

EASTHAMPTON HOME RULE CHARTER

(As amended by Chapter 60 of the Acts of 1999 & Chapter 175 of the Acts of 2011)

ARTICLE 1.

INCORPORATION; SHORT TITLE; **DEFINITIONS**

SECTION 1-1. INCORPORATION

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

SECTION 1-2. SHORT TITLE

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

SECTION 1-3. DIVISION OF POWERS

The administration of the fiscal, prudential and municipal affairs of Easthampton, with the government thereof, shall be vested in an executive/administrative branch headed by a mayor, and a legislative branch to consist of a city council. The legislative branch shall never exercise any executive/administrative power and the executive/administrative branch shall never exercise any legislative power.

SECTION 1-4. POWERS OF THE CITY

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

SECTION 1-5. CONSTRUCTION

The powers of the city of Easthampton under this charter are to be construed liberally in favor of the city, and the specific mention of an particular power is not intended to limit the general powers of the city as stated in Section 1-1.

SECTION 1-6. INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the Commonwealth, Easthampton may exercise any of its powers or 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 agency or political sub-division thereof, or with the United States government or any agency thereof.

SECTION 1-7. DEFINITIONS¹

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

Charter - The word "charter" shall mean this charter and any amendment to it hereafter adopted.

City - The word "city" shall mean the City of Easthampton.

City Bulletin Boards - The words "city bulletin boards" shall mean the bulletin board in the city hall on which the city clerk posts official notices of meetings and upon which other official city notices are posted, and the bulletin boards at any other locations as may be designated city bulletin boards by the city council.

City Agency - The words "city agency" shall mean any multiple member body, any department, division, or office of the city of Easthampton.

City Officer - The words "city officer" when used without further qualification or description shall mean a person having charge of an office or department of the city who in the exercise of the powers or duties of such position exercises some portion of the sovereign power of the city.

¹ Sec. 1-7 amended by removal of alphabetical definition indicators. Chpt. 175, Acts of 2011

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

Full Council or Full Multiple Member Body - The words "full council" or "full multiple member body" shall mean the entire authorized complement of the city council, school committee or other multiple member body notwithstanding an vacancy which might exist.

general laws - The words "general laws" (all lower case letters) shall mean laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of two or more cities and or cities and towns of which Easthampton is a member.

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

Initiative Measure - The words "initiative measure" shall mean a measure proposed by the voters through the initiative process provided under this charter.

Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation within Easthampton, with either a weekly or daily circulation.

Majority Vote² - The words "majority vote" when used in connection with a meeting of a multiple member body shall mean a majority of those present and voting, unless another provision is made by ordinance, by-law, or by its own rules. When used in connection to the city council, "majority vote" shall always refer to a majority of the full council membership.

Measure - The word "measure" shall mean any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted by the city council or the school committee.

Multiple Member Body - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of two or more persons whether elected, appointed or otherwise constituted, but not including the city council or the school committee.

Referendum Measure - The words "referendum measure" shall mean a measure adopted by the city council or the school committee which is protested under the referendum procedures of this charter.

² Majority vote definition amended to include reference to city council majority vote. Chpt. 175, Acts of 2011.

Voters - The word "voters" shall mean registered voters of the city of Easthampton.

ARTICLE 2

LEGISLATIVE BRANCH

SECTION 2-1. COMPOSITION, TERM OF OFFICE³

(a) Composition - There shall be a city council of nine members which shall exercise the legislative powers of the city. Four of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Five of these members, to be known as district councilors, shall be nominated and elected by and from the voters of each district, one such district councilor to be elected from each of the five districts into which the city is divided, in accordance with Section 7-4.

(b) Term of Office - The term of office for all city councilors shall be for two years each beginning on the first secular day of January in the year following their election, and until their successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A district councilor shall at the time of election be a voter of the district from which elected, provided, however, if any district councilor shall during the first eighteen months of the term of office move to another district in the city such office shall be deemed vacant and the balance of the unexpired term shall be filled in the manner provided in Section 2-11. If such move occurs after the first eighteen months of the term of office such councilor may continue to serve for the balance of the term for which elected. If a councilor-at-large or a district councilor moves from the city during the term for which elected such office shall immediately be deemed vacant and filled in the manner provided in Section 2-11.

SECTION 2-2. COUNCIL PRESIDENT

(a) Election and Term - As soon as practicable after the councilors-elect have been qualified following each biennial election the members of the city council shall elect from among its members a council president who shall serve during the ensuing term of office.

³ Sec. 2-1 amended by changing the references of “remove” to “move” – Chpt. 175, Acts of 2011

(b) Powers and Duties - The council president shall preside at all meetings of the city council, regulate its proceedings and shall decide all questions of order. The council president shall appoint all members of all committees of the city council, whether special or standing. The council president shall have the same powers to vote upon all measures coming before the city council as any other member of the city council. The council president shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the city council

(c) Council Vice-President - The members of the city council shall also elect from among its members a council vice-president who shall serve as acting president during the temporary absence or disability of the council president during the ensuing term of office. The powers of an acting council president shall be limited to those not admitting of delay.

SECTION 2-3. PROHIBITIONS

No member of the city council shall hold any other city office or city employment for which a salary or other emolument is payable from the city treasury. No former member of the city council shall hold any compensated appointed city office or city employment until six months following the date on which such former member's service on the city council has terminated.

SECTION 2-4. COMPENSATION, EXPENSES⁴

(a) Salary - The city council may, by ordinance, provide an annual salary for its members. No ordinance increasing such salary shall be effective, however, unless it shall have been adopted during the first twelve months of a term of office and it provides that such salary is to take effect with the organization of the city government following the next biennial election. The city council shall review the salary of all elected officials and the stipends for all multiple-member bodies appointed to official city boards and committees, during the first 12 months of each term. Members of the city council shall not be considered city employees for the purposes of chapter thirty-two B of the General Laws.

(b) Expenses - Subject to appropriation, the council members shall be entitled to reimbursement of their actual and necessary expenses in the performance of their duties.

⁴ Sec. 2-4 (a) amended by adding a new second sentence (after the word election), Chpt. 175, Acts of 2011

SECTION 2-5. GENERAL POWERS

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

SECTION 2-6. EXERCISE OF POWERS; QUORUM; RULES⁵

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

(b) Quorum - The presence of five members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter the affirmative vote of five members shall be required to adopt any measure, ordinance or appropriation order.

(c) Rules of Procedure - The city council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

(i) Regular meetings of the city council shall be held at a time and place fixed by ordinance.

(ii) Special meetings of the city council shall be held at the call of the council president, or, on the call of any three or more members, by written notice delivered in hand or to the place of residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the council president shall be judge, such notice shall be delivered at least forty-eight weekday hours in advance of the time set for such meeting. A copy of the notice to members shall, forthwith, be posted upon the city bulletin boards.

(iii) All sessions of the city council and of every committee or sub-committee thereof, shall at all times be open to the public and to the press, unless another provision is made by law.

(iv) A full, accurate, up-to-date account of the proceedings of the city council shall be kept which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting.

(v) All business which is to come before the city council shall first be assigned to a standing committee for study and a report with its recommendations to the full council.

⁵ Sec. 2-6 (b) amended by addition of the word “measure” after the word “any”. Chpt. 175, Acts of 2011.

SECTION 2-7. ACCESS TO INFORMATION

(a) In General - The city council may make investigations into the affairs of the city and into the conduct and performance of any city agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

(b) City Officers, Members of City Agencies, Employees - The city council may require any city officer, member of a city agency or city employee to appear before it to give such information as the city council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person and within the jurisdiction of the city council.

(c) Mayor - The city council may require the mayor to provide specific information to it on any matter within the jurisdiction of the city council. The city council may require the mayor to appear before it, in person, to respond to written questions made available to the mayor at the time the request to attend is made to the mayor to provide specific information on the conduct of any aspect of the business of the city. The mayor may bring to such meeting any assistant, department head or other city officer or employee the mayor may deem necessary to assist in responding to the questions posed by the city council.

(d) Notice - The city council shall give not less than five days notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the city council seeks information and no person called to appear before the city council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of any such person.

SECTION 2-8. OFFICERS ELECTED BY CITY COUNCIL⁶

(a) City Auditor - The city council shall elect a city auditor to serve for a term of 3 years and until a successor is chosen and qualified. The city auditor shall keep and have charge of the books and accounts of all city agencies. The city auditor shall, with the approval of the city council, appoint an assistant city auditor to serve coterminously with the city auditor. The city auditor shall have such other powers and duties as are provided for city auditors and town accountants by general laws and such additional powers and duties as may be provided by charter, by ordinance or by other vote of the city council.

