

**PREAMBLE**

We, the people of Newton, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the city’s strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged citizenry. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.

**Definitions**

Unless the context clearly requires otherwise, the following words as used in this charter shall have the following meanings:

“Charter”, the city charter and any amendments to the charter made through any of the methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth of Massachusetts.

“City”, the city of Newton.

“City agency”, any board, commission, committee, council, department or office of the city government; provided, however, that “city agency” shall not include a neighborhood area council as provided in article 9.

“Council member”, a councilor-by-ward or councilor-at-large.

“Emergency”: a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

**Commented [KJ1]:** Do we want to add a definition of “Emergency”? Collins Center has question about OML in this regard.

“Full council”, the entire authorized complement of the city council notwithstanding any vacancies which might exist.

“Initiative measure”, a measure proposed by initiative procedures under the charter.

“Majority vote”, a majority of those present and voting; provided, however, that a quorum of the body shall be present.

“Measure”, an ordinance passed or which could be passed by the city council or an order, resolution, vote or other proceeding passed or which could be passed by the city council or the school committee.

“Multiple member body”, any board, commission or committee consisting of 2 or more persons, whether elected or appointed or otherwise constituted, but not including the city council, the school committee or an ad-hoc or advisory committee appointed by the mayor.

“Referendum measure”, a measure that is protested by referendum procedures under this charter.

“Reorganization plan”, a plan submitted by the mayor to the city council, which proposes the abolition or consolidation of 1 or more city agencies, including the reassignment of functions from 1 agency to another, or the establishment of 1 or more new city agencies as deemed necessary to deliver 1 or more municipal services.

“Voters”, the registered voters of the city of Newton.

#### **ARTICLE 1.**

#### ***INCORPORATION; FORM OF GOVERNMENT; POWERS OF THE CITY***

##### **SECTION 1-1. Incorporation**

The inhabitants of the City of Newton, within the corporate limits as now established or as hereafter may be established in the manner provided by law, shall continue to be a body corporate and politic with perpetual succession under the name "City of Newton."

##### **SECTION 1-2. Form of Government**

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

##### **SECTION 1-3. Powers of the City**

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

##### **SECTION 1-4. Construction**

The powers of the city under the charter shall be construed liberally in favor of the city, and the specific mention of particular powers is not intended to limit in any way the general powers of the city as stated in section 1-3.

##### **SECTION 1-5. Intergovernmental Relations**

Subject only to express limitations of the constitution and statutes of the Commonwealth, the city may exercise any of its powers and perform any of its functions, and may participate in the

financing of any of its powers and functions, jointly or in cooperation, by contract or otherwise, with the Commonwealth or any civil division or agency of the Commonwealth or the United States government or any agency of the United States government.

**ARTICLE 2.**  
**LEGISLATIVE BRANCH**

**SECTION 2-1. Composition; Eligibility; Election and Term**

(a) Composition—There shall be a city council of 12 members which shall exercise the legislative powers of the city. Eight of the council members, to be known as councilors-by-ward, shall be domiciled in the ward from which elected but shall be nominated and elected by the voters of the city, 1 councilor to be elected from each of the 8 wards of the city. The other 4 members, to be known as councilors-at-large, shall be nominated and elected by the voters of the city. The city council shall be the judge of the election and qualification of its members.

(b) Eligibility— Only voters shall be eligible to hold the office of councilor-by-ward or councilor-at-large. A candidate for the office of councilor-by-ward shall be a resident of the ward from which the candidate seeks election as of July 1 of the year in which a regular election is held. A candidate for the office of councilor-at-large shall be a resident of the city as of July 1 of the year in which a regular election is held.

No member of the city council shall hold any other elected office.

(c) Removal of Residency — A council member shall, notwithstanding the member’s removal from one ward of the city to another, continue to serve and to perform the member’s official duties during the member’s term of office. The removal from residency within the city by a council member shall create a vacancy in the councilor’s office.

(d) Election and Term—The terms of council members shall be 2 years beginning on the first day of January after their election continuing until their successors are qualified. No person shall be eligible for election to the city council for a ninth consecutive full term.

(e) Compensation — City councilors shall receive such salary as the city council shall determine by ordinance, but no change in such salary shall take effect during the current term of the city council in office at the time of the adoption of the ordinance making such change.

Subject to appropriation and to prior authorization by the council, council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties. Allowable expenses shall be established by ordinance.

**SECTION 2-2. President and Vice-President of the City Council**

After the mayor-elect and a majority of the councilors-elect have been sworn, the city council shall be called together by the mayor who shall preside. The city council shall then elect, from among its members, a president and vice-president to serve at the pleasure of the city council. The president shall preside at meetings of the city council and perform such other functions as may be assigned by the charter, by ordinance, by council rules,~~by~~ or by vote of the city council. The vice-president shall act as president during the absence or disability of the president.

### **SECTION 2-3. General Powers and Duties**

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

### **SECTION 2-4. Prohibitions**

(a) Appointment After Expiration of Term—No former council member shall hold any compensated appointive city office or city employment until 1 year after the expiration of the former council member's service on the city council. This provision shall not prohibit a former city employee or city officer from resuming the duties of a city officer or city employee at the conclusion of such service as a council member.

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

### **SECTION 2-5. Filling of Vacancies**

(a) If a vacancy occurs, by failure to elect, removal from residency in the city, death, resignation or otherwise, on the city council at any time before the final 9 months of the term for which the council member was elected, the city council shall at its next regular meeting call a special election to fill the vacancy. The election shall be by the voters of the city.

(b) If a vacancy occurs within the final 9 months of the term for which a councilor-by-ward is elected, no special election shall be held to fill the vacancy and the person elected at the next regular city election to the seat in which the vacancy exists shall immediately be sworn and shall, in addition to the term for which the person was elected, serve for the balance of the then-unexpired term.

If a vacancy occurs within the final 9 months of the term for which a councilor-at-large is elected, no special election shall be held to fill the vacancy and the person not then serving as a councilor-at-large who receives the highest number of votes to be a councilor-at-large, at the next regular city election, shall immediately be sworn and shall, in addition to the term for which the person was elected, serve for the balance of the then-unexpired term.

(c) Notwithstanding section 2-1(b), a candidate to fill a vacancy in the office of councilor by-ward shall be a resident of the ward from which the candidate seeks office as of the date on

which the city council calls the special election and a candidate to fill a vacancy in the office of councilor-at-large shall be a resident of the city as of the date on which the city council calls the special election.

#### **SECTION 2-6. Exercise of Powers; Quorum; Rules of Procedure**

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

(b) Quorum—A majority of the city council then in office shall constitute a quorum but a smaller number may meet and adjourn. The affirmative vote of a majority of the full council shall be necessary to adopt any appropriation order. While a quorum is present, any other motion or measure may be adopted by a majority vote except as otherwise provided by law or this charter.

