

Collins Comments on Council Composition (even vs. odd number of Councilors)

C. 43B, s. 20 provides that multiple-member bodies always be composed of an odd number of members. The council is not a multi-member body for the purposes of s. 20 -- it probably could have been better explained -- but no, the Attorney General did not "miss" this. The reference in s. 20 applies to appointed boards or elected boards (mostly in towns), but not including the legislative body.

Note also that the multiple-member body definition included in the proposed Newton charter specifically provides that the council is NOT to be considered a multiple-member body. Since the AG did not comment on this definition, we can reasonably find that the definition is consistent with state law.

MGL Section 20: The provisions of any charter or charter amendment adopted pursuant to the provisions of this chapter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices.

Such provisions may provide:

(a) that any particular local office shall be either elected or appointed; provided, however, that in any town having a board of selectmen the members of such board shall always be elected; provided, further, that in any city or town having a school committee the members of such committee shall always be elected; and provided, further, that in any town having a form of town meeting open to all of its registered voters the town moderator shall always be elected and in every other case all of the members of the legislative body shall always be elected;

(b) that any particular local officer or employee shall be appointed by any particular local officer;

(c) for the number of persons to serve as members of any multiple member body; provided, however, that all such multiple member bodies shall always consist of an odd number of members;

(d) for the term of office to be served by any local elected officer; provided, however, that no term of office of a local elected officer shall be for more than five years, and the members of multiple member bodies shall serve for terms which, as nearly as possible, expire in different years;

(e) for the merger or consolidation of two or more local offices into a single office;

(f) that the powers, duties and responsibilities of one local office be divided and exercised by two or more local offices;

(g) for the confirmation of any appointment by another municipal agency.