

SENATE No. 2416

Senate, August 16, 2012 - Text of the Senate amendment (Senator Rosenberg) to the House bill reestablishing a charter for the city of Northampton (House, No. 4102)

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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1 SECTION 1. The following shall be the charter for the city of Northampton.

2 ARTICLE 1

3 INCORPORATION; SHORT TITLE; DEFINITIONS

4 SECTION 1-1: INCORPORATION

5 The inhabitants of the city of Northampton, within the territorial limits established by
6 law, shall continue to be a municipal corporation, a body corporate and politic, under the name
7 "City of Northampton".

8 SECTION 1-2: SHORT TITLE

9 This instrument shall be known and may be cited as the city of Northampton charter.

10 SECTION 1-3: DIVISION OF POWERS

11 The administration of the fiscal, prudential and municipal affairs of the city of
12 Northampton, with the government of Northampton, shall be vested in an executive branch
13 headed by a mayor and a legislative branch consisting of a city council. The legislative branch

14 shall never exercise any executive power and the executive branch shall never exercise any
15 legislative power.

16 SECTION 1-4: POWERS OF THE CITY

17 Subject only to express limitations on the exercise of any power or function by a
18 municipal government in the constitution or General Laws, it is the intention and the purpose of
19 the voters of Northampton, through the adoption of this charter, to secure for themselves and
20 their government all of the powers it is possible to secure as fully and as completely as though
21 each power were specifically and individually enumerated in this charter.

22 SECTION 1-5: CONSTRUCTION

23 The powers of the city of Northampton under this charter are to be construed liberally in
24 favor of the city, and the specific mention of any particular power is not intended to limit the
25 general powers of the city as stated in section 1-4.

26 SECTION 1-6: INTERGOVERNMENTAL RELATIONS

27 Subject only to express limitations in the constitution or General Laws, the city of
28 Northampton may exercise any of its powers or perform any of its functions and may participate
29 in the financing thereof, jointly or in cooperation, by contract or otherwise, with the
30 commonwealth or any of its agencies or political subdivisions, or with the United States
31 government or any of its agencies.

32 SECTION 1-7: DEFINITIONS

33 As used in this charter, the following words shall, unless the context clearly requires
34 otherwise, have the following meanings:

- 35 (1) "Charter", this charter and any adopted amendments to it.
- 36 (2) "City", the city of Northampton.
- 37 (3) "City agency", any multiple member body, any department, division, or office of the
38 city of Northampton.
- 39 (4) "City office or department head", a person having charge of a city office or
40 department.
- 41 (5) "Emergency", a sudden, generally unexpected occurrence or set of circumstances
42 demanding immediate action.
- 43 (6) "Full city council", the entire authorized membership of the city council,
44 notwithstanding any vacancy which might exist.
- 45 (7) "Full multiple member body", the entire authorized membership of a multiple
46 member body, notwithstanding any vacancy that exists.
- 47 (8) "Full school committee", the entire authorized membership of the school committee,
48 notwithstanding any vacancy that exists.
- 49 (9) "general laws", laws enacted which apply alike to all cities and towns, to all cities, or
50 to a class of 2 or more cities, or to a class of cities and towns of which Northampton is a
51 member.
- 52 (10) "General Laws", the General Laws of the Commonwealth of Massachusetts, a
53 codification and revision of statutes enacted on December 22, 1920, and including all
54 amendments thereto subsequently adopted.

55 (11) "Initiative measure", a measure proposed by the voters through the initiative process
56 provided under this charter.

57 (12) "Local newspaper", a newspaper of general circulation within Northampton, with
58 either a weekly or daily circulation.

59 (13) "Majority vote", when used in connection with a meeting of a multiple member
60 body, shall mean a majority of those present and voting, unless another provision is made by
61 ordinance or by such body's own rules; provided, however, that General Laws related to any
62 vote to meet in executive session shall always require a majority of members of the body.

63 (14) "Measure", any ordinance, order or other vote or proceeding adopted, or which
64 might be adopted, by the city council or the school committee.

65 (15) "Multiple member body", any council, commission, committee, subcommittee or
66 other body consisting of 2 or more persons whether elected, appointed or otherwise constituted,
67 but not including the city council, the school committee or an advisory committee appointed by
68 the mayor.

69 (16) "Organization or reorganization plan", a plan submitted by the mayor to the city
70 council which proposes a change in the organization or the administrative structure of the city
71 administration or organization or a change in the way in which a municipal service or services
72 are delivered.

73 (17) "Quorum", a majority of all voting members of a multiple member body unless some
74 other number is required by law or by ordinance.

75 (18) "Referendum measure", a measure adopted by the city council or the school
76 committee that is protested under the referendum procedures of this charter.

77 (19) "Voters", registered voters of the city of Northampton.

78 (20) "Year", a calendar year, unless otherwise specified.

79 ARTICLE 2

80 LEGISLATIVE BRANCH

81 SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

82 (a) Composition - There shall be a city council consisting of 9 members which shall
83 exercise the legislative powers of the city. Two of these members, to be known as councilors-at-
84 large, shall be nominated and elected by and from the voters at large. Seven of these members, to
85 be known as ward councilors, shall be nominated and elected by and from the voters from each
86 ward; 1 such ward councilor to be elected from each of the 7 wards into which the city is divided
87 under section 7-7.

88 (b) Term of Office - The term of office for councilors shall be 2 years each, beginning on
89 the first Monday in the January succeeding the councilor's election, except when that first
90 Monday falls on a legal holiday, in which event the term shall begin on the following day and
91 until a successor has been qualified.

92 (c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A ward
93 councilor shall be a voter in the ward from which election is sought. If a ward councilor or a
94 councilor-at-large removes from the city during the councilor's term, that office shall
95 immediately be deemed vacant and filled in the manner provided in section 2-11. A ward

96 councilor who removes from the ward in which the councilor was elected and who remains a
97 resident of the city may continue to serve during the term for which the councilor was elected.

98 SECTION 2-2: PRESIDENT AND VICE-PRESIDENT, ELECTION; TERM; POWERS

99 (a) Election and Term - As soon as practicable after the councilors-elect have been
100 qualified following each regular city election, as provided in section 10-11, the members of the
101 city council shall elect from among its members a president and vice-president who shall serve
102 for 2 year terms. The method of election of the president and vice-president shall be prescribed
103 within the rules of the city council.

104 (b) Powers and Duties - The president shall prepare the agenda for city council meetings
105 in consultation with the mayor and the city clerk. The president shall preside at all meetings of
106 the city council, regulate its proceedings and decide all questions of order. The president shall
107 appoint all members of committees of the city council, whether special or standing. The
108 president shall have the same powers to vote upon measures coming before the city council as
109 any other member of the city council. The president shall perform any other duties consistent
110 with the office that are established by charter, ordinance or other vote of the city council. The
111 vice-president shall preside in the absence of the president.

112 SECTION 2-3: PROHIBITIONS

113 (a) Holding Other City Position - No member of the city council shall hold any other
114 compensated city position. No former member of the city council shall hold any compensated
115 appointed city position until 1 year following the date on which the former member's service on
116 the city council has terminated. This section shall not prevent a city employee who vacated a

117 position in order to serve as a member of the city council from returning to the same position
118 upon the expiration of the term for which that person was elected.

119 (b) Interference with Administration - No city council or any member of the city council
120 shall give orders or directions to any employee of the city appointed by the mayor, either
121 publicly or privately.

122 SECTION 2-4: COMPENSATION

123 The members of the city council shall receive a salary for their services set by ordinance.
124 No ordinance increasing or reducing the salary of the members of the city council shall be
125 effective unless it is adopted by a 2/3 vote of the full city council. No ordinance increasing the
126 salary of councilors shall be effective unless it is adopted during the first 18 months of the term
127 for which the city council is elected and it provides that the salary increase is to take effect upon
128 the organization of the city government following the next regular city election.

129 SECTION 2-5: GENERAL POWERS

130 Except as otherwise provided by the General Laws or by this charter, all powers of the
131 city shall be vested in the city council which shall provide for the performance of all duties and
132 obligations imposed upon the city by law.

133 SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

134 (a) Exercise of Powers - Except as otherwise provided by General Laws or by this
135 charter, the legislative powers of the city council may be exercised in a manner determined by
136 the city council.

137 (b) Quorum - The presence of 5 members shall constitute a quorum for the transaction of
138 business. Except as otherwise provided by General Laws or by this charter, the affirmative vote,
139 taken by roll call vote, of 6 members shall be required to adopt an appropriation order. Except as
140 otherwise provided by law or this charter, the affirmative vote, taken by roll call vote, of a
141 majority of the full city council shall be required to adopt any ordinance.