⁶ Sec. 2-8 (a) amended by changing term of office from 5 years to 3 years. Chpt. 175, Acts of 2011.

(b) Principal Assessor - The city council shall elect a principal assessor who shall serve for 3 years or until a successor is chosen and qualified, and who shall not be a member of the board of assessors. The principal assessor shall be responsible for regulating and supervising the administration of the department of assessing under the regulations of the department of revenue, the General Laws or this charter and shall be the official representative of the board of assessors to all other public agencies and to the public. The principal assessor shall advise the board of assessors on compliance to law and shall act on its policies. The principal assessor shall be subject to the terms of the city council appointments and evaluation as dictated by the city council and shall be governed by the rules and procedures for all city employees as designated by the personnel office and the city council.

(c) City Clerk - The city council shall elect a city clerk to serve for a term of three years and until a successor is chosen and qualified. The city clerk shall, with the approval of the city council, appoint an assistant city clerk to serve coterminously with the city clerk. The city clerk shall be the keeper of vital statistics for the city; the custodian of the city seal; shall administer the oath of office to all persons, elected or appointed, to any city office; shall issue such licenses and permits as are required by law to be issued by city clerks; supervise and manage the conduct of all elections and all other matters relating to elections; may, if so designated by the city council, be the clerk of the city council, keep its records and give notice of all of its meetings to its members and to the public. The city clerk shall have such other powers and duties as are given to municipal clerks by general law, by this charter, by ordinance or by other vote of the city council.

(d) Clerk of the Council - The city council shall elect a clerk of the council, who may be the city clerk, to serve for a term of two years and until a successor is chosen and qualified. The clerk of the council shall give notice of its meetings to its members and to the public, keep the journal of its proceedings and perform such other duties as may be provided by ordinance or by other vote of the city council.

(e) Salaries/Compensation - The officers appointed or elected by the city council shall receive such salaries or other compensation as may from time to time be provided for such office, by ordinance.

(f) Removal/Suspension - Any person appointed or elected by the city council may be removed or suspended by the city council by the use of procedures substantially the same as those contained in Section 8-15.

SECTION 2-9. ORDINANCES AND OTHER MEASURES⁸

(a) Emergency Ordinances - No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to such ordinance, separately voted upon and receiving the affirmative vote of seven or more members of the city council. Emergency ordinances shall stand repealed on the sixty-first day following their adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted in conformity with this section is passed extending it, or unless a measure passed in conformity with the procedures for measures generally has been passed extending it.

(b) Measures, In General - The city council may pass a measure through all of its stages at any one meeting, except proposed ordinances, appropriation orders and loan authorizations, provided that no member of the city council shall object; but, if any single member objects, a vote on the measure shall be postponed to the next meeting of the city council.

On the first occasion that the question of adopting any measure is put to the city council, except an emergency measure as defined in Section 2-9(a), if a member objects to the taking of a vote and is subsequently supported by another member who seconds the objection, the vote shall be postponed until the next meeting of the city council regular or special. If when the matter is next taken up for a vote, four or more members object to the taking of the vote, the matter shall be further postponed for not less than an additional five days. This procedure shall not be used more than once for any measure notwithstanding any amendments made to the original measure.

(c) Publication - Every proposed ordinance, appropriation order or loan authorization, except emergency ordinances as provided in Section 2-9(a), shall be published once in full in a local newspaper, and in any additional manner as may be provided by ordinance, at least ten days before its final passage. After final passage it shall be posted on the city bulletin board and otherwise published as may be required by ordinance. Provided, however, that whenever a proposed ordinance or codification of ordinances or other measure would exceed in length more than ten column inches of ordinary newspaper notice print, then in lieu of publication in a local newspaper, the same may be published and made

⁷ Sec. 2-8 (b) amended by striking out subsection (b) and inserting in place thereof a new subsection (b) Chpt. 175, Acts of 2011.

⁸ The second sentence of Sec. 2-9 (b) amended by striking out the words “if a single member objects to the taking of a vote” and inserting the words “if a member objects to the taking of a vote and is subsequently supported by another member who seconds the objection.” Chpt. 175, Acts of 2011.

available at the office of the city clerk in booklet or pamphlet form, and if so published and available at least ten days before its final passage shall be deemed sufficient notice. Whenever the city council provides for publication in a booklet or pamphlet in lieu of the newspaper publication, it shall, at least ten days before final passage publish in a local newspaper a general summary of the proposed ordinance, or ordinances, and a notice stating the times and places at which copies of the booklet or pamphlet may be obtained by the public.

SECTION 2-10. COUNCIL REVIEW OF CERTAIN APPOINTMENTS⁹

The mayor shall submit to the city council the name of each person the mayor desires to appoint to any city office, as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The city council shall refer each such name as is submitted to it to a standing committee of the city council which shall investigate each such candidate for appointment and may make a report, with recommendations, to the full city council not less than seven nor more than 30 days following such referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the city council, to give such information relevant to such appointment as the committee, or the city council, may require.

Appointments made by the Mayor shall become effective on the forty-fifth day following the date on which notice of the proposed appointment was filed with the clerk of the council, unless the city council shall within the said 45 days vote to reject such appointment, or unless the city council has sooner voted to affirm the appointment. Rejection by the city council shall require a two-thirds vote of the full council, except that an appointment to a multiple member body may be rejected by a majority vote of the full council. The question on rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in Section 2-9 (b) of this charter.

⁹ Second sentence of Sec. 2-10 amended by striking out the word twenty-one and inserting “30”. Also, the first sentence of the second paragraph is amended by striking out the word “thirtieth” and inserting the words “forty-

SECTION 2-11. FILLING OF VACANCIES

(a) Councilor-at-Large - If a vacancy shall occur in the office of councilor-at-large during the first eighteen months of the term for which councilors are elected the vacancy shall be filled in descending order of votes received by the candidate for the office of councilor-at-large at the preceding city election who received the largest number of votes without being elected, provided such person remains eligible and willing to serve and provided such person received votes at least equal to thirty percent of the vote total received by the person receiving the largest number of votes for the office of councilor-at-large at the said election. The city clerk shall certify such candidate to the office of councilor-at-large to serve for the balance of the then unexpired term.

If a vacancy shall occur in the office of councilor-at-large during the last six months of the term for which councilors-at-large are elected, such vacancy shall be filled by the person at the biennial city election who receives the highest number of votes for the office of councilor-at-large and who is not then serving as a member of the City council. Such person shall forthwith be certified and shall serve for the last two months of the concluding term in addition to the term for which such person was elected.

(b) District Councilor - If a vacancy shall occur in the office of district councilor it shall be filled in the same manner as provided in Section 2-11(a) for the office of councilor-at-large except that the list shall be of the candidates for the office of district councilor in the district in which the vacancy occurs, provided however, if there be no candidate on such list who remains eligible and willing to serve the next highest ranking candidate from among the candidates for election to the council at large who is a resident of the district in which the vacancy exists shall be certified and shall serve until the next regular election provided such candidate remains a resident of the district, is willing to serve as a district councilor and received votes in the district at least equal to thirty percent of the vote total received by the person receiving the largest number of votes for the office of district councilor at the said election. The city clerk shall certify such candidate to the office of district councilor to serve for the balance of the then unexpired term.

(c) Filling of Vacancies By City Council - Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill such vacancy in the manner provided in Section 2-11 (a) or (b), the vacancy shall be filled by the remaining members of

fifth” and first sentence of the second paragraph is amended by striking out the word thirty and inserting “45”.

the city council. Persons elected to fill a vacancy by the city council shall serve only until the next regular election at which time the vacancy shall be filled by the voters and the person chosen to fill such vacancy shall forthwith be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as city councilors under this section shall not be entitled to have the words "candidate for re-election" printed against their names on the election ballot.

ARTICLE 3

EXECUTIVE BRANCH

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

(a) Mayor, Qualifications -- The chief executive officer of the city shall be a mayor, elected by and from the voters of the city at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full time to the office and shall not hold any other elective public office, nor shall the mayor be actively engaged in any other business, occupation or profession during the period of service as mayor.

(b) Term of Office - The term of office of the mayor shall be two years beginning on the first Monday of January following the biennial city election at which chosen and until a successor is qualified.

(c) Compensation - The city council shall, by ordinance, establish an annual salary for the mayor. No ordinance increasing the salary of the mayor shall be effective unless it shall have been adopted in the first twelve months of the term for which councilors are elected and it provides that such salary is to become effective in January of the year following the next biennial city election.

SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

The executive powers of the city shall be vested solely in the mayor, and may be exercised by the mayor either personally or through the several city agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, the laws, the ordinances and other orders for the government of the city to be enforced, and shall cause a record of all official acts of the executive branch of the city to be kept.

