licenses, which are established by general laws. He shall have such additional powers and duties as the city council may by ordinance prescribe.

Section 5.2 Elector Under the Oliver Smith Will

(a) **Election**—There shall be an elector under the Oliver Smith will, elected by and from the voters.

(b) **Term of Office**—The elector under the Oliver Smith will shall serve for a term of two years from the first secular day in January following his election and until his successor is qualified.

(c) **Powers and Duties**—The elector under the Oliver Smith will shall have such powers and duties as are prescribed by the said will and he may have such additional powers and duties as the city council may by ordinance prescribe.

Section 5.3 Forbes Library Trustees

(a) **Election; Composition**—There shall be a board of trustees under the will of Charles E. Forbes to consist of a secretary, a treasurer and three other members elected by and from the voters.

(b) **Term of Office**—The terms of office of the trustees of the Forbes Library shall be two years from the first secular day in January following their election and until their successors are qualified.

(c) **Powers and Duties**—The trustees of the Forbes Library shall administer the Forbes Library in accordance with the terms of the will of Charles E. Forbes.

Section 5.4 Superintendents of Smith's Agricultural School

(a) **Election and Composition**—There shall be three superintendents of Smith's Agricultural School, elected by and from the voters.

(b) **Term of Office**—The superintendents of Smith's Agricultural School shall serve for terms of two years beginning the first secular day in January following their election and until their successors are qualified.

(c) **Powers and Duties**—The superintendents together with the mayor and superintendent of schools as superintendents ex officio shall have the powers of a local board of trustees in the control and management of the school.

ARTICLE 6 FINANCIAL PROCEDURES

Section 6.1 Submission of Budget; Budget Message

Within the period prescribed by state statute, the mayor shall submit to the city council a proposed budget for the ensuing fiscal year which shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, an accompanying budget message and supporting documents.

The mayor's message shall explain the budget for all city agencies both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current fiscal year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the city's debt position and include such other material as the mayor deems desirable or the city council may reasonably require.

Section 6.2 Action on the Budget

(a) **Public Hearing**—The city council shall within seven days following its receipt of the budget publish in one or more newspapers of general circulation in the city the general summary of the proposed budget as submitted by the mayor and a notice stating: (1) the times and places where copies of the proposed budget are available for inspection by the public, and (2) the date, time and place not less than two weeks after such publication when a public hearing on said proposed budget will be held by the city council or a committee thereof.

(b) **Adoption by Council**—The city council shall adopt the budget, with or without amendments, within sixty days following the day the budget is received by it. In amending the budget, it may delete or decrease any programs or amounts except expenditures required by law or for debt service.

The actions of the city council in adopting the budget shall be summarized and the results of a roll call vote taken on each amendment proposed shall be duly recorded. If the city council fails to take action with respect to any item in the budget within sixty days after receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year and be available for the purposes specified.

Section 6.3 Capital Improvement Program

(a) **Submission**—The mayor shall prepare and submit to the city council a five-year capital improvement program at least thirty days prior to the final date for submission of the operating budget.

(b) **Contents**—The capital improvement program shall include: (1) a clear summary of its contents; (2) a list of all capital improvements proposed to be undertaken during the next five fiscal years with supporting data; (3) cost estimates, method of financing, and recommended time schedules; (4) the estimated annual cost of operating and maintaining the facilities included; (5) a listing of all sources and amounts of revenue. The above information shall be revised and extended each year.

(c) **Public Hearing**—The city council shall within five days following its receipt of the capital improvement program publish in one or more newspapers of general circulation in the city the general summary of the capital improvement program and a notice stating: (1) the times and places where copies of the capital improvement program are available for inspection by the public, and (2) the date, time and place, not less than two weeks after such publication, when a public hearing on said program will be held by the city council.

to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have nominated to said office, and their names shall be voted on for such office at the succeeding regular election, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.

ARTICLE 7 ADMINISTRATIVE DEPARTMENTS

Section 7-1 Reorganization Plans by City Council

Except as otherwise provided by law or the charter, the city council may by ordinance reorganize, consolidate or abolish any existing city agency in whole or in part, establish new city agencies and prescribe the functions of any city agency. All city agencies under the direction and supervision of the mayor shall be headed and administered by officers appointed by him.