142 (c) Rules of Procedure - The city council shall adopt rules regulating the procedures of
143 the city council, which shall include, but not be limited to, the following rules:

144 (i) Regular meetings of the city council shall be held at a time and place fixed by
145 ordinance. All regular meetings of the city council shall provide for a period of public comment;
146 provided, however, the city council may promulgate rules that regulate the period of public
147 comment as deemed appropriate.

148 (ii) Special meetings of the city council shall be held at the call of the president or
149 at the call of any 3 or more members, for any purpose. Notice of the meeting shall, except in an
150 emergency, which shall be designated by the president, be delivered to each member at least 48
151 weekday hours in advance of the time set and shall specify the date, time and location of the
152 meeting and the purpose or purposes for which the meeting is to be held. A copy of each notice
153 shall immediately be posted as the General Laws relative to such postings require.

154 (iii) All sessions of the city council and of every committee or subcommittee of
155 the council shall at all times be open to the public unless otherwise specified by law.

156 (iv) A full, accurate, up-to-date account of the proceedings of the city council
157 shall be maintained by the city clerk, which shall include a record of each vote taken and which
158 shall be made available with reasonable promptness following each meeting, but not later than

159 the next regularly scheduled meeting. Unless otherwise provided by law, the minutes of an
160 executive session shall be made available as soon as publication of the minutes would not defeat
161 the purpose of the executive session.

162 SECTION 2-7: ACCESS TO INFORMATION

163 (a) In General - The city council may make investigations into the affairs of the city and
164 into the conduct and performance of any city agency.

165 (b) Information Requests - The city council may require a member of an appointed
166 multiple-member body or a city employee appear before the city council to give any information
167 that the city council may require in relation to the municipal services, functions, powers or duties
168 which are within the scope of responsibility of that person and not within the jurisdiction of the
169 school committee.

170 (c) Mayor - The city council may request specific information from the mayor on any
171 municipal matter and may request that the mayor be present to answer written questions relating
172 to that information at a meeting to be held not earlier than 7 days from the date the mayor
173 receives the questions. The mayor shall personally, or through a designated city employee, attend
174 such meeting and respond to the questions. The mayor, or the person designated to attend, shall
175 not be required to answer questions relating to any other matter.

176 (d) Notice - The city council shall give a minimum of 7 days notice to a person it may
177 require to appear before it under this section. The notice shall include specific questions on
178 which the city council seeks information and no person called to appear before the city council
179 under this section shall be required to respond to any question not relevant or related to those
180 questions presented in advance and in writing.

181 SECTION 2-8: APPOINTMENTS OF THE CITY COUNCIL

182 Subject to appropriation, the city council may employ staff as it deems necessary.

183 SECTION 2-9: ORDINANCES AND OTHER MEASURES

184 (a) Measures- Except as otherwise provided by the charter, every adopted measure shall
185 become effective at the expiration of 10 days after adoption or upon the signature of the mayor,
186 whichever occurs first. No ordinance shall be amended or repealed except by another ordinance
187 adopted in accordance with the charter, or as provided in the initiative and referendum
188 procedures.

189 (b) Emergency Measures- An emergency measure shall be introduced in the form and
190 manner prescribed for measures generally, except that it shall be plainly designated as an
191 emergency measure and shall contain statements after the enacting clause declaring that an
192 emergency exists and describing the scope and nature of the emergency in clear and specific
193 terms. A preamble which declares and defines the emergency shall be separately voted on and
194 shall require the affirmative vote of 2/3 of the full city council. An emergency measure may be
195 passed with an amendment or rejected at the meeting at which it is introduced. No measure
196 making a grant, renewal or extension, whatever its kind or nature, or a franchise or special
197 privilege shall be passed as an emergency measure. Except as provided by the laws of the
198 commonwealth, such grant, renewal or extension shall be made by ordinance. An emergency
199 measure shall become effective upon adoption or at such later time as it may specify.

200 (c) Charter Objection- On the first occasion that the question on adoption of a
201 measure is put to the city council, if a single member present objects to the taking of the vote, the
202 vote shall be postponed until the next meeting of the city council, whether regular or special. If 2

203 members present object, such postponement shall be until the next regular meeting. If it is an
204 emergency measure at least 4 members must object. This procedure shall not be used more than
205 once for any specific matter notwithstanding an amendment to the original matter. A charter
206 objection shall have privilege over all motions but must be raised prior to or at the call for a vote
207 by the presiding officer and all debate shall cease.

208 SECTION 2-10: CITY COUNCIL CONFIRMATION OF CERTAIN
209 APPOINTMENTS

210 The mayor shall refer to the city council and simultaneously file with the city clerk, the
211 name of each person the mayor desires to appoint as a department head or as a member of a
212 multiple-member body, but not including any position which is subject to the civil service law.
213 The city council shall refer each name submitted to a standing committee of the council which
214 shall review each candidate for appointment and shall make a recommendation to the full city
215 council not less than 7 nor more than 45 days after the referral. The committee may require any
216 person whose name has been referred to appear before the committee or before the city council
217 to give any information relevant to the appointment that the committee or the city council may
218 require. Appointments made by the mayor shall become effective on the forty-fifth day after the
219 date on which notice of the proposed appointment was filed with the city clerk unless approved
220 or rejected by the city council within the 45 days.

221 SECTION 2-11: FILLING OF VACANCIES

222 If a vacancy in the office of councilor occurs prior to the eighteenth month of the term for
223 which the councilor is elected, the city council shall, under section 7-1, order a special election to
224 be held within 90 days following the date the vacancy is created to fill that vacancy until the next

225 regular city election. The person elected at a special city election shall be sworn to office
226 immediately. If a regular city election is to be held within 120 days following the date the
227 vacancy is created, a special election need not be held and the office shall be filled by the voters
228 at the regular city election. Election to fill the vacant seat of a ward councilor shall be held only
229 in the affected ward, while an election to fill a vacant seat of a councilor-at-large shall be held in
230 all wards of the city.

231 ARTICLE 3

232 EXECUTIVE BRANCH

233 Section 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE;

234 COMPENSATION; PROHIBITIONS

235 (a) Mayor Qualifications – The chief executive officer of the city shall be a mayor,
236 elected by the voters of the city at large. Any voter shall be eligible to hold the office of mayor.
237 The mayor shall devote full-time to the office and shall not hold any other elective public office.

238 (b) Term of Office – The term of office of the mayor shall be 4 years, beginning on the
239 first Monday in the January after the election, except when that first Monday falls on a legal
240 holiday, in which event the term shall begin on the following day and shall continue until the
241 mayor’s successor has been qualified.

242 (c) Compensation – The city council shall, by ordinance, establish an annual salary for
243 the mayor. No ordinance increasing or reducing the salary of the mayor shall be effective unless
244 it has been adopted by a 2/3 vote of the full city council. No ordinance increasing the salary of
245 the mayor shall be effective unless it has been adopted during the first 18 months of the term for

246 which the mayor is elected and unless it provides that the salary increase is to take effect upon
247 the organization of the city government following the next regular city election.

248 (d) Prohibitions – The mayor shall hold no other compensated city position. No
249 former mayor shall hold a compensated appointed city office or city employment until 1 year
250 following the date on which the former mayor’s city service has terminated. This subsection
251 shall not prevent a city officer or other city employee who has vacated a position in order to
252 serve as mayor from returning to the same office or other position of city employment held at the
253 time such position was vacated; provided, however, no such person shall be eligible for any other
254 municipal position until at least 1 year following the termination of service as mayor. This
255 prohibition shall not apply to persons covered by a leave of absence under section 37 of chapter
256 31 of the General Laws.

257 SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

258 The executive powers of the city shall be vested solely in the mayor and may be
259 exercised by the mayor either personally or through the several city agencies under the general
260 supervision and control of the office of the mayor. The mayor shall cause the charter, laws,
261 ordinances and other orders of the city government to be enforced and shall cause a record of all
262 official acts of the executive branch of the city government to be kept. The mayor shall exercise
263 general supervision and direction over all city agencies, unless otherwise provided by law or by
264 this charter. Each city agency shall furnish to the mayor, upon request, any information or
265 materials the mayor may request and as the needs of the office of mayor and the interest of the
266 city may require. The mayor shall supervise, direct and be responsible for the efficient
267 administration of all city activities and functions placed under the control of the mayor by law or

268 by this charter. The mayor shall be responsible for the efficient and effective coordination of the
269 activities of all agencies of the city and may call together for consultation, conference and
270 discussion, at reasonable times, all persons serving the city, whether elected directly by the
271 voters, chosen by persons elected directly by the voters or otherwise. The mayor shall be, by
272 virtue of the office, a member of every appointed multiple-member body of the city. The mayor
273 may, as such ex officio member, attend a meeting of an appointed multiple-member body of the
274 city, at any time, including, so called executive sessions, to participate in the discussions, to
275 make motions and to exercise every other right of a regular member of that body, but not
276 including the right to vote.

