SENATE DOCKET, NO. 2244 FILED ON: 5/30/2012

# SENATE . . . . . No. 2288

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 2288) of Michael R. Knapik and Donald F. Humason, Jr. (with the approval of the mayor and city council) for legislation to revise and restate the charter of the city of Westfield. Municipalities and Regional Government. [Local Approval Received.]

## The Commonwealth of Massachusetts

**In the Year Two Thousand Twelve**

An Act relative to the charter of the city of Westfield..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The following shall be the charter of the city of Westfield:

Section 1. Body corporate and politic.

The inhabitants of the city of Westfield shall continue to be a body corporate and politic under the name of the city of Westfield and shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties and obligations provided for in this charter or otherwise pertaining to cities as municipal corporations.

Section 2. Division into wards.

The territory of the city shall be divided into no fewer than 5 wards. Each ward shall contain, as nearly as may be consistent with well-defined limits, an equal number of voters and such wards shall be designated by number. The number of wards and, in consequence, the number of councilors may be changed by vote of the city council, subject to the approval of the mayor, upon or before such change in any year fixed by law for a new division of wards in cities.

13 Notwithstanding the foregoing, on the effective date of this charter, the number of wards in the
14 city shall be 6.

15 For purposes of each preliminary and biennial election after the effective date of this
16 charter, the mayor and city council shall provide suitable polling places and give notice thereof.
17 The mayor and city council shall ensure that all election officers are appointed, according to law,
18 at least 10 days before each preliminary election to serve at the preliminary election and at the
19 biennial election that follows the preliminary election. The mayor and city council shall have all
20 the powers and perform all the duties of the mayor and board of aldermen, respectively, in cities
21 under chapters 50 to 57, inclusive, of the General Laws which apply to such elections. The city
22 clerk shall perform all the duties assigned to city clerks under said chapters 50 to 57, inclusive,
23 which apply to such elections. The registrars shall cause lists of qualified voters in each of the
24 wards, established by the city council according to law, to be prepared and published.

25 Section 3. Mayor: qualifications; chief executive officer.

26 There shall be a mayor, elected by and from the qualified voters of the city, who shall be
27 the chief executive officer of the city. The mayor shall hold office for a term of 2 years from the
28 first Monday in January following the election thereof, or from the following day whenever such
29 first Monday falls on a holiday, and until a successor thereto is elected and qualified.

30 Section 4. City council; composition.

31 The legislative powers of the city shall be vested in a city council. On the
32 effective date of this charter the city council shall be composed of 13 members, of whom 1 shall
33 be elected from each ward by and from the qualified voters of that ward and the remaining
34 members shall be elected at-large by and from the qualified voters of the city. One of the city

35 council members shall be elected by the council as its president. Councilors shall be elected at
36 each biennial city election to serve a term of 2 years. If the number of wards is changed, as
37 provided in section 2, then the number of members shall change but the proportion of councilors
38 elected at-large to those elected from wards shall be maintained so that there shall be 1 more
39 councilor elected at-large than there are councilors elected by ward.

40 Section 5. Biennial city election.

41 Municipal elections for the choice of mayor, members of the city council, members of the
42 school committee, members of the board of directors or trustees of the Westfield Athenaeum and
43 such other city officials to be elected to office by the voters of the city, whether by ward or at-
44 large, shall be held biennially on the Tuesday following the first Monday of November, unless
45 otherwise provided by law.

46 Section 6. Appointments by the mayor.

47 All heads of departments and members of municipal boards, except officials appointed by
48 the governor, shall be appointed by the mayor subject to confirmation by the city council except
49 as otherwise provided in this charter or otherwise specified by law.

50 Section 7. Certificates of appointment.

51 In making appointments, the mayor shall sign and file with the city clerk a certificate in
52 the following form:

53 CERTIFICATE OF APPOINTMENT

54 I appoint (name of appointee) to the position of (name of office) and certify that, in my
55 opinion, (name of appointee) is a recognized expert in the work which will devolve upon (name
56 of appointee) and that I make this appointment solely in the interest of the city.

57 Mayor.

58 or in the following form, as the case may be:

59 CERTIFICATE OF APPOINTMENT

60 I appoint (name of appointee) to the position of (name of office) and certify that, in my
61 opinion, (name of appointee) is a person specially fitted by education, training or experience to
62 perform the duties of said office, and that I make this appointment solely in the interest of the
63 city.

64 Mayor.

65 Section 8. Removal of department heads and board members.

66 Subject to the approval of a majority of the members of the city council, the
67 mayor may remove any head of a department or member of a board before the expiration of such
68 person's term of office except: members of the school committee; officers whose election is
69 otherwise provided for by this charter; and officials appointed by the governor. The person so
70 removed shall be provided with a copy of the reasons for the removal and may contest such
71 removal before the city council. Such person shall have the right to be represented by counsel at
72 that hearing.

73 Section 9. City departments, boards and officers.

74 There shall be the following departments, boards and officers in the city:

75 1. The assessing department, under the charge of a board of 3 assessors, who shall
76 be appointed by the mayor and serve for a term of 3 years.

2. The health department, under the charge of a board of health consisting of 3 members, who shall be appointed by the mayor and serve for a term of 3 years.