The mayor shall exercise a general supervision and direction over all city agencies, unless otherwise provided by law, by the charter or by ordinance. Each city agency shall furnish to the mayor, forthwith upon request, any information, materials or otherwise as the mayor may request and as the needs of the office and the interest of the city may require.

The mayor shall be the chief procurement officer for the city responsible for buying, purchasing, renting leasing, or otherwise acquiring all supplies and all services for all departments and all activities of the city and including all functions that pertain to the obtaining of a supply or a service, including description of

requirements, selection and solicitation of sources, preparation and award of all contracts and all phases of contract administration. The mayor may delegate all or any portion of such powers and duties to a subordinate officer, but, no such delegation shall in any way absolve the mayor from the ultimate responsibility for all procurement activities.

The mayor shall supervise, direct and be responsible for the efficient administration of all city activities and functions placed under the control of the mayor by law, by this charter, by ordinance or otherwise. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the city of Easthampton and for this purpose shall have authority consistent with law, to call together for consultation, conference and discussion at all reasonable times all persons serving the city, whether elected directly by the voters, chosen by persons elected directly by the voters, or otherwise.

The mayor shall hold no other city office or city employment for which a salary or other emolument is payable from the city treasury. No former mayor shall hold any compensated appointed city office or city employment until one year following the date on which such former mayor's city service has terminated.

SECTION 3-3. APPOINTMENTS BY THE MAYOR

The mayor shall appoint, subject to the review of such appointments by the city council as provided in Section 2-10, all city officers, department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter, excepting only persons serving under the school committee, and persons serving under the city council. Except as may otherwise be required by the civil service law, appointments made by the mayor shall be for periods not to exceed three years, provided, however, the mayor may appoint the head of a department related to the public safety for a term of not more than five years. The mayor may suspend or remove any person appointed by the mayor in accordance with the procedure established in Section 3-4. The decision of the mayor in suspending or removing a department head shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the mayor.

All persons categorized as department heads shall, subject to the consent of the mayor, appoint all assistants, subordinates and other employees of the agency for which such person is responsible. The department head may suspend or remove any assistant, subordinate or other employee of the agency for which such person is responsible in accordance with the procedures established in Section 8-15. The decision of the department head to suspend or remove any assistant, subordinate or other employee shall be subject to review by the mayor. A person for whom a department head has determined a

suspension or removal is appropriate may seek review of such determination by the mayor by filing a petition for review, in the office of the mayor, in writing, within ten days following receipt of notice of such determination. The review by the mayor shall follow the procedures of Section 8-15. The decision of the mayor shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the mayor. Nothing in this section shall be construed to be a bar to any other review as may be provided by law.

SECTION 3-4. REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS

The mayor may, in writing, remove or suspend any city officer, member of a multiple member body, or the head of any city department appointed by the mayor by filing a written statement, with the city clerk, setting forth in precise detail the specific reasons for such removal or suspension. A copy of the written statement shall be delivered in hand, or mailed by certified mail, postage prepaid, to the last known address of the said city officer, member of a multiple member body, or head of a department. The said city officer, member of a multiple member body, or head of a department may make a written reply by filing such a reply statement, with the city clerk, within ten days following the date the statement of the mayor has been filed; but, such reply shall have no effect upon the removal or suspension unless the mayor shall so determine. The said city officer, member of a multiple member body, or head of a department may request permission to appear at a public meeting of the city council to read the written reply concerning removal or suspension. If permission for said city officer, member of a multiple member body, or head of a department to attend a meeting of the city council is granted for such purpose, the mayor shall attend the same meeting to read the statement of removal or suspension filed by the mayor in the first instance. The city council shall have the authority to vote to disapprove of the action of the mayor, but, it shall have no other power to otherwise express its views concerning such removal or suspension. The removal shall take effect on the thirtieth day following the date of filing in the office of the city clerk the notice of removal by the mayor, unless at least five members of the city council shall within such time period vote to disapprove the action of the mayor. The mayor shall simultaneously file a duplicate copy of the notice of removal with the contributory retirement board established pursuant to subsection (4) of section twenty of chapter thirty-two of the General Laws whenever a notice of removal is filed with the city clerk.

SECTION 3-5. TEMPORARY APPOINTMENTS TO CITY OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs of the city require that such office be filled, the mayor may designate the head of another city agency or a city officer or city employee, or some other person to perform the duties of the office on a temporary basis until such

time as the position can be filled as otherwise provided by law, by the charter or by ordinance. The mayor shall file a certificate in substantially the following form, with the city clerk. whenever a person is designated under this section:

"I designate (name of person) to perform the duties of the office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular procedure for filling the vacancy, or when the regular officer shall return). I certify that said person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the city of Easthampton."

(signed)

Mayor

Persons serving as temporary officers under the authority of this section shall have only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary appointment and no others. No temporary appointment shall be for more than thirty days and not more than one renewal of a temporary appointment may be made when a permanent vacancy exists in the office.

SECTION 3-6. COMMUNICATIONS; SPECIAL MEETINGS

(a) Communications to the City Council - Within eight weeks following the start of each fiscal year the mayor shall submit to the city council, and make available for public distribution, a complete report on the financial and administrative activities of the city for the preceding fiscal year. The mayor shall, from time to time throughout the year, by written communications, recommend to the city council for its consideration such measures as, in the judgment of the mayor, the needs of the city require. The mayor shall, from time to time throughout the year, but at least quarterly, by written communications, keep the city council fully informed of the financial and administrative condition of the city and shall specifically indicate in any such reports any fiscal, financial or administrative problems of the city.

(b) Special Meetings of the City Council - The mayor may at any time call a special meeting of the city council, for any purpose, by causing a notice of such meeting to be delivered in hand or to the place of business or residence of each member of the city council. Such notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least forty-eight weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall, forthwith, be posted on the city bulletin board.

SECTION 3-7. APPROVAL OF MAYOR, EXCEPTION (VETO)

Every order, ordinance, resolution or vote adopted or passed by the city council relative to the affairs of the city, except memorial resolutions, the selection of city officers by the city council and any matters relating to the internal affairs of the city council, shall be presented to the mayor for approval. If the mayor approves of the measure the mayor shall sign it; if the mayor disapproves of the measure, the mayor shall return the measure, with the specific reason or reasons for such disapproval attached thereto, in writing, to the city council. The city council shall enter the objections of the mayor on its records, and not sooner than ten days, nor after thirty days from the date of its return to the city council, shall again consider the same measure. If the city council, notwithstanding such disapproval by the mayor, shall again pass the order, ordinance, resolution or vote by a two-thirds vote of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve the same. If the mayor has neither signed a measure nor returned it to the city council within ten days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

SECTION 3-8. TEMPORARY ABSENCE OF THE MAYOR¹⁰

(a) Acting Mayor - Whenever, by reason of sickness, absence from the city or other cause, the mayor shall be unable to perform the duties of the office for a period of 10 successive working days or more, the president of the city council shall be the acting mayor. In the event of the absence or disability of the president of the city council, the vice-president of the city council shall serve as acting mayor.

The mayor shall, by a letter filed with the city council and a copy filed with the city clerk, designate a qualified city officer or city employee to exercise the powers and perform the duties of the office during the temporary absence of the mayor for periods of less than five days and to serve only when the needs of the city require and only to the extent necessary under the then circumstances.

(b) Powers of Acting Mayor - The acting mayor shall have only those powers of the mayor as may be necessary to the conduct of the business of the city in an orderly and efficient manner and which may not be delayed. The acting mayor shall have no authority to make any permanent appointment or removal from city service unless the disability of the mayor shall extend beyond sixty days nor shall an acting mayor approve or disapprove of any measure adopted by the city council unless the time within which the mayor must act would expire before the return of the mayor. During any period in which any member of the city council is serving as acting mayor, such councilor shall not vote as a member of the city council.

¹⁰ Sec. 3-8 (a) amended by striking out the word "five" and inserting "10" Chpt. 175, Acts of 2011

SECTION 3-9. VACANCY IN OFFICE OF MAYOR

(a) Special Election - If a vacancy in the office of mayor occurs in the first fifteen months of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity or otherwise the city council shall forthwith order a special election. to be held within ninety days following the date the vacancy is created, to fill such vacancy for the balance of the then expired term.

(b) Council Election - If a vacancy in the office of mayor occurs in the last nine months of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the president of the city council shall become the mayor. Upon the qualification of the president of the city council as the mayor, under this section, a vacancy shall exist in that council seat on the city council which shall be filled in the manner provided in Section 2-11. A council president serving as mayor under this sub-section shall not be subject to the restrictions contained in the third sentence of Section 3-1(a).