277 SECTION 3-3: APPOINTMENTS BY THE MAYOR

278 The mayor shall appoint, subject to review by the city council under section 2-10, all city
279 officers and department heads and the members of multiple-member bodies for whom no other
280 method of appointment or selection is provided by the charter; provided, however, this shall not
281 include persons serving under the school committee and persons serving under the city council.
282 All appointments to multiple-member bodies shall be for terms established under article 6. Upon
283 the expiration of the term of any member of a multiple-member body, a successor shall be
284 appointed under article 6. The mayor shall fill a vacancy for the remainder of the unexpired term
285 of any member of a multiple-member body.

286 SECTION 3-4: TEMPORARY APPOINTMENTS TO CITY OFFICES

287 Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs
288 of the city require that such office be filled, the mayor may designate the head of another city
289 agency, a city officer, city employee or some other person to perform the duties of the office on a

290 temporary basis until the position can be filled as provided by law or by this charter. The mayor
291 shall file a certificate in substantially the following form, with the city clerk, whenever a person
292 is designated under this section:

293 I designate (name of person) to perform the duties of the office of (designate office in
294 which vacancy exists) on a temporary basis until the office can be filled by (here set out the
295 regular procedure for filling the vacancy, or when the regular officer shall return). I certify that
296 this person is qualified to perform the duties which will be required and that I make this
297 designation solely in the interests of the city of Northampton.

298 (signed)

299 Mayor

300 Persons serving as temporary officers under this section shall have only those powers of
301 the office indispensably essential to the performance of the duties of the office during the period
302 of temporary appointment and no others. Notwithstanding any general or special law to the
303 contrary, no temporary appointment shall be for more than 90 days; provided, however, not more
304 than 2 30 day extensions of a temporary appointment may be made when a permanent vacancy
305 exists in the office.

306 SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

307 (a) Communications to the City Council - The mayor shall, by written communications,
308 recommend to the city council for its consideration measures as, in the judgment of the mayor,
309 the needs of the city require. The mayor shall, by written communication, keep the city council

310 fully informed of the financial and administrative condition of the city and shall specifically
311 indicate in any such reports any fiscal, financial or administrative issues facing the city.

312 (b) Special Meetings of the City Council - The mayor may call a special meeting of the
313 city council for any purpose. Notice of the meeting shall, except in an emergency, which shall be
314 designated by the mayor, be delivered at least 48 weekday hours in advance of the time set and
315 shall specify the date, time and location of the meeting and the purpose for which the meeting is
316 to be held. A copy of the notice shall be posted immediately or as required by the General Laws
317 relative to such a posting.

318 SECTION 3-6: APPROVAL OF MAYOR, VETO

319 Every order, ordinance, resolution or vote adopted or passed by the city council relative
320 to the affairs of the city, except memorial resolutions, the selection of city officers by the city
321 council and any matters relating to the internal affairs of the city council, shall be presented to
322 the mayor for approval within 3 business days of such adoption or passage. If the mayor
323 approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure, the
324 mayor shall return the measure with the specific reason for such disapproval attached to the
325 measure in writing to the city council. The city council shall enter the objections of the mayor on
326 its records and not less than 10 business days nor more than 30 days from the date of its return to
327 the city council, shall again consider the same measure. If the city council, notwithstanding such
328 disapproval by the mayor, shall again pass the order, ordinance, resolution or vote by a 2/3 vote
329 of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to
330 approve the same. If the mayor has neither signed a measure nor returned it to the city council

331 within 10 days following the date it was presented to the mayor, the measure shall be deemed
332 approved and in force.

333 SECTION 3-7: TEMPORARY ABSENCE OF THE MAYOR

334 (a) Acting Mayor – Whenever, by reason of sickness, absence from the city or other
335 cause, the mayor is unable to perform the duties of the office, the president of the city council
336 shall be the acting mayor. The city council, by the affirmative vote of 7 members, shall
337 determine whether the mayor is unable to perform the duties of the office. Notwithstanding any
338 general or special law to the contrary, the vote shall be taken in public session by a roll call vote.

339 (b) Powers of Acting Mayor – The acting mayor shall have only those powers of the
340 mayor as are indispensably essential to conduct the business of the city in an orderly and
341 efficient manner and on which action may not be delayed. The acting mayor shall have no
342 authority to make a permanent appointment or removal from city service unless the disability or
343 absence of the mayor shall extend beyond 60 days nor shall an acting mayor approve or
344 disapprove of any measure adopted by the city council unless the time within which the mayor
345 must act would expire before the return of the mayor. During a period in which any member of
346 the city council is serving as acting mayor, that councilor shall not vote as a member of the city
347 council.

348 SECTION 3-8: DELEGATION OF AUTHORITY BY MAYOR

349 The mayor may authorize a subordinate officer or employee of the city to exercise a
350 power or perform a function or a duty which is assigned by this charter, or otherwise, to the
351 mayor and the mayor may rescind or revoke an authorizations previously made: provided,
352 however, that all acts performed under any such delegation of authority during the period of

353 authorization shall be and remain the acts of the mayor. Nothing in this section shall be
354 construed to authorize a mayor to delegate the powers and duties of a school committee member,
355 the power of appointment to city office or employment or to sign or return measures approved by
356 the city council.

357 SECTION 3-9: VACANCY IN OFFICE OF MAYOR

358 (a) If a vacancy in the office of mayor occurs prior to the eighteenth month of the term
359 for which the mayor is elected, the city council shall, under section 8-1, order a special election
360 to be held within 90 days following the date the vacancy is created to fill such vacancy until the
361 next regular city election. The person elected at that special city election shall take office
362 immediately. If a regular city election is to be held within 120 days following the date the
363 vacancy is created a special election need not be held and the office shall be filled by vote at the
364 regular city election.

365 (b) If a vacancy in the office of mayor occurs between the nineteenth and twenty-second
366 month of the term for which the mayor is elected, the city council president shall serve as mayor
367 until the next regular election. The city council president serving as mayor under this subsection
368 shall take office immediately and serve for the balance of the then unexpired term.

369 (c) If a vacancy in the office of mayor occurs between the twenty-third and fortieth
370 month of the term for which the mayor is elected, the city council shall, under section 8-1, order
371 a special election to be held within 90 days following the date the vacancy is created to serve for
372 the balance of the then unexpired term.

373 (d) If a vacancy in the office of mayor occurs during or after the forty-first month of the
374 term for which the mayor was elected, the city council president shall serve for the balance of the
375 then unexpired term.

376 (e) In the event that the city council president is unable to serve as mayor under this
377 section, the city council shall elect, from among its membership, a person to serve as mayor.

378 (f) Any person serving as mayor under this section shall receive the compensation then in
379 effect for the office of mayor.

380 ARTICLE 4

381 SCHOOL COMMITTEE

382 SECTION 4-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

383 (a) Composition – There shall be a school committee which shall consist of 10 members.
384 Two of these members shall be from the city and nominated and elected by the voters of the city
385 at large and 7 of these members shall be nominated and elected by ward. The mayor shall serve,
386 by virtue of the office, as the chair of the school committee with all of the same powers and
387 duties as the members elected by the voters as school committee members.

388 (b) Term of Office – The term of office for the elected school committee members shall
389 be 2 years, beginning on the first Monday in January after the election, except when that first
390 Monday falls on a legal holiday, then the term shall begin on the following day and until the
391 successors have been qualified.

392 (c) Eligibility – A school committee member shall at the time of election be a voter. If a
393 school committee member removes from the city during the term for which that person was

394 elected, that office shall immediately be deemed vacant and filled in the manner provided in
395 section 4-6. A ward school committee member who removes from the ward from which elected
396 and who remains a resident of the city may continue to serve during the term for which that
397 committee member was elected.

398 SECTION 4-2: SCHOOL COMMITTEE CHAIR AND VICE CHAIR

399 (a) Chair – The mayor, as school committee chair, shall preside at all meetings of the
400 school committee, regulate its proceedings and shall decide all questions of order. The school
401 committee chair shall appoint all members of all subcommittees of the school committee,
402 whether special or standing. The school committee chair shall have the same powers to vote
403 upon all measures coming before the school committee as any other member of the school
404 committee. The school committee chair shall perform the duties consistent with the office and as
405 provided by this charter or by vote of the school committee.

406 (b) Vice-Chair - As soon as practicable after the school committee members-elect have
407 been qualified following the regular city election, the school committee shall organize by
408 electing 1 of the persons elected as a member of the school committee to serve as school
409 committee vice- chair. The school committee vice-chair shall preside in the absence of the
410 mayor.