Section 7-2 Reorganization Plans by Mayor

(a) Submission by Mayor.—The mayor may from time to time prepare and submit to the city council reorganization plans which may, subject to applicable law and the charter, reorganize, consolidate or abolish any city agency, in whole or in part, or establish new city agencies, as he deems necessary or expedient. Such reorganization plan shall be accompanied by an explanatory message when submitted.

(b) Action by Council.—Every such reorganization plan shall upon receipt by the clerk of the council be referred to an appropriate committee of the city council which shall, not more than thirty days later, hold a public hearing on the matter and shall, within ten days following such hearing, report either that it approves or that it disapproves of the plan. A reorganization plan shall become effective ninety days after the date it is received by the city council unless the city council has prior to that date voted to disapprove the reorganization plan. A reorganization plan presented by the mayor to the city council under this section may not be amended by it, but shall either be approved or rejected as submitted and shall not be subject to the objection as provided in section 2-9 (c).

Section 7-3 Publication of Reorganization Plan

An up-to-date record of any reorganization plan under this article shall be kept on file in the office of the city clerk and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.

ARTICLE 8 NOMINATIONS; ELECTIONS; FREE PETITION; INITIATIVE; REFERENDUM; RECALL

Section 8-1 City Elections: General and Preliminary

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

On the fourth Tuesday preceding every regular city election, there shall be held a preliminary election for the purpose of nominating candidates.

Section 8-2 Preliminary Elections: Special Elections

(a) Signature Requirements.—The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election or any special election for an office shall be as follows: one hundred signatures of voters for the office of mayor and fifty signatures of voters for any other office.

(b) Information to Voters.—Every petition requesting the placement of the name of a candidate for nomination on the official ballot for use at a preliminary election, or any special election for an office, may state in not more than eight words the elected or appointed public offices which the candidate for nomination holds or has held and the name of the political party in which he is enrolled. Against the name of each candidate there shall be printed on the official ballot for a preliminary election, or any special election for an office, the statement contained in the petition.

(c) Ballot Position.—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 city clerk in the presence of such candidates or their representatives.

(d) Determination of Candidates for Election.—The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

If two or more persons are to be elected to the same office at such regular or special election, the several persons in number equal to twice the number so to be elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates' names to a number exceeding twice the number to be elected.

(e) Nomination of Candidates; Conditions Making Preliminary Election Unnecessary.—If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election, not more than twice as many such statements have been filed with the city clerk for an office as are

to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have nominated to said office, and their names shall be voted on for such office at the succeeding regular election, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.

Section 8-3 Regular Election

(a) Information to Voters.—Against the name of each candidate there shall be printed on the official ballot the statement provided for in section 8-2 (b).

(b) Ballot Position.—The order in which names of candidates appear on the ballot for each office in a regular city election shall be determined by a drawing by lot conducted by the city clerk in the presence of such candidates or their representatives.

Section 8-4 Wards

The territory of the city shall be divided into seven wards so established as to consist of as nearly equal numbers of inhabitants as it is possible to achieve based on compact and contiguous territory and bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

Section 8-5 Application of State Laws

Except as expressly provided in the charter and authorized by state law, all city 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 preliminary, regular and special elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

Section 8-6 Free Petition

(a) Individual Petitions; Action Discretionary.—The city council and the school committee shall receive all petitions addressed to either of them and may, in their discretion, take such action in regard to such petitions as they deem necessary and advisable.

(b) Group Petitions; Action Required.—The city council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least fifty voters. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or subcommittee thereof, and the action by the city council or school committee shall be taken not later than three months after the petition is filed with the clerk of the city council or clerk of the school committee as may be. Hearings on two or more petitions filed under this section may be held at the same time and place and the clerk of the city council or clerk of the school committee as may be shall mail notice of the hearing to the five petitioners whose names first appear on each petition at least forty-eight hours before the hearing. Notice, by publication, of all such hearings shall be at public expense.