(c) Powers, Term of Office - The mayor elected under Section 3-9 (a) or (b) shall have all the powers of the mayor. A person elected pursuant to subsection (a), above, shall serve for the balance of the term unexpired at the time of election to the office. A person chosen pursuant to subsection (b), above, shall serve until the time of the next regular election at which time the person elected to fill the office for the ensuing term of office shall serve, in addition, for the balance of the then unexpired term.

ARTICLE 4

SCHOOL DEPARTMENT

SECTION 4-1. SCHOOL COMMITTEE

(a) Composition, Term of Office - There shall be a school committee which shall consist of seven members. Six of these members shall be nominated and elected by and from the voters of the city at large. The mayor shall serve as the seventh member of the school committee. The term of office for all school committee members shall be for two years each, beginning on the first secular day of January in the year following their election, and until their successors have been qualified.

(b) Eligibility - A school committee member shall at the time of election be a voter. If a school committee member removes from the city during the term for which elected such office shall immediately be deemed vacant and filled in the manner provided in Section 4-1(f).

(c) Powers and Duties - The school committee shall have all powers which are conferred on school committees by general laws and such additional powers and duties as may be provided by the charter, by ordinance, or otherwise and not inconsistent with said grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

- 1) To elect a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the school committee;
- 2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be deemed necessary or desirable;
- 3) To adopt and administer an annual operating budget for the school department, subject to appropriation by the city council.

The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. The school committee shall provide ordinary maintenance of all school buildings and grounds; provided however, the city council may, by ordinance, provide for the establishment of a central municipal maintenance

department which may include maintenance of school buildings and grounds. Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least one member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of such new, remodeled or renovated school building is delegated.

(d) Prohibitions - No member of the school committee shall hold any other city office or city employment for which a salary or other emolument is payable from the city treasury. No former member of the school committee shall hold any compensated appointed city office or city employment until six months following the date on which such member's service on the school committee has terminated.

(e) Salary and Expenses¹¹ - The city council shall, by ordinance, provide an annual salary for the members of the school committee. No ordinance increasing such salary shall be effective, however, unless it shall have been adopted during the first twelve months of a term of office and it provides that such salary is to take effect with the organization of the city government following the next biennial election. Members of the school committee shall not be considered city employees for the purposes of chapter thirty-two B of the General Laws. Subject to appropriation, the school committee members shall be entitled to reimbursement of their actual and necessary expenses in the performance of their duties.

(f) Filling of Vacancies - If a vacancy shall occur in the office of school committee member during the first eighteen months of the term for which school committee members are elected, the vacancy shall be filled in descending order of votes received by the candidate for the office of school committee member at the preceding city election who received the largest number of votes without being elected, provided such person remains eligible and willing to serve and provided such person received votes at least equal to thirty percent of the vote total received by the person receiving the largest number of votes for the office of school committee member. The city clerk shall certify such candidate to the office of school committee member to serve for the balance of the then unexpired term. If there be no such candidate eligible and willing to serve, the vacancy shall be filled by a majority vote of the remaining members of the school committee and the city council sitting in joint convention, from among the voters. If the vacancy shall occur during the last six months of the term of office such vacancy shall be filled by the person at the biennial city election who receives the highest number of votes for the office of school committee member and who is not then serving as a member of the school committee. Such person shall serve as a member of the school committee for the last two months of the concluding term in addition to the term for which such person was elected. The city clerk shall certify such candidate to the office of school committee member to serve for the balance of the then unexpired term.

¹¹ Sec. 4-1 (e) amended by striking out “may” and inserting “shall” Chpt. 175, Acts of 2011

SECTION 4-2. SCHOOL COMMITTEE PRESIDENT

(a) Election and Term - The school committee shall organize, annually, by electing one of the school committee members to serve as school committee president during the ensuing term of office.

(b) Powers and Duties - The school committee president shall preside at all meetings of the school committee, regulate its proceedings and shall decide all questions of order. The school committee president shall appoint all members of all committees of the school committee, whether special or standing. The school committee president shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee president shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the school committee

SECTION 4-3. SCHOOL COMMITTEE BUDGET

The mayor and city council shall annually provide an amount of money sufficient for the support of the public schools as required by the General Laws. In acting on appropriations for educational costs the city council shall vote on the total amount of appropriations requested, and shall not allocate appropriations among accounts or place any restrictions on such appropriations. The city council may make nonbinding monetary recommendations to increase or decrease certain items allocating such appropriations. The vote of the city council shall establish the total appropriation for the support of the schools, but may not limit the authority of the school committee to determine expenditures within the total appropriations.

ARTICLE 5

FINANCE AND FISCAL PROCEDURES

SECTION 5-1. FISCAL YEAR

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

SECTION 5-2. SCHOOL COMMITTEE BUDGET

(a) Public Hearing - At least seven days before the meeting at which the school committee is scheduled to vote on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget, and the reasons for such changes. It shall further indicate the times and places at which complete copies of its proposed budget are available for examination by the public, and the date, time and place, not less than seven nor more than fourteen days following such publication, when a public hearing will be held by the school committee on the proposed budget. The school committee shall not take its final vote on its proposed budget until all persons who desire to be heard concerning the budget proposal have had an opportunity to be heard.

(b) Submission to Mayor - The budget as adopted by the school committee shall be submitted to the mayor at least twenty-one days before the date the mayor is required to submit a proposed city budget to the city council to allow the mayor sufficient time within which to consider the effect the school department's requested appropriation will have upon the total city operating budget the mayor is required to submit to the city council under this article.

SECTION 5-3. SUBMISSION OF BUDGET AND BUDGET MESSAGE

Within the time fixed by law, before the start of the fiscal year of the city, the mayor shall submit to the city council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The mayor shall simultaneously provide for the publication in a local newspaper of a notice and a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget for the city are available for examination by the public.

SECTION 5-4. BUDGET MESSAGE

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

SECTION 5-5. THE BUDGET

The proposed operating budget shall provide a complete financial plan for all city funds and city activities for the ensuing fiscal year. Except as may otherwise be required by general law, or this charter, it shall be in the form which the mayor deems desirable or as a city ordinance may require. In the presentation of the budget, the mayor shall utilize modern concepts of fiscal presentation so as to furnish an optimum level of information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and from all other sources and all proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by city agency and position in terms of work programs, and the method of financing such expenditures;
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by city agency, and the proposed method of financing each such capital expenditure;
- (c) The relationship of each proposed capital expenditure to the capital improvement program required to be submitted under Section 5-8 and,
- (d) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

SECTION 5-6. ACTION ON THE BUDGET

(a) Public Hearing - Forthwith upon its receipt of the proposed operating budget the city council shall provide for the publication in a local newspaper of a notice stating the time and place, not less than seven nor more than fourteen days following such publication, at which it will hold a public hearing on the proposed operating budget as submitted.

(b) Review - The city council shall consider, in open public meetings, the detailed expenditures proposed for each city agency and may confer with representatives of each such agency in connection with its review and consideration. The city council may require the mayor, or any other city agency, to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget.

(c) Action by City Council - The city council shall adopt the budget, with or without amendments, within ninety days following the day the proposed budget is received by it, or such other period as may be provided by general law. In amending the budget, the city council may delete or decrease any programs or amounts except expenditures required by law, or for debt service. If the city council fails to take any action with respect to any item in the proposed budget within sixty days following the date of its receipt of the proposed budget, or such other period as may be provided by general law, such amount shall, without any action by the city council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified.

SECTION 5-7. SUPPLEMENTARY BUDGETS, OTHER APPROPRIATIONS

(a) Intradepartmental Transfers - With the approval of the mayor funds appropriated for one line item within the appropriation made for a particular municipal agency may be transferred to another line item within the same municipal agency. Whenever such a transfer is authorized by the mayor notice of the transfer, and the circumstances under which such transfer was deemed advisable, shall be filed with the clerk of the city council.

(b) Interdepartmental Transfers - With the approval of the city council, funds appropriated to the use of one municipal agency may be transferred to the use of another municipal agency. Requests to the city council for the transfer of funds from one municipal agency to another shall be made by the mayor, in writing, and shall include a statement setting forth the reason the additional funds are needed by the agency to which it is proposed they be transferred and shall be accompanied by a certificate signed by the agency from which the appropriation is proposed to be taken stating either (1) that such transfer will

not prevent that agency from performing its vital functions, or (2) that the transfer will prevent the agency from performing one or more of its vital functions. A copy of this request shall, forthwith, be posted on the city bulletin board. The city council shall, by its rules, provide a procedure governing interdepartmental transfer requests which shall include at least two readings and a public hearing by the city council. Such rule shall specify the circumstances under which notice by publication in a newspaper shall be required and circumstances under which simple posting on the city bulletin board shall be sufficient.

