

SENATE No. 1803

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act revising the charter for the city of Pittsfield.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>

SENATE No. 1803

By Mr. Downing, a petition (accompanied by bill, Senate, No. 1803) of Benjamin B. Downing, Tricia Farley-Bouvier and Paul W. Mark (with the approval of the mayor and city council) for legislation to revise the charter for the city of Pittsfield. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act revising the charter for the city of Pittsfield.

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

- 1 SECTION 1. Chapter 280 of the acts of 1932 is hereby repealed.
- 2 SECTION 2. Chapter 231 of the acts of 1933 is hereby repealed.
- 3 SECTION 3. Chapter 272 of the acts of 1937 is hereby repealed.
- 4 SECTION 4. Chapter 611 of the acts of 1958 is hereby repealed.
- 5 SECTION 5. Chapter 258 of the acts of 1960 is hereby repealed.
- 6 SECTION 6. Chapter 733 of the acts of 1965 is hereby repealed.
- 7 SECTION 7. Chapter 82 of the acts of 1966 is hereby repealed.
- 8 SECTION 18. Chapter 231 of the acts of 1966 is hereby repealed.
- 9 SECTION 9. Chapter 744 of the acts of 1968 is hereby repealed.
- 10 SECTION 10. Chapter 202 of the acts of 1976 is hereby repealed.
- 11 SECTION 11. Chapter 564 of the acts of 1977 is hereby repealed.
- 12 SECTION 12. Chapter 168 of the acts of 1978 is hereby repealed.
- 13 SECTION 13. Chapter 416 of the acts of 1979 is hereby repealed.

14 SECTION 14. Chapter 525 of the acts of 1979 is hereby repealed.

15 SECTION 15. Chapter 10 of the acts of 1981 is hereby repealed.

16 SECTION 16. Chapter 163 of the acts of 1983 is hereby repealed.

17 SECTION 17. Chapter 179 of the acts of 1983 is hereby repealed.

18 SECTION 18. Chapter 280 of the acts of 1983 is hereby repealed.

19 SECTION 19. Chapter 401 of the acts of 1983 is hereby repealed.

20 SECTION 20. Chapter 410 of the acts of 1983 is hereby repealed.

21 SECTION 21. Chapter 92 of the acts of 1987 is hereby repealed.

22 SECTION 22. The following shall be the charter for the city of Pittsfield.

23 ARTICLE 1

24 INCORPORATION; SHORT TITLE; DEFINITIONS

25 SECTION 1-1: INCORPORATION

26 The inhabitants of the city of Pittsfield, within the territorial limits established by law,
27 shall continue to be a municipal corporation, a body corporate and politic, under the name "City
28 of Pittsfield".

29 SECTION 1-2: SHORT TITLE

30 This instrument shall be known and may be cited as the city of Pittsfield charter.

31 SECTION 1-3: DIVISION OF POWERS

32 The administration of the fiscal, prudential and municipal affairs of the city of Pittsfield
33 shall be vested in an executive branch headed by a mayor and a legislative branch consisting of a
34 city council. The legislative branch shall never exercise any executive power and the executive
35 branch shall never exercise any legislative power.

36 SECTION 1-4: POWERS OF THE CITY

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

42 SECTION 1-5: CONSTRUCTION

43 The powers of the city of Pittsfield under this charter are to be construed liberally in favor
44 of the city and the specific mention of any particular power is not intended to limit the general
45 powers of the city as stated in section 1-4.

46 SECTION 1-6: INTERGOVERNMENTAL RELATIONS

47 Subject only to express limitations in the constitution or General Laws, the city of
48 Pittsfield may exercise any of its powers or perform any of its functions and may participate in
49 the financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth
50 or any of its agencies or political subdivisions, or with the United States government or any of its
51 agencies.

52 SECTION 1-7: DEFINITIONS

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

55 (1) "Charter", this charter and any adopted amendments to it.

56 (2) "City", the city of Pittsfield.

57 (3) "City agency", any multiple member body, any department, division or office of the
58 city of Pittsfield.

59 (4) "City office or department head", a person having charge of a city office or
60 department.

61 (5) "City website", a site established and maintained by the city as its online repository of
62 municipal information, whether on the internet or accessed through another comparable
63 technology.

64 (6) "Emergency", a sudden, generally unexpected occurrence or set of circumstances
65 demanding immediate action.

66 (7) "Full city council", the entire authorized membership of the city council,
67 notwithstanding any vacancy which might exist.

68 (8) "Full multiple member body", the entire authorized membership of a multiple
69 member body, notwithstanding any vacancy that exists.

70 (9) "Full school committee", the entire authorized membership of the school committee,
71 notwithstanding any vacancy that exists.

72 (10) “Initiative measure”, a measure proposed by the voters through the initiative process
73 provided under this charter.

74 (11) “Local newspaper”, a newspaper of general circulation within Pittsfield, with either
75 a weekly or daily circulation.