3. The fire department, under the charge of a commission of 3 members who: shall be appointed by the mayor, subject to confirmation by the city council; shall serve for a term of 3 years; and shall choose a commission chairman from among the commission members. Upon the expiration of the term of office of any member, such member's successor shall be appointed to serve for a term of 3 years.

4. The police department, under the charge of a commission of 3 members who: shall be appointed by the mayor, subject to confirmation by the city council, no more than 1 of whom shall be appointed annually; shall serve for a term of 3 years; and shall choose a commission chairman from among the commission members.

5. The board of public works, which shall consist of three members, who shall be appointed by the mayor and serve for a term of 3 years. The board shall have charge, control and management of the construction, alteration, repair and maintenance of the public ways, sidewalks, bridges, squares, public sewers and drains as well as responsibility for maintenance of parks and playing fields. The board shall appoint a superintendent or superintendents, who shall serve for a term of 3 years. Such superintendent or superintendents shall, under the direction and control of the board, have charge of the work of the department of public works. The superintendent or superintendents shall appoint such assistants as the work may require, subject to the approval of the board.

6. The municipal light board, which shall consist of: 1 member from each ward of the city to be elected at the biennial city election to be elected for a term of 2 years; and 1

99 member appointed by the mayor, subject to city council confirmation, to serve for a term of 2
100 years and whose term of office shall run concurrently with the terms of office of the elected
101 members of the board, or until a successor is duly appointed and qualified. The municipal light
102 board shall appoint a manager of municipal lighting and shall have the powers and authority
103 given to the municipal light boards in towns as set forth in chapter 164 of the General Laws.

104 A vacancy of a member elected to the municipal light board by ward shall be filled by the
105 municipal light board and the city council in the same manner that a vacancy on the school
106 committee is filled in accordance with this charter. A member of the municipal light board so
107 elected shall serve until the members of the board elected as a result of the next city election are
108 sworn into office. A vacancy of the member appointed by the mayor shall be filled as provided
109 in section 10.

110 7. The planning board, established in accordance with section 81A of chapter 41 of
111 the General Laws.

112 8. The parks and recreation commission, which shall consist of 1 member from each
113 ward of the city and 2 members at-large, all of whom shall be appointed by the mayor, subject to
114 city council confirmation, to serve for a term of 3 years.

115 9. The city clerk department, which shall be under the charge of the city clerk, who
116 shall be appointed by the city council and serve for a term of 3 years.

117 10. The treasury department, which shall be under the charge of the city treasurer,
118 who shall be appointed by the city council and serve for a term of 3 years.

11. The collecting department, under the charge of the city collector, who shall be appointed by the city council and serve for a term of 3 years. The offices of treasurer and collector may be held by the same person.

12. The department of accounts, under the charge of the city auditor, who shall be appointed by the city council and serve for a term of 3 years. The city auditor shall have supervision of the accounts of all departments of the city. The city auditor shall: audit all bills, vouchers, claims and demands against the city once approved by the department in which they originated; examine the accounts of every department; and report to the city, annually, any inaccuracy in the accounts or any delinquency in the conduct of any officer which the auditor may discover and, for this purpose, the auditor shall have access to all account books, vouchers and books of record belonging to the city.

No payment of city funds shall be made until after the city auditor has examined the claim and found it to be correct. In no case shall any bill be approved which will cause a department to exceed its appropriation except by order of the city council.

13. The department of building, under the charge of the superintendent of building, who shall be appointed by the mayor and serve for a term of 3 years. The mayor shall also appoint an inspector of wires, an alternate inspector of wires, each to serve for a term of 3 years, and a sealer of weights and measures in accordance with section 34 of chapter 98 of the General Laws.

14. The board of registrars, established in accordance with section 15 of chapter 51 of the General Laws.

140 15. The city solicitor, who shall be appointed by the mayor and such appointment
141 shall not be subject to confirmation by the city council.

142 16. The city physician, who shall be appointed by the mayor and the members of the
143 board of health.

144 17. There shall be elected 3 directors of the Westfield Athenaeum in the manner
145 prescribed by law.

146 18. The board of water commissioners, which shall consist of 3 members who shall
147 be appointed by the mayor to serve for a term of 3 years, commencing on the first Monday in
148 February following their appointment and until their successors are appointed and qualified. The
149 board shall have: the charge, control and management of the waterworks and water supply and
150 all the powers and perform all the duties conferred or imposed upon water commissioners by
151 chapter 322 of the acts of 1873. The board shall appoint a superintendent of water resources to
152 serve for a term of 3 years and until a successor superintendent is appointed and qualified. The
153 superintendent shall have charge of the work of the department of water resources, under the
154 direction and control of the board, and shall appoint such assistants as the work may require,
155 subject to the approval of the board.

156 Section 10. Terms of members of certain boards; appointment.
157 It shall be the duty of the mayor to appoint, on or before the first Monday in February of
158 each year, in accordance with this section, all the appointive officers subject to mayoral
159 appointment as specified in section 9 and, unless it is otherwise provided, all those appointive
160 officers subject to mayoral appointment for whom provision may henceforth be made. The terms
161 of office of all such appointees shall begin on the first Monday in February and shall, unless it is

162 otherwise provided by this charter or by law, continue for such other period as the city council
163 shall provide by ordinance.

164 Every administrative officer shall, unless sooner removed, hold office until a successor is
165 appointed and qualified.