(c) Supplementary Appropriations - Whenever the mayor shall submit to the city council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual operating budget or for an item, or items, not included in the annual operating budget as adopted, the city council shall not act upon such request until it has (1) given notice by publication in a local newspaper of the request, and (2) held a public hearing concerning such request. The publication of the notice and the public hearing shall be generally in conformity with the provisions of Section 5-6(a) concerning the proposed annual operating budget.

SECTION 5-8. CAPITAL IMPROVEMENT PROGRAM

The mayor shall submit a capital improvement program to the city council at least one hundred fifty days before the start of each fiscal year. It shall include:

- (a) A clear and concise general summary of its contents;
- (b) A list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need for each capital improvement;
- (c) Cost estimates, methods of financing and recommended time schedules for each improvement, and,
- (d) The estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

SECTION 5-9. INDEPENDENT AUDIT

The city council shall annually provide for an outside audit of the books and accounts of the city to be made by a certified public accountant, or a firm of certified public accountants.

ARTICLE 6

ADMINISTRATIVE ORGANIZATION

SECTION 6-1. ORGANIZATION OF CITY AGENCIES

The organization of the city into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

(a) Ordinances - Subject only to express prohibitions in a general law or the provisions of this charter, the city council may, by ordinance, reorganize, consolidate, create, merge, divide or abolish any city agency, in whole or in part; establish such new city agencies as it deems necessary or advisable; determine the manner of selection, the term of office and prescribe the functions of all such entities, provided, however, that no function assigned by this charter to a particular city agency may be discontinued, or assigned to any other city agency, unless this charter specifically so provides.

(b) Administrative Code - The mayor may from time to time prepare and submit to the city council plans of organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the city.

Whenever the mayor proposes such a plan, the city council shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven nor more than fourteen days following said publication.

An organization or reorganization plan shall become effective at the expiration of sixty days following the date the proposal is submitted to the city council unless the city council shall, by a majority vote, within such period vote to disapprove the plan. The city council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

The mayor may, through the administrative code, and subject only to express prohibitions in a general law, or this charter, reorganize, consolidate or abolish an city agency, in whole or in part; establish such new city agencies as is deemed necessary to the same extent as is provided in Section 6-1(a), above, for ordinances; and for such purpose may transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the city, transfer the appropriation of one city agency to another; provided, however, that no function assigned by this charter to a particular city agency may be discontinued or assigned to any other city agency unless this charter specifically so provides.

SECTION 6-2. PUBLICATION OF ADMINISTRATIVE CODE

For the convenience of the public, the administrative code and any amendments to it, shall be printed as an integral part of the ordinances of the city of Easthampton.

SECTION 6-3. MERIT PRINCIPLE

All appointments and promotions of city officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance. or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

SECTION 6-4. DEPARTMENT OF PUBLIC WORKS

(1) Establishment, Scope - There shall be a department of public works responsible for the performance of all public works related activities of the city. The department of public works shall assume all of the duties and responsibilities related to public works activities which prior to the adoption of the home rule charter in 1986 were performed by or under the authority of chapter twenty of the acts of nineteen hundred and eleven and chapter five of the acts of nineteen hundred and fifty-two and it may have such additional powers, duties and responsibilities with respect to public works related functions and activities as the city may from time to time provide, by ordinance. The scope which may be included in any such ordinance may include the furnishing of engineering services, the collection and disposal of garbage and refuse, the maintenance and repair of city buildings and property, the duties of a tree warden, the duties of a local superintendent of shade tree management and pest control and the performance of such duties of any other board or office of the city as may be reasonably related to public works functions and activities.

(2) Policy Formulation - The mayor shall appoint a board of public works which shall consist of three persons appointed for terms of three years each so arranged that the term of one member shall expire each year. The board of public works, acting through the mayor, shall be responsible for the overall supervision of the department of public works and for the establishment of priorities and policies to govern the operation of the department. The board of public works shall be deemed to be water commissioners, sewer commissioners, and road commissioners and shall have authority to establish the fees or charges for all services provided by the department of public works.

(3) Director of Public Works - The department of public works shall be under the direct control and supervision of a director of public works who shall be appointed by and who shall be responsible to the board of public works. The director of public works shall serve for an indefinite term. The director of public works shall be a person especially fitted by education, experience and training to perform the duties of the office. The director of public works shall be responsible for the supervision and coordination of all activities of the department of public works in accordance with state statutes, city ordinances, administrative code and rules and regulations.

SECTION 6-5. DEPARTMENT OF PERSONNEL

(a) Establishment, Scope - There shall be a department of personnel which shall be responsible for all personnel related functions and activities of the city, including, but not limited to, the following:

- 1) Plan, administer and direct all phases and components of the city personnel plan, including a wage and salary administration, position classification, sick and vacation leave, employee grievance procedure, accident prevention programs, physical examinations, equal opportunity programs, personnel transactions and all record keeping concerning city employees whether regular, part time, temporary, intermittent or otherwise.
- 2) Develop new and revised personnel policies and practices and recommend the same to the mayor and city council for implementation, where such action is necessary.
- 3) Review all requests by city agencies for new personnel, or for increased hours for any existing personnel, and make recommendations to the mayor and to the city council concerning such requests.
- 4) Advise and assist all city agencies and employees in all aspects of public employment including recruitment, evaluation, promotion, transfer, dismissal, wages, hours, hours and other conditions of employment, insurance benefits and any related matters. The department shall assure that all employees every benefit to which such employee is entitled and, conversely, shall assure that no employee receives any benefit to which such employee is not entitled.
- 5) Determine before any employee shall be hired, reinstated, transferred or promoted by any city agency that:
 - (a) There is an existing vacant position to be filled.
 - (b) The salary which is proposed to be paid is within the existing salary schedule for the position.

(c) There is a sufficient sum of money in the available appropriation of the agency to fund the position.

(d) There has been compliance with the civil service law and rules, if applicable, and with any collective bargaining agreements which may be applicable.

6) Development of a career public service program.

7) Supervise the registration of all persons who are to be employed by the city in any capacity, and certification of lists of eligible persons to appointing authorities whenever vacancies occur.

All city officers and other appointing authorities shall cooperate with the personnel department by providing to it, upon request, any and all information relating to city personnel matters as may from time to time be made.

(b) Director of Personnel - The department of personnel shall be under the direct control and supervision of a director of personnel who shall be appointed by the mayor, subject to the provisions of Section 2-10. The director of personnel shall serve for a term of three years and until a successor is appointed and qualified. The director of personnel shall be a person especially fitted by education, experience and training to perform the duties of the office. Desirable qualifications to consider when such an appointment is to be made, (but not to be construed as mandated by this provision) would include: knowledge of the principles and practices and equipment of office management; knowledge of city ordinances, rules and regulations relating to employees and to city personnel matters; knowledge of the state civil service law and rules and practices; knowledge of the principles and practices of personnel administration; ability to establish and to maintain effective working relationships with a wide variety of public officers, employees and the public. The director of personnel shall be responsible for the supervision and coordination of all activities of the department of personnel in accordance with state statutes, city ordinances, administrative code and rules and regulations.

ARTICLE 7

ELECTIONS; ELECTION RELATED MATTERS

SECTION 7-1. CITY ELECTIONS

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

SECTION 7-2. NOMINATIONS

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor not less than one hundred such signatures, provided, however, that not more than twenty-five signatures from any one district shall be counted in the minimum number of required signatures; for the office of school committee member or for the office of councilor-at-large not less than one hundred such signatures, provided, however, that not more than twenty-five signatures from any one district shall be counted in the minimum number of required signatures; for the office of district councilor not less than fifty such signatures, all of which shall be from the district from which the nomination is sought.

SECTION 7-3. 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 which shall be open to the public.

SECTION 7-4. DISTRICTS

The territory of the city shall be divided into five districts so established as to consist of compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well-defined limits. Each such district shall be composed of voting precincts otherwise established in accordance with general laws. The city council shall from time to time, but at least once in each ten years, review such districts to insure their uniformity in number of inhabitants.

SECTION 7-5. TIE VOTES FOR CANDIDATES

Whenever an election results in two or more candidates for the same office receiving the same number of votes for the office, and only one such officer is to be chosen. the tie shall be broken by a public drawing by lot conducted by the city clerk for which not less than seven days notice shall be given by publication in a local newspaper.