76 (12) “Majority vote”, when used in connection with a meeting of a multiple member
77 body, shall mean a majority of those present and voting, unless another provision is made by
78 ordinance or by such body’s own rules; provided, however, that General Laws related to any
79 vote to meet in executive session shall always require a majority of the full multiple member
80 body.

81 (13) “Measure”, any ordinance, order or other vote or proceeding adopted, or which
82 might be adopted, by the city council or the school committee.

83 (14) “Multiple member body”, any council, commission, committee, subcommittee or
84 other body consisting of 2 or more persons, whether elected, appointed or otherwise constituted,
85 but not including the city council, the school committee or an advisory committee appointed by
86 the mayor.

87 (15) “Organization or reorganization plan”, a plan submitted by the mayor to the city
88 council which proposes a change in the organization or the administrative structure of the city
89 administration or organization or a change in the way in which municipal services are delivered.

90 (16) “Quorum”, a majority of all voting members of a multiple member body unless
91 some other number is required by law or by ordinance.

92 (17) “Recall”, an election to remove an elected official from office before the expiration
93 of the term for which elected.

94 (18) “Referendum measure”, a measure adopted by the city council or the school
95 committee that is protested under the referendum procedures of this charter.

96 (19) “Remove from the city” or ”remove from a ward”, when a person ceases to be
97 domiciled within the territorial limits of the city or a ward.

98 (20) “Voters”, registered voters of the city of Pittsfield.

99 (21) “Year”, a calendar year, unless otherwise specified.

100 ARTICLE 2

101 LEGISLATIVE BRANCH

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

103 (a) Composition - There shall be a city council consisting of 11 members which shall
104 exercise the legislative powers of the city. Four of these members, to be known as councilors-at-
105 large, shall be nominated and elected by and from the voters at large. Seven of these members, to
106 be known as ward councilors, shall be nominated from and elected by the voters in each ward; 1
107 such ward councilor to be elected from each of the 7 wards into which the city is divided under
108 section 8-6.

109 (b) Term of Office - The term of office for councilors shall be 2 years each, beginning on
110 the first Monday in the January succeeding the councilor's election, except when that first
111 Monday falls on a legal holiday, in which event the term shall begin on the following day and
112 until successors have been qualified.

113 (c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A ward
114 councilor shall be a voter in the ward from which election is sought. If a ward councilor or a
115 councilor-at-large removes from the city during the councilor's term, that office shall
116 immediately be deemed vacant

117 and filled in the manner provided in section 2-11. A ward councilor who removes from
118 the ward in which the councilor was elected and who remains a resident of the city may continue
119 to serve during the term for which the councilor was elected. The city council shall determine
120 whether a city councilor has removed from the city.

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

123 (a) Election and Term - As soon as practicable after the councilors-elect have been
124 qualified following each regular city election, as provided in section 10-11, the members of the
125 city council shall elect from among its members a president and vice-president who shall serve
126 for 2 year terms. The method of election of the president and vice-president shall be prescribed
127 within the rules of the city council. The rules of the then outgoing city council shall govern the
128 election of the president and vice-president.

129 (b) Powers and Duties - The president shall prepare the agenda for city council meetings.
130 The president shall preside at all meetings of the city council, regulate its proceedings and decide
131 all questions of order. The president shall appoint all members of committees of the city council,
132 whether special or standing. The president shall have the same powers to vote upon measures
133 coming before the city council as any other member of the city council. The president shall
134 perform any other duties consistent with the office that are established by charter, ordinance or
135 other vote of the city council. The vice-president shall preside in the absence of the president.

136 SECTION 2-3: PROHIBITIONS

137 (a) Holding Other City Position – Except as otherwise provide by the charter, no member
138 of the city council shall hold any other compensated city position. No former member of the city
139 council shall hold any compensated appointed city position until 1 year following the date on
140 which the former member's service on the city council has terminated unless such appointment is
141 affirmed by 8 members of the city council. This section shall not prevent a city employee who
142 vacated a position in order to serve as a member of the city council from returning to the same
143 position upon the expiration of the term for which that person was elected.

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

147 SECTION 2-4: COMPENSATION

148 The members of the city council shall receive compensation for their services as set by
149 ordinance. No ordinance increasing or reducing the compensation of the members of the city
150 council shall be effective unless it is adopted by a 2/3 vote of the full city council. No ordinance
151 increasing or reducing the compensation of councilors shall be effective unless it is adopted
152 during the first 18 months of the term for which the city council is elected and it provides that the
153 compensation increase or reduction is to take effect upon the organization of the city government
154 following the next regular city election.

155 SECTION 2-5: GENERAL POWERS

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

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

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

163 (b) Quorum - The presence of 6 members shall constitute a quorum for the transaction of
164 business. Except as otherwise provided by General Laws or by this charter, the affirmative vote,
165 taken by a roll call vote, of 6 members of the city council shall be required to adopt any
166 ordinance.