411 SECTION 4-3: PROHIBITIONS

412 No member of the school committee shall hold any other compensated city position. No
413 former member of the school committee shall hold any compensated appointed city office or city
414 employment until 1 year following the date on which that member’s service on the school
415 committee terminated. This section shall not prevent a city officer or other city employee who

416 has vacated a position in order to serve as a member of the school committee from returning to
417 the same office or other position of city employment held at the time the position was vacated;
418 provided, however, no such person shall be eligible for any other municipal position until at least
419 1 year following the termination of service as a member of the school committee.

420 SECTION 4-4: COMPENSATION

421 The city council may, by ordinance, establish an annual salary for the elected members of
422 the school committee. No ordinance increasing or reducing the salary of elected members of the
423 school committee shall be effective unless it has been adopted by a 2/3 vote of the full city
424 council. No ordinance increasing the salary of the elected members of the school committee shall
425 be effective unless it has been adopted during the first 18 months of the term for which elected
426 school committee members are elected and unless it provides that the salary increase is to take
427 effect upon the organization of the city government following the next regular city election.

428 SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

429 The school committee shall have all powers which are conferred on school committees
430 by the General Laws and the additional powers and duties provided by charter, ordinance or
431 otherwise and not inconsistent with the General Laws. The powers and duties of the school
432 committee shall include:

433 (1) electing a superintendent of the schools who shall be charged with the administration
434 of the school system, subject only to policy guidelines and directives adopted by the school
435 committee and, upon the recommendation of the superintendent, to establish and appoint
436 assistant or associate superintendents under section 59 of chapter 71 of the General Laws;

437 (2) making all reasonable rules and regulations for the management of the public school
438 system and for conducting the business of the school committee as deemed necessary or
439 desirable; and

440 (3) adopting and overseeing the administration of an annual operating budget for the
441 school department, subject to appropriation by the city council; provided, that the school
442 committee shall have general charge and superintendence of all school buildings and grounds
443 and shall furnish all school buildings with proper fixtures, furniture and equipment; provided,
444 that the school committee shall provide ordinary maintenance of all school buildings and
445 grounds, unless a central municipal maintenance department which may include maintenance of
446 school buildings and grounds is established ; provided, that whenever the school committee shall
447 determine that additional classrooms are necessary to meet the educational needs of the
448 community, at least 1 member of the school committee, or a designee of the school committee,
449 shall serve on the agency, board or committee for the planning or construction of the new,
450 remodeled or renovated school building.

451 SECTION 4-6: FILLING OF VACANCIES

452 Whenever a vacancy occurs on the school committee, the president of the city
453 council shall, within 30 days following the date of the vacancy, call a joint meeting of the city
454 council and the school committee to fill the vacancy. The city council and school committee
455 shall choose a person to fill the vacancy from among the voters entitled to vote for the office.
456 Persons elected to fill a vacancy by the city council and school committee shall serve only until
457 the next regular city election, when the office shall be filled by the voters. The candidate elected
458 to an office filled by appointment prior to the election shall be sworn to the office immediately to

459 complete the then unexpired term in addition to the term for which elected. No vacancy shall be
460 filled under this section if a regular city election is to be held within 120 days following the date
461 the vacancy is declared to exist. Persons serving as school committee members under this section
462 shall not be entitled to have the words “candidate for reelection” printed with that person’s name
463 on the election ballot.

464 ARTICLE 5

465 OTHER ELECTED OFFICIALS

466 SECTION 5-1: CITY CLERK

467 (a) Election, Eligibility - The city clerk shall be elected by the voters of the city at large.
468 Any voter shall be eligible to hold the office of city clerk. The city clerk shall devote full-time to
469 the office and shall not hold any other elective public office. The city clerk shall perform all the
470 duties and exercise the powers incumbent by law upon the office.

471 (b) Term of Office – The term of office of the city clerk shall be 2 years, beginning on
472 the first Monday in the January after the election, except when the first Monday falls on a legal
473 holiday, in which event the term shall begin on the following day and until the city clerk’s
474 successor has been qualified.

475 (c) Compensation – The city council shall, by ordinance, establish the salary for the
476 office of the city clerk.

477 (d) Temporary Absence - In case of the temporary absence of the city clerk, the mayor
478 shall appoint an acting city clerk. The mayor shall be the sole judge of whether a temporary
479 absence exists in the office of city clerk.

480 (e) Filling of Vacancy - Whenever a vacancy occurs in the office of city clerk, the city
481 council shall, within 30 days following the date of that vacancy, act to fill the vacancy. A person
482 elected to fill a vacancy by the city council shall serve only until the next regular city election,
483 when the office shall be filled by the voters. The person elected at such regular city election shall
484 take office immediately. No vacancy shall be filled under this section if a regular city election is
485 to be held within 120 days following the date of the vacancy. A person serving as city clerk
486 under this section shall not be entitled to have the words “candidate for reelection” printed next
487 to that person’s name on the election ballot.

488 SECTION 5-2: TRUSTEES UNDER THE WILL OF CHARLES E. FORBES

489 Five members shall be elected by and from the voters of the city at large for a term of 4
490 years, so arranged that all members are not elected at the same time. Vacancies shall be filled in
491 a like manner as a city clerk vacancy.

492 SECTION 5-3: ELECTOR UNDER THE OLIVER SMITH WILL

493 One member shall be elected by and from the voters of the city at large for a term of 2
494 years. Vacancies shall be filled in a like manner as a city clerk vacancy.

495 SECTION 5-4: SUPERINTENDENTS OF SMITH'S AGRICULTURAL SCHOOL

496 Three members shall be elected by and from the voters of the city at large for a term of 2
497 years. Vacancies shall be filled in a like manner as a city clerk vacancy.

498 SECTION 5-5: COMMUNITY PRESERVATION COMMITTEE

499 Two members shall be elected by and from the voters of the city at large for a
500 term of 4 years. Vacancies shall be filled in a like manner as a city clerk vacancy.

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ARTICLE 6

ADMINISTRATIVE ORGANIZATION

SECTION 6-1: ORGANIZATION OF CITY AGENCIES

The organization of the city into operating agencies to provide services and administer the government may be accomplished only through an administrative order submitted to the city council by the mayor. No administrative order may originate with the city council. The mayor may, subject only to express prohibitions in a general law or this charter, submit proposals to reorganize, consolidate or abolish a city agency, in whole or in part, or to establish a new city agency as is deemed necessary, but no function assigned by this charter to a particular city agency may be discontinued or assigned to any other city agency unless specified by this charter. The mayor may prepare and submit to the city council, administrative orders that establish operating divisions for the orderly, efficient or convenient conduct of the business of the city. These administrative orders shall be accompanied by a message from the mayor which explains the expected benefits and advises the city council if an administrative order shall require amendments, insertions, revisions, repeal or otherwise of existing ordinances. Whenever the mayor proposes an administrative order, the city council shall hold 1 or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than 7 nor more than 14 days following the publication. An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the city council unless the city council shall, by a majority vote, within that 60 day period vote to

522 disapprove the plan. The city council may vote only to approve or to disapprove the plan and
523 may not vote to amend or to alter it.

524 SECTION 6-2: MERIT PRINCIPLES

525 All appointments and promotions of city officers and employees shall be made on the
526 basis of merit and fitness demonstrated by examination, past performance or by other evidence
527 of competence and suitability. Each person appointed to fill an office or position shall be a
528 person especially fitted by education, training and previous work experience to perform the
529 duties of the office or position.

530 ARTICLE 7

531 FINANCE AND FISCAL PROCEDURES

532 SECTION 7-1: FISCAL YEAR

533 The fiscal year of the city shall begin on July 1 and shall end on June 30, unless another
534 period is required by the General Laws.

535 SECTION 7-2: ANNUAL BUDGET POLICY

536 The mayor shall call a joint meeting of the city council and school committee, including
537 the superintendent of schools, before the commencement of the budget process to review the
538 financial condition of the city, revenue and expenditure forecasts and other relevant information
539 prepared by the mayor in order to develop a coordinated budget.

540 SECTION 7-3: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE

541 At least 45 days before the beginning of the fiscal year, the mayor shall submit to the city
542 council a proposed operating budget for all city agencies, which shall include the school
543 department, for the ensuing fiscal year with an accompanying budget message and supporting
544 documents. The budget message submitted by the mayor shall explain the operating budget in
545 fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed
546 fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed
547 operating budget and include any major variations from the current operating budget, fiscal
548 policies, revenues and expenditures together with reasons for these changes. The proposed
549 operating budget shall provide a complete fiscal plan of all city funds and activities and shall be
550 in the form the mayor deems desirable; provided, however, that the budget for elected officials
551 shall identify the cost of compensation and the cost of benefits for those officials. The school
552 budget, as adopted by the school committee shall be submitted to the mayor at least 30 days
553 before the submission of the proposed operating budget to the city council. The mayor shall
554 notify the school committee of the date by which the proposed budget of the school committee
555 shall be submitted to the mayor. The mayor and the superintendent of schools shall coordinate
556 the dates and times of the school committee's budget process under the General Laws.