166 If a vacancy occurs in any of the city offices provided for in section 9, except in the
167 number of directors of the Westfield Athenaeum as elected by the voters of the city or in the
168 members of the municipal light board as elected by the voters from the wards of the city, the
169 successor to such office shall be appointed or elected for the unexpired term in the same manner
170 as the original appointment or election. In the case of a vacancy in the number of those directors
171 of the Westfield Athenaeum elected by the voters of the city, the mayor shall appoint a person to
172 serve as director until the qualification of a successor elected by the voters at the next biennial
173 city election to serve for a full term or for the remainder of the unexpired term, as the case may
174 be.

175 Section 11. Continuing power to organize city departments, officers and boards.
176 Subject to this charter and the General Laws, the city council may, from time to
177 time, provide by ordinance for: establishing additional boards and other offices; reorganizing,
178 consolidating or abolishing departments or boards in whole or in part; transferring the duties,
179 powers and appropriations of 1 department to another, in whole or in part; establishing new
180 departments; and increasing, reducing, establishing or abolishing salaries of heads of
181 departments or of members of boards and, for such purposes, may delegate to these boards,
182 offices and departments the administrative powers given by the General Laws to city councils

183 and boards of aldermen. The salaries and compensation of all employees may be fixed by
184 ordinance by the council, except as is otherwise provided in this charter or by law.

185 Section 12. Salaries of mayor and council.

186 The annual salaries to be paid to the mayor and to the members of the city council shall
187 be established in accordance with section 6A of chapter 39 of the General Laws, and acts in
188 amendment thereof.

189 Section 13. City elections.

190 On the sixth Tuesday preceding every biennial municipal election at which any
191 office provided for in this charter is to be filled by the voters, a preliminary election for the
192 purpose of nominating candidates for the biennial municipal election shall be held. No special
193 election for mayor or any other officer shall be held until 40 days after the calling of a
194 preliminary election, except as is otherwise provided in this charter. At every biennial,
195 preliminary and special city election, the polls shall be open at 7 o'clock in the forenoon and
196 shall remain open until 7 o'clock in the evening, and the General Laws relative to city elections
197 shall apply thereto, except as is otherwise specifically provided in this section.

198 Section 14. Nomination by preliminary election.

199 Except as is otherwise provided in section 22, the name of any person as a candidate for
200 any office shall not be printed on the official ballot to be used at any biennial or special election
201 unless such person has been nominated as such at a preliminary election for nomination as
202 provided in section 13. The name of any candidate for nomination at such preliminary election
203 shall not be printed on the official ballot for use at a preliminary election unless such candidate
204 shall have satisfied all the requirements under section 15.

Section 15. Qualification for elective office; statement of candidacy.

Any person who is qualified to vote for a candidate for any elective office of the city and who is a candidate for nomination to such elective office shall be entitled to have such person's name as such candidate printed on the official ballot to be used at a preliminary election, provided that such person has filed with the city clerk a statement containing such person's name, address and the city office for which such person intends to be a candidate and such person has obtained blank nomination papers as are required to be submitted for certification not less than 48 hours prior to the hour on which executed nomination papers shall be submitted.

On or before the thirty-fifth day preceding the day of the preliminary election, such person shall file with the city clerk a statement in writing of such person's candidacy and a petition of at least 50 voters who are qualified to vote for a candidate for such office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE

I, (_____), on oath, declare that: I reside at (number if any) on (name of street) in the city of Westfield; I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; I am a candidate for the office of (name of office) for (state the term) to be voted at the preliminary election to be held on Tuesday, the _____ day of two thousand and _____; and I request that my name be printed as such candidate on the official ballot for use at said preliminary election.

_____

(Signed)

Commonwealth of Massachusetts, Hampden ss.

Subscribed and sworn to on this _____ day of _____, two thousand and _____, before me,

_____

(Signed)

Justice of the Peace or

Notary Public

My commission expires _____

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Whereas (name of candidate) is a candidate for nomination for the office of (name of office) for (state the term), we the undersigned, voters of the city of Westfield and duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the _____ Tuesday of _____, two thousand and _____.

We further state that we believe such person to be of good moral character and qualified to perform the duties of the office.

No acceptance by a candidate for nomination named in such petition shall be necessary to its validity or its filing. The petition, which may be on 1 or more papers, need not be sworn to by those that sign such petition.

Section 16. Preliminary ballot.

On the first day not being Sunday or a legal holiday, following the expiration of the time for filing the above described candidate statement and petition, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly filed the statements and petitions required under section 15, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots to be printed. The ballots so prepared shall be the official ballots and the only ballots used at the preliminary election. Such ballots shall be headed as follows:

OFFICIAL PRELIMINARY BALLOT

Candidates for nomination for the office of (_____) in the city of Westfield. At a preliminary election to be held on the _____ day of _____ in the year two thousand and _____. (The heading shall be varied in accordance with the offices for which nominations are to be made.)

Section 17. Form of ballot.