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

169 (i) regular meetings of the city council shall be held at a time and place fixed by
170 ordinance and all regular meetings of the city council shall provide for a period of public

171 comment; provided, however, the city council may promulgate rules that regulate the period of
172 public comment as deemed appropriate;

173 (ii) special meetings of the city council shall be held at the call of the president or at the
174 call of any 3 or more members, for any purpose; provided, however, that notice of the meeting
175 shall, except in an emergency, which shall be designated by the president, be delivered to each
176 member at least 48 weekday hours in advance of the time set and shall specify the date, time and
177 location of the meeting and the purposes for which the meeting is to be held; provided further,
178 that a copy of each notice shall immediately be posted as the General Laws relative to such
179 postings require;

180 (iii) all sessions of the city council and of every committee or subcommittee of the
181 council shall, at all times, be open to the public, unless otherwise specified by law; and

182 (iv) a full, accurate, up-to-date account of the proceedings of the city council shall be
183 maintained by the city clerk, which shall include a record of each vote taken and which shall be
184 made available with reasonable promptness following each meeting, but not later than the next
185 regularly scheduled meeting; provided, however, that unless otherwise provided by law, the
186 minutes of an executive session shall be made available as soon as publication of the minutes
187 would not defeat the purpose of the executive session.

188 SECTION 2-7: ACCESS TO INFORMATION

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

191 (b) Information Requests - The city council may require a member of a multiple-member
192 body or a city employee to appear before the city council to give any information that the city
193 council may require in relation to the municipal services, functions and powers or duties which
194 are within the scope of responsibility of that person and not within the jurisdiction of the school
195 committee.

196 (c) Mayor - The city council may request specific information from the mayor on any
197 municipal matter and may request that the mayor be present to answer written questions relating
198 to that information at a meeting to be held not earlier than 7 days from the date the mayor
199 receives the questions. The mayor shall personally, or through a designee, attend such meeting
200 and respond to the questions. The mayor, or the person designated to attend, shall not be required
201 to answer questions relating to any other matter.

202 (d) Notice - The city council shall give a minimum of 7 days notice to a person it may
203 require to appear before it under this section. The notice shall include specific questions on
204 which the city council seeks information and no person called to appear before the city council

205 under this section shall be required to respond to any question not relevant or related to those
206 questions presented in advance and in writing.

207 SECTION 2-8: APPOINTMENTS OF THE CITY COUNCIL

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

209 SECTION 2-9: ORDINANCES AND OTHER MEASURES

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

215 (b) Emergency Measures- An emergency measure shall be introduced in the form and
216 manner prescribed for measures generally, except that it shall be plainly designated as an
217 emergency measure and shall contain statements after the enacting clause declaring that an
218 emergency exists and describing the scope and nature of the emergency in clear and specific
219 terms. A preamble which declares and defines the emergency shall be separately voted on and
220 shall require the affirmative vote of 2/3 of the full city council. An emergency measure may be
221 passed with an amendment or rejected at the meeting at which it is introduced. No measure
222 making a grant, renewal or extension, whatever its kind or nature, or a franchise or special
223 privilege shall be passed as an emergency measure. Except as provided by the General Laws,
224 such grant, renewal or extension shall be made by ordinance. An emergency measure shall
225 become

226 effective upon adoption or at such later time as it may specify.

227 (c) Charter Objection- On the first occasion that the question on adoption of a measure is
228 put to the city council, if a single member present objects to the taking of the vote, the vote shall
229 be postponed until the next meeting of the city council, whether regular or special. If 2 members
230 present object, such postponement shall be until the next regular meeting. If it is an emergency
231 measure at least 4 members must object. This procedure shall not be used more than once for any
232 specific matter notwithstanding an amendment to the original matter. A charter objection shall
233 have privilege over all motions but must be raised prior to or at the call for a vote by the
234 presiding officer and all debate shall cease.

235 SECTION 2-10: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

236 The mayor shall refer to the city council and simultaneously file with the city clerk, the
237 name of each person the mayor desires to appoint as a department head or as a member of a
238 multiple-member body. Appointments made by the mayor shall become effective on the forty-

239 fifth day after the date on which notice of the proposed appointment was filed with the city clerk
240 unless approved or rejected by the city council within the 45 days.

241 SECTION 2-11: FILLING OF VACANCIES

242 Whenever a vacancy occurs on city council, the president of the city council shall, within
243 30 days following the date of the vacancy, call a special meeting of the city council to fill the
244 vacancy. The city council shall choose a person to fill the vacancy from among the voters
245 entitled to vote for the office. Persons elected to fill a vacancy by the city council shall serve
246 only until the next regular city election, when the office shall be filled by the voters. The
247 candidate elected to an office filled by appointment prior to the election shall be sworn to the
248 office immediately to complete the then unexpired term in addition to the term for which elected.
249 No vacancy shall be filled under this section if a regular city election is to be held within 120
250 days following the date the vacancy is declared to exist. Persons serving as city councilors under
251 this section shall not be entitled to have the words “candidate for reelection” printed with that
252 person’s name on the election ballot.