**Commented [KJ2]:** Collins suggests replacing first sentence with:  
The presence of a majority of members of the full council shall constitute a quorum for the transaction of business.

(c) Rules of Procedure—The city council shall establish rules for its proceedings. Regular meetings of the city council shall be held at a time and place fixed by ordinance. Special meetings of the city council shall be held on the call of: the mayor as provided in section 3-7(b); the president of the city council; or any 4 or more members of the city council by written notice delivered to the place of residence or business of each member at least 4824 hours in advance of the time set. Except as otherwise authorized by sections 18 to 25, inclusive, of chapter 30A of the General Laws, all sessions of the city council shall be open to the public. Every matter coming before the city council for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate and up-to-date record of the proceedings of the city council, which shall include a record of each roll call vote, shall be kept and shall be open to inspection by the public.

**Commented [KJ3]:** Collins suggests edit to reflect updated OML.

#### **SECTION 2-7. City Clerk; Comptroller of Accounts**

As soon as practicable after the city council has been organized, it shall elect a city clerk and a comptroller of accounts as officers of the city to hold office for the term of 2 years and until their successors are qualified, unless they are removed by vote of a majority of the full council taken by ballot.

A vacancy in the office of city clerk or comptroller of accounts shall be filled for the balance of any unexpired term by the city council.

(a) City Clerk—The city clerk shall have such powers and perform such duties as the city council may prescribe in addition to such duties as may be prescribed by law.

(b) Comptroller of Accounts—The comptroller of accounts shall keep and have charge of the accounts of the city. The comptroller shall regularly audit the books and accounts of all city agencies and shall have such powers and perform such other duties as the city council may prescribe in addition to such duties as may be prescribed by law.

## SECTION 2-8. Clerk of the Council; Other Staff

(a) Clerk of the Council—The city council shall elect a clerk of the council to hold office at its pleasure. The clerk of the council shall give notice of all meetings of the city council to its members and to the public, keep a record of its proceedings and perform duties as may be assigned by this charter, by ordinance or by other vote of the city council.

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

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

(d) Legal ~~Counsel Assistance~~ to the Council — The city council may obtain legal assistance on any issue being examined by the council relating to its duties under the charter; provided that the council rules establish a process for the selection of such assistance.

Any material produced by the attorneys for the city council, whether in document or electronic form, shall be clearly and prominently labeled as "Advisory to the Newton City Council." The same statement shall appear on any materials printed or distributed in electronic form at council meetings, other public meetings, or in any other public venues. Copies of all materials produced by the attorneys shall be provided by the council to the city law department and the mayor at the same time such materials are distributed to the council members.

## SECTION 2-9. Measures; Emergency Measures; Charter Objection

(a) In General—No measure shall be passed finally on the date on which it is introduced, except in cases of emergency involving the health or safety of the people or their property. Except as otherwise provided by this charter, every adopted measure shall become effective 21 days after adoption or at any later date specified in ~~this charter~~the measure. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter or as provided in the initiative and referendum procedures.

(b) Emergency Measures—An emergency measure shall be introduced in the form and manner prescribed for measures generally, except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. The emergency as declared and defined in a preamble to the measure shall be separately voted on and shall require the affirmative vote of 2/3 of the full council. An emergency measure may be passed with or without amendments or rejected at the meeting at which it is introduced. ~~No measure making a grant, renewal or extension, whatever its kind or nature, or any franchise or special privilege shall be passed as an emergency measure and, except as provided in sections 70 and~~

~~71 of chapter 164 of the General Laws and chapter 166 of the General Laws relating to utility lines. No such grant, renewal or extension shall be made other than by ordinance.~~ After its adoption, an emergency measure shall be published as prescribed for other adopted measures. It shall become effective upon adoption or at such later time as it may specify.

**Commented [KJ4]:** Collins says: No charter other than Newton refers to these public utilities statutes (re: gas and electricity lines/transmission) – and doubt it accomplishes much since the statute appears clear re: state authority in the public utilities arena  
Remove?

(c) Charter Objection—On the first occasion that the question on adoption of a measure is put to the city council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council whether regular or special. If 2 or more other members shall join the member in such objection, such postponement shall be until the next regular meeting; provided, however, that for an emergency measure, at least 4 members in all must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendments to the original matter.

(d) If during the 24 hours immediately following adjournment of the city council, a motion to reconsider a measure passed at that meeting of the council is filed with the clerk of the council by any member of the city council who is entitled to make such a motion, the measure shall not be presented to the mayor but shall be presented to the city council for reconsideration at its next meeting.

#### **SECTION 2-10. Delegation of Powers**

Except to the extent otherwise prohibited by law, the city council may delegate to 1 or more city agencies the powers vested in the city council by the laws of the commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such city agency and may, in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

#### **SECTION 2-11. Inquiries and Investigations**

The city council may require any city officer or member of a city agency to appear before it and give such information as it may require in relation to the office held, its function and performance. The city council shall give at least 48 hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section. The city council may make investigations into the affairs of the city and into the conduct of any city agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

**Commented [KJ5]:** Collins suggests changing to 5 days

### **ARTICLE 3. EXECUTIVE BRANCH**

#### **SECTION 3-1. Mayor; Election; Term; Compensation**

(a) There shall be a mayor, who shall be elected by and from the voters of the city.

- (b) The mayor shall be the chief executive officer of the city. The mayor shall devote full time to the office and shall not hold any other elective public office, nor actively engage in any other business, occupation or profession during the term of office as mayor. The mayor shall hold office for the term of 4 years from the first day of January following the election and until the mayor’s successor is qualified.
- (c) No person shall be eligible for election to the office of mayor for a fourth consecutive full term.
- (d) The mayor shall receive such salary as the city council shall determine by ordinance, but no change in such salary shall take effect during the current term of the mayor in office at the time of the adoption of the ordinance making such change.

**SECTION 3-2. Executive Powers; Enforcement of Ordinances; Assistants**

- (a) In General—The executive and administrative 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 mayor’s general supervision and control. The mayor shall enforce the laws, ordinances and orders for the government of the city, and shall keep a record of all official acts as mayor. To aid the mayor with official mayoral duties, the mayor may appoint staff, fix their salaries and define their duties.
- (b) The mayor shall appoint a chief administrative officer to coordinate and direct the operations of the various departments and functions of municipal government. The chief administrative officer shall serve at the pleasure of the mayor and be appointed on the basis of having strong administrative and executive qualifications or such other qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.

