



Charter Subcommittee Agenda

City of Newton In City Council

Thursday, January 31, 2018

7:00PM
Room 205

Scheduled for Discussion:

- Continued review of Charter Articles and outstanding issues
- Discussion regarding preparation of report to Programs & Services Committee

Respectfully Submitted,

R. Lisle Baker, Chair

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the City of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

~~Sec. 11-13, 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 populace. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.~~

Definitions.

~~Unless another meaning is the context clearly apparent from the manner in which the word is used, 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 State 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.~~

~~“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.

___ “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 significant 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.

Commented [SC1]: Most definitions Not yet discussed

ARTICLE 1.

INCORPORATION; FORM OF GOVERNMENT; POWERS OF THE CITY~~See.~~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."

~~See.~~SECTION 1--2. Form of Government.

—The administration of the fiscal, prudential, and municipal affairs of the city, with the government ~~thereof~~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.

~~See.~~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 ~~herein~~in this charter.

~~See.~~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~~section 1--3.

~~See.~~SECTION 1--5. Intergovernmental Relations.

—Subject only to express ~~requirements~~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 ~~thereof~~of any of its powers and functions, jointly or in

cooperation, by contract or otherwise, with the Commonwealth or any civil division or agency ~~thereof~~of the Commonwealth or the United States government or any agency ~~thereof~~of the Unites States government.

**ARTICLE 2.
LEGISLATIVE BRANCH****See. SECTION 2-1. Composition; Eligibility; Election and Term.**

—(a) Composition — There shall be a city council of 2412 members which shall exercise the legislative powers of the city. ~~Sixteen~~Eight of ~~these~~the council members, to be known as councilors ~~at large~~by ward, shall be ~~nominated and elected by~~domiciled in the voters at large, ~~2 such councilors at large to be elected~~ward from each of the ~~8 wards~~which elected but shall be nominated and elected by the voters of the city. ~~The other 8 members, to be known as ward councilors, shall be nominated and elected by and from the voters of each ward, 1 ward,~~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 ~~the date that the~~July 1 of the year in which a regular election ~~commission makes available blank forms is held.~~ A candidate for the ~~nomination of candidates for office. In order to hold the~~ office of councilor, ~~a candidate~~at large shall ~~have continuously been~~be a resident of the ~~ward from which the candidate is elected from the date that the~~city as of July 1 of the year in which a regular election ~~commission made the blank forms available until and including the first day of the term for which the candidate is elected.~~ A held.

No member of the city council shall, ~~notwithstanding the member's removal from 1 ward of the city to another,~~ hold any other elected office.

(c) Removal of Residency — If a councilor-by-ward moves to a different ward, the councilor-by-ward shall continue to serve and to perform the member's councilor's official duties during the member's councilor's term of office. The removal from residency within the city by any council member shall create a vacancy in such the councilor's office.

—(e) Election and Term — The term~~term~~ of ~~councilors~~council members shall be 2 years beginning on the first ~~secular~~ day of January after their election ~~and continuing~~ until their successors are qualified. ~~(Referendum of 11-04-75; Acts of 2002, Chap. 368.)~~ No person shall be eligible for election to the city council for a ninth consecutive full term.

See. (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, or by vote of the city council. The vice-president shall act as president during the absence or disability of the president.

See 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 ~~thereof~~ of those powers and for the performance of all duties and obligations imposed on the city by law.

See SECTION 2-4. Prohibitions.

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

See SECTION 2-5. Filling of Vacancies.

—(a) Special Election— ~~If there be~~ a vacancy occurs, by failure to elect, removal from residency in the city, death, resignation or otherwise, on the city council ~~within~~ at any time before the ~~first 15 calendar~~ final 9 months of the term for which ~~councilors are~~ the council member was elected, the city council shall ~~forthwith call~~ at its next regular meeting introduce a measure calling for a special election to fill the vacancy. for the remainder of the unexpired term and shall, within 30 days, act on that measure. The election shall be by the voters of the ~~whole city in the case of councilors at large or city.~~

(b) Councilor ~~by the voters entitled to such representation in the case of~~ ward ~~councilors.~~

~~————(b) After Regular City Election—: If a vacancy shall occur after 15 calendar~~occurs within the final 9 months of the term for which councilors are a councilor-by-ward is elected, no special election shall be held. In to fill the case of a vacancy in the office of ward councilor, 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 that person was elected, serve for the balance of the then-unexpired term. In the case of a vacancy in the office of councilor at large, 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 ~~that~~the person was elected, serve for the balance of the then-unexpired term. ~~If no incumbent councilor at large from the ward in which the vacancy exists is elected at the election for such office, the candidate who receives the highest number of votes shall be deemed to be elected to the seat in which the vacancy exists and shall serve as aforesaid.~~

~~See. Councilor-at-large: 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~~shall be exercised in a manner determined by ~~the city council.~~

~~————(b) Quorum—A —~~ The presence of a majority of members of the city council then in office shall constitute a quorum but a smaller number may meet and adjourn from time to time for the transaction of business. 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.

~~————(c) Rules of Procedure —~~The city council shall ~~from time to time~~ establish rules for its proceedings. Regular meetings of the city council shall be held at a time and place fixed by ordinance. Special meetings of the city council ~~may~~shall be held on the call of: the mayor as provided in ~~subsection (b) of section 3-7, on the call of (b);~~ the president of the city council; or ~~on the call of any 74 or more members of the city council,~~ by written notice delivered to the place of residence or business of each member at least ~~2448~~ 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 ~~and press~~. Every matter coming before the city council for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate and up-to-date record of 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. ~~It shall include a record of each roll call vote.~~

See. SECTION 2-7. City Clerk; Comptroller of Accounts.

— As soon as practicable after the city council has been organized, it shall elect, ~~by ballot or otherwise~~, 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. ~~Vacancies in said offices shall be filled for the balance of any unexpired term by the city council~~ a roll call vote.

— 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. ~~(Acts of 1991, Chap. 50.)~~

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

(a) Clerk of the Council — The city council shall elect, ~~by ballot or otherwise~~, 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 ~~from time to time~~ 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 ~~establish~~, and may ~~from time to time~~ 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.

See. (d) Legal 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 ~~special~~ 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 ~~at the expiration of 2021~~ 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 ~~thereto to the measure~~ shall be separately voted on and shall require the affirmative vote of 2/3 of the ~~full~~ council then in office. 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.

———(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 32 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 54 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. The city council may, by rule, limit the application of the charter objection procedure.

See (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.

See 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~~ 5 days 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.

ARTICLE 3.
EXECUTIVE BRANCH

~~See~~**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 ~~secular~~ 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.

Commented [SC1]: This section is being deferred

(d) The mayor shall receive such salary as the city council shall determine by ordinance ~~from time to time determine~~, 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.

~~See~~**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 ~~cause~~enforce the laws, ordinances, and orders for the government of the city ~~to be enforced~~, and shall ~~cause~~keep a record of all official acts as mayor ~~to be kept~~. To aid the mayor with official mayoral duties, the mayor may appoint ~~1 or more assistants~~staff, including a citizen assistance officer, fix their salaries and define their duties.

~~—(b) Citizen Assistance Officer — The mayor shall appoint a citizen assistance officer in accordance with section 3-3 and fix the officer's salary. The citizen assistance officer shall be responsible for processing citizen complaints and inquiries that are directed or referred to the officer. The citizen assistance officer shall establish and maintain procedures for the examination and appropriate referral of requests for information or assistance on any municipal matter. The citizen assistance officer shall maintain a central file, open to the public, of all inquiries and complaints together with their resolutions. The citizen assistance~~

~~officer shall analyze data on citizen complaints and inquiries and shall regularly submit reports as directed by the mayor.~~

~~See (b) The mayor shall appoint a chief administrative or operating officer to coordinate and direct the operations of the various departments and functions of municipal government. The chief administrative or operating officer shall serve at the pleasure of the mayor and be appointed on the basis of having strong administrative and executive qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.~~

SECTION 3-3. Appointments by Mayor.

~~(a) — (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~~take effect 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 ~~rejects the appointment~~ within ~~said~~those 30 days.~~

~~(c) All officers and city agencies shall ~~reject such appointment~~, 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 ~~said~~those 60 days ~~shall reject such appointment. Rejection by the city council shall require a 2/3 vote.~~~~

~~(b) The mayor shall appoint a collector treasurer for a term coterminous with the mayor's term and until a successor for the position of collector treasurer is qualified unless removed by the mayor prior to the expiration of such term. The mayor shall submit the proposed appointment to the city council as soon as possible after the mayor's term commences or as soon as possible after a vacancy occurs in the collector treasurer's office. The city council must approve this appointment by majority vote of the full council within 90 days from the date on which notice of the proposed appointment is filed with the city clerk as~~

~~provided in section 3-4, or the proposed appointment shall not take effect. Removal of the collector-treasurer by the mayor prior to expiration of the collector-treasurer's term in office shall not take effect until approved by majority vote of the full city council. The collector-treasurer shall receive and pay out all money belonging to the city according to the order of its authorized officers. No other person shall have authority to pay any bill of any municipal department. The collector-treasurer shall have such other powers and perform such other duties as the mayor may prescribe in addition to such duties as may be prescribed by law.~~

(e) — (e) Rejection by the city council of an appointment by the mayor under (b) or (d) shall require a 2/3 vote.

(f) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in subsection (c) of section 2-9. (Acts of 1991, Chap. 50; Acts of 1992, Chap 173.)section 2-9(c).

(g) ~~See.~~The mayor shall regularly, but not less frequently than annually, provide to the city clerk and the city council a listing of all vacancies on city boards and commissions, along with an indication of the appointing authority responsible for filling the vacancy. The city clerk shall make the listing available to the public electronically and otherwise.

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.