253 ARTICLE 3

254 EXECUTIVE BRANCH

255 SECTION 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE;
256 COMPENSATION; PROHIBITIONS

257 (a) Mayor Qualifications – The chief executive officer of the city shall be a
258 mayor, elected by the voters of the city at large. Any voter shall be eligible

259 to hold the office of mayor. The mayor shall devote full-time to the office and shall not
260 hold any other elective public office.

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

265 (c) Compensation – The city council shall, by ordinance, establish the compensation for
266 the mayor. No ordinance increasing or reducing the compensation of the mayor shall be effective
267 unless it has been adopted by a 2/3 vote of the full city council. No ordinance increasing or
268 reducing the compensation of the mayor shall be effective unless it has been adopted during the
269 first 18 months of the term for which the mayor is elected and unless it provides that the
270 compensation increase or reduction is to take effect upon the organization of the city government
271 following the next regular city election.

272 (d) Prohibitions – The mayor shall hold no other compensated city position. No former
273 mayor shall hold a compensated appointed city office or city employment until 1 year following
274 the date on which the former mayor’s city service has terminated. This subsection shall not
275 prevent a city officer or other city employee who has vacated a position in order to serve as
276 mayor from returning to the same office or other position of city employment held at the time
277 such position was vacated; provided, however, that no such person shall be eligible for any other
278 municipal position until at least 1 year following the termination of service as mayor. This
279 prohibition shall not apply to persons covered by a leave of absence under section 37 of chapter
280 31 of the General Laws.

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

282 The executive powers of the city shall be vested solely in the mayor and may be
283 exercised by the mayor either personally or through the several city agencies under the general
284 supervision and control of the office of the mayor. The mayor shall cause the charter, laws,
285 ordinances and other orders of the city government to be enforced and shall cause a record of all
286 official acts of the executive branch of the city government to be kept. The mayor shall exercise
287 general supervision and direction over all city agencies, unless otherwise provided by law or by
288 this charter. Each city agency shall furnish to the mayor, upon request, any information or
289 materials the mayor may request and as the needs of the office of mayor and the interest of the
290 city may require. The mayor shall supervise, direct and be responsible for the efficient
291 administration of all city activities and functions placed under the control of the mayor by law or
292 by this charter. The mayor shall be responsible for the efficient and effective coordination of the
293 activities of all agencies of the city and may call together for consultation, conference and
294 discussion, at reasonable times, all persons serving the city, whether elected directly by the
295 voters, chosen by persons elected directly by the voters or otherwise. The mayor shall be, by
296 virtue of the office, a member of every appointed multiple-member body of the city. The mayor
297 may, as such ex officio member, attend a meeting of an appointed multiple-member body of the
298 city, at any time, including, so called executive sessions, to participate in the discussions of that
299 body, but shall not have the right to vote.

300 SECTION 3-3: APPOINTMENTS BY THE MAYOR

301 The mayor shall appoint, subject to review by the city council under section
302 2-10, all department heads and the members of multiple-member bodies for whom no
303 other method of appointment or selection is provided by the charter; provided, however, that this
304 shall not include persons serving under the school committee and persons serving under the city
305 council. All appointments to multiple-member bodies shall be for terms established under article
306 6. Upon the expiration of the term of any member of a multiple-member body, a successor shall
307 be appointed under article 6. The mayor shall fill a vacancy for the remainder of the unexpired
308 term of any member of a multiple-member body. The method of appointment for all other city

309 employees shall be prescribed by administrative order under article 6. Department heads may be
310 removed at the sole discretion of the mayor.

311 SECTION 3-4: TEMPORARY APPOINTMENTS TO CITY OFFICES

312 Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs
313 of the city require that such office be filled, the mayor may designate a person to perform the
314 duties of the office on a temporary basis until the position can be filled as provided by law or by
315 this charter. When the mayor designates a person under this section, the mayor shall file a
316 certificate with the city clerk in substantially the following form:

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

322 Persons serving as temporary officers under this section shall have only those powers of
323 the office indispensable and essential to the performance of the duties of the office during the
324 period of temporary appointment and no others. Notwithstanding any general or special law to
325 the contrary, no temporary appointment shall be for more than 90 days; provided, however, that
326 not more than 2 extensions of a temporary appointment, which shall not exceed a total of 60
327 days, may be made when a permanent vacancy exists in the office.

328 SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

329 (a) Communications to the City Council - The mayor shall, by written communications,
330 recommend to the city council for its consideration measures as, in the judgment of the mayor,
331 the needs of the city require. The mayor shall, by written communication, keep the city council
332 fully informed of the financial and administrative condition of the city and shall specifically
333 indicate in any such reports any fiscal, financial or administrative issues facing the city.