The name of each person who has filed a statement and accompanying petition with such person's residence and the title and term of the office for which such person is a candidate for nomination, and no other names, shall be printed on the ballots under the designation of such office in the order in which the names of the candidates for such office shall have been drawn by the city clerk, whose duty it shall be to conduct such drawing and to give each candidate an opportunity to be present in person or by a single representative. Blank spaces shall be left at the end of each list of candidates for nomination for the offices appearing on the ballot, equal to the number to be nominated therefore, in which the voter may insert the name of

268 any person not printed on the ballot for whom the voter desires to vote for nomination for such
269 office. Directions to aid the voter shall be printed on the ballots for example, “vote for one,”
270 “vote for two,” and the like.

271 Section 18. Political designations prohibited.

272 No ballot used at any preliminary, special or biennial city election shall have printed
273 thereon any party or other political designation or mark and there shall not be appended to the
274 name of any candidate any such party or other political designation or mark or anything
275 revealing how such candidate was nominated or such candidate’s views or opinions.

276 Section 19. Return by election officers.

277 Immediately upon the closing of the polls at preliminary elections, the election officers
278 shall count the ballots and ascertain the number of votes cast in the voting places where they
279 officiate for each person for nomination for each office and shall forthwith make return thereof
280 to the city clerk upon blanks to be furnished as in city elections.

281 Section 20. Publication of election results.

282 Upon receipt of the returns from the various voting places, the city clerk shall
283 canvass the returns received and shall forthwith determine the result thereof, cause the returns to
284 be published in 1 or more newspapers published in the city and post the returns in a conspicuous
285 place in the city hall.

286 Section 21. Selection of candidates for biennial or special city election; official ballot.

287 Except as provided by section 22, the 2 persons at a preliminary election receiving the
288 highest number of votes for nomination for an office shall be the sole candidates for that office
289 whose names may be printed on the official ballot to be used at the biennial or special election at

290 which such office is to be filled and no acceptance of a nomination at a preliminary election shall
291 be necessary to validate such candidacy; provided, however, that a person nominated at a
292 preliminary election may withdraw such person's name from nomination by a request signed and
293 duly acknowledged by such person and filed with the city clerk within 6 days succeeding 5
294 o'clock in the afternoon of the day of such preliminary election. If a nominee withdraws such
295 person's name from nomination, the city clerk shall replace that person's name with the name of
296 the candidate with the next highest number of votes in such preliminary election.

297 If 2 or more persons are to be elected to the same office at a biennial or special election,
298 then the number of persons equal to twice the number to be elected for such office who received
299 the highest number of votes for nomination for that office or all such persons, if less than twice
300 the number of those so to be elected, shall be the sole candidates whose names may be printed on
301 the official ballot for that office.

302 If the preliminary election results in a tie vote among candidates for nomination receiving
303 the lowest number of votes, which, but for such tie vote, would entitle a person receiving that
304 number of votes to have his name printed upon the official ballot for the election, all candidates
305 receiving such a tie vote shall have their names printed upon the official ballot, notwithstanding
306 that the number of candidates on the official ballot may exceed twice the number to be elected.

307 Section 22. Preliminary election not to be held in absence of sufficient candidates.
308

309 If, at the expiration of the time for filing statements of candidates to be voted for at any
310 preliminary election, not more than twice as many such statements have been filed with the city
311 clerk for the office of mayor, councilor at-large, director or trustee of the Westfield Athenaeum

312 or school committee as there are candidates to be elected to said offices respectively, the
313 candidates whose statements have thus been filed shall be deemed to have been nominated to
314 said offices, respectively. The city clerk shall not print such candidates' names upon the ballot to
315 be used at the preliminary election, no other nomination to such offices shall be made and such
316 candidates' names shall be printed on the official ballot to be used at the biennial or special
317 election.

318 If, in any ward at the expiration of the time for filing statements of candidates to be voted
319 for at any preliminary election, not more than twice as many such statements have been filed
320 with the city clerk for the office of councilor from such ward as are to be elected, the candidates
321 whose statements have thus been filed shall be deemed to have been nominated. The city clerk
322 shall not print such names upon the ballot to be used at the preliminary election, no other
323 nominations to such offices shall be made and such candidates' names shall be printed on the
324 official ballot to be used at the biennial or special election. If the city clerk determines that no
325 names are to be printed upon the official ballot to be used at any preliminary election in any ward
326 of the city, no preliminary election shall be held in that ward.

327 Section 23. Terms of office for mayor and council.

328 The mayor and members of the city council of the city shall be elected to serve for 2
329 years and shall serve until their successors are duly elected and qualified in their stead. The
330 inauguration meeting of the city government shall be held on the first Monday of January
331 following each biennial election or on the following day whenever such first Monday falls on a
332 holiday.

333 Section 24. Mayor-elect and councilors-elect sworn to office.

334 During the inauguration meeting of the city government, the mayor-elect and the
335 councilors-elect shall meet and be sworn to the faithful discharge of their duties. The oath may
336 be administered by the city clerk or by any justice of the peace, and a certificate that the oath has
337 been taken shall be entered on the journal of the city council. At any meeting thereafter the oath
338 may be administered, in the presence of the city council, to the mayor or to any councilor absent
339 from the meeting on the first Monday in January.

340 Section 25. Legislative powers of council; quorum; rules; role of city clerk.

341 Except as is specially provided in this section, the legislative powers of the city council
342 may be exercised as provided by ordinance or rule adopted by the city council.