See, SECTION 3-5. Removal of Officials.; Vacancy Notification

(a) —The mayor may remove any person appointed by the mayor by filing written notice ~~thereof~~ of the removal with the city clerk.

(b) ~~See.~~If the position of a department head, or other senior staff position including, but not limited to the positions identified in section 3.2.(b) becomes vacant, the mayor shall notify the city clerk and the city council within 72 hours.

SECTION 3-6. Temporary Appointments.

~~Whenever~~If there is a vacancy in an office appointed by the mayor ~~occurs~~, whether by reason of disability, death, resignation or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed 3 months. ~~Whenever~~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.

~~See.~~

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 ~~from time to time throughout the year~~not less frequently than semi-annually, by written communications to the city council, ~~keep it fully informed as~~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 judges~~determines~~ the needs of the city require.

~~(b) Calling Special Meetings~~ —The mayor may ~~at any time~~ 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~~. Public notice of the meeting ~~to~~shall be posted at least ~~24~~48 hours in advance of the time set for the meeting, ~~or~~for such lesser period as the mayor may determine in case of an emergency, of which the mayor shall be the judge.

See-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. ~~If during the 24 hours immediately following such adjournment, a motion to reconsider 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.~~

~~_____~~, 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; ~~or (iii) the budget.~~ (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 ~~no 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 vetoed 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.

~~See.~~

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

_____ ~~Whenever~~ if by reason of sickness, absence from the city or ~~other cause~~ otherwise, the mayor ~~shall be~~ is unable to ~~attend to~~ perform the duties of the office of the mayor, the president of the city council ~~or the vice president of the city council in the event of the president's disability through sickness or absence~~ shall, as acting mayor, possess the powers of the mayor only in those matters ~~not admitting of delay~~ 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. The city council, with approval of the mayor, may provide by ordinance for the handling of certain administrative duties of the mayor by other city councilors during the temporary absence of the 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 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.

See:

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

(a) — ~~If a vacancy occurs in the office of the mayor, by death, resignation, removal from office, failure to elect or otherwise at any time preceding the last 9 calendar months of the term for which the mayor was elected, the city council shall forthwith call, at its next regular meeting, introduce a measure calling for a special election to fill the vacancy for the remainder of the unexpired term— and shall, within 30 days, act on that measure. The special election shall be held within 150 days and, if a preliminary election is required under section 8-3, the preliminary election shall be held within 100 days of the calling of the election.~~

Commented [SC2]: To be discussed with Law, City Clerk. Baker provided Law and Clerk with new language to review

(b) ~~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 clerk of the council shall forthwith call a special meeting of the city council and the city council shall by majority vote of the full council elect 1 of its members as acting mayor for the remainder of the unexpired term. If the city council fails to elect an acting mayor as aforesaid within 30 days of the date of the meeting called by the clerk of the council, the president of the city council shall become acting mayor, shall exercise all the rights and powers of the mayor and shall be sworn to the faithful performance of the duties of the office. Upon the election and qualification of any member of the city council as acting mayor under this section, a vacancy shall exist in the member's council seat. The president of the city council shall serve as the acting mayor until the next election for mayor is held. If the city council president is unable or unwilling to serve, the vice president of the city council shall serve as mayor. If both the council president and the council vice president are unable or unwilling to serve, the council shall elect from among its membership a councilor to serve as the acting mayor.~~

(c) — ~~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. 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.

(Referendum of 11-04-75.)

**ARTICLE 4.
SCHOOL COMMITTEE**

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

———(a) Composition —There shall be a school committee of 9 members, ~~which shall exercise control and management; 8 of the public schools of the city. Eight of these members, who~~ whom shall be known as school committee members. The school committee members shall be nominated and elected by the voters ~~at large~~ of the city, 1 school committee member to be elected from each ~~of the 8 wards~~ 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 ~~the date that the election commission makes available blank forms for the nomination of candidates for office. In order to hold the office of school committee member, a candidate shall have continuously been a resident of the ward from which the candidate is elected from the date that the election commission made such blank forms available until and including the first day of the term for which the candidate is elected. A member of the school committee shall, notwithstanding the member's removal from 1 ward of the city to another, June 1 of the year in which a regular election is held.~~

If member of the school committee moves to a different ward, the member shall 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 any school committee member shall create a vacancy in such office.

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

(c) Election and Term —The ~~term~~ term of each school committee ~~members~~ member shall be 2 years beginning on the first ~~secular~~ day of January after ~~their~~ the member's election and shall continue until ~~their successors are~~ a successor is qualified. No person shall be eligible for election to the school committee for a fifth consecutive full term. ~~(Referendum of 11-04-75; Acts of 2002, Chap. 368.)~~

~~See (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, school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

SECTION 4-2. ~~Organization; Quorum; Rules of Procedure; Posting of Policies~~

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

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

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

—Except as otherwise authorized by ~~sections 18 to 25, inclusive, of chapter 30A of~~ the General Laws, all sessions of the school committee shall be open to the public ~~and press~~. 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 ~~shall be open~~:

- (i) ~~made electronically available to inspection by~~ the public. ~~It~~ in a timely manner;
- (ii) shall include a record of each roll call vote; ~~and~~

~~(iii) See 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 may by ordinance from time to time assign or this charter. The powers of the school committee shall include, but not be limited to, the power to: (i) appoint a~~

- ~~(i) establish a mission statement for the Newton Public Schools and policies that align with that statement;~~
- ~~(ii) select, evaluate and remove the superintendent; (ii) appoint~~
- ~~(iii) adopt all other officers and employees connected with the schools, fix their compensation and define their duties, make reasonable rules concerning their tenure of office and discharge them at its pleasure; (iii) furnish 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 (iv) provide providing ordinary maintenance and repairs on all school buildings up to a maximum expenditure equal to 2 per cent of the school department's operating budget adopted for the preceding fiscal year; provided, however, that sums in excess of the maximum for the provision of ordinary maintenance and repairs may be appropriated by the mayor and the city council and no sums appropriated to accounts for ordinary maintenance and repairs shall be transferred without a 2/3 vote of the city council. (Referendum;~~
- ~~(vi) upon the recommendation of the superintendent, establish and appoint associate or assistant 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 41-04-75; the Newton Public Schools.~~

Commented [SC1]: Law Dept recommends deleting these changes, however, current language is out of date and in conflict with current statute. Law Dept. will recommend language. SC would like to see some specific language retained since the statute is fairly opaque.

See SECTION 4-4. New School Buildings.

~~Whenever in the opinion of the school committee determines that a new schoolhouse school building or a major renovation is required or material alterations are needed, it, the school committee~~

shall send a written communication to the city council ~~stating the locality and the nature~~describing the determination. 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 ~~further provisions for schools which are needed; provided, however, that no schoolhouse shall be located, built or materially altered until the school committee shall have been consulted as to the proposed location and plans and had full opportunity to set forth its requirements~~community.

~~See~~SECTION 4-5. Prohibitions-

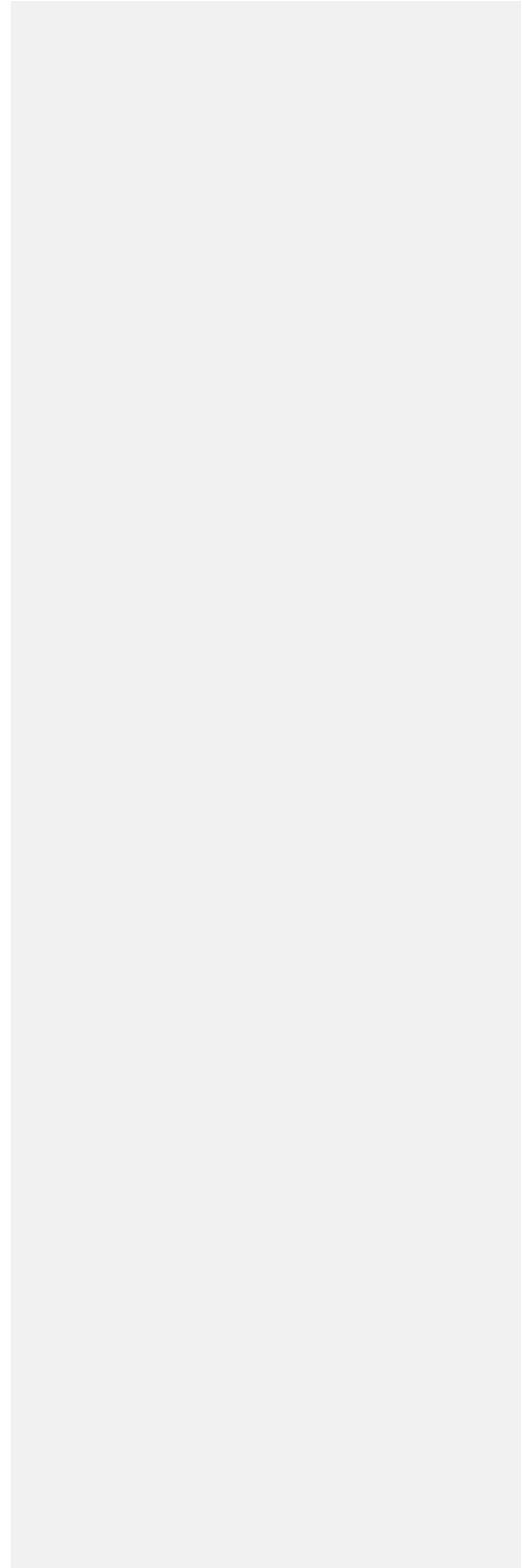
—No former school committee member shall ~~hold be appointed to~~ any compensated ~~appointive~~ city office or ~~city~~ employment until 1 year after the expiration of the member's service on the school committee. This ~~provision~~section shall not prohibit a former city employee or city officer from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

~~See~~SECTION 4-6. Filling of Vacancies-

—(a) If ~~there be~~ a vacancy occurs, by failure to elect, removal from the city, death, resignation or otherwise, on the school committee ~~within at any time before the first 15 calendar~~final 9 months of the term for which the school committee ~~members are~~member was elected, the city council shall ~~forthwith call~~at its next regular meeting introduce a measure calling for a special election to fill the vacancy ~~for the remainder of the unexpired term and shall, within 30 days, act on that measure.~~ The election shall be by the voters of the ~~whole~~ city.