Section 8-7 Citizen Initiative Measures

(a) Commencement of Proceedings.—Initiative procedures shall be started by the filing of an initiative petition with the clerk of the city council or clerk of the school committee as may be. The petition shall be addressed to the city council or the school committee, shall contain a request for passage of a particular measure set forth in the petition and shall be signed by not less than ten percent of the total number of voters.

Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the clerk as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same. With each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any.

Within five days after the filing of said petition the registrars of voters shall ascertain by what number of voters the petition is signed, and what percentage that number is of the total number of voters, and shall attach thereto their certificate showing the result of such examination.

The clerk shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, according as the petition is addressed, and at the same time shall send a copy of said certificate to the person designated on the petition as filing the same.

(b) Referral to City Solicitor.—If the registrars of voters determine that a sufficient number of the signers are voters, the city clerk shall transmit a copy of the petition to the city solicitor.

Within fifteen days after his receipt of the petition the city solicitor shall advise the city clerk in writing whether the measure may be proposed by initiative procedures and whether it may lawfully be passed by the city council or the school committee. If the opinion of the city solicitor is that the measure may not lawfully be passed he shall state his reasons therefor in his reply. The city clerk shall furnish a copy of the city solicitor's opinion to the person designated on the petition as filing the same.

(c) Initiative; Action on Petition.—Within thirty days after an initiative petition is presented to the city council or the school committee, the city council or the school committee shall act with respect to the initiative measure by passing it without change, or by rejecting it, or by passing some other measure stated to be in lieu thereof. The passage of a measure in lieu of an initiative measure shall be deemed a rejection of the initiative measure. If the city council or the school committee fails to act with respect to the initiative measure as required by this section within thirty days after presentation, the measure shall be deemed to have been rejected on the thirtieth day after presentation. If an initiative measure is rejected, the city clerk shall promptly give written notice of that fact to the first five petitioners. Initiative measures shall not be subject to charter objection as provided in section 2-9 (c).

(d) Initiative; Supplemental Petitions; Submission to Voters.—Within forty-five days after notice of the rejection of an initiative measure has been given by the city clerk, a supplemental initiative

(d) A resolution approving the creation of the neighborhood service area may contain amendments or modifications of the area's boundaries, functions or the size of the neighborhood area council as set forth in the petition.

Section 9-1 Boundary Changes of a Neighborhood Service Area

The city council may, pursuant to a request from a neighborhood area council accompanied by a petition signed by at least twenty percent of the voters residing in the area to be added or deleted, enlarge, diminish or otherwise alter the boundaries of any existing neighborhood service area following the procedures set forth in section 9-3 (b), (c) and (d).

Section 9-5 Considerations in Setting Boundaries

In establishing neighborhood service area boundaries and determining those services to be undertaken by a neighborhood area council, the city council shall study and take into consideration, but not be limited to, the following:

- (1) The extent to which the area constitutes a neighborhood with common concerns and a capacity for local neighborhood initiative, leadership and decision-making with respect to city government.
- (2) City agency authority and resources which may appropriately be either transferred or shared with the neighborhood council.
- (3) Population density, distribution and growth within a neighborhood service area to assure that its boundaries reflect the most effective territory for local participation and control.
- (4) Citizen access to, control of and participation in neighborhood service area activities and functions.

Section 9-6 Dissolution of a Neighborhood Service Area

(a) The city council may, after a public hearing, dissolve a neighborhood service area on the initiative of the city council or pursuant to a petition signed by at least twenty percent of the voters living within the neighborhood service area.

(b) The city council shall give notice, in a newspaper of general circulation in the neighborhood service area, of its intention to hold a public hearing on a proposed dissolution. Such notice shall be given not less than fourteen days before the date of the public hearing.

Section 9-7 Election of Council; Vacancies

(a) A neighborhood area council shall consist of five to nine members. The term of office of each member shall be two years and until a successor is qualified.

(b) The council members shall be elected at large by and from voters residing in the neighborhood service area at the time of the election. The city council shall determine the time and manner of holding such elections. The city councilors and school committee members who reside in a portion of the area included in a neighborhood service area shall serve, ex officio with no power to vote, as members of the neighborhood area council.