SECTION 7-6. APPLICATION OF STATE GENERAL LAWS

Except as expressly provided in this charter and authorized by 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, general and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

SECTION 7-7. PETITIONS TO COUNCIL OR SCHOOL COMMITTEE

The city council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it which is signed by one hundred voters, or more, and which seeks the passage of a measure. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or sub-committee thereof, and the action by the city council or the school committee shall be taken not later than three months after the petition is filed with the clerk of the council or the secretary of the school committee as may be appropriate. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the ten persons whose names appear first on the petition at least forty-eight hours before the hearing. Notice, by publication, of all such hearings shall be at public expense.

SECTION 7-8. CITIZEN INITIATIVE MEASURES

(a) Commencement - Initiative procedures shall be started by the filing of an initiative petition with the clerk of the council or the secretary of the school committee, as the case may be. The petition shall be addressed to the city council or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least ten percent of the total number of voters as of the date of the most recent city election. Signatures to an initiative petition need not all be on one paper, but all such papers pertaining to any one measure shall be fastened together and shall be filed as a single instrument with the endorsement thereon of the name and

residence address of the person designated as filing the same. With each signature on the petition there shall also appear the street and number of the residence of each signer.

Within ten days following the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent city election. The city clerk shall attach to the petition a certificate showing the results of their examination and shall return the petition to the clerk of the council or the secretary of the school committee according to how the petition is addressed. A copy of the board of registrars of voters certificate shall also be mailed to the person designated upon such petition as having filed the same.

(b) Referral to City Solicitor - If the board of registrars of voters determine that a petition has been signed by a sufficient number of voters, the clerk of the council or the secretary of the school committee, as the case may be, shall forthwith following receipt of such certificate deliver a copy of the petition to the city solicitor. The city solicitor shall, within fifteen days following receipt of a copy of the petition, in writing, advise the city council or the school committee, as may be appropriate, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure is not in proper form the reply shall state the reasons for such opinion, in full. A copy of the opinion of the city solicitor shall also be mailed to the person designated on the petition as having filed the same.

(c) Action on Petitions - Within thirty days following the date a petition has been returned to the clerk of the council or the secretary of the school committee by the city solicitor and after publication in accordance with the provisions of Section 2-9(c), the city council or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the city council or the school committee fails to act with respect to any initiative measure which is presented to it within thirty days following the date it is returned to it by the city solicitor, the measure shall be deemed to have been rejected on such thirtieth day. If an initiative measure is rejected, the clerk of the council or the secretary of the school committee shall promptly give notice of that fact to the person designated on the petition as having filed the same, by certified mail.

(d) Supplementary Petitions - Within forty-five days following the date an initiative petition has been rejected a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to five percent of the total number of voters as of the date of the most recent city election.

If the number of signatures to such supplemental petition is found to be sufficient by the city clerk, the city council shall call a special election to be held on a date fixed by it not less than forty-five nor more than ninety days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, if any other city election is to be held within one hundred and twenty days following the date of the said certificate, the city council may omit the calling of such special election and cause said question to appear on the election ballot at such approaching election for determination by the voters.

(e) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than seven nor more than fourteen days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk.

(f) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

“Shall the following measure which was proposed by voters in an initiative petition take effect?”

(Here insert the full text of the proposed measure, or a fair, concise summary prepared by the petitioners. and approved by the city solicitor)

_____ YES _____ NO

(g) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective forthwith, unless a later date is specified in such measure; provided, however, that no such measure shall be deemed to be adopted if fewer than twenty percent of the total number of voters have voted to adopt the measure proposed under the initiative or to rescind the measure protested by the referendum.

SECTION 7-9. CITIZEN REFERENDUM PROCEDURES

(a) Petition, Effect on Final Vote - If, within thirty days following the date on which the city council or the school committee has voted finally to approve of any measure a petition signed by a number of voters equal to twelve percent of the total number of voters as of the date of the most recent general city election and addressed to the city council or to the school committee as may be, protesting against the measure or any part thereof is filed with the secretary of the school committee or clerk of the council the effective date of such measure shall be temporarily suspended. The school committee or the city council

shall forthwith reconsider its vote on such measure or part thereof, and, if such measure is not rescinded the city council shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending such submission and determination the effect of such measure shall continue to be suspended.

(b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and insofar as applicable Section 7-8 (a) describing the manner in which a petition is prepared and filed, 7-8 (b) providing for referral to the city solicitor for a legal opinion, 7-8 (e) providing for publication of the text of the measure and 7-8 (f) providing for the form of ballot question shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word measure in said sections wherever it may occur and the word "referendum" shall be deemed to replace the word "initiative" wherever it may occur in said sections.

SECTION 7-10. INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the referendum procedures: (1) proceedings relating to the internal organization or operation of the city council or of the school committee, (2) an emergency measure adopted in conformity with the charter, (3) the city budget or the school committee budget as a whole, (4) revenue loan orders, (5) any appropriation for the payment of the city's debt or debt service, (6) an appropriation of funds to implement a collective bargaining agreement, (7) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action, (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures, and (9) any proceedings providing for the submission or referral to the voters at an election.

SECTION 7-11. SUBMISSION OF OTHER MATTERS TO VOTERS

The city council may of its own motion, and shall at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular city election for adoption or rejection any measure in the same manner and with the same force and effect as are hereby provided for submission by petitions of voters.

SECTION 7-12. CONFLICTING PROVISIONS

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

SECTION 7-13. RECALL ELECTIONS

(a) Application - Any person holding an elected city office may be recalled from such office by the voters in accordance with the procedures made available in this section.

(b) Recall Petition

(1) Office Elected by Voters at Large - Four hundred or more voters may file with the board of registrars of voters an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on such affidavit shall contain the names of at least sixty voters in each of the districts into which the city is divided for the purpose of elections.

(2) Office Elected by Voters by District - One hundred or more voters may file with the board of registrars of voters an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The signatures on such affidavit shall contain the names only of voters in the district from which the officer was elected.

(3) At Large, or by District - If the affidavit is found to be valid the city clerk shall thereupon deliver to the first ten persons named on said affidavit, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the city council; they shall contain the names and residence addresses of the ten persons to whom they are issued and they shall contain the grounds for recall as stated in the affidavit, they shall demand the election of a successor to the office; and they shall be dated and signed by the city clerk.

The recall petitions shall be returned to the office of the board of registrars of voters within twenty-one days following the date they are issued, signed by not less than twenty percent of the total number of voters (of the district or of the city as is appropriate) as of the date of the most recent city election.

The sheets constituting a petition need not all be filed at the same time. For the purposes of this section such a petition shall be deemed filed whenever the persons responsible for its filing notify the board of registrars of voters, in writing, that the filing is complete. Before receiving such

notice the board of registrars of voters may, but shall not be required to, certify signatures on the sheets already filed.

The board of registrars of voters shall within ten days following the date the petition forms are filed certify the number of signatures thereon which are the names of voters and the percentage that number represents of the total number of voters as of the date of the most recent city election,

(c) Recall Election - If the petitions are certified by the board of registrars of voters to contain a sufficient number of signatures, they shall forthwith submit the same, with their certificate, to the city council. Upon receipt of the certified petition forms the city council shall forthwith give written notice to the officer whose recall is sought of the validity of such petitions. If the officer whose recall is sought does not resign the office within five days following delivery of the said notice, or by leaving at the last known place of residence, the city council shall, after consultation with the city clerk and the board of registrars of voters, order a special election to be held on a date not more than ninety days after the date of its notice to the officer whose recall is sought.

(d) Ballot Question - Ballots used at the recall election shall state the proposition in substantially the following form:

“Shall (insert name of officer) be recalled from the office of (insert name of office held)?”
_____ YES _____ NO

(e) Officeholder - The person whose recall is sought shall continue to hold the office and to perform the duties until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be deemed to be recalled and the office shall be deemed to be vacant upon the certification of the election results. If a majority of the votes cast on the said question is in the negative the person whose recall was sought shall continue in the office until the expiration of the term for which elected, but subject to recall as provided in section (f), below.

(f) Restriction on Recall Petition - No recall petition shall be filed against any officer until at least six months following the commencement of a term of office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than six months of the term of office of the person whose recall is sought remains at the time of the certification of the petition forms

(g) Filling of Vacancy - If the office of mayor is declared vacant as the result of a recall election the city council shall forthwith call a special election to be held on a date fixed by it not less than sixty nor more

than ninety days following the date of the recall election. The person elected at such special election shall serve for the balance of the unexpired term remaining at the time of election.

Vacancies in any other office shall be filled in accordance with the procedures for filling the same as provided in Section 2-11.

No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by such recall.

ARTICLE 8

GENERAL PROVISIONS

SECTION 8-1. CHARTER CHANGES

This charter may be replaced, revised or amended in accordance with any procedure made available under the state constitution, or by statutes enacted in accordance with the state constitution.