—(b) If ~~the~~a vacancy ~~shall occur after 15 calendar~~occurs within the final 9 months of the term for which a school committee ~~members are~~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 votes to call the special election.



**ARTICLE 5.
FINANCIAL PROCEDURES**

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

The mayor shall annually prepare a forecast of city revenues, expenditures and the general financial condition of the city. The forecast shall cover at least 5 years and shall include all funds subject to appropriation. The forecast shall also 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.

~~See~~ 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.

Commented [SC1]: Further discussion required. Mayor/COO not in favor. This provision is referenced in section 2-8(d) as well.

SECTION 5-23. 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.

~~See~~ **SECTION 5-34. Capital Improvement Program.**

—(a) ~~Submission~~—The mayor ~~shall prepare and submit to the~~ and city council ~~a 5-year capital improvement program at least 6 months prior to receipt~~ shall be active stewards of the ~~next fiscal year's operating budget~~ city's physical assets.

(b) 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 ~~facilities~~ capital assets included. ~~The above information~~ capital improvement program shall be revised and extended ~~each year~~ annually.

—(c) ~~Submission~~ — ~~The mayor shall submit to the city council general summary of the 5-year capital improvement program and a notice stating: (i) at least 6 months prior to the times and places where copies~~ mayor's submission of the operating budget for the next fiscal year.

(d) Public Hearing—The city council shall make the proposed capital improvement program ~~are~~ available ~~for inspection by~~ to the public; ~~and (ii) the date, time and place, not less than 2 weeks after the publication, when a~~ and shall hold at least 1 public hearing, in accordance with state law, on the capital improvement program ~~will be held by the city council~~.

—(e) 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 ~~with or without amendments. (Referendum of 11-04-75.)~~

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

SECTION 5-4-5. 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 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 [SC2]: Subcommittee accepted the CC proposed language. Baker to check with Comptroller

ARTICLE 6.
ADMINISTRATIVE DEPARTMENTS

Sec. SECTION 6-1. Reorganization Plans ~~by City Council.~~

~~—Except as otherwise provided by law or this charter, the city council may by ordinance: (i) reorganize, consolidate or abolish any existing city agency in whole or in part; (ii) establish new city agencies; and (iii) prescribe the functions of any city agencies. All city agencies under the direction and supervision of the mayor shall be headed and administered by officers appointed by the mayor.~~

Sec. 6-2. Reorganization Plans by Mayor.

——(a) The mayor may, ~~from time to time,~~ 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~~city council, be referred to an appropriate committee of the city council which shall, not more than 30 days ~~later~~after receipt of the plan, 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 ~~may~~shall not be amended by the city council but shall either be approved or rejected as submitted ~~and~~. Reorganization plans shall not be subject to charter objection as provided in ~~subsection (c) of section 2-9. (Referendum of 11-04-75; Acts of 1992, Chap 174.)~~(c).

~~Sec.~~(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 6-3-2. Publication of Reorganization Plan.

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

**ARTICLE 7.
PLANNING**

See, SECTION 7-1. Department of Planning and Development.

~~There shall be a 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 setting forth in graphic and textual form policies to govern the future physical development of the entire city. The containing the plan shall cover the entire city and all of its functions and services or shall consist of a combination elements described in section 81D of plans governing specific functions and 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.~~

Commented [SC1]: Check with Law Dept about control: MGL or Special Act

~~(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 of 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 from the mayor of a proposed new comprehensive plan, or a proposed modification of the existing plan, the city council shall refer the proposal to the planning and development board which shall, within a time specified by the city council, report its recommendations on the proposal. After receipt of comprehensive plan, and the recommendations of the planning and development board, the city council shall hold at least 1 public hearing on the proposed comprehensive plan or the proposed modification of the or new comprehensive plan and shall, by resolution, adopt the same new comprehensive plan or modification of the comprehensive plan with or without amendments. The city council may thereafter from time to time modify the comprehensive plan.~~

~~—(c) Effect—The comprehensive plan shall serve as a guide to all future action by the city council concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

~~**See 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 guidance of the city's comprehensive plan.~~

~~—(b) Urban Renewal —In accordance with the General Laws, the city council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for the alleviation or prevention of slums, obsolescence, blight or other conditions or deterioration.~~

~~—(e) Action by the City Council —Before acting on and the Planning and Development Board — If any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where the ordinance involves a matter covered by addressed in the comprehensive plan concerning land use, development regulations, or capital improvement expenditures, the city council shall first refer the proposal-proposed ordinance to the planning and development board which. The board shall, within a time specified by the city council and prior to the public hearing on the proposed ordinance, report in writing its recommendations on the proposal. Upon adopting any such ordinance, the city council shall make findings and report on the relationship between the ordinance and the comprehensive plan and the comprehensive plan shall be deemed to be amended in accordance with the findings and report.~~

~~in writing to the city council on the proposed ordinance in accordance with section 5 of chapter 40A of the General Laws.~~

**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.

Commented [SC1]: If composition of City Council changes, this may need revision

(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, the phrase "Candidate for Re-election" shall appear beside the candidate's name.

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 any special election called to fill a vacancy in the office of mayor and for each regular city election, a preliminary election shall be held to nominate 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 election commission 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, or school committee member as provided in sections 2-5 and 4-6; provided that the date shall be within 120 days after the date on which the election is called. No special election under section 2-5, 3-10 or 4-6 shall be held during the month of July or August and any election that would otherwise be scheduled to take place in July or August shall be held at the earliest possible date in September. A person elected at a special election shall immediately be sworn and assume that office.

Commented [SC2]: Councilor Baker to discuss with David Olson. This needs to be reviewed to be sure the allotted time constraints are sufficient and that there is consistency throughout

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, 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 10-
FREE PETITION; INITIATIVE; AND REFERENDUM

~~See~~**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 ~~in their discretion~~ take such action with regard to the petitions as they deem necessary and advisable.

~~Sec. 10-2.(b)~~ **Group Petitions; ~~Action Required.~~**

~~The city council to City Council or the school committee~~ 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 every petition which is addressed to it, which is signed by at least 50 voters, and which seeks the passage of a measure,~~ the petition. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or ~~subcommittee of either the city council or school committee and the action by~~ sub-committee of the city council or school committee ~~shall be taken,~~ not later than 3 months after the petition is filed with the ~~city clerk,~~ 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 ~~and the city.~~ The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the ~~first 50 certified signers,~~ 10 persons whose names appear ~~first on each~~ the petition at least ~~48 hours,~~ 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense. (Referendum of 11-04-75.)

~~See~~**SECTION 10-32. Initiative; ~~Repeat Matters.~~ Measures**

~~Except as otherwise provided by law or this charter, a measure may be proposed to the city council or the school committee in accordance with this article, but no measure which is substantially the same as any other measure submitted or referred to the voters and disapproved by them within 2 years or which would have the effect of repealing any measure so submitted or referred and approved by the voters within 2 years may be proposed by initiative procedures.~~

~~Sec. 10-4. Initiative: (a) Commencement of Proceedings; Referral to City Solicitor.~~

~~_____~~ Initiative procedures shall be started by the filing of an initiative petition with the ~~city clerk, 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 ~~set forth, which shall appear in full~~ in the petition, and shall be signed by at least ~~50~~200 voters. ~~The petition shall be accompanied by an affidavit signed by 10 voters and containing each voter's residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.~~

~~(b) Referral to City Solicitor — If the city clerk determines~~ election commissioners determine that at least ~~50~~the number of the filers ~~are~~signatures of voters, ~~the city clerk shall transmit~~ 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 certification, deliver a copy of the petition to the city solicitor.

~~Sec. 10-5. Initiative: Opinion of Solicitor.~~

~~_____~~ ~~Within 15 days after receipt of the petition, the~~ The city solicitor shall, ~~within 15 days following receipt of a copy of the petition,~~ advise the city ~~clerk council or the school committee,~~ in writing, whether the measure may ~~lawfully~~ be proposed by ~~the~~ initiative ~~procedures~~process and whether ~~in its present form~~ it may ~~be~~ lawfully ~~be passed~~adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure ~~may~~is not ~~lawfully be passed in proper form,~~ the ~~city solicitor~~reply shall state the ~~reason or~~reasons for ~~the~~such opinion ~~in the reply.~~ The city clerk shall furnish a ~~A~~ copy of the ~~city solicitor's~~opinion of the city solicitor shall also ~~be mailed to the person whose name first appears~~those identified on the ~~initiative petition~~affidavit as ~~the petitioners committee.~~

~~Sec. 10-6. Initiative: (c) Additional Signatures.~~

~~_____~~ The signatures of additional voters who support ~~_____~~ If the city solicitor determines that the petition ~~is~~ in addition to those in Section 10-4, may be gathered on forms prepared in accordance with

~~Section 10-13. The separate pages bearing additional signatures a proper form, the city clerk shall be filed at one time with the city clerk not more than six months after the filing of the original provide blank petition with the city clerk forms within 10 days for the use of subsequent signers and shall be deemed to be part print at the top of each blank form a fair, concise summary of the initiative petition. Such additional signatures proposed measure, as determined by the city solicitor, together with those the names and addresses of the first fifty filers 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 equal in number to ten 10 per cent of the total number of voters registered to vote at voters as of the date of the most recent preceding regular city election.~~

