

[NOTE: The changes to this article do not appear using track changes. Rather – this article contained so many updates/edits that it presents better as a new draft.]

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.

Commented [KJ1]: Commission was concerned about 48-hour notice provision.

SECTION 10-2. Citizen Initiative Measures

(a) Commencement - Initiative procedures shall be started by the filing of an initiative petition with the clerk of the council or the secretary of the school committee. The petition shall be addressed to the city council or to the school committee, shall contain a request for the passage of a particular measure, which shall appear in full in the petition, and shall be signed by at least 200 voters. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form. If the city clerk determines that at least 200 of the filers are voters, the city clerk shall transmit a copy of the petition to the city solicitor.

(b) Referral to City Solicitor. - If the city clerk determines that the number of signatures of voters is sufficient, the petition shall be delivered to the clerk of the council or the secretary of the school committee, who shall, immediately following receipt of such certificate, deliver a

copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, advise the city council or the school committee, in writing, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure is not in proper form, the reply shall state the reasons for such opinion. A copy of the opinion of the city solicitor shall also be mailed to those identified on the affidavit as the petitioners committee.

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

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

Within 10 days following the filing of the petition, the board of election commissioners shall determine the number of voters that signed the petition and the percentage represented by that number of the total number of voters as of the date of the most recent regular city election. The board of election commissioners shall attach to the petition a certificate showing the results of its examination and shall return the petition to the clerk of the council or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of election commissioners' certificate shall also be mailed to the members of the petitioners committee.

(d) Action on Petitions - Within 30 days following the date a petition and certificate has been returned to the clerk of the council or the secretary of the school committee by the board of election commissioners, the city council or the school committee shall pass the measure without change, pass a measure which is stated to be in lieu of the initiative measure, or reject the measure. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the city council or the school committee fails to act with respect to any initiative measure which is presented to it within 30 days following the date it is returned to either the council or school committee by the board of election commissioners

the measure shall be deemed to have been rejected on such thirtieth day. If an initiative measure is rejected, the clerk of the council or the secretary of the school committee shall promptly give notice of that fact to the members of the petitioners committee by certified mail. Initiative measures shall not be subject to the charter objection in section 2-9 (c).

(e) Supplemental Petitions - Within 45 days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5 percent of the total number of voters as of the date of the most recent regular city election.

(f) Scheduling of Election: If the number of signatures to such supplemental petition is found to be sufficient by the city clerk for petitions submitted to the school committee, the clerk shall notify both the secretary of the school committee and the city council. For petitions submitted to the council, the clerk shall notify the city council. For either a petition addressed to the school committee or the city council, the city council shall call a special election to be held on a date fixed by it not less than 45 nor more than 90 days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, if any other city election is to be held within 180 days following the date of said certificate, the city council may omit the calling of such special election and cause said question to appear on the municipal election ballot at such approaching election for determination by the voters.

(g) Publication – The city clerk shall provide a Notice to Voters by mail to every household in the city with at least 1 registered voter. The notice shall contain a fair, concise summary of the initiative measure as approved by the city solicitor and the full text of the measure which is to be submitted to the voters. Such notice shall be delivered not less than 7 nor more 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.

Commented [JK2]: Who prepares the summary?

Commented [JK3]: Sent rather than delivered?

(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 petitioners and approved by the city solicitor) – YES___ NO ___

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

SECTION 10-3. Citizen Referendum Procedures

(a) Petition, Effect on Final Vote - If, within 20 days following the date on which the city council or the school committee has voted finally to approve of any measure, a petition signed by a number of voters equal to 5 percent of the total number of voters as of the date of the most recent regular city election and addressed to the city council, or to the school committee, protesting against the measure, or any part of the measure, is filed with the secretary of the school committee or the clerk of the council, the effective date of such measure shall be temporarily suspended. The school committee or the city council shall immediately reconsider its vote on such measure or part of the measure, and if such measure or part of the measure is not rescinded, the city council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending such submission and determination, the effect of such measure shall continue to be suspended. Action by the council on referendum measures shall not be subject to the charter objection in section 2-9 (c).

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

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

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

"Shall the following provisions of the (describe measure in general terms and the full text or a fair, concise summary prepared by the city solicitor of the affected provision(s)

being considered for repeal) which was passed by the (City Council) (School Committee) be approved Yes ____ No ____?"

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

SECTION 10-4. Ineligible Measures

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

- (1) any proceedings relating to the internal organization or operation of the city council or of the school committee;
- (2) any emergency measure adopted in conformity with the charter;
- (3) the city budget or the school committee budget;
- (4) any revenue loan orders;
- (5) any appropriation for the payment of the city's debt or debt service;
- (6) any appropriation of funds to implement a collective bargaining agreement;
- (7) any proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, of a city officer or employee or other personnel action;
- (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures; and
- (9) any proceedings providing for the submission or referral of a matter to the voters at an election.

SECTION 10-5. Required Voter Participation

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

SECTION 10-6. Conflicting Provisions

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

SECTION 10-7. Submission of Other Matters to Voters

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 the 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.