**Commented [KJ6]:** This phrase has appeared (this way) in almost all of our drafts. It seems to be an error. Remove entirely? Or add – “as determined by ordinance” or add – “as the mayor considers appropriate”

**SECTION 3-3. Appointments by Mayor**

- (a) The mayor shall appoint all city officers, department heads and all volunteer members of city boards, commissions, committees and agencies for whom no other method of appointment is provided by this charter or by law.
- (b) Appointments by the mayor of city officers and department heads shall become effective 30 days from the date of the first regularly scheduled city council meeting after notice of the proposed appointment is filed with the city clerk, unless the city council within said 30 days shall reject the appointment.
- (c) All officers and city agencies shall, subject to the civil service laws of the commonwealth, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but the mayor shall approve all appointments in the police and fire departments, and the mayor shall have the power of removal in the police and fire departments.



- (d) Appointments by the mayor of volunteer members of city boards, commissions, committees and agencies shall take effect 60 days from the date of the first regularly scheduled city council meeting after the notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within those 60 days.
- (e) Rejection by the city council of an appointment by the mayor under (b) or (d) shall require a 2/3 vote.
- (f) Appointments to boards, commissions, committees and agencies may include city employees; provided that, unless otherwise required by law, such employees shall not serve as chair of the board, commission, committee or agency and such city employees shall not comprise more than 1/3 of the full membership of the board, commission, committee or agency.
- (g) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in section 2-9(c).
- (h) The mayor shall regularly, but not less frequently than annually, provide a listing of all vacancies on city boards and commissions, along with an indication of the appointing authority responsible for filling the vacancy, to the city clerk and the city council. The city clerk shall make the listing available to the public electronically.

**SECTION 3-4. Notice of Appointment**

In making appointments, the mayor shall sign and file with the city clerk a notice of appointment, a copy of which shall be filed on the same day with the clerk of the council.

**SECTION 3-5. Removal of Officials**

- (a) The mayor may remove any person appointed by the mayor by filing written notice of the removal with the city clerk.
- (b) If the position of a city officer or department head becomes vacant, the mayor shall notify the clerk and the city council.

**SECTION 3-6. Temporary Appointments**

If there is a vacancy in an office appointed by the mayor, whether by reason of disability, death, resignation or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed 3 months. If a vacancy continues beyond 3 months, the mayor may make a second 3-month appointment, but no temporary appointment shall be continued beyond 6 months without the approval of the city council.

**SECTION 3-7. Communications to the City Council; Calling of Special Meetings of the City Council**

(a) Communications — Within 6 weeks following the start of each fiscal year, the mayor shall submit to the city council, and make available to the public, a complete report on the financial and administrative activities of the city for the preceding fiscal year. The mayor shall not less frequently than semi-annually, by written communications to the city council, provide full disclosure of municipal revenues and all information related to the financial condition and future needs of the city and shall recommend such measures to the council as the mayor determines the needs of the city require.

(b) Calling Special Meetings—The mayor may call a special meeting of the city council by causing a notice of such meeting that specifies the matters which the mayor desires to be considered to be left at the usual place of residence of each councilor or given to in hand and public notice of the meeting to be posted at least 4824 hours in advance of the time set for the meeting; or such lesser period as the mayor may determine in case of an emergency, of which the mayor shall be the judge.

Commented [KJ7]: Collins suggests edit for OML

### **SECTION 3-8. Adoption of Measures; Mayor's Veto**

Not sooner than 24 nor more than 96 hours after the adjournment of any meeting of the city council, the clerk of the council shall present to the mayor the record of the proceedings of the meeting and copies of all measures passed at the meeting, unless a city councilor has filed with the city clerk a motion to reconsider the measure under section 2-9(d). Every measure relative to the affairs of the city passed by the city council shall be presented to the mayor for the mayor's approval except: (i) any measure relating to the internal affairs of the city council; (ii) any measure relating to the election of officers whose election by the city council is authorized by law or this charter; (iii) a matter exclusively within the jurisdiction of the city council; (iv) the budget; or (v) an action taken by the city council under section 10-2(d) or 10-3(a) in response to an initiative or referendum petition.

Within 10 days of receipt of a measure, the mayor shall return it to the clerk of the council with or without approval, or with a veto. Upon the mayor's approval of a measure it shall be considered adopted. If a measure is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Measures vetoed by the mayor shall be considered again by the city council at a meeting not sooner than 7 days after receipt of the mayor's veto. If the city council, notwithstanding such veto by the mayor, shall again pass such measure by a 2/3 vote of the full council, it shall then be considered adopted. Every measure not approved or vetoed by the mayor shall be considered adopted 10 days after it has been presented to the mayor.

### **SECTION 3-9. Temporary Absence from the Office of the Mayor**

If by reason of sickness, absence from the city or otherwise, the mayor is unable to perform the duties of the office of the mayor, the president of the city council shall, as acting mayor, possess the powers of the mayor only in those matters requiring immediate attention, but the

acting mayor shall have no power to make permanent appointments. If neither the mayor nor the president of the city council is able to perform the duties of the office of the mayor, the vice-president of the city council shall possess the powers of acting mayor.

During any period in which the president or the vice-president of the city council is serving as acting mayor, the acting mayor shall not serve as the presiding officer of the city council.

The city council, with approval of the mayor, may provide by ordinance for the handling of certain administrative duties of the mayor in the temporary absence of the mayor by other city councilors.

The restriction contained in section 3-1 relative to holding other office or actively engaging in a business, occupation or profession shall not apply to an acting mayor holding office under this section.

**SECTION 3-10. Permanent Vacancy in the Office of the Mayor**

If a permanent vacancy occurs in the office of the mayor, at any time preceding the last 9 calendar months of the term for which the mayor was elected, the city council shall, at its next regular meeting, call a special election, to be held within 120 days, to fill the vacancy for the remainder of the unexpired term. If a vacancy occurs in the office of the mayor during the last 9 calendar months of the term for which the mayor was elected, the president of the city council shall serve as the acting mayor until the next election for mayor is held. Upon the certification of the results from the next election, the person elected to be mayor shall be immediately sworn and begin serving as mayor and the new mayor shall, in addition to the term for which the member was elected, serve for the balance of the then-unexpired term.

The mayor's removal from residency within the city shall create a vacancy in the office.

**ARTICLE 4.**  
***SCHOOL COMMITTEE***

**SECTION 4-1. Composition; Eligibility; Election and Term**

(a) Composition—There shall be a school committee of 9 members; 8 of whom shall be known as school committee members. The school committee members shall be nominated and elected by the voters of the city, 1 school committee member to be elected from each ward of the city. The mayor shall serve, ex officio, as a member of the school committee with full power

to vote. The school committee shall be the judge of the election and qualification of its members.

(b) Eligibility—Only voters shall be eligible to hold the office of school committee member. A candidate for the office of school committee member shall be a resident of the ward from which the candidate seeks election as of July 1 of the year in which a regular election is held.

A member of the school committee shall, notwithstanding the member’s removal from 1 ward of the city to another, continue to serve and to perform the member’s official duties during the member’s term of office. The removal from residency within the city shall create a vacancy in such office.