~~Sec. 10-7. Initiative; Validation of Signatures; Action on Petition.~~

~~— The sufficiency of the number of signatures to an initiative petition shall be determined in accordance with section 10-14. Within 30 days after an initiative petition is presented to the city council or the school committee, the city council or the school committee shall act with respect 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 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 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 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 initiative measure by passing it clerk of the council or the secretary of the school committee by the election commissioners, the city council or the school committee shall pass the measure without change, by rejecting it or by passing some other 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 the any initiative measure as required by this section which is presented to it within 30 days after presentation following the date it~~

~~is returned to either the council or school committee by the election commissioners, the measure shall be deemed to have been rejected on the such thirtieth day ~~after presentation.~~ If an initiative measure is rejected, the ~~city clerk of the council or the secretary of the school committee~~ shall promptly give ~~written~~ notice of that fact to the ~~first 10 members of the~~ petitioners committee by certified mail. Initiative measures shall not be subject to the charter objection ~~as provided in subsection (e) of section 2-9.(c).~~~~

~~Sec. 10-8. Initiative: (e) Supplemental Petitions; Submission to Voters.~~

~~— Within 45 days after notice of following the rejection of date an initiative ~~measure~~ petition has been given by the city clerk ~~rejected~~, a supplemental initiative petition ~~addressed to~~ may be filed with the city clerk of the council or the secretary of the school committee on forms prepared in accordance with section 10-13 may be filed with the city clerk. The supplemental initiative petition shall be signed by a number of additional voters which is at least equal to 5 per cent percent of the total number of voters ~~registered to vote at as of the date of~~ the most recent ~~preceding~~ regular city election. ~~The sufficiency of the number of signatures to a supplemental initiative petition shall be determined in accordance with section 10-14.~~~~

~~(f) Scheduling of Election — If the number of signatures to ~~a such~~ supplemental ~~initiative~~ petition is found to be sufficient, ~~by the city council shall provide election commissioners for submission of the initiative measure to the voters in accordance with section 10-15; petitions submitted to the school committee, the city 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.~~~~

~~Sec. 10-9. Referendum: Right to Refer to Registered Voters.~~

~~—Except as otherwise provided by law or this charter, any measure passed by the city council or the school committee, including a measure proposed by initiative procedures and passed by the city council or the school committee, may be protested and referred to the voters in accordance with this article.~~

~~Sec. 10-10. Referendum: Commencement of Proceedings.~~

~~—Referendum procedures shall be started by the filing of a referendum petition with the city clerk within 20 days after the final passage by the city council or the school committee of the measure to which the petition relates. The petition shall be addressed to the city council or the school committee on forms prepared in accordance with section 10-13 and shall be signed by a number of voters which is at least equal to 5 per cent of the total number of voters registered to vote at the most recent preceding regular city election. Whenever referendum procedures are started in accordance with this section, the referendum measure shall thereupon be suspended from taking effect and such suspension shall remain in force until: (i) it is determined that there is an insufficient number of signatures to the petition; (ii) the referendum measure has been repealed or rescinded by the city council or the school committee; or (iii) the question of whether the measure should take effect has been determined by the voters. (Referendum of 11-04-75.)~~

~~Sec. 10-11. Referendum: Validation of Signatures; Action on Petition.~~

~~—The sufficiency of the number of signatures to a referendum petition shall be determined in accordance with section 10-14. Within 30 days after a referendum petition is presented to the city council, it shall reconsider the referendum measure and shall repeal or rescind it or the city council shall provide for referring the matter to the voters in accordance with section 10-15. Within 30 days after a referendum petition is presented to the school committee it shall likewise reconsider and repeal or rescind the referendum measure or shall notify the city council that it has failed to take such action with respect to the measure. Upon receipt of such notice, the city council shall thereupon provide for referring the matter to the voters in accordance with said section 10-15.~~

~~Sec. 10-12. Initiative and Referendum:~~ (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) Ineligible Measures.~~

~~—None of the following measures shall be subject to initiative or referendum procedures: (i) proceedings relating to the organization or operation of the city council or school committee; (ii) an emergency measure passed in conformity with this charter; (iii) the city budget or the school committee budget; (iv) revenue loan orders; (v) any appropriations for the payment of the city's debts or obligations; (vi) appropriations of funds necessary to implement a written agreement executed under section 7 of chapter 150E of the General Laws; (vii) any proceedings or part thereof, relating to the election, employment, appointment, suspension, transfer, demotion, removal or discharge of any city officer or employee; (viii) any proceedings repealing or rescinding a measure or a part of a measure, which is protested by referendum procedures; and (ix) any proceeding providing for the submission or referral of a matter to the voters at an election.~~

~~Sec. 10-13. Initiative and Referendum: Forms of Petitions.~~

~~—(a) Signatures to initiative, supplemental initiative and referendum petitions need not all be on 1 paper.~~

~~—(b) Each separate page of an initiative, supplemental initiative and referendum petition on which signatures in addition to those of the original filers of the petition are obtained shall bear the names and addresses of any 10 original filers of the petition and shall also have the following 2 sentences in substantially the following form at the top of the petition:~~

~~—“Each of the undersigned requests that the (City Council) (School Committee) of the City of Newton pass the following measure (set forth initiative measure in full). Each of the undersigned certifies that the signer is a registered voter of the city and that the signer has not signed this initiative petition more than once.”~~

~~—(c) Each separate page of a supplemental initiative petition shall have the following 2 sentences in substantially the following form at the top:~~

~~—“Each of the undersigned requests that the following measure which was presented by an initiative petition and then rejected by the (City Council) (School Committee) of the City of Newton be submitted to all the registered voters of the city (set forth initiative measure in full). Each of the undersigned certifies that the undersigned is a registered voter of the city and has not signed this supplemental initiative petition more than once.”~~

~~—(d) Each separate page of a referendum petition shall have 2 sentences in substantially the following form at the top:~~

~~—“(Each of the undersigned protests the action of the (City Council) (School Committee) of the City of Newton whereby it passed the following measure: (set forth the protested measure in full), and requests that such measure be repealed or rescinded.); or (Each of the undersigned protests the action of the (City Council) (School Committee) of the City of Newton in passing (describe measure in general terms) insofar as said measure contains the following provisions: (set forth the protested provisions in full), and requests that such provisions be repealed or rescinded.) Each of the undersigned certifies that the signer is a registered voter of the city and the signer has not signed this referendum petition more than once.”~~

~~—(e) All initiative, supplemental initiative, and referendum petitions shall require the following information to be furnished by each signer in accordance with the following instructions which shall appear on each page:~~

~~Name[⊘]~~

~~Present Address (Street and Number)~~

~~⊘ Written signature of voter; provided, however, that a registered voter prevented from writing by physical disability may authorize another person to write the voter’s signature and address.~~

~~Registered Address (Street and Number on January 1, 20^{⊘⊘})~~

~~1.....~~

~~2.....~~

~~3.....~~

~~** If a voter was registered later than this date, the registered address on the later date shall be used.~~

~~—(f) If a petition is expected to be filed in the period between July 15 and December 31, the year inserted in "Registered Address" in subsection (e) shall be the then current year. If a petition is expected to be filed in the period between January 1 and July 15, the year inserted in "Registered Address" in said subsection (e) shall be the preceding year. (Referendum of 11 04 75.)~~

~~Sec. 10-14. Initiative and Referendum Procedures; Validation; Notice; Objections.~~

~~—Whenever a completed initiative petition, a supplemental initiative petition, or a referendum petition is filed with the city clerk, the city clerk shall submit the petition to the election commission forthwith. The election commission shall thereupon examine the petition and place a check mark against each signature which the commission determines is the name of a voter, except that when the commission has checked a number of signatures which is 40 per cent greater than the minimum number of signatures required for a valid petition, the commission need not examine or check any further signatures. The commission shall prepare a certificate showing the number of signatures to the petition which have been checked by the commission and the number of voters who were entitled to vote at the most recent preceding regular city election and the commission shall return the petition with the certificate to the city clerk. The number of persons who were so entitled to vote shall be deemed to be the number of voters for the purposes of sections 10-6, 10-8 and 10-10. The city clerk shall hold the petition and the commission's certificate available for public inspection during ordinary office hours for 2 full days; provided, however, that unless written objections to the certificate of the commission are filed by a voter within said period, the commission's certificate shall be deemed conclusive. If objections are so filed, the city clerk shall promptly give written notice of that fact to the first 10 petitioners. Objections to the sufficiency or validity of the signatures on any petition shall be disposed of forthwith in the manner provided by the General Laws and, to the extent required, the commission shall revise the certificate accordingly. If the certificate of the commission or its revised certificate, if any, shows that the number of signatures to the petition is insufficient, the city clerk shall give written notice of that fact to the first 10 petitioners and shall retain the petition for at least 6 months after which period the city clerk may destroy the petition. If the original or revised certificate shows that the number of signatures is sufficient, the city clerk shall present the petition and the applicable certificate to the city council or the school committee as may be appropriate.~~

~~Sec. 10-15. Initiative and Referendum: Referral to Voters.~~

~~—Whenever an initiative measure is to be submitted to the voters or a referendum measure is to be referred to the voters, the city council shall provide for the submission or referral at the next regular city election; but in the case of a referendum measure the city council may (i) within 30 days after a decision by the city~~

~~council or the school committee not to repeal or rescind a measure or (ii) in the case of inaction by the city council or the school committee on the repeal or rescission of a measure within 30 days following the 30-day period referred to in section 10-11, call a special election to be held within 120 days of the vote.~~

~~Sec. 10-16. Initiative and Referendum: Form of Question-~~

~~—(—The ballots used when voting on a) At the election at which an initiative measure is submitted to proposed by the registered voters, the ballot 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. Referendum Procedures~~~~an initiative petition~~