(c) A vacancy shall be filled by a vote of the remaining members of the neighborhood area council. Members so elected shall serve for the remainder of the unexpired term and until their successors are qualified.

Section 9-8 Neighborhood Area Council Powers and Functions

A neighborhood area council may exercise any powers and perform any functions within the neighborhood service area expressly authorized by the city council, which may include but not be limited to:

- (1) Advisory or delegated substantive authority, or both, with respect to such programs as a community action program, urban renewal, relocation, public housing, planning and zoning action, other physical development programs, crime prevention and juvenile delinquency programs, health services, code inspection, recreation, education and manpower training. Nothing contained herein shall be construed to authorize the city council to delegate to any neighborhood area council any substantive authority with regard to zoning.

(2) Self-help projects such as supplemental refuse collection, beautification, minor street and sidewalk repair, establishment and maintenance of neighborhood, community centers, street fairs and festivals, cultural activities, recreation and housing rehabilitation and sale.

(3) Acceptance of funds from public, but not including the City of Northampton, and private sources, including public subscriptions; and expenditure of monies to meet overhead cost of council administration and support for neighborhood service area projects.

Section 9-9 Compensation; Meetings; By-Laws; Quorum

(a) Members of a neighborhood area council shall receive no compensation but may receive reimbursement of actual and necessary travel and other expenses incurred in the performance of official duties.

(b) A neighborhood area council shall adopt by-laws providing for the conduct of its business and the selection of a presiding officer and other officers. Copies of all by-laws adopted by neighborhood area councils shall be made available to the public upon request.

(c) A majority of the voting members of a neighborhood area council shall constitute a quorum for the transaction of business. Each member entitled to vote shall have one vote.

Section 9-10 Annual Report

Each neighborhood area council shall make an annual report to the city council of its activities which shall be open to the public.

Section 9-11 Financial Records

Each neighborhood area council shall keep complete financial records which shall be subject to city audit.

petition addressed to the city council or the school committee may be filed with the city clerk. The supplemental initiative petition shall be signed by a number of voters which is at least equal to ten percent of the total number of voters. If the number of signatures to a supplemental initiative petition is sufficient, the city council shall provide for submission of the initiative measures to the voters.

The city council shall call a special election to be held on a Tuesday fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election.

The ballots used when voting upon a proposed measure under this section shall state the nature of the measure in terms sufficient to show the substance thereof.

Section 8-8 Citizen Referendum Procedures

(a) Referendum Petition; Effect on Final Passage—If within twenty days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by voters equal in number to at least ten percent of the total number of voters and addressed to the city council or the school committee, as the case may be, protesting against such measure or any part thereof taking effect is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular city election or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof.

The petition described in this section shall be termed a referendum petition and section 8-7 (d) shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "Initiative" in said section.

Section 8-9 Excluded Items

The following matters are excluded from initiative and referendum procedures: (1) proceedings relating to the organization or operation of the city council or school committee, (2) an emergency measure passed in conformity with the charter, (3) the city budget as a whole or the school committee budget as a whole, (4) a revenue loan order, (5) any appropriation for the payment of the city's debt or obligations, (6) an appropriation of funds necessary to implement a written agreement executed under general laws, chapter 149, section 178 I (relating to collective bargaining), (7) any proceeding or part thereof, relating to the election, employment, appointment, suspension, transfer, demotion, removal or discharge of any city officer or employee, (8) any proceeding repealing or rescinding a measure, or a part thereof, which is protested by referendum procedures.

Section 8-10 Submission of Proposed Measure to Voters

The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special city election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

Section 8-11 Measures with Conflicting Provisions

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

ARTICLE 9 NEIGHBORHOOD AREA COUNCILS

Section 9-1 Purpose

It is the purpose of this article to encourage citizen involvement in government at the neighborhood level by permitting limited self-government through the establishment of neighborhood area councils as legal entities of the city government.

Section 9-2 Establishment of Neighborhood Service Areas

The city council may establish one or more neighborhood service areas to provide services or functions that the neighborhood area council is authorized to undertake.