No member of the school committee shall hold any other elected office.

(c) Election and Term—The term of each school committee member shall be 2 years beginning on the first day of January after the member’s election and shall continue until a successor is qualified. No person shall be eligible for election to the school committee for a fifth consecutive full term.

(d) Compensation — School committee members shall receive such salary as the city council shall determine by ordinance, but no change in such salary shall take effect during the current term of the school committee in office at the time of the adoption of the ordinance making such change.

Subject to appropriation and to prior authorization by the school committee, the school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

**SECTION 4-2. Rules of Procedure; Posting of Policies**

(a) Organization—Upon the mayor and school committee members being sworn into office, the mayor shall convene the school committee, which shall elect a chair and vice-chair from among its members. The vice-chair shall act as chair during the absence or disability of the chair. The school committee shall appoint a secretary who shall not be 1 of its members. The secretary shall serve at the pleasure of the school committee.

(b) Quorum—A majority of the school committee then in office shall constitute a quorum but a smaller number may meet and adjourn from time to time.

**Commented [MC8]:** Need to check w/counsel re: OML vs. this phrase

(c) Rules of Procedure—The school committee shall establish and periodically update rules for its proceedings.

Except as otherwise authorized by the General Laws, all sessions of the school committee shall be open to the public. A full, accurate and up-to-date record of the proceedings of the school committee and policies adopted by the school committee shall be kept and:

- (i) made electronically available to the public in a timely manner;
- (ii) shall include a record of each roll call vote; and
- (iii) shall be available in such other forms and venues as the school committee determines.

**SECTION 4-3. General Powers and Duties**

The school committee shall aim for educational excellence in accordance with this charter and the Massachusetts General Laws. The school committee shall have all the powers and duties which school committees may have under the General Laws and may have such additional powers and duties as provided by the city council or this charter. The powers of the school committee shall include, but not be limited to, the power to:

- (i) establish a mission statement for the Newton Public Schools, and policies that align with that statement;
- (ii) select, evaluate and remove the superintendent;
- (iii) adopt all reasonable rules and regulations for the management of the public school system;
- (iv) adopt and oversee the administration of an annual operating budget for the school department, as provided in the city's budget;
- (v) oversee all school buildings and grounds including, but not limited to furnishing all school buildings with proper fixtures, furnishings and equipment; and providing ordinary maintenance and repairs on all school buildings;
- (vi) upon the recommendation of the superintendent, establish and appoint assistant or associate superintendents who shall report to the superintendent; and
- (vii) serve as the employer representative for all employment agreements and labor contracts of employees under the jurisdiction of the Newton Public Schools.

**SECTION 4-4. New School Buildings**

If the school committee determines that a new school building or a major renovation is required, the school committee shall send a written communication to the city council describing the determination. Upon receipt of the written communication, the city council shall establish a committee to evaluate and oversee the planning and construction of the new building or major renovation, which shall include at least 1 member of the school committee. The city council shall not approve a new building or a major renovation unless the school committee has approved the educational specifications of the new building or major renovation that align with the best practices established by the commonwealth.

This section shall also apply to a new building or renovation on property that the city acquires to address the educational needs of the community.

**SECTION 4-5. Prohibitions**

No former school committee member shall be appointed to any compensated city office or employment until 1 year after the expiration of the member's service on the school committee. This section shall not prohibit a former city employee or city officer from resuming the duties of the city officer or city employee at the conclusion of service on the school committee.

**SECTION 4-6. Filling of Vacancies**

(a) If a vacancy occurs, by failure to elect, removal from the city, death, resignation or otherwise, on the school committee at any time before the final 9 months of the term for which the school committee member was elected, the city council shall at its next regular meeting call a special election to fill the vacancy.

The election shall be by the voters of the city.

(b) If a vacancy occurs within the final 9 months of the term for which a school committee member is elected, no special election shall be held to fill the vacancy and the person elected at the next regular city election to the seat in which the vacancy exists shall immediately be sworn and shall, in addition to the term for which the member was elected, serve for the balance of the then-unexpired term.

(c) A candidate for the office of school committee member shall be a resident of the ward in which there is a vacancy as of the date on which the city council calls the special election.

**ARTICLE 5.  
FINANCIAL PROCEDURES**

**SECTION 5-1. Financial Condition of the City**

The mayor shall annually prepare a forecast of all funds subject to appropriation, covering at least 5 years, of city revenues, expenditures and the general financial condition of the city. The forecast should include, but need not be limited to, an identification of factors with significant impact on the financial condition of the city, revenue and expenditure trends, potential sources of new or expanded revenues and long or short-term actions which may enhance the financial condition of the city. The mayor shall submit the forecast to the city council at least 6 months prior to the mayor's submission of the next fiscal year's operating budget and shall make the forecast available to the public for inspection.

### **SECTION 5-2. Submission of Budget; Budget Message**

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

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

The budget shall include funding for legal assistance to the city council and an independent audit of all city accounts. The amount of funding for legal assistance to the city council may be amended by ordinance; provided however, that such an ordinance shall not take effect until the fiscal year ~~following its adoption~~ after which it is adopted.

### **SECTION 5-3. Action on the Budget**

The city council shall adopt the budget, with or without amendments, within 45 days following the day the budget is received by the city council. In amending the budget, the city council may delete or decrease any programs or amounts, except expenditures required by law or for debt service, but it may not increase any programs or amounts.

If the city council fails to take action with respect to any item in the budget within 45 days after receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year and be available for the purposes specified.

### **SECTION 5-4. Capital Inventory and Capital Improvement Program**

(a) The mayor and city council shall be active stewards of the city's physical assets.

(b) Capital Inventory— The mayor shall establish and update not less frequently than annually, an inventory of significant capital assets, such as: buildings; infrastructure (water, sewer, storm water, and road systems); moveable equipment; and such other property as determined by ordinance. The city council shall, by ordinance, establish the requirements of the inventory, such as: age; condition; maintenance and repair history; remaining useful life; and other features the city council deems appropriate.

(c) Capital Improvement Program— The mayor shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements

proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the capital assets facilities included. The capital improvement program shall be revised and extended annually.

(d) Submission— The mayor shall submit to the city council the inventory and the 5-year capital improvement program at least 6 months prior to the mayor’s submission of ~~the~~ the operating budget for the next fiscal year. ~~’s operating budget.~~

(e) Public Hearing—The city council shall make the proposed capital improvement program available to the public and shall hold at least 1 public hearing, in accordance with state law, on the capital improvement program.

(f) Adoption—After the public hearing, concurrently with the passage of the next fiscal year's budget, the city council may amend and shall, by resolution, adopt the capital improvement program.

(g) Annual Report—The mayor shall annually report on the city’s progress regarding the capital improvement program.