~~(a) Petition, Effect on Final Vote —Within 20 days following the date on which the city council or the school committee has voted finally to approve any measure, voters may file a petition protesting the measure or any part of the measure.~~

~~If such a petition is:~~

~~(1) 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 as certified by the election commissioners;~~

~~(2) accompanied by an affidavit signed by 10 voters and containing each voter’s residential address stating those voters will constitute the petitioners committee; and~~

~~(3) addressed to the (City Council) (School Committee) take effect? (Text of proposed measure) Yes _____ No _____? city council, or to the school committee and filed with the secretary of the school committee or the clerk of the council, the effective date of the measure shall be temporarily suspended.~~

~~—(b) 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(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? (Text of measure) Yes _____ No _____?”; or (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? (Text of provisions) Yes _____ No _____?”.~~

~~—(c) Whenever an initiative measure or referendum measure is to be submitted or referred to the voters, the city clerk shall furnish a copy of the measure to the election commission. If the election commission deems it necessary or desirable, the commission shall prepare a fair and concise summary of the measure for use on the ballot or ballot label in lieu of the full text of the measure. The full text of the measure which is the subject matter of the petition shall be mailed to each household in which a voter resides.~~

~~Sec. 10-17. Initiative and Referendum: (d) Time of Taking Effect.~~

~~—An initiative measure shall take effect and a referendum measure shall be repealed or rescinded if — If a majority of the persons voting votes cast on the question so vote. Such measure shall take effect upon certification by the Election Commission of such vote 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~~ ~~Sec. 10-18. Initiative and Referendum: Inconsistent or Conflicting Provisions.~~

~~—If two or more questions are submitted or referred to the voters at one election and as a result of the election inconsistent measures, which were contained in such questions, would be in effect thereafter, only the measure receiving the greater number of votes in favor of its effectiveness shall take effect or remain in effect.~~

~~Sec. 10-19. Initiative and Referendum: Effect of Veto by the Mayor.~~

~~— Nothing in this article shall be construed to impair a mayor's power to veto action by~~

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

- ~~(1) any emergency measure adopted in conformity with the charter;~~
- ~~(2) the city council to budget or the extent that school committee budget;~~
- ~~(3) any revenue loan orders;~~
- ~~(4) any appropriation for the power is conferred on payment of the mayor, except that city's debt or debt service;~~
- ~~(5) any appropriation of funds to implement a collective bargaining agreement;~~
- ~~(6) any proceedings relating to the mayor shall not have any power to veto appointment, removal, discharge, employment, promotion, transfer, demotion, of a city council officer or employee or other personnel action;~~
- ~~(7) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures; and~~

~~(8) any proceedings providing for the submission of an initiative measure or the referral of a referendum measure matter to the voters. If the mayor vetoes at an initiative measure 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.~~

Commented [SC1]: Needs further discussion. 3 in favor, Baker opposed

SECTION 10-5. Conflicting Provisions

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

SECTION 10-6. Submission of Other Matters to Voters

~~As authorized by chapter 127 of the acts of 2014, the city council or vetoes proceedings 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.~~

SECTION 10-7. 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 council repealing or rescinding a referendum measure and the city council fails to override the mayor's veto, the city council shall provide for submitting the initiative solicitor to: (a) be substantially the same as the defeated measure or referring (b) effectively repeal an adopted initiative measure.~~

~~Any measure that was the subject of a referendum measure to 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**

~~See~~**SECTION 11-1. Certificate of Election and Appointment.**

~~Every person who is elected, including those elected by the city council, or appointed by the mayor to an office shall receive a certificate of 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. **Public 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.~~

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

SECTION 11-2. Appointments and Removals.

~~All officers and city agencies shall, subject to the laws of the Commonwealth relating to the civil service, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but all appointments in the Police and Fire Departments shall be approved by the mayor, who shall also have the power of removal in said departments.~~

SECTION 11-3. Rules and Regulations.

~~(a) 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.~~

Commented [SC1]: Krintzman to docket ordinance item to require/recommend electronic posting

~~See~~**SECTION 11-4. Reenactment and Publication of Ordinances**

(a) ~~The city council shall, not later than 1 year after the charter is adopted and at 5-year intervals thereafter, cause to be prepared by, appoint a special-recodification committee of the city council appointed for that purpose a proposed revision to propose revisions to or recodification of all ordinances of the city which. The recodification committee's proposal shall be presented to the city council for reenactment enactment. The revisions or recodifications 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.

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.

See,SECTION 11-6. Prohibition.

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

See,SECTION 11-7. Meetings of Qualified Voters.

~~—General meetings of the voters may be held from time to time, according to the right secured to the people by the constitution of the Commonwealth; and all such meetings may, and upon the request in writing of fifty voters setting forth the purposes thereof, shall be duly called by the city council.~~

See, 11-8-7. Construction of Public Facilities.

—There shall be established by ordinance a designer selection committee.~~Said 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 provide that~~require the designer selection committee ~~shall~~to be consulted and directed to make recommendations whenever ~~an architect a~~ design professional is to be engaged by the city for ~~any purpose 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 facility building for which ~~an architect a~~ design service professional has been engaged. ~~The ordinance may provide for one~~ Whenever a school project is reviewed, at least 1 member of the school committee shall be included as a voting member of the design review committee ~~for all public buildings or it may provide that separate committees be established for each facility.~~

~~See, SECTION 11-9-8. Severability.~~

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

~~See, SECTION 11-10-9. Specific Provisions Shall Prevail.~~

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

~~See, SECTION 11-11-10. References to General Laws.~~

~~—All references to the General Laws contained in the charter refer to the General Laws of the Commonwealth 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.~~

~~See, SECTION 11-12-11. Computation of Time.~~

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

~~Sec. 11-13. Definitions.~~

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

~~—“Charter”, the charter and any amendments to the charter made through any of the methods provided under Article LXXXIX of the Amendments to the State Constitution.~~

~~—“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.~~

~~“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.~~

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

~~“Voters”, the registered~~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 11-13. 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 of Newton.

Commented [SC2]: Baker will discuss with Law Dept to explore carving out exceptions. Favors recod process but not wholesale review.

ARTICLE 12-
TRANSITIONAL PROVISIONS

~~See SECTION 12-1: Continuation of Existing Laws~~

~~—All general laws, special laws, city ordinances, resolutions, rules and regulations of the City or pertaining to Newton, including special acts creating regional entities and arrangements of which the city is a member, that are in force at the time the when this charter is adopted, 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 continue be decided in force until amended or repealed, favor of this charter.~~

~~See SECTION 12-2: Continuation of Government and Administration~~

~~—All City city agencies shall continue to perform their duties until re-elected, reappointed, re-elected, 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.~~

~~See SECTION 12-3: Continuation of Administrative Personnel~~

~~—Any person holding an office or position in the administrative service of the city or any person serving in the employment of the city shall retain such office or position and shall continue to perform the duties of such office or position until provisions shall have been made in accordance with the charter for the performance of the duties by another person or agency; provided, however, that no person in the permanent full time service or employment of the city shall forfeit such person's pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.~~

~~See 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 ~~whatsoever~~ of any ~~City~~ agency, or part ~~thereof~~ of a ~~city~~ agency, the powers and duties of which are assigned in whole or ~~in~~ part to another ~~City~~ agency, shall be transferred ~~forthwith~~ immediately to the ~~City~~ that agency to which such powers and duties are assigned.~~

~~See SECTION 12-5: Effect on Obligations, Taxes and Other Legal Acts, Etc.~~

~~—All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the ~~City~~ before ~~is~~ the adoption of ~~the~~ this charter, and all taxes, ~~special~~ assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the ~~City~~, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as ~~herein~~ otherwise provided 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 ~~is~~ reason of the adoption of ~~the~~ this charter.~~

~~See SECTION 12-6: Disposition of Special Acts, Legislation~~

~~—(a) Partial Repeal of Certain Special Acts—The following Special Acts insofar as they confer power upon the City of Newton which the City would not otherwise hold under the charter, General Laws or the constitution, are retained; otherwise, they are hereby repealed, it being the explicit intention of this paragraph that portions of any Special Acts retained which limit or restrict a power conferred or the manner in which it is to be exercised be repealed and that powers so conferred are to be exercised in accordance with the charter: Chapter three hundred and forty four of the acts of eighteen hundred and seventy two; chapter three hundred and fifty three of the acts of eighteen hundred and seventy four; chapter one hundred and forty five of the acts of eighteen hundred and seventy four; chapter one hundred and twenty five of the acts of eighteen hundred and seventy four; chapter eighteen of the acts of eighteen hundred and seventy six;~~