Section 9-3 Creation by Petition

(a) A petition may be submitted to the city council requesting the establishment of a neighborhood service area to provide any service or services which the city is otherwise authorized by law to provide. Such petition must be signed by twenty percent of the voters residing in such area. The petition shall describe the territorial boundaries of the proposed service area, shall specify the services to be provided and shall indicate the size of the neighborhood area council.

(b) Upon receipt of the petition and verification of the signatures thereon, the city council shall, within thirty days following verification, hold a public hearing on the question of whether or not the requested neighborhood service area shall be established. The hearing may be adjourned from time to time but shall be completed within sixty days of its commencement.

(c) Within thirty days following the public hearing, the city council shall by resolution approve or disapprove the establishment of the requested neighborhood service area.

ARTICLE 10 GENERAL PROVISIONS

Section 10-1 Charter Changes

This charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX of the amendments to the state constitution and any legislation enacted to implement the said amendment.

Section 10-2 Severability

The provisions of the charter are severable. If any provision of the charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the 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 10-3 Specific Provisions Shall 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 10-4 Rules and Regulations

A copy of all rules and regulations adopted by any city agency shall be filed in the office of the city clerk and made available for review by any person who requests such information and no such rule or regulation shall be effective until seven days following the date of such filing.

Section 10-5 Reenactment and Publication of Ordinances

The city council shall at five year intervals cause to be prepared a proposed revision or reconfirmation of all city ordinances which shall be submitted to the city council for reenactment. Such revisions or reconfirmations shall be prepared under the supervision of the city solicitor or, if the city council so directs, by special counsel retained for that purpose. In each year between such reenactments there shall be published an annual supplement which contains all ordinances and amendments to ordinances which have been adopted in the previous year. Copies of the revised ordinances and of the annual supplements thereto shall be made available for distribution to the public.

Section 10-6 Certificate of Election and Appointment

Every person who is elected, including those elected by the city council, or appointed by the mayor to an office, shall receive a certificate of such election or appointment from the city clerk. Except as otherwise provided by law, before performing any act under his election or appointment, he shall take and subscribe to an oath to qualify him to enter upon his duties. A record of the taking of such oath shall be made by the city clerk. Any oath required by this section may be administered by the mayor or any officer authorized by law to administer oaths.

Section 10-7 Restriction on Appointment

No person shall be eligible for reappointment as a member of a part time multiple member body so that in the aggregate he will have served at the end of any term more than nine consecutive years.

Section 10-8 Procedures

(a) Meetings—All multiple member bodies of the city, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the city as they may prescribe. Special meetings of any multiple member body shall be held on the call of the respective chairman or by one-third of the members thereof by written notice delivered to the residence or place of business of each member at least twenty-four hours in advance of the time set. A copy of the said notice shall also be posted on the city bulletin board (s). Special meetings of any multiple member body shall also be called within one week after the date of the filing with the city clerk of a petition signed by at least fifty voters and which states the purpose or purposes for which the meeting is to be called. All meetings of all multiple member bodies shall be open and public; however, the multiple member body may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, which would affect the public security or which might have a direct fiscal effect on the city, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action on the matter is not taken until the multiple member body has come back into formal session.

(b) Agendas—At least twenty-four hours before any meeting of a multiple member body is to be held an agenda containing all items which are scheduled to come before it at the meeting shall be posted. No action taken on a matter not included in the posted agenda shall be effective unless the body first adopts by special vote a resolution declaring that an emergency exists and that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the city.

(c) Rules and Journal—Each multiple member body shall determine its own rules and order of business unless otherwise provided by the charter or by law and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record kept available in a place convenient to the public at all times and certified copies shall be kept available in the Forbes and Lilly Libraries.

(d) Voting—On the request of any member any vote of any multiple member body shall be taken by a call of the roll and the ayes and nays shall be recorded in the journal, provided, however, that if the vote is unanimous only that fact need be recorded.

(e) Quorum—A majority of the members of the multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple member body. No other action shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple member body.

(f) Place of Meeting—The meetings of all multiple member bodies shall be held in places to which the public has convenient access. Such facilities shall contain adequate seating accommodations for all who are in attendance.