**SECTION 5-5. Contracts**

All contracts entered into for or in behalf of the city by any officer or city agency shall be subject to the approval of the mayor, unless otherwise provided by law.

**SECTION 5-6. Independent Audit**

The city council shall annually provide for an independent audit of all city funds to be conducted by a certified public accountant in accordance with generally accepted accounting principles. The city council shall, by ordinance, establish procedures for oversight and administration of the annual audit including: (i) method of selection of an independent auditor; (ii) the scope of the audit; and (iii) receipt of the report and any recommendations from the auditor, including recommendations regarding internal controls.

**Commented [KJ9]:** Collins recommends adding this caveat due to instances in which state law gives authority for certain officers to enter into contracts.

**ARTICLE 6.**

***ADMINISTRATIVE DEPARTMENTS***

**SECTION 6-1. Reorganization Plans by Mayor**

(a) The mayor may prepare and submit to the city council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any city agency, in



whole or in part, or establish new city agencies as the mayor considers necessary or expedient. The reorganization plan shall be accompanied by an explanatory memo which shall include: (i) reference to any ordinances to be repealed or modified; and (ii) a summary of proposed ordinance language changes to be put into effect by the plan.

(b) Every reorganization plan shall, upon receipt by the clerk of the council, be referred to an appropriate committee of the city council which shall, not more than 30 days later, hold a public hearing on the matter and shall, not later than the second regular meeting of the city council following the hearing, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 90 days after the date it is received by the city council unless the city council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the mayor to the city council under this section shall not be amended by the city council but shall either be approved or rejected as submitted. Reorganization plans shall not be subject to charter objection as provided in section 2-9(c).

(c) The mayor shall provide notice, not later than March 1, to the city council of any reorganization plan reasonably expected to affect the budget for the ensuing fiscal year.

#### **SECTION 6-2. Publication of Reorganization Plan**

The city clerk shall maintain an up-to-date record of any reorganization plan adopted under this article and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.

### **ARTICLE 7. PLANNING**

#### **SECTION 7-1. Department of Planning and Development**

There shall be a department of planning and development and a planning and development board. The membership and term of office of the planning and development board shall be determined by ordinance. The mayor shall appoint the members of the board subject to council confirmation as provided in section 3-3(a).

#### **SECTION 7-2. Comprehensive Plan**

(a) Content—There shall be a comprehensive plan containing the plan elements described in section 81D of chapter 41 of the General Laws; provided however, that the city may also undertake planning activities relating to particular services or specific geographic areas within the city as the mayor or city council shall determine.

(b) Adoption— Within 2 years of the swearing in of a new mayor, the mayor shall submit to the city council reaffirmation of the comprehensive plan or a modification of the plan, including the

recommendations from the planning and development board, for the city council's approval with or without amendments.

The mayor may submit to the city council a new comprehensive plan or modifications to the comprehensive plan as the mayor deems necessary.

Upon receipt of a proposed new comprehensive plan, or a proposed modification of the comprehensive plan, and the recommendations of the planning and development board, the city council shall hold at least 1 public hearing on the proposed modification or new comprehensive plan and shall, by resolution, adopt the new comprehensive plan or modification of the comprehensive plan with or without amendments.

(c) Effect—The ordinances of the city, including but not limited to, the zoning ordinances, shall ~~not be~~ ~~be not~~ inconsistent with the comprehensive plan.

### **SECTION 7-3. Implementation of the Comprehensive Plan**

(a) Land Use and Development Regulations—In accordance with the General Laws, the city council may by ordinance adopt land use and development regulations including, but not limited to, an official map and zoning regulations reflecting the intent of the city's comprehensive plan.

~~(b) Action by the City Council and the Planning and Development Board—Before acting on any proposed ordinance concerning land use and development regulations or expenditures for capital improvements, if the proposed ordinance involves a matter addressed in the comprehensive plan, the city council shall refer the proposal to the planning and development board which shall, report its recommendations in writing to the city council on the proposed ordinance in accordance with section 5 of chapter 40A of the General Laws.~~

(b) Action by the City Council and the Planning and Development Board — If any proposed ordinance involves a matter addressed in the comprehensive plan concerning land use, development regulations, or capital improvement expenditures, the city council shall first refer the proposed ordinance to the planning and development board. The board shall report its recommendations in writing to the city council on the proposed ordinance in accordance with section 5 of chapter 40A of the General Laws.

Commented [KJ10]: Collins recommends rewrite.

## **ARTICLE 8.**

### ***NOMINATIONS AND ELECTIONS***

#### **SECTION 8-1. General Provisions for All Elections**

(a) Elections of city officers shall be nonpartisan, and election ballots or ballot labels for such officers shall be printed without any party mark, emblem or designation.

(b) Signature Requirements—The number of signatures of voters in the city required to place the name of a candidate on the official ballot to be used at an election shall be:

- (1) for mayor: 400 signatures; and
- (2) for councilor-by-ward, councilor-at-large or school committee member: 150 signatures.

(c) Ballot Position— The election commission shall randomly draw lots to determine the order in which names of candidates shall appear on the ballot for each office.

(d) Information to Voters— The name and street address of each candidate, but not any other information regarding the candidate, shall appear on the ballot at any city election; provided, however, that if the candidate in a regular city election is an incumbent of the office to which the candidate seeks election, ~~against~~ beside the candidate's name shall appear the phrase "Candidate for Re-election".

### **SECTION 8-2. Regular City Elections**

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

### **SECTION 8-3. Preliminary Elections: Special Elections**

(a) Date—For each regular city election and any special election called to fill a vacancy in the office of mayor, there shall be held a preliminary election for the purpose of nominating candidates. The city council shall set the date for each preliminary election.

(b) Conditions Making Preliminary Election Unnecessary—If at the expiration of the time for filing petitions for nomination of candidates to be voted for any preliminary election, not more than twice as many such petitions have been filed for an office as are to be elected to such office, the candidates whose petitions have been filed shall be considered nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, and the ~~E~~lection ~~C~~ommission shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If no names are to be printed upon the official ballot to be used at any preliminary election, no preliminary election shall be held.

### **SECTION 8-4. Special Elections**

The city council shall set the date for a special election to fill the office of councilor-by-ward, councilor-at-large, mayor or school committee member as provided in sections 2-5, 3-10 and 4-6; provided that the date shall be within 120 days after the date on which the election is called. A person elected at a special election shall immediately be sworn and assume that office.

### **SECTION 8-5. Wards**

The territory of the city shall be divided into 8 wards.