343 1. Every member of the council shall have the right to vote on any question coming
344 before the council. A majority of the council shall constitute a quorum and the affirmative vote
345 of a majority of all of the members of the council shall be necessary to adopt any motion,
346 resolution or ordinance.

347 2. The city council shall, from time to time, establish rules for its proceedings. Regular
348 and special meetings of the city council shall be held at a time and place fixed by ordinance. All
349 legislative sessions shall be open to the public and every matter coming before the city council
350 for action shall be put to a vote, the result of which shall be duly recorded. A full and accurate
351 journal of the proceedings of the city council shall be kept and shall be open to the inspection of
352 any registered voter of the city.

3. The city clerk shall have such powers and perform such duties as the city council may, from time to time, prescribe in addition to such duties as may be prescribed by law. The city clerk shall keep the records of the meetings of the city council.

Section 26. Investigations by council.

The city council may at any time request specific information on any municipal matter within the city council's jurisdiction from the mayor and may request the mayor's presence to answer written questions relating to such matter at a meeting to be held not earlier than 1 week after the mayor's receipt of such questions. The mayor shall personally, or through a head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obligated to answer questions relating to any other matter. The mayor may attend and address the city council at any time, in person or through the head of a department or a member of a board, upon such subject as the mayor may desire.

The city council, or any committee thereof duly authorized by the city council, may investigate a financial transaction of any office or department of the city government, the official acts and conduct of any official and, by similar investigation, secure information upon any matter.

Section 27. Ordinances; special emergency.

No ordinance 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.

No ordinance shall be regarded as an emergency measure unless the emergency is defined and declared in a preamble thereto, separately voted on and receiving the affirmative

375 vote of two-thirds of the members of the city council. An emergency ordinance shall be subject
376 to the terms of section 31.

377 No ordinance making a grant, renewal or extension, whatever its kind or nature, of any
378 franchise or special privilege shall be passed as an emergency measure and, except as provided
379 in sections 70 and 71 of chapter 164 or in chapter 166 of the General Laws, no such grant,
380 renewal or extension shall be made otherwise than by ordinance.

381 Section 28. Ordinances; amendment or repeal.
382 No ordinance, or part thereof, shall be amended or annulled except by an ordinance
383 adopted in accordance with this charter.

384 Section 29. Prompt passage of order or resolution.
385 Unless prohibited by the General Laws, any order or resolution may be passed
386 through all of its stages of legislation at 1 session; if no member of the council objects thereto. If
387 any member of the council objects, the measure shall be postponed for that meeting.

388 Section 30. Publication of ordinances.
389 Every proposed ordinance or loan order, except emergency measures, shall be
390 published once, in full, in at least 1 newspaper of the city or in any additional manner that may
391 be provided by ordinance at least 10 days before its final passage; provided, however, that if any
392 ordinance, or proposed ordinance, codification of ordinances or proposed ordinances or loan
393 order shall exceed 8 octavo pages of ordinary book print in length, in lieu of the advertising
394 required by this section, it shall be sufficient for the city council to publish the text of such
395 measure in a municipal bulletin or printed pamphlet, in full, at least 10 days before its final
396 passage.

397 An emergency ordinance shall, subject to the provision for alternative methods of
398 publication as set forth in this section, be published on the earliest practicable date after its
399 passage.

400 Section 31. Ordinance, order or resolution presented to mayor; mayoral options.
401 Every order, ordinance, resolution and vote relative to the affairs of the city
402 adopted or passed by the city council shall be presented to the mayor for approval. If the mayor
403 approves such order, ordinance, resolution or vote, the mayor shall sign it. If the mayor
404 disapproves the mayor shall return it, with the mayor's objections in writing to the city council.
405 The city council shall enter the mayor's objections on its records and reconsider such order,
406 ordinance, resolution or vote. If notwithstanding the disapproval of the mayor, the city council
407 shall again pass such order, ordinance, resolution or vote by a two-thirds vote of all its members,
408 such order, ordinance, resolution or vote shall then be in force; provided, however that such vote
409 shall not be taken for 7 days after such order, ordinance, resolution or vote is returned to the city
410 council. Every such order, ordinance, resolution and vote shall be in force if it is not returned by
411 the mayor within 10 days after it is presented to the mayor. Nothing contained in this section
412 shall be construed as superseding chapter 719 of the acts of 1913.

413 Section 32. Application of civil service laws.
414 The mayor shall appoint an administrative assistant, a city advancement officer and such
415 additional staff as authorized by the mayor in the annual budget and for which appropriation is
416 voted by the city council to serve within the office of the mayor. Each such appointee's term
417 shall be served concurrently with the term of the mayor who made such appointment.
418 Appointees within the office of the mayor shall be exempt from the civil service laws and the

419 mayor may remove any such appointee without a hearing and without making a statement of the
420 cause for the removal.

421 The civil service laws shall not apply to the following positions in the city: clerical
422 positions in the offices of the city clerk, elections and registration; sealer of weights and
423 measures for so long as the sealer of weights and measures remains a part-time position; assistant
424 assessor; appraiser; assistant city auditor; deputy water superintendent; deputy superintendent of
425 public works; all positions within the law department; all positions within the engineering
426 department which require a college degree in engineering; all positions within the personnel
427 department; all inspector positions within the building department; planner within the
428 community development department; school department business manager; and, subject to
429 section 3 of chapter 168 of the acts of 1998, any individual appointed to serve as chief operating
430 officer and day-to-day administrative head of a department including, but not limited to,
431 superintendent of public works, superintendent of water resources, police chief, director of parks
432 and recreation, and director of health but excluding the law, fire, school and gas and electric light
433 departments.