557 SECTION 7-4: ACTION ON THE OPERATING BUDGET

558 (a) Public Hearing - The city council shall publish in at least 1 local newspaper a notice
559 of the proposed operating budget as submitted by the mayor. The notice shall state: (i) the times
560 and places where copies of the entire proposed operating budget are available for inspection by
561 the public; and (ii) the date, time and place when a public hearing on the proposed operating
562 budget will be held by the city council, not less than 14 days after publication of the notice.

563 (b) Adoption of the Budget - The city council shall adopt the proposed operating budget,
564 which may have amendments, within 45 days following the date the proposed budget is filed
565 with the city clerk. In amending the proposed operating budget, the city council may delete or
566 decrease amounts except expenditures required by law; provided, however, that except on the
567 recommendation of the mayor, the city council shall not increase any item in or the total of the
568 proposed operating budget, unless otherwise authorized by the General Laws. If the city council
569 fails to take action on an item in the proposed operating budget within 45 days after its receipt,
570 that amount shall, without any action by the city council, become a part of the appropriations for
571 the year and be available for the purposes specified.

572 SECTION 7-5: CAPITAL IMPROVEMENT PROGRAM

573 (a) Submission - The mayor shall submit a capital improvement program to the city
574 council at least 120 days before the start of each fiscal year. The capital improvement program
575 shall include:

576 (1) a general summary of its contents;

577 (2) a list of all capital improvements proposed to be undertaken during the next 5
578 years, with supporting information as to the need for each capital improvement;

579 (3) cost estimates, methods of financing and recommended time schedules for
580 each improvement; and

581 (4) the estimated annual cost of operating and maintaining each facility and piece
582 of major equipment involved.

583 This information shall be annually revised by the mayor with regard to the capital
584 improvements still pending or in the process of being acquired, improved or constructed.

585 (b) Public Hearing - The city council shall publish in at least 1 newspaper of general
586 circulation in the city a notice stating: (i) the times and places where entire copies of the capital
587 improvements program are available for inspection by the public; and, (ii) the date, time and
588 place of a public hearing on the plan to be held by the city council not less than 14 days after
589 publication of the notice.

590 (c) Adoption - At any time after the public hearing but before the first day of the last
591 month of the current fiscal year, the city council shall by resolution adopt the capital
592 improvements program, which may be amended, provided that each amendment shall be voted
593 on separately and that an increase in the capital improvements program as submitted shall clearly
594 identify the method of financing to accomplish the proposed increase.

595 SECTION 7-6: INDEPENDENT AUDIT

596 The city council shall annually provide for an outside audit of the books and accounts of
597 the city to be conducted by a certified public accountant or a firm of certified public accountants,
598 which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its
599 officers. The mayor shall annually provide to the city council a sum of money sufficient to
600 satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the
601 city council. The award of a contract to audit shall be made by the city council on or before
602 September 15 of each year. The clerk of the council shall coordinate the work of the individual
603 or firm selected. The report of the audit shall be filed in final form with the city council not later
604 than March 1 in the year following its award.

605 SECTION 7-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

606 Except as otherwise provided by law, no official of the city of Northampton shall
607 knowingly and intentionally expend in a fiscal year sums in excess of the appropriations, awards,
608 grants or gifts duly made in accordance with law or involve the city in any contract for the future
609 payment of money in excess of these appropriations, awards, grants or gifts. It is the intention of
610 this section that section 31 of chapter 44 of the General Laws shall be strictly enforced. Any
611 official who violates this section shall be personally liable to the city for any amounts so
612 expended to the extent that the city does not recover these amounts from the person to whom the
613 sums were paid.

614 ARTICLE 8

615 ELECTIONS

616 SECTION 8-1: PRELIMINARY ELECTIONS

617 A preliminary election to nominate candidates for mayor, councilor-at-large, school
618 committee member-at-large, city clerk, ward city councilor, ward school committee member,
619 trustees under the will of Charles E. Forbes, elector under the Oliver Smith will, superintendents
620 of Smith's Agricultural School and elected members of the Community Preservation Committee,
621 shall be held on the third Tuesday in September in each odd-numbered year in which the
622 candidates are to be elected, but the city clerk may, with the approval of the city council,
623 reschedule the preliminary election to the fourth Tuesday in September to avoid a conflict with
624 any civil or religious holiday.

625 Whenever a special election to fill a vacancy is to be held, a preliminary election shall be
626 conducted, if necessary, 28 days before the date established for the special election; provided,
627 however, that a preliminary election to fill a vacancy for ward councilor or ward school
628 committee member shall be held only in the affected ward.

629 SECTION 8-2: PRELIMINARY ELECTION PROCEDURES

630 (a) Signature Requirements - The number of signatures of voters required to place the
631 name of a candidate on the official ballot to be used at a preliminary election shall be as follows:
632 for the office of mayor not less than 150 certified signatures; for the office of councilor-at-large,
633 school committee member-at-large or city clerk, not less than 100 certified signatures; and for
634 the office of ward city councilor, ward school committee member, trustees under the will of
635 Charles E. Forbes, elector under the Oliver Smith will, superintendents of Smith's Agricultural
636 School or the Community Preservation Committee, not less than 50 certified signatures.
637 Signatures of voters shall be made on a form prescribed by the registrars of voters and shall be
638 made available not earlier than April 2 in each preliminary election year and those forms shall be
639 submitted to the registrars of voters for certification of the names on or before the fourteenth day
640 preceding the date fixed for submission to the city clerk. The forms shall be submitted to the city
641 clerk on or before 5 o'clock in the afternoon on the forty-fifth day prior to the declared date of
642 the preliminary election. An individual may appear on the ballot for only 1 office at any
643 preliminary, regular or special city election.

644 (b) Ballot Position - The order in which names of candidates for each office appear on the
645 ballot shall be determined by a drawing, by lot, conducted by the city clerk at least 40 days
646 before the preliminary election. The drawing shall be open to the public.

647 (c) Determination of Candidates - The 2 people who receive the highest number of votes
648 for nomination for an office at the preliminary election shall, except as provided by subsection
649 (d), be the sole candidates for that office whose names shall be printed on the official ballot to be
650 used at the regular or special city election at which the office is to be voted upon and no
651 acceptance of a nomination shall be necessary to its validity. If 2 or more persons are to be
652 elected to the same office at the regular or special city election, the several persons equal in
653 number to twice the number to be elected receiving at such preliminary election the highest
654 number of votes for nomination for that office shall, except as provided by subsection (d), be the
655 sole candidates for that office whose names shall be printed on the official ballot. If the
656 preliminary election results in a tie vote among candidates for nomination receiving the lowest
657 number of votes which would entitle a person receiving the same to have that person's name
658 printed on the official ballot for the election, all candidates participating in the tie vote shall have
659 their names printed on the official ballots, although in consequence thereof there shall be printed
660 on the ballots the names of candidates exceeding twice the number to be elected.

661 (d) Condition Making Preliminary Unnecessary - If at the expiration of the time for filing
662 statements of candidates to be voted for at any preliminary election, not more than twice as many
663 such statements have been filed with the city clerk for an office as are to be elected to such
664 office, the candidates whose statements have thus been filed shall be deemed to have been
665 nominated to the office and those candidates shall be voted on for such office at the succeeding
666 regular or special city election and the city clerk shall not print those names on the ballot to be
667 used at the preliminary election and no other nomination to the office shall be made. If in
668 consequence it shall appear that no names are to be printed upon the official ballot to be used at a
669 preliminary election in a of the city, no preliminary election shall be held in such ward.

670 SECTION 8-3 REGULAR CITY ELECTION

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

673 SECTION 8-4: BALLOT POSITION, REGULAR CITY ELECTION

674 The order in which names of candidates for each office appear on the ballot shall be
675 determined by a drawing, by lot, conducted by the city clerk not later than 7 days after the
676 certification of the preliminary election results. In the event that there is no preliminary election,
677 the drawing shall be conducted on the fourth Tuesday in September prior to the regular election.
678 The drawing shall be open to the public.

679 SECTION 8-5: NON-PARTISAN ELECTIONS

680 All elections for city offices shall be non-partisan and election ballots shall be printed
681 without any party mark, emblem or other political designation.