### **SECTION 8-6. Application of State Laws**

Except as expressly provided in the charter and authorized by state law, city elections shall be governed by the laws of the commonwealth relating to the composition, powers and duties of the election commission, the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, regular and special elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

**SECTION 8-7. Certificate of Election and Appointment**

Every person who is elected, including those elected by the city council, or appointed by the mayor, city council or school committee to an office, shall receive a certificate of the election or appointment from the city clerk. Except as otherwise provided by law, before performing any act under the election or appointment, the person shall take and subscribe to an oath to qualify the person to enter upon the duties of the office. A record of the taking of the oath shall be made by the city clerk. Any oath required by this section may be administered by the mayor or any officer authorized by law to administer oaths. Records of transactions of all officers and boards shall be properly kept and shall, subject to such reasonable restrictions as the city council may prescribe, be open to the inspection of the public.

**ARTICLE 9  
NEIGHBORHOOD AREA COUNCILS**

**SECTION 9-1. Purpose**

The purpose of this article is to reaffirm the existence of Newton’s neighborhood area councils and provide for a means of citizen engagement at the neighborhood level. Neighborhood area councils are intended to facilitate communication between residents and city officials.

**SECTION 9-2. Authorization**

The city council shall, by ordinance, establish the governance of neighborhood area councils.

**SECTION 9-3. Boundaries and Creation**

(a) The city council shall establish guidelines for neighborhood area council boundaries and creation. The guidelines shall include a minimum and a maximum number of residents to be represented by a neighborhood area council; provided, that at the time of the establishment of a neighborhood area council, the number of residents contained within the service area shall not be ~~not~~ greater than the average number of residents in a ward.

(b) The city council may approve resident petitions for the establishment of neighborhood area councils.

(c) Neighborhood area council boundaries shall conform to the guidelines established by the city council and be reasonably compact.

**SECTION 9-4. Elections**

The city council shall establish, by ordinance, the manner in which the elections for neighborhood area councils will be conducted.

**SECTION 9-5. Powers and Duties**

Neighborhood area councils shall perform advisory and communications functions and such other functions as prescribed by ordinance. All functions allowed by ordinance shall ~~apply to~~ apply to all neighborhood area councils.

**SECTION 9-6. Additional Requirements**

The ordinances that provide for neighborhood area councils shall include the requirements for area council bylaws providing for its structure and the conduct of its business, annual reporting, and maintenance of financial records. The neighborhood area councils shall create bylaws conforming to the guidelines established by ordinance; ~~such ordinances, which~~ shall require approval from the city council before implementation.

**ARTICLE 10  
FREE PETITION, INITIATIVE AND REFERENDUM**

**SECTION 10-1. Free Petition**

(a) Individual, Discretionary Petitions.

The city council and the school committee shall receive all petitions addressed to either of them and may take such action with regard to the petitions as they deem necessary.

(b) Group Petitions to City Council or School Committee

If 100 or more voters sign a petition seeking the passage of a measure, and deliver the petition to the city council or the school committee, the city council or school committee shall hold a public hearing and act with respect to the petition. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or sub-committee of the city council or school committee, not later than 3 months after the petition is filed with the clerk of the council or the secretary of the school committee. Hearings on 2 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 10 persons whose names appear first on the petition at least 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense.

**SECTION 10-2. 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. 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 appear in full in the petition, and shall be signed by at least 200 voters. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form. If the city clerk determines that at least 200 of the filers are voters, the city clerk shall transmit a copy of the petition to the city solicitor.

(b) Referral to City Solicitor. - If the city clerk determines that the number of signatures of voters is sufficient, the petition shall be delivered to the clerk of the council or the secretary of the school committee, who shall, immediately following receipt of such certificate, deliver a copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, advise the city council or the school committee, in writing, 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. A copy of the opinion of the city solicitor shall also be mailed to those identified on the affidavit as the petitioners committee.

(c) Additional Signatures: If the city solicitor determines that the petition is in a proper form, the city clerk shall provide blank petition forms within 10 days for the use of subsequent signers and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city solicitor, together with the names and addresses of the members of the petitioners committee. The city clerk shall notify the petitioners committee that the blank petition forms are issued. Within 180 days following the date of the notice, the petition shall be returned and filed with the city clerk signed by at least 10 per cent of the total number of registered voters as of the date of the most recent regular city election.

Signatures to an initiative petition need not all be on 1 paper, but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and address of the person designated as filing the papers. The street and number of the residence of each signer shall appear with each signature on the petition.

Within 10 days following the filing of the petition, the ~~board of~~ election commissioners shall determine the number of voters that signed the petition and the percentage represented by that number of the total number of voters as of the date of the most recent regular city election. The ~~board of~~ election commissioners shall attach to the petition a certificate showing the results of its examination and shall return the petition to the clerk of the council or the

secretary of the school committee, depending on how the petition is addressed. A copy of the ~~board of~~ election commissioners' certificate shall also be mailed to the members of the petitioners committee.

(d) Action on Petitions - Within 30 days following the date a petition and certificate has been returned to the clerk of the council or the secretary of the school committee by the ~~board of~~ election commissioners, the city council or the school committee shall pass the measure without change, pass a measure which is stated to be in lieu of the initiative measure, or reject the measure. 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 30 days following the date it is returned to either the council or school committee by the ~~board of~~ election commissioners 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 members of the petitioners committee by certified mail. Initiative measures shall not be subject to the charter objection in section 2-9 (c).

(e) Supplemental Petitions - Within 45 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 5 percent of the total number of voters as of the date of the most recent regular city election.

(f) Scheduling of Election: If the number of signatures to such supplemental petition is found to be sufficient by the city clerk for petitions submitted to the school committee, the clerk shall notify both the secretary of the school committee and the city council. For petitions submitted to the council, the clerk shall notify the city council. For either a petition addressed to the school committee or the city council, the city council shall call a special election to be held on a date fixed by it not less than 45 nor more than 90 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 180 days following the date of said certificate, the city council may omit the calling of such special election and cause said question to appear on the municipal election ballot at such approaching election for determination by the voters.

(g) Publication – The city clerk shall provide a Notice to Voters by mail to every household in the city with at least 1 registered voter. The notice shall contain a fair, concise summary of the initiative measure as prepared by the city solicitor and the full text of the measure which is to be submitted to the voters. Such notice shall be sent not fewer than 14 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, at the public library, and by electronic means as determined by the city clerk.

(h) 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 city solicitor) – YES \_\_\_ NO \_\_\_

(i) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, and participation in the election complies with section 10-5, the measure shall be effective immediately, unless a later date is specified in the measure.

### **SECTION 10-3. Citizen Referendum Procedures**

(a) Petition, Effect on Final Vote - If, within 20 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 5 percent of the total number of voters as of the date of the most recent regular city election and addressed to the city council, or to the school committee, protesting against the measure, or any part of the measure, is filed with the secretary of the school committee or the clerk of the council, the effective date of such measure shall be temporarily suspended. The school committee or the city council shall immediately reconsider its vote on such measure or part of the measure, and if such measure or part of the 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. Action by the council on referendum measures shall not be subject to the charter objection in section 2-9 (c).