(g) Public Hearings—Whenever a public hearing is required to be held on any matter by the charter it shall be held not less than seven nor more than fourteen days following the publication in a newspaper of general circulation in the city of a notice of a public hearing on the date, time and place where a public hearing on the matter will be held. (2) a general summary of the subject matter of the public hearing, and (3) the dates, time and place where copies of the full text of the material to be considered are available for inspection by the public.

Section 10-9 References to General Laws

All references to the general laws contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of the charter.

Section 10-10 Computation of Time

In computing time under the charter, if seven days or less, "days" shall refer to secular days and shall not include Sundays or legal holidays. If more than seven days, every day shall be counted.

Section 10-11 Definitions

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

(a) Appropriation Order—The words "appropriation order" shall mean an order by the city council which authorizes the expenditure of funds and the incurrence of liabilities for a special purpose.

(b) Charter—The word "charter" shall mean this charter and any amendments to it made through any of the methods provided under article LXXXIX of the amendments to the state constitution.

(c) City—The word "city" shall mean the city of Northampton.

(d) City Agency—The words "city agency" shall mean any board, commission, committee, department or office of the city government.

(e) City Physician—The words "city physician" shall mean the chief medical officer of the city if there be such, or, it shall mean that member of the board of health of the city who is a member of the medical profession.

(f) Emergency—The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action. When ever an emergency is declared it shall be declared and defined in a statement adopted by vote of a multiple member body before any other action is taken.

(g) Full Council—The words "full council" shall mean the entire authorized complement of the city council notwithstanding any vacancies which might exist.

(h) Initiative Measure—The words "initiative measure" shall mean a measure proposed by initiative procedures under the charter.

(i) Loan Order—The words "loan order" shall mean an order by the city council which authorizes the issuance of general obligation bonds by the city.

(j) Majority Vote—The words "majority vote" shall mean a majority of those present and voting; provided, that a quorum of the body is present.

(k) Measure—The word "measure" shall mean an ordinance passed or which could be passed by the city council or an order, resolution, vote or other proceeding passed or which could be passed by the city council or the school committee.

(l) Referendum Measure—The words "referendum measure" shall mean a measure protested by referendum procedures under the charter.

(m) Revenue Loan Order—The words "revenue loan order" shall mean an order by the city council which authorizes the issuance of revenue bonds to be paid solely from earnings of a municipally owned utility or other public service enterprise.

(n) Total Number of Voters—The words "total number of voters" shall mean the total number of persons registered to vote at the most recent preceding regular city election.

(o) Voters—The word "voters" shall mean registered voters of the city of Northampton.

ARTICLE 11 TRANSITIONAL PROVISIONS

Section 11-1 Continuation

All ordinances, resolutions, rules and regulations of the city which are in force at the time the charter is adopted, not inconsistent with the provisions of the charter, shall continue in force until amended or repealed.

Section 11-2 Continuation of Government

All city agencies shall continue to perform their duties until reappointed, re-elected or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

Section 11-3 Continuation of Administrative Personnel

Any person holding an office or position in the administrative service of the city or any person serving in the employment of the city shall retain such office or position and shall continue to per-

form his duties until provisions shall have been made in accordance with the charter for the performance of the said duties by another person or agency; provided, however, that no person in the permanent full-time service or employment of the city shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as possible.

Section 11-4 Transfer of Records and Property

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

Section 11-5 Effect on Obligations, Taxes and Other Legal Acts

All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the city before its adoption of the charter and all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the city, 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 city shall be rendered invalid by its adoption of the charter.

Section 11-6 Disposition of Special Acts

(a) Certain Special Acts Repealed.—The following special acts are hereby repealed: chapter ninety-six of the acts of nineteen hundred sixty-four; chapter one hundred twenty-three of the acts of nineteen hundred fifty-four; chapter eighty-six of the acts of nineteen hundred fifty-four; chapter sixty-three of the acts of nineteen hundred fifty-three; chapter two hundred forty-five of the acts of nineteen hundred forty-six; chapter one hundred four of the acts of nineteen hundred thirty; chapter two hundred thirty-six of the acts of nineteen hundred twenty-seven; chapter one hundred three of the acts of nineteen hundred twenty-seven; chapter sixty-three of the acts of nineteen hundred twenty-one; chapter one hundred forty-seven of the acts of nineteen hundred seven; chapter four hundred sixty-four of the acts of nineteen hundred six; chapter two hundred forty-five of the acts of eighteen hundred ninety; and chapter three hundred fifty-four of the acts of eighteen hundred eighty-eight.