434 Section 33. Vacancies in office of mayor or on city council; temporary appointment
435 for certain appointed officers.

436 If a vacancy in the office of mayor occurs within 6 months next prior to a
437 biennial election and more than 15 days prior to the preliminary election held for the purpose of
438 nominating candidates to be voted for at such biennial election, such vacancy shall be filled at
439 such election. If a vacancy in the office of mayor occurs at any other time or, in case of the death
440 of a mayor-elect, the city council shall order an election to fill the vacancy for the unexpired term
441 or for the entire term, as the case may be, except that a vacancy occurring during the period

442 between the expiration of a term of office and 15 days prior to the regular preliminary election
443 next preceding shall not be filled by election. If the mayor is absent or unable temporarily to
444 perform the duties thereof, or if the office of the mayor becomes vacant, the duties of the mayor
445 shall be performed by the president of the city council. The person upon whom such duties shall
446 devolve shall be called "acting mayor". The acting mayor shall possess the powers of mayor only
447 in matters not admitting of delay but shall have no power to make permanent appointments.

448 If at any time a vacancy occurs in the city council from any cause, the city clerk shall
449 forthwith notify the city council of the vacancy. Within 15 days after such notification, the
450 remaining city councilors shall appoint the defeated candidate who received the highest number
451 of votes for the office of city councilor at the most recent regular municipal election at which
452 city councilors were elected for the term and office in which the vacancy occurs, and who is
453 eligible and willing to serve, as city councilor for the unexpired term. If there is no such
454 defeated candidate eligible and willing to serve, in the case of a vacancy in the office of
455 councilor-at –large, the city council shall appoint any registered voter of the city duly qualified to
456 vote for the office of city councilor-at-large. In the case of a vacancy in the office of a ward
457 councilor, the city council shall appoint any registered voter of the city duly qualified to vote for
458 the office of city councilor from the ward in which the vacancy occurs. If, at a regular municipal
459 election, there is a failure to elect a city councilor or if a person elected city councilor at such
460 election dies or resigns before taking office, the city clerk shall notify the city council of such
461 event as soon as convenient after the remaining city councilors-elect take office. Within 15 days
462 after such notification, the city council shall appoint the defeated candidate who received the
463 highest number of votes for the office of city councilor at such election, and who is eligible and
464 willing to serve, as city councilor for the unexpired term. If there is no such defeated candidate

465 eligible and willing to serve, in the case of a vacancy in the office of councilor-at-large, the city
466 council shall appoint any registered voter of the city duly qualified to vote for the office of city
467 councilor-at-large. In the case of a vacancy in the office of ward councilor, the city council shall
468 appoint any registered voter of the city qualified to vote for the office of city councilor from the
469 ward in which the vacancy occurs. If a vacancy occurs on the city council and an appointment is
470 not made as provided within 15 days after notification to the city council by the city clerk, the
471 appointment shall be made by the mayor; if there is no mayor, by the city councilor most senior
472 in length of service, or if 2 or more councilors have the same length of service, by the city
473 councilor most senior both in age and length of service.

474 Should an appointive officer of the city be temporarily unable for any cause to perform
475 the duties thereof, the mayor may make a temporary appointment to act in such official's stead
476 until such official shall resume his duties.

477 Section 34. Conflict of interest by mayor and others prohibited; procedure.

478 Neither the mayor nor a member of the city council or school committee nor any officer
479 or employee of the city shall, directly or indirectly, make a contract with the city or receive any
480 commission, discount, bonus, gift, contribution or reward from, or any share in, the profits of any
481 person or corporation making or performing such a contract except as may be allowed in chapter
482 268A of the General Laws.

483 If an officer of the city whose duty it is to sign a particular contract on behalf of the city
484 has such an interest therein the contract may be signed by any other officer of the city duly
485 authorized thereto by the mayor or, if the mayor has such interest, by the city clerk.

486 Section 35. Written contracts; when required; security for performance.

487 Contracts made by any department, board or commission in which the amount
488 involved equals or exceeds the amount set forth in section 17 of chapter 30B of the General
489 Laws pertaining to the requirement of written contracts, shall be in writing and no such contract
490 shall be deemed to have been made or executed until the approval of the mayor and of the
491 department or board making the contract is affixed thereto. The board or city official having the
492 matter in charge may require a contract to be accompanied by a bond with sureties or by a
493 deposit of money, certified check or other security for the faithful performance thereof
494 satisfactory to such board or city official. Such bonds or other sureties shall be deposited with
495 the city treasurer until the contract has been carried out in all respects. No such contract shall be
496 altered or amended except by written agreement of the contactor, the sureties on his bond and the
497 officer, department or board making the contract, with the approval of the mayor affixed to such
498 agreement. Any cash deposit or check payable to the city received as security for performance
499 may be deposited by the city treasurer in any Federal Deposit Insurance Corporation or
500 successor, insured bank or trust company under a separate account to be known as a performance
501 deposit account. Any purchase lawfully made under the sections 22A or 22B of chapter 7 of the
502 General Laws shall be deemed in compliance with this section.