~~chapter fifty four of the acts of eighteen hundred and seventy six; chapter one hundred of the acts of eighteen hundred and seventy seven; chapter one hundred and forty four of the acts of eighteen hundred and seventy seven; chapter sixty three of the acts of eighteen hundred and seventy eight; chapter one hundred and forty seven of the acts of eighteen hundred and seventy eight; chapter sixty nine of the acts of eighteen hundred and seventy eight; chapter one hundred and nine of the acts of eighteen hundred and eighty six; chapter three hundred and two of the acts of eighteen hundred and eighty nine; chapter two hundred and thirty four of the acts of eighteen hundred and ninety; chapter seventy of the acts of eighteen hundred and ninety two; chapter two hundred and ninety six of the acts of eighteen hundred and ninety five; chapter three hundred and forty of the acts of eighteen hundred and ninety six; chapter two hundred and sixty nine of the acts of eighteen hundred and ninety eight; chapter sixty three of the acts of eighteen hundred and ninety eight; chapter eighty nine of the acts of eighteen hundred and ninety nine; chapter four hundred and fifteen of the acts of nineteen hundred; chapter two hundred and four of the acts of nineteen hundred and one; chapter one hundred and sixty five of the acts of nineteen hundred and one; chapter four hundred and eighty of the acts of nineteen hundred and two; chapter one hundred and thirty three of the acts of nineteen hundred and three; chapter one hundred and sixty seven of the acts of nineteen hundred and six; chapter two hundred and two of the acts of nineteen hundred and ten; chapter seven hundred and sixty nine of the acts of nineteen hundred and thirteen; chapter one hundred and eighty nine of the acts of nineteen hundred and thirteen; chapter six hundred and eighty three of the acts of nineteen hundred and thirteen; chapter one hundred and seventy seven of the acts of nineteen hundred and fifteen; chapter three hundred and thirty two of the acts of nineteen hundred and seventeen; chapter eighty six of the acts of nineteen hundred and twenty; chapter thirty four of the acts of nineteen hundred and twenty four; chapter two hundred and forty three of the acts of nineteen hundred and twenty four; chapter thirty five of the acts of nineteen hundred and twenty five; chapter three hundred and thirty six of the acts of nineteen hundred and twenty seven; chapter seventy three of the acts of nineteen hundred and twenty eight; chapter twenty five of the acts of nineteen hundred and thirty two; chapter twenty of the acts of nineteen hundred and thirty four; chapter two hundred and sixty one of the acts of nineteen hundred and thirty five; chapter three hundred and fifteen of the acts of nineteen hundred and forty nine; chapter three hundred and forty four of the acts of nineteen hundred and forty nine; chapter three hundred and sixty seven of the acts of nineteen hundred and fifty three; chapter four hundred and nineteen of the acts of nineteen hundred and fifty five; chapter two hundred and eleven of the acts of nineteen hundred and fifty five; chapter one hundred and two of the acts of nineteen hundred and fifty six; chapter one hundred and one of the acts of nineteen hundred and fifty six; chapter four hundred and thirty nine of the acts of nineteen hundred and sixty one; chapter three hundred and sixteen of the acts of nineteen hundred and sixty two; chapter three hundred and thirty seven of the acts of nineteen hundred and sixty seven; chapter six hundred and thirty one of the acts of nineteen hundred and sixty nine.~~

~~—(b) *Special Acts Repealed Outright*—The following Special Acts are hereby repealed: Chapter one hundred and sixteen of the acts of eighteen hundred and thirty two; chapter two hundred and eighty three of the acts of eighteen hundred and ninety seven; chapter one hundred and thirty five of the acts of nineteen hundred; chapter two hundred and eighty two of the acts of nineteen hundred and two; chapter three hundred and seventy six of the acts of nineteen hundred and two; chapter one hundred and fifty two of the acts of nineteen hundred and three; chapter eighty eight of the acts of nineteen hundred and five; chapter three hundred and sixty two of the acts of nineteen hundred and ten; chapter five hundred and fifty seven of the acts of nineteen hundred and ten; chapter one hundred and eight of the acts of nineteen hundred and~~

~~thirteen; chapter three hundred and eighty three of the acts of nineteen hundred and thirteen; chapter one hundred and five of the acts of nineteen hundred and fourteen; chapter eighty six of the acts of nineteen hundred and nineteen; chapter eighty five of the acts of nineteen hundred and nineteen; chapter one hundred and eighty two of the acts of nineteen hundred and forty three; chapter two hundred and eight of the acts of nineteen hundred and fifty two; chapter five hundred and forty nine of the acts of nineteen hundred and fifty three; chapter five hundred and thirty two of the acts of nineteen hundred and fifty four; chapter one hundred twenty one of the acts of nineteen hundred and fifty five; chapter one hundred and eighty two of the acts of nineteen hundred and sixty;~~

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

~~—(d) *Special Acts Specifically Retained*: The following Special Acts are hereby recognized, confirmed and retained—an act of *January 11, sixteen hundred and eighty seven* ordering that Cambridge Village be a distinct village and place by itself; and an act of *December 15, sixteen hundred and ninety one* ordering that Cambridge Village thenceforth be called New Town, except insofar as they are inconsistent with Section 1-1 of this charter, providing for the name, the "City of Newton", which portions are hereby repealed.~~

(a) ~~See~~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, chapter 479 of the acts of 1982, chapter 499 of the acts of 1989, chapter 73 of the acts of 2007, and chapter 127 of the 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.

Commented [SC1]: Review to determine which Acts are retained/deleted

SECTION 12--7- Time of Taking Effect.

~~The~~This charter shall ~~become fully~~be effective ~~12:01 p.m. on the first secular day of January following the election at which it is approved~~upon adoption by the voters, except as follows:

~~(a) The term of office of the mayor elected at the election at which the charter is approved shall be for the term of two years, and the provisions of Section 3-1 of the charter with respect to the term of office of the mayor being four years and with respect to the mayor's serving full time, not holding any other elected public office and not actively engaging in a business, occupation or profession shall not become effective until the term beginning after the regular City election next following the election at which the charter is adopted.~~

~~(a)~~ (b) The counting of consecutive terms for the office of 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 member shall begin with the first term after the 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 at which the charter is adopted. Terms served prior to the effective date of the charter shall not be counted shall meet for the purpose of the limitation contained 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 Section 4-1(e) of the charter shall preside at such meeting.

(2) ——— This act 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) Section 2-9(c) relative to charter objection shall take effect on January 1, 2016. (Acts of 2015, Chap. 87.)2020.

(f) Section 3-3(d) 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 any board or commission 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 Section 3-3(f) by June 30, 2018.

(h) Section 3-7(a) shall be in effect as of the close of FY2018, with the mayor submitting the 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 section 5-4(b) 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 shall occur 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) (1) Until such time as ordinances are adopted pursuant to (2) below, Neighborhood Area Councils shall continue to operate under their existing resolutions.

(2) To implement Article 9, the city council shall adopt ordinances under sections 9-2, 9-4 and 9-6 and the guidelines required by section 9-3, no later than January 1, 2020.

(n) Any petitions for initiative and referendum pursuant to section 10-4 and 10-10 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 section 10-5 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 11-3(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 of section 11-4(a) and 11-4(b) no later than January 1, 2019.

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 populace. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.

Sec. 11-13. Definitions.

Unless ~~another meaning is~~ the context clearly ~~apparent from the manner in which the word is used~~ 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 ~~State 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.

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

~~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.

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

Commented [SC1]: Need to speak with law dept of definition

“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 significant 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.

Commented [SC2]: Most definitions Not yet discussed

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

—(a) Composition — There shall be a city council of 2412 members which shall exercise the legislative powers of the city. ~~Sixteen~~Eight of ~~these~~the council members, to be known as councilors ~~at large~~by ward, shall be ~~nominated and elected by~~domiciled in the voters at large, ~~2 such councilors at large to be elected~~ward from each of the ~~8 wards~~which elected but shall be nominated and elected by the voters of the city. ~~The other 8 members, to be known as ward councilors, shall be nominated and elected by and from the voters of each ward, 1 ward, 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 ~~the date that the~~July 1 of the year in which a regular election ~~commission makes available blank forms is held.~~ A candidate for the ~~nomination of candidates for office. In order to hold the~~ office of councilor, ~~a candidate~~at large shall ~~have continuously been~~be a resident of the ~~ward from which the candidate is elected from the date that the~~ city as of July 1 of the year in which a regular election ~~commission made the blank forms available until and including the first day of the term for which the candidate is elected. A~~held.

No member of the city council shall, ~~notwithstanding the member's removal from 1 ward of the city to another,~~ hold any other elected office.

(c) Removal of Residency — If a councilor-by-ward moves to a different ward, the councilor-by-ward shall continue to serve and to perform the ~~member's~~councilor's official duties during the ~~member's~~councilor's term of office. The removal from residency within the city by any council member shall create a vacancy in ~~such~~the councilor's office.

—(d) Election and Term — The ~~term~~term of ~~councilors~~council members shall be 2 years beginning on the first ~~secular~~ day of January after their election ~~and~~continuing until their successors are qualified. ~~(Referendum of 11-04-75; Acts of 2002, Chap. 368.)~~ No person shall be eligible for election to the city council for a ninth consecutive full term.

~~See.~~(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, or by vote of the city council. The vice-president shall act as president during the absence or disability of the president.

See 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 ~~thereof~~ of those powers and for the performance of all duties and obligations imposed on the city by law.

See SECTION 2-4. Prohibitions.

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

See SECTION 2-5. Filling of Vacancies.

—(a) Special Election— ~~If there be~~ a vacancy occurs, by failure to elect, removal from residency in the city, death, resignation or otherwise, on the city council ~~within~~ at any time before the ~~first 15 calendar~~ final 9 months of the term for which ~~councilors are~~ the council member was elected, the city council shall ~~forthwith call~~ at its next regular meeting introduce a measure calling for a special election to fill the vacancy. for the remainder of the unexpired term and shall, within 30 days, act on that measure. The election shall be by the voters of the ~~whole city in the case of councilors at large or city.~~

(b) Councilor ~~by the voters entitled to such representation in the case of~~ ward ~~councilors.~~

~~————(b) After Regular City Election—: If a vacancy shall occur after 15 calendar~~occurs within the final 9 months of the term for which councilors are a councilor-by-ward is elected, no special election shall be held. In to fill the case of a vacancy in the office of ward councilor, 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 that person was elected, serve for the balance of the then-unexpired term. In the case of a vacancy in the office of councilor at large, 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 ~~that~~the person was elected, serve for the balance of the then-unexpired term. ~~If no incumbent councilor at large from the ward in which the vacancy exists is elected at the election for such office, the candidate who receives the highest number of votes shall be deemed to be elected to the seat in which the vacancy exists and shall serve as aforesaid.~~

~~See. Councilor-at-large: 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~~shall be exercised in a manner determined by ~~the city council.~~

~~————(b) Quorum—A —~~ The presence of a majority of members of the city council then in office shall constitute a quorum but a smaller number may meet and adjourn from time to time for the transaction of business. 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.