(b) Certain Special Acts Repealed; Action Taken Thereunder Preserved.—The following special acts are hereby repealed; provided, however, that nothing contained in the charter shall be construed to revoke, invalidate or otherwise alter acts done in compliance therewith or under the authority thereof: chapter seven hundred twenty-five of the acts of nineteen hundred sixty-six; chapter two hundred one of the acts of nineteen hundred sixty-six; chapter one hundred eighty-eight of the acts of nineteen hundred fifty-six; chapter one hundred thirty of the acts of nineteen hundred fifty-five; chapter three hundred seventy-five of the acts of nineteen hundred fifty-three; chapter six hundred fifty-three of the acts of nineteen hundred fifty-one; chapter one hundred twenty-eight of the acts of nineteen hundred forty-seven; chapter four hundred thirty-six of the acts of nineteen hundred forty-seven; chapter twelve of the acts of nineteen hundred thirty-eight; chapter eleven of the acts of nineteen hundred twenty-nine; chapter fifty-two of the acts of eighteen hundred seventy-one; and chapter fifty-four of the acts of eighteen hundred sixty-nine.

(c) Certain Special Acts Partially Repealed.—The following special acts, insofar as they confer power upon the city of Northampton which the city would not otherwise hold under the charter, general laws or the constitution, are retained; otherwise, they are hereby repealed, it being the explicit intent of this paragraph that portions of any special acts which limit or restrict a power conferred or the manner in which it is to be exercised be repealed and that powers so conferred are to be exercised in accordance with the charter: chapter six hundred sixty-six of the acts of nineteen hundred sixty-five; chapter three hundred eighty-nine of the acts of nineteen hundred sixty-one; chapter six hundred eighty-three of the acts of nineteen hundred fifty-seven; chapter six hundred fifty of the acts of nineteen hundred fifty-five; chapter five hundred forty-seven of the acts of nineteen hundred fifty-five; chapter five hundred five; chapter four hundred sixty-two of the acts of nineteen hundred fifty-five; chapter five hundred ninety-eight of the acts of nineteen hundred fifty-three; chapter two hundred sixty-seven of the acts of nineteen hundred forty-eight; chapter four hundred twenty-six of the acts of nineteen hundred thirty-nine; chapter nine of the acts of nineteen hundred thirty-nine; chapter three hundred forty-five of the acts of nineteen hundred twenty-four; chapter one hundred seventy-four of the acts of nineteen hundred twenty-three; chapter four hundred one of the acts of nineteen hundred twenty; chapter one hundred fifty-one of the acts of nineteen hundred eighteen; chapter two hundred one of the acts of nineteen hundred sixteen; chapter five hundred seventy-three of the acts of nineteen hundred ten; chapter five hundred ten of the acts of nineteen hundred nine; chapter two hundred sixty-six of the acts of nineteen hundred three; chapter one hundred thirty of the acts of nineteen hundred two; chapter sixty of the acts of nineteen hundred two; chapter two hundred sixty-one of the acts of nineteen hundred one; chapter four hundred fourteen of the acts of eighteen hundred ninety-five; chapter two hundred eighty-seven of the acts of eighteen hundred ninety-five; chapter two hundred thirty-three of the acts of eighteen hundred ninety-five; chapter twenty-one of the acts of eighteen hundred ninety-five; chapter one hundred seventy-seven of the acts of eighteen hundred ninety-four; chapter two hundred eighty-nine of the acts of eighteen hundred ninety-three; chapter three hundred eleven of the acts of eighteen hundred ninety-two; chapter ninety-eight of the acts of eighteen hundred ninety-two; chapter ninety-nine of the acts of eighteen hundred eighty-six; chapter one hundred fifteen of the acts of eighteen hundred eighty-five; chapter two hundred fifty of the acts of eighteen hundred eighty-three; chapter two hundred forty-one of the acts of eighteen hundred eighty-one; chapter two hundred thirty-two of the acts of eighteen hundred eighty-one; chapter two hundred thirty of the acts of eighteen hundred eighty; chapter two hundred seven of the acts of eighteen hundred eighty; chapter two hundred eleven of the acts of eighteen hundred seventy-nine; chapter two hundred of the acts of eighteen hundred seventy-five; chapter three hundred sixty-two of the acts of eighteen hundred seventy-one; chapter sixteen of the acts of eighteen hundred seventy-one; chapter four hundred five of the acts of eighteen hundred sixty-nine; chapter