(b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and insofar as applicable section 10-2 (a) describing the manner in which a petition is prepared and filed, section 10-2 (b) providing for referral to the city solicitor for a legal opinion and section 10-2 (g) providing for Notice to Voters of a summary and full text of the measure, shall apply to such referendum petitions, except that the words "measure or part of the measure 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.



(c) Form of Question - At the election at which a referendum measure is referred to the voters, the ballot shall contain a question in substantially the same form as 1 of the following:

“Shall the following measure which was passed by the (City Council) (School Committee) be approved? (Here insert the full text of the proposed measure being considered for repeal, or a fair, concise summary prepared by the petitioners and approved by the city solicitor) Yes \_\_\_\_ No \_\_\_\_?”; or

“Shall the following provisions of the (describe measure in general terms and the full text or a fair, concise summary prepared by the city solicitor of the affected provision(s) being considered for repeal) which was passed by the (City Council) (School Committee) be approved Yes \_\_\_\_ No \_\_\_\_?”.

(d) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure or part of the measure shall take effect immediately, but if the majority of votes cast is in the negative and complies with section 10-5, the measure shall be null and void.

#### **SECTION 10-4. Ineligible Measures**

None of the following shall be subject to the initiative or the referendum procedures:

- (1) any proceedings relating to the internal organization or operation of the city council or of the school committee;
- (2) any emergency measure adopted in conformity with the charter;
- (3) the city budget or the school committee budget;
- (4) any revenue loan orders;
- (5) any appropriation for the payment of the city's debt or debt service;
- (6) any appropriation of funds to implement a collective bargaining agreement;
- (7) any proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, of a city officer or employee 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 of a matter to the voters at an election.

**SECTION 10-5. Required Voter Participation**

For any measure to be effective under initiative, or for any measure or part of a measure to be declared null and void under a referendum procedure, at least 20 per cent of the total number of voters as of the most recent regular city election shall have participated in the election to adopt the measure proposed under the initiative or to rescind the measure protested by the referendum.

**SECTION 10-6. Conflicting Provisions**

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

**SECTION 10-7. Submission of Other Matters to Voters**

As authorized by chapter 127 of the acts of 2014, the city of Newton may place a non-binding public opinion advisory question on the ballot for either a regular or special municipal election under the procedures established by [section 18A of chapter 53 of the General Laws](#).

**Commented [KJ11]:** Collins recommends including the state law that authorizes this.

**SECTION 10-8. Repeat Matters**

A measure submitted to the voters through the initiative procedures as authorized by this Article and not approved by the voters shall not be resubmitted for a minimum of 2 years following such vote.

This prohibition shall also apply to any proposed initiative measure deemed by the city solicitor to: (a) be substantially the same as the defeated measure or (b) effectively repeal an adopted initiative measure.

Any measure that was the subject of a referendum and repealed by the voters shall not be the subject of an initiative procedure for a minimum of 2 years following such vote.

**ARTICLE 11.  
GENERAL PROVISIONS**

**SECTION 11-1. Public Records**

All public records shall be kept and made available to the public in accordance with the General Laws.

**SECTION 11-2. Conflict of Interest**

(a) All city employees shall be considered municipal employees under chapter 268A of the General Laws and shall comply with state conflict of interest laws.

(b) The city councilors, school committee members and members of multiple member bodies shall not seek to individually influence the official acts of any city official, or to direct or request, except in writing, the appointment or removal of any person to or from office, or to interfere in any way with the performance by such officers of their duties. This provision shall not prohibit:

- (1) assistance to constituents in their dealings with city officials;
- (2) advocacy of particular outcomes on matters pending before the city; or
- (3) submission of recommendations or references on behalf of a candidate for city employment which are consistent with this charter.

#### **SECTION 11-3. Rules and Regulations**

(a) All rules and regulations adopted by any city agency shall be filed with the city clerk within 2 weeks of being approved. No rule or regulation may take effect sooner than 5 days after filing.

(b) A copy of all rules and regulations adopted by any city agency shall be filed in the office of the city clerk and made available for review by any person who requests such information at a reasonable time. All rules and regulations shall be made available electronically to the public.

#### **SECTION 11-4. Reenactment and Publication of Ordinances**

(a) The city council shall, at 5-year intervals, appoint a recodification committee of the city council to propose revisions to or recodification of all ordinances of the city. The recodification committee's proposal shall be presented to the city council for enactment. The revisions or recodification shall be prepared under the supervision of the city solicitor or, if the city council so directs, by special counsel retained for that purpose, and shall include a review for consistency with the comprehensive plan.

(b) The city council shall, at 5-year intervals, appoint a special committee to evaluate all boards and commissions that have been established ~~by~~ in the city and make a recommendation as to whether the boards and commissions shall continue.

(c) The recodification committee under (a) and the special committee under (b) may be combined into a single committee by the city council.

#### **SECTION 11-5. Liability of City Officers and Agencies**

All city officers and members of city agencies shall be deemed to be public or municipal officers or officials. Subject to appropriation, the city may indemnify any such officer or member for expenses or damages incurred in the defense or settlement of a claim against the officer or member which arose while acting within the scope of the officer or member's official duties or employment, but only to the extent and subject to the limitations imposed by the General Laws.

#### **SECTION 11-6. Prohibition**

No member of the executive or legislative branch or of the school committee shall appear as counsel before any city officer or agency.

**SECTION 11-7. Construction of Public Facilities**

There shall be established by ordinance a designer selection committee to comply with section 54 of chapter 7C of the General Laws regarding selection of design service professionals for municipal building projects. The ordinance shall require the designer selection committee to be consulted and directed to make recommendations whenever a design professional is to be engaged by the city for a project that meets or exceeds the thresholds in said section 54. There shall also be established by ordinance a design review committee which shall be responsible for the coordination of the design review process on any public building for which a design service professional has been engaged.

**SECTION 11-8. Severability**

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

**SECTION 11-9. Specific Provisions Shall Prevail**

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

**SECTION 11-10. References to General Laws**

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

**SECTION 11-11. Computation of Time**

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

**SECTION 11-12. Uniform Procedures**

(a) Meetings - All appointed multiple member bodies of the city shall meet regularly at the times and places that they prescribe by their own rules. Special meetings of any multiple member body shall be held on the call of the chair or by 1/3 of the members of the body by written notice delivered electronically or in hand, to the place of residence of each member at least 48 hours before the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice shall also be posted in accordance with law. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall, at all times, be open to the public.

(b) Rules and Journals - Each appointed multiple member body shall determine its own rules and order of business and shall provide for keeping records of its proceedings. Unless otherwise provided in a body's rules, procedures of all bodies shall be governed by the most recent edition of Robert's Rules of Order.