~~—(c) Rules of Procedure —~~The city council shall ~~from time to time~~ establish rules for its proceedings. Regular meetings of the city council shall be held at a time and place fixed by ordinance. Special meetings of the city council ~~may~~shall be held on the call of: the mayor as provided in ~~subsection (b) of section 3-7, on the call of (b);~~ the president of the city council; or ~~on the call of any 74 or more members of the city council,~~ by written notice delivered to the place of residence or business of each member at least ~~2448~~ 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 ~~and press~~. Every matter coming before the city council for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate and up-to-date record of 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. ~~It shall include a record of each roll call vote.~~

See. SECTION 2-7. City Clerk; Comptroller of Accounts.

— As soon as practicable after the city council has been organized, it shall elect, ~~by ballot or otherwise~~, 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. ~~Vacancies in said offices shall be filled for the balance of any unexpired term by the city council~~ a roll call vote.

— 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. ~~(Acts of 1991, Chap. 50.)~~

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

(a) Clerk of the Council — The city council shall elect, ~~by ballot or otherwise~~, 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 ~~from time to time~~ 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 ~~establish~~, and may ~~from time to time~~ 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.

See. (d) Legal 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 ~~special~~ 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 ~~at the expiration of 2021~~ 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 ~~thereto to the measure~~ shall be separately voted on and shall require the affirmative vote of 2/3 of the ~~full~~ council then in office. 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.

———(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 32 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 54 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. The city council may, by rule, limit the application of the charter objection procedure.

See (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.

See 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~~ 5 days 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.

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.**

Commented [SC1]: This section is being deferred

~~(c)~~(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, including a citizen assistance officer, fix their salaries and define their duties.

(b) The mayor shall appoint a chief administrative or operating officer to coordinate and direct the operations of the various departments and functions of municipal government. The chief administrative or operating officer shall serve at the pleasure of the mayor and be appointed on the basis of having strong administrative and executive qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.

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 take effect 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 rejects the appointment within those 30 days.

(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) 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).

(g) The mayor shall regularly, but not less frequently than annually, provide to the city clerk and the city council a listing of all vacancies on city boards and commissions, along with an indication of the appointing authority responsible for filling the vacancy. The city clerk shall make the listing available to the public electronically and otherwise.

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; Vacancy Notification

(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 department head, or other senior staff position including, but not limited to the positions identified in section 3.2.(b) becomes vacant, the mayor shall notify the city clerk and the city council within 72 hours.

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. Public notice of the meeting shall be posted at least 48 hours in advance of the time set for the meeting, or for such lesser period as the mayor may determine in case of an emergency, of which the mayor shall be the judge.

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 shall again pass such vetoed 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. The city council, with approval of the mayor, may provide by ordinance for the handling of certain administrative duties of the mayor by other city councilors during the temporary absence of the 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 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.

~~See.~~

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

(a) — If a vacancy occurs in the office of the mayor, ~~by death, resignation, removal from office, failure to elect or otherwise~~ at any time preceding the last 9 calendar months of the term for which the mayor was elected, the city council shall ~~forthwith call, at its next regular meeting, introduce a measure calling for~~ a special election to fill the vacancy for the remainder of the unexpired term ~~and shall, within 30 days, act on that measure. The special election shall be~~

held within 150 days and, if a preliminary election is required under section 8-3, the preliminary election shall be held within 100 days of the calling of the election.

Commented [SC2]: To be discussed with Law, City Clerk. Baker provided Law and Clerk with new language to review

~~(a)~~(b) 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. If the city council president is unable or unwilling to serve, the vice president of the city council shall serve as mayor. If both the council president and the council vice president are unable or unwilling to serve, the council shall elect from among its membership a councilor to serve as the acting mayor.

~~(b)~~(c) 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 June 1 of the year in which a regular election is held.

If member of the school committee moves to a different ward, the member shall 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 any school committee member shall create a vacancy in such office.

No member of the school committee shall hold any other public 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, 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 chair, vice-chair and secretary shall serve at the pleasure of the school committee.

(b) Quorum— The presence of a majority of members of the school committee then in office shall constitute a quorum for the transaction of business.

(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 associate or assistant 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.

Commented [SC1]: Law Dept recommends deleting these changes, however, current language is out of date and in conflict with current statute. Law Dept. will recommend language. SC would like to see some specific language retained since the statute is fairly opaque.

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. 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 same position of the city officer or city employee within 1 year of 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 introduce a measure calling for a special election to fill the vacancy for the remainder of the unexpired term and shall, within 30 days, act on that measure. 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 votes to call the special election.

ARTICLE 5.
FINANCIAL PROCEDURES

SECTION 5-1. Financial Condition of the City

The mayor shall annually prepare a forecast of city revenues, expenditures and the general financial condition of the city. The forecast shall cover at least 5 years and shall include all funds subject to appropriation. The forecast shall also 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.

Commented [SC1]: Further discussion required. Mayor/COO not in favor. This provision is referenced in section 2-8(d) as well.

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 Improvement Program

- (a) The mayor and city council shall be active stewards of the city’s physical assets.
- (b) 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 included. The capital improvement program shall be revised and extended annually.
- (c) Submission — The mayor shall submit to the city council the 5-year capital improvement program at least 6 months prior to the mayor’s submission of the operating budget for the next fiscal year.
- (d) 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.
- (e) 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.
- (f) Annual Report—The mayor shall annually report on the city’s progress regarding the capital improvement program.

SECTION 5-5. Contracts

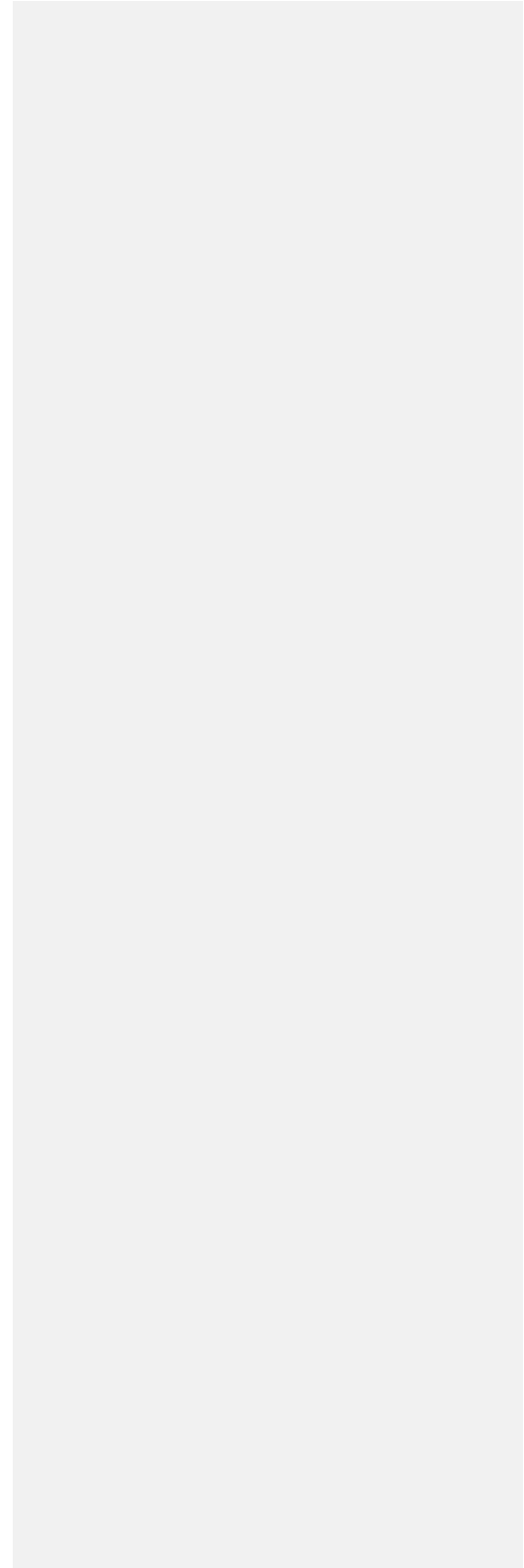
All contracts entered into for or in behalf of the city by any officer or city agency shall be subject to the approval of the mayor, unless otherwise provided by law.

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 establish procedures for oversight and administration of the annual audit including: (i) method of selection of an independent auditor; (ii) the scope of the

Commented [SC2]: Subcommittee accepted the CC proposed language. Baker to check with Comptroller

audit; and (iii) receipt of the report and any recommendations from the auditor, including recommendations regarding internal controls.



ARTICLE 6.
ADMINISTRATIVE DEPARTMENTS

SECTION 6-1. Reorganization Plans

(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 city council, be referred to an appropriate committee of the city council which shall, not more than 30 days after receipt of the plan, 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.

(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 of 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 comprehensive plan shall serve as a guide to all future action by the city council concerning land use and development regulations, and expenditures for capital improvements.

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 guidance of the city’s comprehensive plan.

(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 [SC1]: Check with Law Dept about control: MGL or Special Act

**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.

Commented [SC1]: If composition of City Council changes, this may need revision

(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, the phrase "Candidate for Re-election" shall appear beside the candidate's name.

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 any special election called to fill a vacancy in the office of mayor and for each regular city election, a preliminary election shall be held to nominate 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 election commission 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, or school committee member as provided in sections 2-5 and 4-6; provided that the date shall be within 120 days after the date on which the election is called. No special election under section 2-5, 3-10 or 4-6 shall be held during the month of July or August and any election that would otherwise be scheduled to take place in July or August shall be held at the earliest possible date in September. A person elected at a special election shall immediately be sworn and assume that office.

Commented [SC2]: This needs to be reviewed to be sure the allotted time constraints will not cause any issues.