SECTION 8-2. SEVERABILITY

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

SECTION 8-3. SPECIFIC PROVISION TO PREVAIL

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

SECTION 8-4. NUMBER AND GENDER

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender shall include the feminine gender.

SECTION 8-5. RULES AND REGULATIONS

A copy of all rules and regulations adopted by city agencies shall be placed on file in the office of the city clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any city agency shall become effective until seven days following the date it is so filed.

SECTION 8-6. PERIODIC REVIEW, CHARTER AND ORDINANCES¹²

(a) Charter Review - At least once in every ten years, in every year ending in a zero, the city council shall provide for a review of the charter by a special or standing committee of the city council and four additional persons to be appointed by the council president. The said committee shall file a report within one year following the appointment of its members recommending any changes in the charter which it may deem to be necessary or desirable.

(b) Ordinance Review - At least once in every five years, in every year ending in a zero, or in a five, the city council may provide for a review of all ordinances of the city for the purpose of determining if any amendments or revisions may be necessary or desirable. Such review shall be conducted under the supervision of the city attorney, or, if the city council so directs, by special counsel appointed for that purpose. A report, with recommendations, shall be submitted to the city council within one year following the appointment of its members.

(c) Copies of Charter and Ordinances - Copies of the charter and ordinances of the city, as most recently amended or revised, shall be kept available for distribution to any person who may request the same at the office of the city clerk. A charge, not to exceed the actual cost of reproduction of the said material, may be charged. In any interval between publication of the charter and ordinances, as amended or revised, supplements shall be published which shall contain all enactments affecting the charter or ordinances since last published in consolidated form.

SECTION 8-7. LOSS OF OFFICE, EXCESSIVE ABSENCE

If any person appointed to serve as a member of a multiple member body shall fail to attend three or more consecutive meetings, or all of the meetings held during four calendar months, or one-half or more of all of the meetings of such body held in one calendar year, the remaining members of the multiple member body may, by a majority vote of their number, declare the office to be vacant, provided, however, that not less than ten days prior to the date said vote is scheduled to be taken the body has given in hand, or mailed, postage prepaid, by registered or certified mail, return receipt requested, notice of such proposed or pending vote to the last known address of the person whose removal is sought.

¹² Sec. 8-6(b) amended by striking out the word “shall” and inserting the word “may” Chpt. 175, Acts of 2011.

SECTION 8-8. UNIFORM PROCEDURES APPLICABLE TO MULTIPLE MEMBER BODIES

(a) Meetings - All multiple member bodies of the city shall meet regularly at such times and places as they may, by their own rules, prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple member body shall be held on the call of its chair or by one third of the members thereof, by written notice delivered in hand or to the place of residence of each member and which contains a list of the item or items to be acted upon. Except in case of an emergency such notice shall be delivered at least forty-eight hours in advance of the time set for such meeting. A copy of such notice to members shall, forthwith, be posted upon the city bulletin board. Regular meetings of all multiple member bodies shall be held in public buildings of the city of Easthampton.

(b) Rules and Journals - Each multiple member body shall determine its own rules and order of business, unless otherwise provided by this charter, by law, or by ordinance, and shall provide for keeping minutes of its proceedings. These rules and the minutes of meetings shall be public records, and certified copies of them shall be kept available in the office of the city clerk. For the convenience of the public copies of these records shall also be kept at the Easthampton Public Library, provided, however, such copies kept at the public library are not to be construed in any way as being the official records. Each multiple member body shall provide some period of time at each of its meetings for members of the public who are present to ask questions, state opinions and otherwise interchange information with the members of the multiple member body.

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

(d) Quorum - A majority of the members of a multiple member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. While a quorum is present, unless some other provision is made by law or by its own rules, all business shall be determined by a majority of those present and voting.

SECTION 8-9. COMPUTATION OF TIME

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

SECTION 8-10. REFERENCES TO GENERAL LAWS

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

SECTION 8-11. NOTICE OF VACANCIES

Whenever a vacancy shall occur in any city office or in the employment of the city, or, when by reason of a retirement, or resignation, or the expiration of a fixed term, or otherwise a vacancy can be anticipated, the mayor or other appointing authority shall forthwith cause public notice of such vacancy or impending vacancy to be publicly posted on the city bulletin board for not less than ten days. Each such notice shall contain a brief description of the duties of the office or position and shall indicate a list of necessary or desirable qualifications for the office or position. Any person who desires to be considered for an appointment to any such vacancy may, within ten days following the date the notice is posted, or such longer period as may be indicated in such announcement, file with the appointing authority a statement setting forth with reasonable clarity and specificity the qualifications of such person for such appointment. No permanent appointment to fill any position shall be effective until at least fourteen days have elapsed following such posting to permit the reasonable consideration of all such applicants. This section shall not apply to positions covered under the civil service law and rules or if in conflict with the provisions of a collective bargaining agreement.

SECTION 8-12. CERTIFICATE OF ELECTION OR APPOINTMENT

Every person who is elected, including those elected by the city council, or appointed to an office of the city shall receive a certificate of such election or appointment from the city clerk.

Except as otherwise provided by law, before performing any act under an appointment or election all such persons shall take and subscribe to an oath of office and be sworn to the faithful performance of their duties.

SECTION 8-13. OATH OF OFFICE OF MAYOR, CITY COUNCILORS AND SCHOOL COMMITTEE MEMBERS

The mayor-elect, the councilors-elect and the school committee members-elect shall, on the first secular day in January of each even-numbered year at twelve o'clock noon, meet and be sworn to the faithful discharge of their duties. The oath may be administered to the mayor by the city clerk, or by a judge of a court of record, or by a justice of the peace. The oath may be administered to the members of the city council and to the members of the school committee by the mayor, after the mayor has been duly sworn, or by any of the above named officials. A certificate that said oath or oaths have been taken shall be entered in the journal of the city council.

In case of the absence of the mayor-elect, or any member-elect of the city council or of the school committee on said day the oath of office may at any time thereafter be administered to such person who for any reasons shall not have taken the oath on the day named. A certificate of each oath subsequently taken shall be entered in the journal of the city council.

After the oath has been administered to the councilors present, they shall organize by the election of a council president and vice-president, as provided in Section 2-2. The president shall be sworn by the city clerk, or, in the case of the absence of the city clerk, by any person qualified to take oaths or affirmations. The vice-president shall be sworn by the council president.

After the oath has been administered to the school committee members present, the committee shall organize by choosing a school committee president as provided in Section 4-2. The president shall be sworn by the city clerk, or, in the case of the absence of the city clerk, by any person qualified to take oaths or affirmations.

SECTION 8-14. FILLING OF VACANCIES

Whenever a vacancy shall occur in the membership of an appointed multiple member body the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If, at the expiration of thirty days following the delivery of such notice to the appointing authority, said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple member body shall fill such vacancy for the remainder of any unexpired term by majority vote of its remaining members.

SECTION 8-15. REMOVALS AND SUSPENSIONS¹³

Any employee of the city, not a city officer, nor a department head nor a member of a multiple member body (hereafter "such person") and not subject to the provisions of the civil service law or of any other state law governing employment, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term cause shall include, but not be limited to the following: inefficiency, insubordination, conduct unbecoming the office and incapacity, other than temporary illness.

Any such person may be suspended from office by the appointing authority if such action is deemed by the appointing authority to be necessary to protect the interests of the city. However, no suspension shall be for more than fifteen days. Suspension may be conterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

The appointing authority when removing any such person shall act in accordance with the following procedure:

(a) A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered in hand or by certified mail to the last known address of the person sought to be removed. The appointing authority shall simultaneously file a duplicate copy of the notice of removal with the contributory retirement board established pursuant to subsection (4) of section twenty of chapter thirty-two of the General Laws whenever a notice of an intent to remove is delivered to any person.

(b) Within five days of delivery of such notice the officer or employee of the city may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

(c) Between one and ten days after the public hearing is adjourned, or if the officer or employee of the city fails to request a public hearing, between six and fifteen days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing such person, or, notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the officer or employee shall, forthwith, be reinstated.

¹³ The first sentence of the first paragraph of Sec. 8-15 is amended by striking out the words "a department head or" and inserting in place thereof the words "nor a department head nor." Chpt. 175, Acts of 2011

Mayoral appointments as described in section 3-4 shall be subject to the provisions for removal as stated in that section.¹⁴

Nothing in this section shall be construed as granting a right to such a hearing to a person who has been appointed for a fixed term when that term of office expires and such person is not reappointed for another term of office.

¹⁴ Sec. 8-15 further amended by adding the sentence “Mayoral appointments as described in section 3-4 shall be subject to the provisions for removal as stated in that section. Chpt. 175, Acts of 2011.