682 SECTION 8-6: WARDS

683 The territory of the city shall be divided into 7 wards by the city clerk to consist of nearly
684 an equal number of inhabitants as it is possible to achieve based on compact and contiguous
685 territory, bounded as far as possible by the center line of known streets or ways or by other well-
686 defined limits. Each ward shall be composed of voting precincts established under the General
687 Laws. The city council shall review these wards to ensure uniformity in the number of
688 inhabitants at least once every 10 years.

689 SECTION 8-7: APPLICATION OF STATE GENERAL LAWS

690 Except as otherwise expressly provided in this charter and authorized by law, all city
691 elections shall be governed by the laws of the commonwealth relating to the right to vote, the
692 registration of voters, the nomination of candidates, voting places, the conduct of preliminary,
693 regular and special city elections, the submission of charters, charter amendments and other
694 propositions to the voters, the counting of votes, the recounting of votes and the determination of
695 results.

696 ARTICLE 9

697 CITIZEN PARTICIPATION MECHANISMS

698 SECTION 9-1: CITIZEN INITIATIVE MEASURES

699 (a) Commencement - Initiative procedures shall be started by the filing of a proposed
700 initiative petition with the city clerk or the secretary of the school committee. The petition shall
701 be addressed to the city council or to the school committee, shall contain a request for the
702 passage of a particular measure which shall be set forth in full in the petition and shall be signed
703 by at least 250 voters. At least 25 signatures must be certified from each ward. The petition shall
704 be accompanied by an affidavit signed by 10 voters and containing their residential address
705 stating those voters will constitute the petitioners committee and be responsible for circulating
706 the petition and filing it in proper form.

707 (b) Referral to City Solicitor - The city clerk or the secretary of the school committee
708 shall, immediately following receipt of a proposed petition, deliver a copy of the petition to the
709 city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition,
710 in writing, advise the city council or the school committee and the city clerk whether the measure
711 as proposed may lawfully be proposed by the initiative process and whether, in its present form,

712 it may lawfully be adopted by the city council or the school committee. If the opinion of the city
713 solicitor is that the measure is not in proper form, the reply shall state the reasons for this
714 opinion, in full. A copy of the opinion of the city solicitor shall be mailed to the members of the
715 petitioners committee.

716 (c) Submission to City Clerk - If city solicitor determines that the petition is in a proper
717 form, the city clerk shall provide blank forms for the use of subsequent signers and shall print at
718 the top of each blank form a fair, concise summary of the proposed measure, as determined by
719 the city solicitor, together with the names and addresses of the first 10 voters who signed the
720 originating petition. The city clerk shall notify the first 10 voters that the blank forms are issued.
721 Within 30 days following the date of the notice, the petition shall be returned and filed with the
722 city clerk signed by at least 10 per cent of the total number of registered voters as of the date of
723 the most recent regular city election. Signatures to an initiative petition need not all be on 1
724 paper, but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a
725 single instrument, with the endorsement on it of the name and address of the person designated
726 as filing the papers. With each signature on the petition there shall also appear the street and
727 number of the residence of each signer. Within 10 days following the filing of the petition, the
728 registrars of voters shall ascertain the number of voters that signed the petition and the
729 percentage that number is of the total number of voters as of the date of the most recent regular
730 city election. The registrars of voters shall attach to the petition a certificate showing the results
731 of its examination and shall return the petition to the city clerk or the secretary of the school
732 committee, depending on how the petition is addressed. A copy of the registrars of voters'
733 certificate shall also be mailed to the members of the petitioners committee.

734 (d) Action on Petitions - Within 30 days following the date a petition has been returned to
735 the city clerk or the secretary of the school committee and after publication under subsection (f),
736 the city council or the school committee shall act with respect to each initiative petition by
737 passing it without change, by passing a measure which is stated to be in lieu of the initiative
738 measure or by rejecting it. The passage of a measure which is in lieu of an initiative measure
739 shall be deemed to be a rejection of the initiative measure. If the city council or the school
740 committee fails to act within 30 days following the date the measure is returned to it, the measure
741 shall be deemed to have been rejected on the thirtieth day. If an initiative measure is rejected, the
742 city clerk or the secretary of the school committee shall promptly give notice of that fact to the
743 petitioners committee by certified mail.

744 (e) Supplementary Petitions - Within 60 days following the date an initiative petition has
745 been rejected, a supplemental initiative petition may be filed with the city clerk or the secretary
746 of the school committee, but only by persons constituting the original petitioners committee. The
747 supplemental initiative petition shall be signed by a number of additional voters equal to at least
748 5 per cent of the total number of registered voters as of the date of the most recent regular city
749 election. The signatures on the initial petition filed under subsection (c) and the signatures on the
750 supplemental petition filed under this subsection, taken together, shall contain the signatures of
751 at least 15 per cent of the total number of registered voters as of the date of the most recent
752 regular city election. If the number of signatures to this supplemental petition is found to be
753 sufficient by the city clerk, the city council shall call a special election to be held on a date not
754 less than 35 nor more than 90 days following the date of the certificate of the city clerk that a
755 sufficient number of registered voters have signed the supplemental initiative petition and shall
756 submit the proposed measure, without alteration, to the voters for determination, but if a city

757 election is to be held within 120 days following the date of the certificate, the city council may
758 omit calling the special election and cause the question to appear on the election ballot at the
759 approaching election for determination by the voters.

760 (f) Publication - The full text of an initiative measure which is submitted to the voters
761 shall be published in at least 1 local newspaper not less than 7 nor more than 14 days preceding
762 the date of the election at which the question is to be voted upon. Additional copies of the full
763 text shall be available for distribution to the public in the office of the city clerk.

764 (g) Form of Question - The ballots used when voting on a measure proposed by the voters
765 under this section shall contain a question in substantially the following form:

766 Shall the following measure which was proposed by an initiative petition take effect?

767 (Here insert the fair, concise summary of the proposed measure, as determined by the city
768 solicitor as referenced in subsection (c)).

769 o YES o NO

770 (h) Time of Taking Effect – Subject to section 9-4, if a majority of the votes cast on the
771 question is in the affirmative, the measure shall be deemed to be effective immediately, unless a
772 later date is specified in the measure.

773 SECTION 9-2: CITIZEN REFERENDUM PROCEDURES

774 (a) Petition, Effect on Final Vote - If, within 21 days following the date on which the city
775 council or the school committee has voted finally to approve any measure, a petition signed by a
776 number of voters equal to at least 15 per cent of the total number of voters as of the date of the
777 most recent regular city election and addressed to the city council or to the school committee,

778 protesting against the measure or any part of it is filed with the secretary of the school committee
779 or city clerk, the effective date of that measure shall be temporarily suspended. The school
780 committee or the city council shall immediately reconsider its vote on the measure or part of it
781 and, if the measure is not rescinded, the city council shall provide for the submission of the
782 question for a determination by the voters either at a special election, which it may call at its
783 convenience, within such time as may be requested by the school committee or at the next
784 regular city election; provided, however, that pending this submission and determination, the
785 effect of the measure shall continue to be suspended.

786 (b) Certain Initiative Provisions to Apply - The petition described in this section shall be
787 termed a referendum petition and section 9-1, as the section relates to the filing and certification
788 of signatures, shall apply to such referendum petitions, except that the words "measure or part
789 thereof protested against" shall be deemed to replace the word "measure" and the word
790 "referendum" shall be deemed to replace the word "initiative". Subject to section 9-4, the
791 measure or part thereof protested against shall be null and void unless a majority of those voting
792 on the question shall vote in favor of the measure or part thereof protested against at the election.

793 SECTION 9-3: INELIGIBLE MEASURES

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

795 (1) proceedings relating to the internal organization or operation of the city council or of
796 the school committee;

797 (2) an emergency measure adopted under the charter;

798 (3) the city budget or the school committee budget as a whole;

- 799 (4) any appropriation for the payment of the city's debt or debt service;
- 800 (5) an appropriation of funds to implement a collective bargaining agreement;
- 801 (6) proceedings relating to the appointment, removal, discharge, employment, promotion,
802 transfer, demotion or other personnel action;
- 803 (7) any proceedings repealing or rescinding a measure or part of it which is protested by
804 referendum procedures;
- 805 (8) any proceedings providing for the submission or referral to the voters at an election;
- 806 and
- 807 (9) resolutions and other votes constituting ordinary, routine matters not suitable as the
808 subject of a referendum petition.

809 SECTION 9-4: REQUIRED VOTER PARTICPATION

810 For any measure to be effective under initiative procedure and for any measure to be
811 declared null and void under a referendum procedure, at least 20 per cent of the voters as of the
812 most recent regular city election must vote at an election that includes on the ballot submission to
813 the voters of 1 or more initiative or referendum questions.

814 SECTION 9-5: SUBMISSION OF OTHER MATTERS TO VOTERS

815 The city council may on its own motion and shall at the request of the school committee,
816 if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the
817 voters at a regular city election for adoption or rejection a measure in the same manner and with
818 the same force and effect as are provided for submission by initiative or referendum petitions.