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

340 SECTION 3-6: APPROVAL OF MAYOR, VETO

341 Every order, ordinance, resolution or vote adopted or passed by the city council relative
342 to the affairs of the city, except memorial resolutions, the selection of city officers by the city
343 council and any matters relating to the internal affairs of the city council, shall be presented to

344 the mayor for approval within 3 business days of such adoption or passage. If the mayor
345 approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure, the
346 mayor shall return the measure with the specific reason for such disapproval attached to the
347 measure in writing to the city council. The city council shall enter the objections of the mayor on
348 its records and not less than 10 business days nor more than 30 days from the date of its return to
349 the city council, shall again consider the same measure. If the city council, notwithstanding such
350 disapproval by the mayor, shall again pass the order, ordinance, resolution or vote by a 2/3 vote
351 of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to
352 approve the same. If the mayor has neither signed a measure nor returned it to the city council
353 within 10 days following the date it was presented to the mayor, the measure shall be deemed
354 approved and in force.

355 SECTION 3-7: TEMPORARY ABSENCE OF THE MAYOR

356 (a) Acting Mayor – Whenever, by reason of sickness or other cause, the mayor is unable
357 to perform the duties of the office, the president of the city council shall be the acting mayor. The
358 city council, by the affirmative vote of 8 members, shall determine whether the mayor is unable
359 to perform the duties of the office. Notwithstanding any general or special law to the contrary,
360 the vote shall be taken in public session by a roll call vote.

361 (b) Powers of Acting Mayor – The acting mayor shall have only those powers of the
362 mayor as are indispensable and essential to conduct the business of the city in an orderly and
363 efficient manner and on which action may not be delayed. The acting mayor shall have no
364 authority to make a permanent appointment or removal from city service unless the disability or
365 absence of the mayor shall extend beyond 60 days nor shall an acting mayor approve or
366 disapprove of any measure adopted by the city council unless the time within which the mayor
367 must act would expire before the return of the mayor. The city council president serving as
368 acting mayor shall not vote as a member of the city council.

369 (c) In the event that the city council president is unable to serve as acting mayor under
370 this section, the city council shall elect, from among its membership, a person to serve as acting
371 mayor.

372 SECTION 3-8: DELEGATION OF AUTHORITY BY MAYOR

373 The mayor may authorize a subordinate officer or employee of the city to exercise a
374 power or perform a function or a duty which is assigned by this charter, or otherwise, to the
375 mayor and the mayor may rescind or revoke an authorization previously made; provided,
376 however, that all acts performed under any such delegation of authority during the period of
377 authorization shall be and remain the acts of the mayor. Nothing in this section shall be
378 construed to authorize a mayor to delegate the powers and duties of a school committee member,
379 the power of appointment to city office or employment or to sign or return measures approved by
380 the city council.

381 SECTION 3-9: VACANCY IN OFFICE OF MAYOR

382 Whenever a vacancy occurs in the office of mayor by death, removal, resignation or any
383 other reason during the first through forty-first months of the term for which the mayor was
384 elected, the city council shall call a special election to be held within 90 days following the date
385 the vacancy is created to fill the vacancy for the remainder of the unexpired term. The city
386 council president shall serve as acting mayor until the vacancy is filled. If a regular city election
387 is to be held within 150 days after the date the vacancy is created, a special election need not be
388 held and the position shall be filled by vote at the regular city election and the person elected
389 shall serve for the remained of the unexpired term.

390 If a vacancy occurs during the forty-second month through the end of the term for which
391 the mayor was elected, the president of the city council shall become acting mayor, shall exercise
392 all the rights and powers of the mayor and shall be sworn to the faithful discharge of the mayoral
393 duties. In the event that the city council president is unable or unwilling to serve, a special
394 meeting of the city council shall be called by the president and the council shall elect, by
395 majority vote, 1 of its members to serve as acting mayor for the remainder of the unexpired term.
396 The individual serving as acting mayor under this section shall not be entitled to have the words
397 “candidate for reelection” printed with that person’s name on the election ballot. Any person
398 serving as mayor under this section shall receive the compensation then in effect for the position
399 of mayor.

400 ARTICLE 4

401 SCHOOL COMMITTEE

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

403 (a) Composition – There shall be a school committee which shall consist of 7 members.
404 Six of these members shall be nominated and elected by the voters of the city at large. The
405 mayor shall serve, by virtue of the office, as a member of the school committee with all of the
406 same powers and duties as the members elected by the voters as school committee members.

407 (b) Term of Office – The term of office for elected school committee members shall be 2
408 years each, beginning on the first Monday in the January succeeding the elected school
409 committee member’s election, except when that first Monday falls on a legal holiday, in which
410 event the term shall begin on the following day and until successors have been qualified.

411 (c) Eligibility – A school committee member shall, at the time of election, be a voter. If a
412 school committee member removes from the city during the term for which that person was
413 elected, that office shall immediately be deemed vacant and filled in the manner provided in
414 section 4-6.

415 SECTION 4-2: SCHOOL COMMITTEE CHAIR, VICE CHAIR, CLERK

416 (a) Election and Term - As soon as practicable after school committee members-elect
417 have been qualified following each regular city election, as provided in section 10-11, the
418 members of the school committee shall elect from among its members a chair, a vice-chair and a
419 clerk who shall serve for 2-year terms. The method of election of the chair, vice-chair and clerk
420 shall be prescribed within the rules of the school committee.