503 Section 36. Taking land for municipal purpose.

504 At the request of any department and with the approval of the mayor and the city
505 council, the city council may take in fee, in the name of the city for any municipal purpose, any
506 land within the limits of the city not already appropriated to public use. Whenever the price
507 proposed to be paid for a lot of land for any municipal purpose is more than 25 percent higher
508 than its average assessed valuation during the previous 3 years, such land shall not be taken by

509 purchase but shall be taken by right of eminent domain and paid for in the manner provided for
510 the taking of, and the payment of damages for, land taken for highways in the city. No land shall
511 be taken until an appropriation by loan or otherwise for the general purpose for which land is
512 needed shall have been made by the mayor and city council by a two-thirds vote of all of its
513 members. A price in excess of such appropriation shall not be paid unless a larger sum is
514 awarded by a court of competent jurisdiction.

515 Section 37. Composition of school committee.

516 The school committee shall consist of the mayor, who shall be the chairman, and
517 6 members who shall be elected at-large.

518 Section 38. School committee term of office.

519 Members of the school committee elected by the voters of the city to serve on the school
520 committee shall serve for a term of 4 years.

521 Section 39. School committee powers; annual organization; prohibitions.

522 The school committee shall have all the powers conferred upon non-regional school
523 committees by the General Laws and such additional powers and duties as provided in this
524 charter or by ordinance not inconsistent with the grant of powers conferred by the General Laws.
525 The school committee shall appoint a superintendent and may appoint assistant or associate
526 superintendents in accordance with chapter 71 of the General Laws, and shall define the duties of
527 such appointees and fix their compensation.

528 The committee shall organize annually on the first Monday in January or on the
529 following day whenever the first Monday falls on a holiday and elect 1 of its members as vice-

530 chairman, whose duty it shall be to preside at all meetings of the committee at which the mayor
531 is not present.

532 During the term for which such school committee member is elected, no member shall
533 hold any other office or position, the salary or compensation for which is payable out of the city
534 treasury. The mayor shall be allowed to hold both positions of mayor and school committee
535 chairman and the mayor shall be paid for his service as mayor.

536 Section 40. Temporary accommodations.

537 The school committee, in addition to the powers and duties pertaining to school
538 committees by law, shall have power to provide temporary accommodations for school purposes
539 when necessary and shall have the control of all school buildings and of the grounds connected
540 to school buildings. The school committee shall have the power to make all repairs, the
541 expenditures for which are made from the regular appropriation for the school department except
542 as is otherwise provided in this charter.

543 Section 41. School committee to approve school design and improvements.

544 No site for a school building shall be acquired by the city without the approval of the site
545 by the school committee. No plans for the construction or alteration of a school building shall be
546 accepted and no work shall commence on the construction or alteration of a school building
547 without the approval of the school committee and the mayor; provided, however, that such
548 approval shall not be required for the making of ordinary repairs.

549 Section 42. Rules and regulations for school management.

550 The school committee shall make all reasonable rules and regulations for the

551 management of the public schools of the city and for conducting the business of the committee,
552 provided that such rules are not inconsistent with any general or special law.

553 Section 43. Meetings of school committee.

554 All meetings of the school committee shall be open to the public except for those
555 meetings of the committee held in executive session for the purposes enumerated in section 21 of
556 chapter 30A of the General Laws. In the event that the committee meets in executive session
557 pursuant to said section 21 of said chapter 30A, the committee shall comply with all procedural
558 requirements for the holding of executive sessions as required under said section 21. Unless
559 otherwise required by law, the vote on any particular matter pending before the committee shall
560 be by the call of the yeas and nays when requested by not less than 2 members of the committee.

561 Section 44. Vacancy on school committee.

562 If a vacancy occurs in the school committee by failure to elect or otherwise, the city
563 council and the remaining members of the school committee shall meet in joint convention and
564 elect a suitable registered voter of the city to fill the vacancy until the next biennial city election.
565 The mayor, if present, shall preside at such convention.

566 Section 45. Initiative petition.

567 A petition meeting the requirements of this charter and requesting that the city council
568 pass a measure, except an order granted under sections 70 and 71 of chapter 164 or chapter 166
569 of the General Laws, or requesting that the school committee pass a measure shall be deemed an
570 initiative petition, subject to the requirements of this charter.

571 For the purposes of sections 45 to 52, inclusive, a “measure” shall mean an ordinance,
572 resolution, order or vote.

573 Section 46. Form of petition; procedure for submission.

574 Signatures to initiative petitions need not be executed on a single paper. All such papers
575 pertaining to any 1 measure shall be fastened together and shall be filed in the office of the city
576 clerk as 1 instrument, with the endorsement thereon of the names and addresses of 3 persons
577 designated as filing the initiative petition. Each person signing an initiative petition shall provide
578 such person's place of residence, giving the street and number, if any.

579 Within 5 days after the filing of an initiative petition, the registrars of voters shall
580 ascertain by what number of registered voters the petition is signed, what percentage that number
581 represents of the total number of registered voters in the city and attach the certificate showing
582 the result of such examination to the initiative petition.

583 The city clerk shall forthwith transmit any initiative petition and attached certificate to
584 the city council or to the school committee, according to which body the petition is addressed,
585 and simultaneously send a copy of the certificate to 1 or more of the persons designated on the
586 petition as filing that petition.