819 SECTION 9-6: CONFLICTING PROVISIONS

820 If 2 or more measures passed at the same election contain conflicting provisions, only the
821 1 receiving the greatest number of affirmative votes shall take effect.

822 ARTICLE 10

823 GENERAL PROVISIONS

824 SECTION 10-1: CHARTER CHANGES

825 This charter may be replaced, revised or amended in accordance with any procedure
826 made available under the state constitution or by statutes enacted in accordance with the state
827 constitution.

828 SECTION 10-2: SEVERABILITY

829 This charter is severable. If any provision of this charter is held invalid, the other
830 provisions shall not be affected by this holding. If the application of this charter to any person or
831 circumstance is held invalid, the application of the charter to other persons and circumstances
832 shall not be affected.

833 SECTION 10-3: SPECIFIC PROVISION TO PREVAIL

834 To the extent that a specific provision of this charter conflicts with any provision
835 expressed in general terms, the specific provision of the charter shall prevail.

836 SECTION 10-4: RULES AND REGULATIONS

837 A copy of all rules and regulations adopted by a city agency shall be placed on file in the
838 office of the city clerk not later than the effective date of the rule or regulation and shall be
839 available for review by any person who requests such information at any reasonable time. Unless
840 an emergency exists as determined by the mayor, no rule or regulation adopted by a city agency
841 shall become effective until at least 5 days following the date it is filed.

842 SECTION 10-5: PERIODIC REVIEW OF ORDINANCES

843 Not later than July 1, at 5-year intervals, in each year ending in a 5 or in a zero, beginning
844 in 2015, the mayor and city council shall provide for a review to be made of some or all of the
845 ordinances of the city to prepare a proposed revision or recodification of them. This review shall
846 be made by a special committee to be established by ordinance. All members of the committee
847 shall be voters of the city. The special committee shall file its report with the city clerk at a date
848 specified by ordinance. The review of city ordinances shall be under the supervision of the city
849 solicitor. Copies of any recommendations shall be made available to the public at a cost not to
850 exceed the actual cost of the reproduction.

851 SECTION 10-6: PERIODIC REVIEW OF CHARTER

852 Not later than July 1, at 10-year intervals, in each year ending in a 9, the mayor and city
853 council shall provide for a review to be made of the city charter. This review shall be made by a
854 special committee to be determined by ordinance. All members of the committee shall be voters
855 of the city. The special committee shall file its report with the city clerk at a date specified by
856 ordinance. Copies of any recommendations shall be made available to the public at a cost not to
857 exceed the actual cost of the reproduction.

858 SECTION 10-7: UNIFORM PROCEDURES GOVERNING MULTIPLE-MEMBER
859 BODIES

860 (a) Meetings - All appointed multiple-member bodies of the city shall meet regularly at
861 the times and places that the multiple-member body, by the body's own rules, prescribe. Special
862 meetings of any multiple-member body shall be held on the call of the chairman or by a majority
863 of the members of the body. Notice of the meeting shall be posted as required by law. Except as
864 may otherwise be authorized by law, all meetings of all multiple-member bodies shall at all times
865 be open to the public.

866 (b) Meeting Documents and Submissions - Each appointed multiple-member body shall
867 determine its own rules and order of business within the bounds of any applicable ordinance that
868 created it. Each multiple-member body shall provide for the keeping of agendas, minutes and
869 related submissions of its proceedings. All such documents shall be a public record and certified
870 copies shall be placed on file in the office of the city clerk within 15 days of approval.

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

874 (d) Quorum - A majority of the members of an appointed multiple-member body shall
875 constitute a quorum. Unless some other provision is made by the multiple-member body's own
876 rules while a quorum is present, except on procedural matters, a majority of the full membership
877 of the body shall be required to vote on a matter representing an exercise of the powers of the
878 multiple-member body. General Laws related to a vote to meet in "executive session" shall
879 always require a majority of members of the body.

880 (e) Residency – Unless otherwise allowed by law, regulation, ordinance or by this
881 charter, all members of multiple-member bodies shall be residents of the city at all times during
882 that members term of office. If a member of a multiple-member body removes from the city
883 during the term for which appointed, such seat shall immediately be deemed vacant and filled
884 under section 3-3.

885 SECTION 10-8: NUMBER AND GENDER

886 Words importing the singular number may extend and be applied to several persons or
887 things; words importing the plural number may include the singular.

888 SECTION 10-9: REFERENCES TO GENERAL LAWS

889 All references to General Laws contained in the charter refer to the General Laws of the
890 Commonwealth of Massachusetts and are intended to refer to and to include any amendments or
891 revisions to such chapters or sections or to the corresponding chapters and sections of any
892 rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the
893 adoption of this charter.

894 SECTION 10-10: COMPUTATION OF TIME

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

900 not be included, when the period is 7 days or more, Saturdays, Sundays and legal holidays shall
901 be included.

902 SECTION 10-11: OATHS OR AFFIRMATIONS FOR THE OFFICE OF MAYOR,
903 CITY COUNCIL SCHOOL COMMITTEE, CITY CLERK

904 A mayor-elect, the city council members-elect, the school committee members-elect and
905 all other elected officials shall, on the first Monday in the January of each even-numbered year,
906 except when the first Monday falls on a legal holiday, in which event on the following day, meet
907 and take an oath or affirmation to the faithful discharge of the duties of their office by the city
908 clerk. The city clerk shall first take the oath or affirmation to the discharge of the duties of the
909 office by a judge of a court of record or by a justice of the peace. Upon receiving the oath or
910 affirmation, each official shall document the same by entering the official's name in a journal
911 maintained by the city clerk. In the case of the absence of the mayor-elect or any member-elect
912 of the city council or school committee on the day the oath is administered, the oath or
913 affirmation may at any time thereafter be administered to that person by the city clerk, the
914 assistant city clerk, a judge of a court of record or by a justice of the peace. Additional inaugural
915 procedures may be prescribed by ordinance.

916 SECTION 10-12: CERTIFICATE OF ELECTION OR APPOINTMENT

917 Every person who is elected, including those elected by the city council, or appointed to
918 an office of the city, shall receive a certificate of that election or appointment from the city clerk.
919 Except as otherwise provided by law, every person who is elected, including those elected by the
920 city council, or appointed to an office of the city, before performing any act under this

921 appointment or election, shall take and subscribe to an oath or affirmation to qualify to enter
922 upon the duties. A record of this oath shall be kept by the city clerk.

923 SECTION 10-13: LIMITATION ON OFFICE HOLDING

924 Unless otherwise allowed by law or this charter, no person shall simultaneously hold
925 more than 1 city office or position of employment. This section may be waived by the mayor
926 upon the appointment of a person to an additional office or position of employment by filing a
927 notice of the waiver with an explanation and justification with the city clerk.

928 SECTION 10-14: FELONY CONVICTION

929 An elected official who has been convicted of a state or federal felony while holding
930 office shall be deemed to have vacated the office.

931 SECTION 10-15: ENFORCEMENT OF CHARTER PROVISIONS

932 It shall be the duty of the mayor to see that the charter is faithfully followed and complied
933 with by all city agencies and city employees. Whenever it appears to the mayor that a city agency
934 or city employee is failing to follow this charter the mayor shall, in writing, cause notice to be
935 given to that agency or employee directing compliance with the charter. If it shall appear to the
936 city council that the mayor personally is not following the charter it shall, by resolution, direct
937 the attention of the mayor to those areas in which it believes there is a failure to comply with the
938 charter. The procedures made available in chapter 231A of the General Laws may be used to
939 determine the rights, duties, status or other legal relations arising under this charter, including
940 any question of construction or validity which may be involved in such determination.

941 ARTICLE 11

942 TRANSITIONAL PROVISIONS

943 SECTION 11-1: CONTINUATION OF EXISTING LAWS

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

952 SECTION 11-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

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

956 SECTION 11-3: TRANSFER OF RECORDS AND PROPERTY

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

960 SECTION 11-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

961 All official bonds, recognizance, obligations, contracts and other instruments entered into
962 or executed by or to the city before the adoption of this charter and all taxes, assessments, fines,

963 penalties and forfeitures, incurred or imposed, due or owing to the city, shall be enforced and
964 collected and all writs, prosecutions, actions and causes of action, except as otherwise provided
965 in this charter, shall continue without abatement and remain unaffected by the charter. No legal
966 act done by or in favor of the city shall be rendered invalid by reason of the adoption of this
967 charter.

968 SECTION 2. This charter shall take effect upon its ratification by the voters and in
969 accordance with the following schedule:

970 (1) All city officers and employees shall continue to perform the duties of the office in
971 the same manner and to the same extent as previously performed the same prior to the
972 ratification by the voters of the special act charter.