421 (b) Powers and Duties - The chair shall prepare the agenda for school committee
422 meetings. The chair shall preside at all meetings of the school committee, regulate its
423 proceedings and decide all questions of order. The chair shall appoint all members of committees
424 of the school committee, whether special or standing. The chair shall have the same powers to
425 vote upon measures coming before the school committee as any other member of the school
426 committee. The chair shall perform any other duties consistent with the office that are
427 established by charter, ordinance or other vote of the school committee. The vice-chair shall
428 preside in the absence of the chair.

429 SECTION 4-3: PROHIBITIONS

430 No member of the school committee shall hold any other compensated city position. No
431 former member of the school committee shall hold any compensated appointed city office or city
432 employment until 1 year following the date on which that member's service on the school
433 committee terminated. This section shall not prevent a city officer or other city employee who
434 has vacated a position in order to serve as a member of the school committee from returning to
435 the same office or other position of city employment held at the time the position was vacated;
436 provided, however, that no such person shall be eligible for any other municipal position until at
437 least 1 year following the termination of service as a member of the school committee.

438 SECTION 4-4: COMPENSATION

439 The city council may, by ordinance, establish the compensation for the elected members
440 of the school committee. No ordinance increasing or reducing the compensation of elected
441 members of the school committee shall be effective unless it has been adopted by a 2/3 vote of
442 the full city council. No ordinance increasing or reducing the compensation of the elected
443 members of the school committee shall be effective unless it has been adopted during the first 18
444 months of the term for which elected school committee members are elected and unless it
445 provides that the compensation increase or reduction is to take effect upon the organization of
446 the city government following the next regular city election.

447 SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

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

452 (i) selecting and removing a superintendent of the schools who shall be charged with the
453 administration of the school system, subject only to policy guidelines and directives adopted by
454 the school committee and, upon the recommendation of the superintendent, to establish and
455 appoint assistant or associate superintendents as authorized by the General Laws;

456 (ii) making all reasonable rules and regulations for the management of the public school
457 system and for conducting the business of the school committee as deemed necessary or
458 desirable; and

459 (iii) adopting and overseeing the administration of an annual operating budget for the
460 school department, subject to appropriation by the city council; provided, however, that the
461 school committee shall have general charge and superintendence of all school buildings and
462 grounds and shall furnish all school buildings with proper fixtures, furniture and equipment;
463 provided further, that the school committee shall provide ordinary maintenance of all school
464 buildings and grounds, unless a central municipal maintenance department, which may include
465 maintenance of school buildings and grounds, is established; provided further, that whenever the
466 school committee shall determine that additional classrooms are necessary to meet the
467 educational needs of the community, at least 1 member of the school committee, or a designee of
468 the school committee, shall serve on the agency, board or committee for the planning or
469 construction of the new, remodeled or renovated school building.

470 SECTION 4-6: FILLING OF VACANCIES

471 Whenever a vacancy occurs on the school committee, the president of the city council
472 shall, within 30 days following the date of the vacancy, call a joint meeting of the city council
473 and the school committee to fill the vacancy. The city council and school committee shall choose
474 a person to fill the vacancy from among the voters entitled to vote for the office. Persons elected
475 to fill a vacancy by the city council and school committee shall serve only until the next regular
476 city election, when the office shall be filled by the voters. The candidate elected to an office
477 filled by appointment prior to the election shall be sworn to the office immediately to complete
478 the then unexpired term in addition to the term for which elected. No vacancy shall be filled
479 under this section if a regular city election is to be held within 120 days following the date the
480 vacancy is declared to exist. Persons serving as school committee members under this section
481 shall not be entitled to have the words "candidate for reelection" printed with that person's name
482 on the election ballot.

483 ARTICLE 5

484 CITY CLERK

485 SECTION 5-1: ELECTION; TERM

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

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

494 (c) Compensation – The city council shall, by ordinance, establish the compensation for
495 the office of the city clerk.

496 (d) Temporary Absence or Vacancy - In case of the temporary absence of the city clerk,
497 or a vacancy in the office, the mayor shall appoint an acting city clerk. The mayor shall be the
498 sole judge of whether a temporary absence exists in the office of city clerk. In the case of a
499 vacancy, the mayor shall appoint an acting city clerk until the charter provisions regarding the
500 filling of the vacancy take effect.

501 (e) Filling of Vacancy – Should a vacancy occur in the office of the city clerk during the
502 first year of the term, the city council shall, under article 8, order a special election to be held
503 within 90 days following the date the vacancy is created to fill such vacancy until the next
504 regular city election. The candidate elected at that special city election shall take office
505 immediately and shall serve for the remainder of the unexpired term. A person serving as city
506 clerk under this section shall not be entitled to have the words “candidate for reelection” printed
507 next to that person’s name on the subsequent municipal election ballot. Should a vacancy occur
508 in the office of the city clerk after the first year of the term, the mayor shall appoint, subject to
509 review by the of the city council under section 2-10, a temporary city clerk to serve until the next
510 municipal election. The city clerk elected at said election shall take office immediately following
511 said election.