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, 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 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. 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 each voter's residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) Referral to City Solicitor — If the election commissioners determine 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 certification, 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 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 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 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 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 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 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 election commissioners for petitions submitted to the school committee, the city 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. Referendum Procedures

(a) Petition, Effect on Final Vote —Within 20 days following the date on which the city council or the school committee has voted finally to approve any measure, voters may file a petition protesting the measure or any part of the measure.

If such a petition is:

(1) 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 as certified by the election commissioners;

(2) accompanied by an affidavit signed by 10 voters and containing each voter’s residential address stating those voters will constitute the petitioners committee; and

(3) addressed to the city council, or to the school committee and filed with the secretary of the school committee or the clerk of the council, the effective date of the 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(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.

Commented [SC1]: Needs further discussion. 3 in favor, Baker opposed

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](#).

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

SECTION 11-2. Rules and Regulations

(a) 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.

Commented [SC1]: Krintzman to docket ordinance item to require/recommend electronic posting

SECTION 11-3. 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.

SECTION 11-4. 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 11-5. 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 11-6Sec. 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. Whenever a school project is reviewed, at least 1 member of the school committee shall be included as a voting member of the design review committee.

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 provision expressed in the charter in general terms, the specific provision 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 11-13. 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.

Commented [SC2]: Baker will discuss with Law Dept to explore carving out exceptions. Favors recod process but not wholesale review.

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.

See SECTION 12-6: Disposition of Special Acts, Legislation

~~—(a) Partial Repeal of Certain Special Acts— The following Special Acts insofar as they confer power upon the City of Newton which the City would not otherwise hold under the charter, General Laws or the constitution, are retained; otherwise, they are hereby repealed, it being the explicit intention of this paragraph that portions of any Special Acts retained which limit or restrict a power conferred or the manner in which it is to be exercised be repealed and that powers so conferred are to be exercised in accordance with the charter: Chapter three hundred and forty four of the acts of eighteen hundred and seventy two; chapter three hundred and fifty three of the acts of eighteen hundred and seventy four; chapter one hundred and forty five of the acts of eighteen hundred and seventy four; chapter one hundred and twenty five of the acts of eighteen hundred and seventy four; chapter eighteen of the acts of eighteen hundred and seventy six; chapter fifty four of the acts of eighteen hundred and seventy six; chapter one hundred of the acts of eighteen hundred and seventy seven; chapter one hundred and forty four of the acts of eighteen hundred and seventy seven; chapter sixty three of the acts of eighteen hundred and seventy eight; chapter one hundred and forty seven of the acts of eighteen hundred and seventy eight; chapter sixty nine of the acts of eighteen hundred and eighty six; chapter three hundred and two of the acts of eighteen hundred and eighty nine; chapter two hundred and thirty four of the acts of eighteen hundred and ninety; chapter seventy of the acts of eighteen hundred and ninety two; chapter two hundred and ninety six of the acts of eighteen hundred and ninety three; chapter one hundred and ninety eight of the acts of eighteen hundred and ninety five; chapter three hundred and forty of the acts of eighteen hundred and ninety six; chapter two hundred and sixty nine of the acts of eighteen hundred and ninety eight; chapter sixty three of the acts of eighteen hundred and ninety eight; chapter eighty nine of the acts of eighteen hundred and ninety nine; chapter four hundred and fifteen of the acts of nineteen hundred; chapter two hundred and four of the acts of nineteen hundred and one; chapter one hundred and sixty five of the acts of nineteen hundred and one; chapter four hundred and eighty of the acts of nineteen hundred and two; chapter one hundred and thirty three of the acts of nineteen hundred and three; chapter one hundred and sixty seven of the acts of nineteen hundred and six; chapter two hundred and two of the acts of nineteen hundred and ten; chapter seven hundred and sixty nine of the acts of nineteen hundred and thirteen; chapter one hundred and eighty nine of the acts of nineteen hundred and thirteen; chapter six hundred and eighty three of the acts of nineteen hundred and thirteen; chapter one hundred and seventy seven of the acts of nineteen hundred and fifteen; chapter three hundred and thirty two of the acts of nineteen hundred and seventeen; chapter eighty six of the acts of nineteen hundred and twenty; chapter five hundred and sixty one of the acts of nineteen hundred and twenty; chapter thirty four of the acts of nineteen hundred and twenty four; chapter two hundred and forty three of the acts of nineteen hundred and twenty four; chapter thirty five of the acts of nineteen hundred and twenty five; chapter three hundred and thirty six of the acts of nineteen hundred and twenty seven; chapter seventy three of the acts of nineteen hundred and twenty eight; chapter twenty five of the acts of nineteen hundred and thirty two;~~

~~chapter twenty of the acts of nineteen hundred and thirty four; chapter two hundred and sixty one of the acts of nineteen hundred and thirty five; chapter three hundred and fifteen of the acts of nineteen hundred and forty nine; chapter three hundred and forty four of the acts of nineteen hundred and forty nine; chapter three hundred and sixty seven of the acts of nineteen hundred and fifty three; chapter four hundred and nineteen of the acts of nineteen hundred and fifty five; chapter two hundred and eleven of the acts of nineteen hundred and fifty five; chapter one hundred and two of the acts of nineteen hundred and fifty six; chapter one hundred and one of the acts of nineteen hundred and fifty six; chapter four hundred and thirty nine of the acts of nineteen hundred and sixty one; chapter three hundred and sixteen of the acts of nineteen hundred and sixty two; chapter three hundred and thirty seven of the acts of nineteen hundred and sixty seven; chapter six hundred and thirty one of the acts of nineteen hundred and sixty nine.~~

~~(b) Special Acts Repealed Outright—The following Special Acts are hereby repealed: Chapter one hundred and sixteen of the acts of eighteen hundred and thirty two; chapter two hundred and eighty three of the acts of eighteen hundred and ninety seven; chapter one hundred and thirty five of the acts of nineteen hundred; chapter two hundred and eighty two of the acts of nineteen hundred and two; chapter three hundred and seventy six of the acts of nineteen hundred and two; chapter one hundred and fifty two of the acts of nineteen hundred and three; chapter eighty eight of the acts of nineteen hundred and five; chapter three hundred and sixty two of the acts of nineteen hundred and ten; chapter five hundred and fifty seven of the acts of nineteen hundred and ten; chapter one hundred and eight of the acts of nineteen hundred and thirteen; chapter three hundred and eighty three of the acts of nineteen hundred and thirteen; chapter one hundred and five of the acts of nineteen hundred and fourteen; chapter eighty six of the acts of nineteen hundred and nineteen; chapter eighty five of the acts of nineteen hundred and nineteen; chapter one hundred and eighty two of the acts of nineteen hundred and forty three; chapter two hundred and eight of the acts of nineteen hundred and fifty two; chapter five hundred and forty nine of the acts of nineteen hundred and fifty three; chapter five hundred and thirty two of the acts of nineteen hundred and fifty four; chapter one hundred twenty one of the acts of nineteen hundred and fifty five; chapter one hundred and eighty two of the acts of nineteen hundred and sixty.~~

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

~~acts of nineteen hundred and forty seven; chapter four hundred of the acts of nineteen hundred and forty nine; chapter fifty two of the acts of nineteen hundred and fifty five; chapter six hundred and twenty one of the acts of nineteen hundred and sixty three.~~

~~(d) *Special Acts Specifically Retained:* The following Special Acts are hereby recognized, confirmed and retained — an act of *January 11, sixteen hundred and eighty seven* ordering that Cambridge Village be a distinct village and place by itself; and an act of *December 15, sixteen hundred and ninety one* ordering that Cambridge Village thenceforth be called New Town, except insofar as they are inconsistent with Section 1-1 of this charter, providing for the name, the "City of Newton", which portions are hereby repealed.~~

(a) ~~See~~ 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, chapter 479 of the acts of 1982, chapter 499 of the acts of 1989, chapter 73 of the acts of 2007, and chapter 127 of the 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.

Commented [SC1]: Review to determine which Acts are retained/deleted

SECTION 12--7-- Time of Taking Effect.

~~The~~This charter shall ~~become fully~~be effective ~~12:01 p.m. on the first secular day of January~~ following the election at which it is approved~~upon adoption~~ by the voters, except as follows:

(a) ~~The term of office of the mayor elected at the election at which the charter is approved shall be for the term of two years, and the provisions of Section 3-1 of the charter with respect to the term of office of the mayor being four years and with respect to the mayor's serving full time, not holding any other elected public office and not actively engaging in a business, occupation or profession shall not become effective until the term beginning after the regular City election next following the election at which the charter is adopted.~~

(a) ~~(b) The counting of consecutive terms for the office of 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 member shall begin with the first term after the 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 at which the charter is adopted. Terms served prior to the effective date of the charter shall not be counted shall meet for the purpose of the limitation contained 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 Section 4-1(e) of the charter age shall preside at such meeting.

(2) ~~———— This act~~ 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) Section 2-9(c) relative to charter objection shall take effect on January 1, 2016. ~~(Acts of 2015, Chap. 87.)~~ 2020.

(f) Section 3-3(d) 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 any board or commission 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 Section 3-3(f) by June 30, 2018.

(h) Section 3-7(a) shall be in effect as of the close of FY2018, with the mayor submitting the 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 section 5-4(b) 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 shall occur 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) (1) Until such time as ordinances are adopted pursuant to (2) below, Neighborhood Area Councils shall continue to operate under their existing resolutions.

(2) To implement Article 9, the city council shall adopt ordinances under sections 9-2, 9-4 and 9-6 and the guidelines required by section 9-3, no later than January 1, 2020.
- (n) Any petitions for initiative and referendum pursuant to section 10-4 and 10-10 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 section 10-5 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 11-3(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 of section 11-4(a) and 11-4(b) no later than January 1, 2019.