973 (2) The first election of officers under this charter shall be held on November 5, 2013 to
974 elect a mayor for a 4-year term, members of the city council for 2-year terms, 2 members of the
975 school committee elected by and from the voters at large and the school committee members
976 representing wards 1, 3, 5 and 7 for 2-year terms, a city clerk for a 2-year term, 2 trustees under
977 the will of Charles E. Forbes for 4-year terms, 1 elector under the Oliver Smith will for a 2-year
978 term and 3 superintendents of the Smith's Agricultural School for 2-year terms. The members of
979 the school committee representing wards 2, 4 and 6 elected in the 2011 municipal election shall
980 continue to hold office until the election of 2015 at which time the school committee offices shall
981 be elected for 2-year terms. The members of the community preservation committee elected in
982 the 2011 municipal election shall continue to hold office until the election of 2015 at which time
983 the community preservation committee members shall be elected for 4-year terms. A preliminary

984 election nominate candidates to be elected shall be held on Tuesday September 17, 2013, if
985 necessary, under article 7 of the charter.

986 (3) On Monday January 6, 2014 the persons elected in November 2013 shall be sworn to
987 the faithful performance of their duties.

988 (4) Not later than 30 days following the date of the ratification of this charter by the
989 voters, the city clerk shall give to each member of the general court who represents part of
990 Northampton a copy of the vote ratifying this charter.

991 (5) Immediately after the election at which this charter is adopted, the city council shall
992 appoint 4 persons to a committee to begin a review of the city ordinances to prepare such
993 revisions and amendments as may be needed or necessary to bring the ordinances into
994 conformity with the charter and to fully implement the charter. The city clerk shall be the fifth
995 member of that committee. The committee shall submit a report, with recommendations, within 1
996 year following its establishment and may submit interim reports with recommendations at any
997 time; and provided, further that the city solicitor, or special counsel appointed for this express
998 purpose, shall serve as an advisor to the committee.

999 (6) No later than September 30, 2014, the mayor shall promulgate a series of
1000 administrative orders providing for the organization of city government into operating agencies
1001 under article 6 of the charter.

1002 (7) Until such time as modified under article 6 of the charter, chapter 354 of the acts of
1003 1888 establishing a sewer commission, chapter 464 of the acts of 1906 establishing the terms of
1004 office for park commissioners, chapter 103 of the acts of 1927 relative to the appointment of the

1005 city solicitor, chapter 328 of the acts of 2002 establishing a board of public works and
1006 department of public works and chapter 166 of the acts of 2005 shall remain in effect.

1007 (8) Following the 2013 city election, the persons elected as members of the city council
1008 shall meet for the sole purpose of reviewing and revising policies and procedures, rules or
1009 interim rules that will govern the conduct of the business of the city council until such time,
1010 following the taking of the councilor's oath or affirmation, when the city council adopts
1011 permanent rules. Such meetings shall be called by the council member-elect most senior in age
1012 and shall be open to the public, although the business of any such meetings shall be confined to
1013 the topics identified here; provided, that the city clerk shall serve as an advisor to the city
1014 council-elect in this endeavor.

1015 (9) Until such time as another salary is established under the charter, the initial salary for
1016 the mayor, city councilors and school committee members shall be that which is in effect on the
1017 date of the 2013 regular city election.

1018 (10) Within 180 days after the effective date of the charter, the city council shall enact an
1019 ordinance establishing an elected official compensation advisory board. The ordinance shall
1020 contain provisions that the board shall periodically, but not less frequently than 10 years, study
1021 the adequacy and equity of the compensation, benefits and expense allowances of municipal
1022 elected officials and report its findings and recommendations to the mayor and city council and
1023 said reports shall be filed with the city clerk. The ordinance shall further specify the composition,
1024 term of office and method of appointment of the members of the board and any other provisions
1025 deemed appropriate by the city council.

1026 (11) The mayor and the city council in office at time the charter is adopted and the mayor
1027 and successor city council elected under the charter, may adopt measures that clarify, confirm or
1028 extend any of the transitional provisions in order that the transition may be made in the most
1029 expeditious manner possible; provided, that such authority shall not extend beyond 5 years from
1030 the date of voter approval of this act.

1031 SECTION 3. Chapter 250 of the acts of 1883 is hereby repealed.

1032 SECTION 4. Chapter 115 of the acts of 1885 is hereby repealed.

1033 SECTION 5. Chapter 99 of the acts of 1886 is hereby repealed.

1034 SECTION 6. Chapter 98 of the acts of 1892 is hereby repealed.

1035 SECTION 7. Chapter 289 of the acts of 1893 is hereby repealed.

1036 SECTION 8. Chapter 177 of the acts of 1894 is hereby repealed.

1037 SECTION 9. Chapter 287 of the acts of 1895 is hereby repealed.

1038 SECTION 10. Chapter 261 of the acts of 1901 is hereby repealed.

1039 SECTION 11. Chapter 60 of the acts of 1902 is hereby repealed.

1040 SECTION 12. Chapter 130 of the acts of 1902 is hereby repealed.

1041 SECTION 13. Chapter 266 of the acts of 1903 is hereby repealed.

1042 SECTION 14. Chapter 464 of the acts of 1906 is hereby repealed.

1043 SECTION 15. Chapter 147 of the acts of 1907 is hereby repealed.

- 1044 SECTION 16. Chapter 191 of the acts of 1915 is hereby repealed.
- 1045 SECTION 17. Chapter 41 of the acts of 1924 is hereby repealed.
- 1046 SECTION 18. Chapter 265 of the acts of 1927 is hereby repealed.
- 1047 SECTION 19. Chapter 245 of the acts of 1946 is hereby repealed.
- 1048 SECTION 20. Chapter 128 of the acts of 1951 is hereby repealed.
- 1049 SECTION 21. Chapter 653 of the acts of 1951 is hereby repealed.
- 1050 SECTION 22. Chapter 63 of the acts of 1953 is hereby repealed.
- 1051 SECTION 23. Chapter 86 of the acts of 1954 is hereby repealed.
- 1052 SECTION 24. Chapter 123 of the acts of 1954 is hereby repealed.
- 1053 SECTION 25. Chapter 462 of the acts of 1955 is hereby repealed.
- 1054 SECTION 26. Chapter 188 of the acts of 1956 is hereby repealed.
- 1055 SECTION 27. Chapter 683 of the acts of 1957 is hereby repealed.
- 1056 SECTION 28. Chapter 174 of the acts of 1962 is hereby repealed.
- 1057 SECTION 29. Chapter 176 of the acts of 1962 is hereby repealed.
- 1058 SECTION 30. Chapter 45 of the acts of 1964 is hereby repealed.
- 1059 SECTION 31. Chapter 46 of the acts of 1964 is hereby repealed.
- 1060 SECTION 32. Chapter 47 of the acts of 1964 is hereby repealed.

1061 SECTION 33. Chapter 349 of the acts of 1964 is hereby repealed.

1062 SECTION 34. Chapter 666 of the acts of 1965 is hereby repealed.

1063 SECTION 35. Chapter 725 of the acts of 1966 is hereby repealed.

1064 SECTION 36. Chapter 655 of the acts of 1967 is hereby repealed.

1065 SECTION 37. Chapter 276 of the acts of 1972 is hereby repealed.

1066 SECTION 38. Chapter 164 of the acts of 1978 is hereby repealed.

1067 SECTION 39. Chapter 274 of the acts of 1978 is hereby repealed.

1068 SECTION 40. Chapter 74 of the acts of 1979 is hereby repealed.

1069 SECTION 41. Chapter 262 of the acts of 1983 is hereby repealed.

1070 SECTION 42. Chapter 252 of the acts of 1984 is hereby repealed.

1071 SECTION 43. Chapter 253 of the acts of 1984 is hereby repealed.

1072 SECTION 44. Chapter 343 of the acts of 1991 is hereby repealed.

1073 SECTION 45. Chapter 261 of the acts of 1992 is hereby repealed.

1074 SECTION 46. Chapter 45 of the acts of 2004 is hereby repealed.

1075 SECTION 47. The following question shall be placed on the ballot to be used at a special
1076 city election to be held in the city of Northampton concurrently with the biennial state election
1077 on November 6, 2012: Shall an act entitled “An Act Revising the Charter for the City of
1078 Northampton” be accepted?

1079 The city solicitor shall prepare the summary of the proposed special act charter which
1080 shall appear on the ballot along with the question provided in this section.

1081 If a majority of votes cast in answer to the question is in the affirmative, the city shall be
1082 taken to have accepted the charter of the city of Northampton, but not otherwise.

1083 SECTION 48. This act shall take effect upon its passage.