512 ARTICLE 6

513 ADMINISTRATIVE ORGANIZATION

514 SECTION 6-1: ORGANIZATION OF CITY AGENCIES

515 The organization of the city into agencies to provide services and administer the
516 government may be accomplished only through an administrative order submitted to the city
517 council by the mayor. No administrative order may originate with the city council. The mayor
518 may, subject only to express prohibitions of a general law or this charter, submit proposals to
519 reorganize, consolidate or abolish any agency, in whole or in part, or to establish a new agency
520 as is deemed necessary, establish terms of office and prescribe the functions and administrative

521 procedures to be followed by all such agencies. No function assigned by this charter to a
522 particular agency may be discontinued or assigned to any other agency unless specified by this
523 charter. The mayor may prepare and submit to the city council, administrative orders that
524 establish agencies for the orderly, efficient or convenient conduct of the business of the city.
525 These administrative orders shall be accompanied by a message from the mayor which explains
526 the expected benefits and advises the city council if an administrative order shall require
527 amendments, insertions, revisions, repeal or otherwise of existing ordinances. Whenever the
528 mayor proposes an administrative order, the city council shall hold 1 or more public hearings on
529 the proposal giving notice by publication in a local newspaper, which notice shall describe the
530 scope of the proposal and the time and place at which the public hearing will be held, not less
531 than 7 nor more than 14 days following the publication. An organization or reorganization plan
532 shall become effective at the expiration of 60 days following the date the proposal is submitted to
533 the city council unless the city council shall, by a majority vote, within that 60 day period, vote
534 to disapprove the plan. The city council may vote only to approve or to disapprove the plan and
535 may not vote to amend or to alter it.

536 SECTION 6-2: MERIT PRINCIPLES

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

542 ARTICLE 7

543 FINANCE AND FISCAL PROCEDURES

544 SECTION 7-1: FISCAL YEAR

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

547 SECTION 7-2: ANNUAL BUDGET MEETING

548 At least 60 days before the beginning of the fiscal year, the mayor shall call a joint
549 meeting of the city council and school committee, including the superintendent of schools, to
550 review the financial condition of the city, revenue and expenditure forecasts and other relevant
551 information prepared by the mayor in order to develop a coordinated budget.

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

553 At least 30 days before the beginning of the fiscal year, the mayor shall submit to the city
554 council a proposed operating budget for all city agencies, which shall include the school

555 department, for the ensuing fiscal year with an accompanying budget message and supporting
556 documents. The budget message submitted by the mayor shall explain the operating budget in
557 fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed
558 fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed
559 operating budget and include any major variations from the current operating budget, fiscal
560 policies, revenues and expenditures together with reasons for these changes. The proposed
561 operating budget shall provide a complete fiscal plan of all city funds and activities and shall be
562 in the form the mayor deems desirable; provided, however, that the budget for elected officials
563 shall identify the cost of compensation and the cost of benefits for those officials. The school
564 budget, as adopted by the school committee shall be submitted to the mayor at least 30 days
565 before the submission of the proposed operating budget to the city council. The mayor shall
566 notify the school committee of the date by which the proposed budget of the school committee
567 shall be submitted to the mayor. The mayor and the superintendent of schools shall coordinate
568 the dates and times of the school committee's budget process under the General Laws.

569 SECTION 7-4: ACTION ON THE OPERATING BUDGET

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

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

584 (c) Availability of the Operating Budget – In addition to any other posting requirements
585 under law, immediately after the submission of the proposed budget to the city council, the
586 mayor shall cause the entire budget document to be posted on the city's website. Said proposed
587 budget document shall remain posted during the city council review process contained in this
588 article. After the enactment of the budget, it shall be posted on the city's website and shall remain
589 there throughout the fiscal year for which it is in effect. Said budget document shall reflect any
590 amendments made by the city council and approved by the mayor and shall indicate that it is the
591 final budget of the city.

592 SECTION 7-5: CAPITAL IMPROVEMENT PROGRAM

593 (a) Submission - The mayor shall submit a capital improvement program to the city
594 council at least 60 days before the start of each fiscal year. The capital improvement program
595 shall include:

596 (1) a general summary of its contents;

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

599 improvement;

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

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

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

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

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

616 SECTION 7-6: INDEPENDENT AUDIT

617 The city council shall annually provide for an outside audit of the books and accounts of
618 the city to be conducted by a certified public accountant or a firm of certified public accountants,
619 which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its
620 officers. The mayor shall annually provide to the city council a sum of money sufficient to
621 satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the
622 city council. The award of a contract to audit shall be made by the city council on or before
623 September 15 of each year. The report of the audit shall be filed in final form with the city
624 council not later than March 1 in the year following its award. At least every 5 years, the city
625 council shall conduct a competitive procurement process to retain these auditing services.