ARTICLE 9

TRANSITIONAL PROVISIONS

SECTION 9-1. CONTINUATION OF EXISTING LAWS

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to the city that are in force when this charter takes effect, and not specifically or by implication repealed hereby, shall continue in full force and effect until amended or repealed or rescinded by due course of law, or until they expire by their own limitation.

SECTION 9-2. CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All town agencies shall continue to perform their duties until re-elected, re-appointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another town agency.

SECTION 9-3. TRANSFER OF RECORDS AND PROPERTY

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

SECTION 9-4. CONTINUATION OF PERSONNEL

Any person holding a town office, or a position in the administrative service of the town, or any person holding full time employment under the town, shall retain such office, or position, or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in the permanent full time service of the town shall forfeit their pay grade, or time in service of the town. All such persons shall be retained in a capacity as similar to the capacity in which they were serving at the time this charter is adopted as is practicable and any reduction in the personnel needs of the town shall be accomplished through a policy of attrition, unless specific provision is otherwise made in this article.

SECTION 9-5. EFFECT ON OBLIGATIONS, TAXES, ETC.

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

SECTION 9-6. TIME OF TAKING EFFECT

This charter shall become effective upon its approval by the voters voting thereon, and in accordance with the following schedule:

a) A special election to elect the first officers to serve under this charter shall be held on the third Tuesday in July in the year in which this charter is adopted (July 16, 1996).

Nine members of a town council shall be elected at such special election for terms which will expire at the organization of the town government on the first secular day of January 2000.

At the same special election a mayor shall be elected to serve for a term of office which will expire at the organization of the town government on the first secular day of January 2000.

At the same special election the terms of all incumbent members of the school committee who have less than two years remaining of the term for which they were elected shall be terminated and their successors shall be chosen for terms of office which will expire at the organization of the town government on the first secular day of January 2000.

No regular municipal election shall be held on the first Tuesday following the first Monday in November 1997, it being the intention of this provision that the special election provided for herein shall replace the said regular election.

(b) As soon as practicable following the special election the persons elected as mayor, as members of the town council and as members of the school committee shall be called together by the town clerk who shall make arrangements for the organization of the new government generally in conformity with the provisions of Section 8-13.

(c) The board of selectmen in office at the time of the special election shall continue to serve in that office until the last day of August of said year. During the transitional period from the date of the special election through to the said last day of August the board of selectmen shall continue to be responsible for the general operation of the government and shall continue to perform all of its powers, duties and functions as though this charter had not been adopted, provided, however, the board of selectmen shall coordinate all of its long-range plans with the person chosen as mayor. The person chosen as mayor shall have a right to attend all meetings of the board of selectmen held during such transitional period, including any meetings held in, so called, executive session and for such purpose the mayor shall be considered to be a member of the board of selectmen during such period.

The person chosen as mayor shall take all steps as may be necessary to be prepared to assume the full duties of the office of mayor on the aforesaid first day of September.

(d) All legislative business necessary for the orderly conduct of the town during the transitional period shall continue to be conducted by the representative town meeting members in office at the time of the special election until the full powers of the town council become operative on the first day of September following their election. On the said first day of September the terms of office of all members of the representative town meeting shall be terminated and the said representative town meeting shall thereafter cease to exist. All of its powers, duties and responsibilities shall devolve upon the town council.

The town council shall proceed forthwith to adopt temporary rules governing the conduct of the meetings of the town council and shall make provision for its full assumption of the powers, duties and responsibilities which will devolve upon it under this charter including, but not limited to the taking of the following steps:

- 1) It shall provide for a review to be made of all existing by-laws, rules and regulations of the town with a view to bringing them into conformity with the provisions of this charter.

- 2) It shall provide for the adoption of permanent rules governing the bringing of matters before the town council for action, the establishment of standing committees and such other related matters as seems necessary and desirable. It shall provide in its rules for the establishment of a standing committee on public safety which shall consist of three members of the council and to which shall be referred for study and report all matters which come before the town council and have to do with public safety matters.

(e) Except where some other provision is made for a specific office or multiple member body, all town officers and all members of multiple member bodies who have prior to the effective date of this charter

been elected by the voters may continue to serve for the balance of the term for which they were elected, but their successors shall be appointed.

(f) The office of town administrator established under Article 4 of the home rule charter adopted by the voters in 1986 is hereby abolished effective on the last day of August in the year in which this charter is adopted. This provision shall not be construed to prevent the person elected as mayor at the special election held in July of the said year from continuing the person then serving as town administrator in the service of the town in some other capacity.

(g) Notwithstanding any other provision of this charter which might be construed to the contrary it is not expected that the first person elected as mayor will be able to begin at once to exercise every power and every function which devolves upon the office of mayor under this charter. It is recognized that such assumption and change from existing practices will be phased in during the term of office of the first person chosen as mayor.

(h) Until such time as some other form of organization is provided, in accordance with the procedures provided in Article 6 of this charter, the following outline of organization shall be in effect:

The mayor shall appoint, subject to conformation by the city council as provided in Section 2-10, the following:

Constables;

A civil defense director and related civil defense personnel;

A police chief;

A fire chief;

A city collector to serve for a term of three years;

A city treasurer to serve for a term of three years and who shall also serve as the city's parking clerk;

An inspector of buildings to serve for a term of one year (mended to three years by Admin. Code 08-1; 11-5-08);

A wire inspector to serve for a term of one year (amended to three years by Admin. Code 08-1; 11-5-08)

An inspector of gas appliances and gas fittings to serve for a term of one year amended to three years by Admin. Code 08-1; 11-5-08);

A plumbing inspector to serve for a term of one year (amended to three years by Admin. Code 08-1; 11-5-08);

An animal control officer to serve for a term of one year (amended to three years by Admin. Code 08-1; 11-5-08);

A sealer of weights and measures in accordance with the civil service law and rules;

A parks and recreation commission to consist of five members to serve for terms of three years each;

A city attorney for a term of one year;

A veteran's services director, veteran's agent, veteran's graves officer and burial agent for a term of three years;

A board of health to consist of three members appointed for terms of three years each;

A conservation commission to consist of five* members appointed for terms of three years each
(*Amended to seven members 6-2-98; approved by Mayor 6-4-98);

A board of registrars of voters in the manner provided by general law;

A board of appeals to consist of such number of regular and associate members, appointed for terms of three years each, as may be provided in the zoning by-law of the city;

A council on aging, as provided by by-law;

An executive director of the council on aging;

A Easthampton Historical Commission to consist of seven members appointed for terms of three years each;

A development and industrial commission, as provided by by-law;

An arts lottery council (cultural council);

An industrial development financing authority in the manner provided by general law;

A planning board to consist of five members appointed for terms of three years each;

A cable television oversight committee;

A board of public works as provided in Article 6-4(2);

The city council shall elect, as provided in Section 2-8, the following:

A city auditor for a term of five years (amended by Chpt. 175, Acts of 2011, see Sec. 2-8);

A board of assessors to consist of three persons to serve for terms of three years (amended by Chpt. 175, Acts of 2011, see Sec. 2-8);

A city clerk to serve for a term of three years;

A clerk of the council to serve for a term of two years.

(i) Until such time as the city council may act, by ordinance, to amend, repeal or to revise its provisions the following shall have the force of city ordinances:

1) Unless some other provision is expressly made for a particular multiple member body, all appointments to multiple member bodies shall be for terms of three years each, so arranged that as nearly an equal a number of terms as is possible shall expire each year;

2) Until such time as other salaries are established for such offices in the manner provided by this charter the annual salaries of the elected officers shall be as follows: Mayor, \$40,000.00; members of the city council, \$1,500.00 and members of the school committee, \$0.00.

(j) The mayor elected at the special election held in July of the year in which this charter is adopted shall proceed, forthwith, to take all steps as may be necessary to implement the provisions of this charter providing for a personnel department. Until some other sum of money is provided by the mayor and council for the funding of the said office an initial sum of \$21,000.00 is hereby appropriated for the purpose of implementing the provisions of this charter providing for a department of municipal personnel. It is understood that the department of personnel will be unable to assume on its initial establishment all of the powers, duties and responsibilities assigned to it under this charter, but it is expected that all such powers, duties and responsibilities will be assumed with all deliberate speed.

(k) The mayor elected at the special election held in July of the year in which this charter is adopted shall during the transitional period have full power and authority to attend, either in person or through a designated representative, all meetings of all multiple member bodies held during such period including any portions of such meetings held in a closed or, so called, executive session and for such purpose such mayor elect shall be deemed to be an ex officio member of each such multiple member body.

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