587 Section 47. Procedure upon receipt of petition; failure to adopt; special election.

588 Except as is provided in section 48, if the number of registered voters that signed
589 an initiative petition is not less than 20 per cent of the total number of registered voters, within
590 20 days after certification by the registrars of voters that the petition has been signed by the
591 required percentage of registered voters, either:

592 (1) the city council or the school committee shall pass the measure without alteration,
593 subject to referendum vote as provided by this charter; or

594 (2) the city council shall call a special election to be held on a Tuesday fixed by the city
595 council not less than 30 nor more than 45 days after the date of certification by the registrars of
596 voters and submit the proposed measure, without alteration, to a vote of the registered voters of
597 the city at that election; provided, however, that if any city election is otherwise to occur within
598 90 days after the date of such certification, the city council may, at its discretion, decline to call a
599 special election and submit the proposed measure to the voters at such other previously pending
600 election.

601 Section 48. Failure to adopt; measure submitted at next biennial election.

602 If the number of registered voters that signed an initiative petition is between 8
603 per cent and twenty per cent of the total number of registered voters and such measure is not
604 passed without alteration within 20 days by the city council or the school committee, as provided
605 in section 47, such proposed measure shall be submitted by the city council, without alteration, to
606 a vote of the registered voters at the next biennial city election.

607 Section 49. Referendum.

608 If, within 20 days after the final passage of any measure by the city council or the school
609 committee, the number of registered voters of the city to sign a petition presented to the city
610 council or to the school committee, as the case may be, protesting against such measure or any
611 part thereof taking effect, is not less than 12 per cent of the total number of registered voters, the
612 measure shall immediately be suspended from taking effect and the city council or the school
613 committee, as the case may be, shall immediately reconsider such measure or part thereof. If
614 such measure, or part thereof, is not entirely annulled, repealed or rescinded, the city council
615 shall submit the referendum petition to a vote of the qualified voters, either at the next regular
616 city election or at a special election which the city council may, in its discretion, call for such

617 purpose. Unless a majority of the qualified voters at such election shall vote in favor of such
618 measure, or part thereof, the measure shall forthwith become null and void.

619 The procedure for a referendum petition shall be the same as that provided by sections 46
620 and 47 except that, for the purposes of the referendum procedure, the words "measure or part
621 thereof protested against" shall be understood to replace the word "measure" in said sections 46
622 and 47, wherever they occur, and that the word "referendum" shall be understood to replace the
623 word "initiative" in those sections, wherever it occurs.

624 Section 50. Council submission of measure to voters.

625 The city council may, of its own motion, but shall, upon request of the school committee
626 in the case of a measure originating with that committee and pertaining to the affairs under its
627 administration, submit to a vote of the registered voters for adoption or rejection at a general or
628 special city election any proposed measure or a proposition for the annulment, repeal or
629 amendment of any measure, in the same manner and with the same force and effect is provided
630 for submission of a petition.

631 Section 51. Passage of conflicting measures.

632 If 2 or more proposed measures passed at the same election contain conflicting
633 provisions, the measure which received the larger number of affirmative votes shall take effect
634 and the other measure shall be void.

635 Section 52. Form of ballot; vote needed for passage.

636 The ballots used in voting upon a proposed measure shall state the nature of the measure
637 in terms sufficient to explain the substance of the measure. No measure shall go into effect

638 unless it receives the affirmative vote of at least one-third of the total number of registered
639 voters.

640 Section 53. Effect on existing laws, ordinances, officers, employees and obligations.
641 All official bonds, recognizance, obligations, contracts and all other instruments entered
642 into or executed by or to the city before the effective date of this charter shall continue and
643 remain unaffected by this charter. All taxes, special assessments, excises, fines, penalties,
644 forfeitures incurred or imposed, due or owing to the city before the effective date of this charter
645 shall be enforced and collected without abatement and remain unaffected by this charter. All
646 writs, prosecutions, actions and causes of action commenced before the effective date of this
647 charter, except as otherwise provided in this charter, shall continue without abatement and
648 remain unaffected by this charter. No legal act done by, or in favor of, the city shall be rendered
649 invalid by the adoption of this charter.

650 All laws, ordinances, votes, rules and regulations relative to the city and in force on the
651 effective date of this charter and that are not inconsistent with this charter shall continue in full
652 force and effect. If any provision of this charter is found to be inconsistent with any general or
653 special law, the provision of this charter shall be deemed to prevail.

654 Any person holding: a city office; a position in the administrative service of the city;
655 permanent full-time or part-time employment, but not by periodic appointment, with the city,
656 shall retain such office, position or employment, and shall continue to perform the duties of such
657 office, position or employment until provision shall have been made for the performance of those
658 duties by another person or agency. No person in the permanent service of the city shall forfeit

659 such person's pay grade or time in service of the city nor be released from the service of the city
660 solely by virtue of the adoption of this charter.

661 Section 54. Interpretation of headings.

662 The headings contained herein are designed to facilitate ease of use but are not
663 intended to limit, restrict or in any way alter the plain reading or construction of the text which
664 follows each heading.

665 SECTION 2. Chapter 294 of the acts of 1920 is hereby repealed.