two hundred twenty-five of the acts of eighteen hundred sixty-eight; chapter two hundred forty-four of the acts of eighteen hundred fifty-six; chapter ninety-six of the acts of eighteen hundred fifty-four, and chapter fifty-nine of the acts of eighteen hundred fifty-three.

(d) Certain Special Acts Retained.—The following special acts are hereby recognized, confirmed and retained: chapter six hundred fifty-five of the acts of nineteen hundred sixty-seven; chapter three hundred forty-nine of the acts of nineteen hundred sixty-four; chapter forty-seven of the acts of nineteen hundred sixty-four; chapter forty-six of the acts of nineteen hundred sixty-four; chapter one hundred seventy-six of the acts of nineteen hundred sixty-two; and chapter one hundred seventy-four of the acts of nineteen hundred sixty-two.

Section 11-7 Time of Taking Effect

The charter shall become fully effective on the first secular day of January following the election at which it is approved by the voters except as certain provisions are modified by the provisions of this section:

(a) City Treasurer.—Notwithstanding the provisions of section 3-3 the city treasurer elected at the election at which this charter is approved shall serve for the term of two years. After the expiration of the term of office provided by the said election, the office of city treasurer shall be appointed by the mayor with the approval of the city council.

(b) School Committee.—Notwithstanding the term of office of which any member of the school committee is chosen to serve at the election at which this charter is approved, the term of office of school committee members shall be two years and at the next regular city election following the election at which the charter is approved, all members of the school committee shall be subject to the provisions of section 4-1 (c).

(c) Library Trustees.—Notwithstanding any term of office to which any member of the Trustees of the Forbes Library is chosen to serve at the election at which the charter is approved, the term of office of the said trustees shall be two years and at the next regular city election following the election at which the charter is approved, all members of the board of trustees of the Forbes Library shall be subject to the provisions of section 5-3 (b).

(d) Budget.—Notwithstanding the provisions of section 6-1 the first budget submitted by the mayor to the city council after the election at which the charter is approved need not conform strictly to the requirements set forth in the said section. The purpose of the suspension of this section is to afford municipal officials the opportunity to acquaint themselves thoroughly with the form required before the provisions become fully effective.

(e) Capital Improvement Program.—Notwithstanding the provisions of section 6-3 the mayor shall not be required to submit a capital improvement program to the city council prior to the submission of his budget in the year following the election at which the charter is approved. This section shall become effective in the second year following the election at which the charter is approved.

(f) Rules and Regulations.—Notwithstanding the provisions of section 10-4 all rules and regulations which are in force when the charter is approved shall continue in force provided that copies of such rules and regulations not then on file in the office of the city clerk are placed on file in the said office within thirty days following the date on which the charter becomes effective.

(g) Reenactment and Publication of Ordinances.—Within forty-five days following the organization of the city council elected at the election at which the charter is approved the city council shall provide for a review of all city ordinances to bring said ordinances into conformity with the provisions of the charter. Said report with recommendations shall be submitted to the city council not later than fifteen months following the date on which the charter becomes effective.

(h) Restriction on Appointment.—The provisions of section 10-7 shall not apply to terms of office served prior to the date on which the charter is approved.

(i) Nothing contained in this charter shall be construed to affect in any way the tenure of office granted to, the incumbent chairman of the board of assessors by chapter 349 of the acts of 1961, the incumbent city clerk by chapter 46 of the acts of 1964, the incumbent city auditor by chapter 176 of the acts of 1962 or to the incumbent city collector by chapter 174 of the acts of 1962.