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

(d) Quorum - A majority of the members of an appointed multiple member body shall constitute a quorum. Unless some other provision is made by the multiple member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to vote on any matter representing an exercise of the powers of the multiple member body; provided, however that a vote to meet in "executive session" shall require a majority of members of the body.

(e) Public Comments - Multiple member bodies shall develop and adopt a public comment policy. The policy shall include regular times throughout the year when public comment shall be scheduled at meetings, shall require that public comment periods appear on meeting agendas posted prior to the meeting and shall consider the convenience of the public when scheduling such public comment periods. Each multiple member body shall post its public comment policy by electronic means and shall, not less frequently than annually, review the policy and make revisions as needed.

#### **SECTION 11-13. Periodic Charter Review**

Not later than July 1, at 10-year intervals in each year ending in a 5, the mayor and city council shall establish, by ordinance, a charter review committee to review the city charter. The charter review committee shall submit its report to the city clerk as specified by ordinance. The report shall be made available to the public electronically or at a cost not to exceed the actual cost of reproduction.

All members of the charter review committee shall be voters of the city.

**ARTICLE 12**  
***TRANSITIONAL PROVISIONS***

**SECTION 12-1: Continuation of Existing Laws**

All general laws, special laws, city ordinances, resolutions, rules and regulations of or pertaining to Newton, including special acts creating regional entities and arrangements of which the city is a member, that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

**SECTION 12-2: Continuation of Government and Administration**

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

**SECTION 12-3: Continuation of Personnel**

All city officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the adoption by the voters of this home rule charter.

**SECTION 12-4: Transfer of Records and Property**

All records, property and equipment of any city agency, or part of a city agency, the powers and duties of which are assigned in whole or in part to another city agency, shall be transferred immediately to that agency.

**SECTION 12-5: Effect on Obligations, Taxes, Etc.**

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

#### **SECTION 12-6: Disposition of Special Legislation**

(a) All provisions of Article XII, section 6 as appearing in the city's Home Rule Charter adopted in 1971, identified as *Partial Repeal of Certain Special Acts, Special Acts Repealed Outright, Special Acts Repealed; Action Taken Thereunder Preserved, and Special Acts Specifically Retained* are hereby retained by reference.

(b) The following acts pertaining to the City of Newton are hereby retained:  
~~Chapter 705 of the Acts of 1975, as amended by Chapter 4797 of the Acts of 1982, Chapter 499 of the Acts of 1989, Chapter 73 of the Acts of 2007, and Chapter 127, Acts of 2014.~~

(c) The following acts pertaining to the City of Newton are hereby repealed: ~~Chapter 50 of the Acts of 1991; Chapter 173 of the Acts of 1992; Chapter 174 of the Acts of 1992; Chapter 368 of the Acts of 2002, chapter 152 of the acts of 2008, chapter 26 of the acts of 2015 and; Chapter 87 of the Acts of 2015.~~

#### **SECTION 12-7 Time of Taking Effect**

This charter shall be effective upon adoption by the voters except as follows:

(a) Section 2-1(a) relative to the composition of the city council shall take effect for the regular city election of November, 2019.

(b) Sections 2-1(d), 3-1, and 4-1(c) relative to term limits shall take effect for the mayor, city council and school committee elected in 2017; provided, however, that school committee members re-elected to office at such election shall continue to be bound by the term limit requirements in effect at the time of their initial election to office.

(c) Section 2-5- relative to vacancies on the council shall take effect on January 1, 2020.

(d) Section 2-6, relative to the adoption and revision of council rules, shall take effect as follows:

- (1) Within 20 days of its election, the council-elect elected in the November 2019 municipal election shall meet for the purpose of examining the current rules and determining the need for any revisions to adhere to the provisions of Section 2-6. The meeting shall be called by the city clerk. The councilor-elect with the highest number of years of service on the council shall preside. If 2 or more councilors have served the same number of years on the council, the member oldest in age shall preside at such meeting.
- (2) Subsection (c), relative to the number of councilors required to call a special meeting of the city council, shall take effect on January 1, 2020.
- (e) Subsection (c) of section 2-9 relative to charter objection shall take effect on January 1, 2020.
- (f) Subsection (d) of section 3-3, relative to the service of city employees on boards and commissions, shall take effect as follows:
- (1) any city employee serving as chair of a board or commission shall be replaced as chair upon the completion of the term to which appointed, or by June 30, 2018 whichever shall occur sooner; and,
- (2) no additional city employees shall be appointed as members of boards or commissions until the number of such employees does not exceed 1/3 of the board or commission membership nor shall sitting city employees continue to serve beyond the completion of the term to which appointed, or no later than January 1, 2021, whichever shall occur sooner.
- (g) The mayor shall file the initial required listing of all vacancies on boards and commissions, under subsection (f) of section 3-3 by June 30, 2018.
- (h) Subsection (a) of section 3-7, shall be in effect as of the close of FY2018, with the mayor submitting the ~~FY2018~~ close of fiscal year report within 6 weeks after the close of FY2018.
- (i) The first forecast submitted to the city council by the mayor under section 5-1 shall be submitted no later November 1, 2018.
- (j) The third paragraph of section 5-2 shall take effect upon the mayor's submission of the FY2019 budget; the amount appropriated for legal assistance to the city council in the FY2019 budget shall be 2 per cent of the proposed budget for the city law department.
- (k) The city council shall adopt an ordinance establishing the requirements and deadline for the first submission of the capital inventory required under subsection (b) of section 5-4 no later than June 30, 2018. The first inventory shall be submitted to the council within 6 months of the adoption of such ordinance, or by November 1, 2018, whichever is sooner.
- (l) The city council shall by ordinance establish the procedures for oversight and administration of the audit required under section 5-6 no later than June 30, 2018.



- (m) To implement Article 9, the city council shall adopt ordinances under sections 9-2, 9-4 and 9-6 as well as the guidelines under section 9-3, no later than January 1, 2020.
- (n) Any petitions for initiative and referendum pursuant to sections 4 and 10 of Article 10 of the charter adopted in 1971, as amended, filed with the city clerk prior to adoption of this charter shall proceed and be completed as provided in the charter adopted in 1971, as amended; provided, however, that the requirement for voter participation appearing in Article 10, section 5 shall be in effect for such initiative or referendum elections scheduled to be held after adoption of this charter.
- (o) Section 11-3 (a) and (b) shall apply to any rules or regulations adopted, amended or revised after January 1, 2018.
- (p) The city council shall appoint the committees referenced under subsections (a) and (b) of section 11-4 no later than January 1, 2019.
- (q) Section 11-12 establishing uniform procedures for multiple member bodies shall take effect on January 1, 2018; provided however, that public comment policies under section 11-12 (e) shall be adopted and electronically posted by June 30, 2018.