626 SECTION 7-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

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

634 ARTICLE 8

635 ELECTIONS

636 SECTION 8-1: PRELIMINARY ELECTIONS

637 A preliminary election to nominate candidates for mayor, councilor-at-large, ward city
638 councilor, school committee members and city clerk shall be held on the third Tuesday in
639 September in each odd-numbered year in which the candidates are to be elected, but the city
640 clerk may, with the approval of the city council, reschedule the preliminary election to the fourth
641 Tuesday in September to avoid a conflict with any civil or religious holiday. Whenever a special
642 election to fill a vacancy is to be held, a preliminary election shall be conducted, if necessary, 28
643 days before the date established for the special election; provided, however, that a preliminary
644 election to fill a vacancy for ward councilor shall be held only in the affected ward.

645 SECTION 8-2: PRELIMINARY ELECTION PROCEDURES

646 (a) Signature Requirements - The number of signatures of voters required to place the
647 name of a candidate on the official ballot to be used at a preliminary election shall be as follows:
648 for the office of mayor, not less than 300 certified signatures; for any other office elected at
649 large, not less than 150 certified signatures; for the office of ward city councilor, not less than 50
650 certified signatures. Signatures of voters shall be made on a form prescribed by the registrars of
651 voters and shall be made available not earlier than April 2 in each preliminary election year and
652 those forms shall be submitted to the registrars of voters for certification of the names on or
653 before the fourteenth day preceding the date fixed for submission to the city clerk. The forms
654 shall be submitted to the city clerk on or before 5 o'clock in the afternoon on the forty-fifth day
655 prior to the declared date of the preliminary election. An individual may appear on the ballot for
656 only 1 office at any preliminary, regular or special city election.

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

660 (c) Determination of Candidates - The 2 people who receive the highest number of votes
661 for nomination for an office at the preliminary election shall, except as provided by subsection
662 (d), be the sole candidates for that office whose names shall be printed on the official ballot to be
663 used at the regular or special city election at which the office is to be voted upon and no
664 acceptance of a nomination shall be necessary to its validity. If 2 or more persons are to be
665 elected to the same office at the regular or special city election, the several persons equal in
666 number to twice the number to be elected, receiving at such preliminary election the highest
667 number of votes for nomination for that office shall, except as provided by subsection (d), be the
668 sole candidates for that office whose names shall be printed on the official ballot. If the
669 preliminary election results in a tie vote among candidates for nomination receiving the lowest
670 number of votes which would entitle a person receiving the same to have that person's name
671 printed on the official ballot for the election, all candidates participating in the tie vote shall have
672 their names printed on the official ballots, although in consequence thereof there shall be printed
673 on the ballots the names of candidates exceeding twice the number to be elected.

674 (d) Condition Making Preliminary Unnecessary - If at the expiration of the time for filing
675 statements of candidates to be voted for at any preliminary election, not more than twice as many
676 such statements have been filed with the city clerk for an office as are to be elected to such
677 office, the candidates whose statements have thus been filed shall be deemed to have been
678 nominated to the office and those candidates shall be voted on for such office at the succeeding
679 regular or special city election and the city clerk shall not print those names on the ballot to be
680 used at the preliminary election and no other nomination to the office shall be made. If in
681 consequence it shall appear that no names are to be printed upon the official ballot to be used at a
682 preliminary election in the city, no preliminary election shall be held.

683 SECTION 8-3 REGULAR CITY ELECTION

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

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

687 The order in which names of candidates for each office appear on the ballot shall be
688 determined by a drawing, by lot, conducted by the city clerk not later than 7 days after the
689 certification of the preliminary election results. In the event that there is no preliminary election
690 in advance of the regular city election, the drawing shall be conducted on the fourth Tuesday in
691 September prior to the regular city election. In the event that there is no preliminary election in
692 advance of a special city election, the drawing shall be conducted on the sixth Tuesday prior to
693 the special city election. The drawing shall be open to the public.

694 SECTION 8-5: NON-PARTISAN ELECTIONS

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

697 SECTION 8-6: WARDS

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

704 SECTION 8-7: APPLICATION OF STATE GENERAL LAWS

705 Except as otherwise expressly provided in this charter and authorized by law, all city
706 elections shall be governed by the General Laws relating to the right to vote, the registration of
707 voters, the nomination of candidates, voting places, the conduct of preliminary, regular and
708 special city elections, the submission of charters, charter amendments and other propositions to
709 the voters, the counting of votes, the recounting of votes and the determination of results.

710 ARTICLE 9

711 CITIZEN PARTICIPATION MECHANISMS

712 SECTION 9-1: CITIZEN INITIATIVE MEASURES

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

721 (b) Referral to City Solicitor - The city clerk or the secretary of the school committee
722 shall, immediately following receipt of a proposed petition, deliver a copy of the petition to the
723 city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition,
724 in writing, advise the city council or the school committee and the city clerk whether the measure
725 as proposed may lawfully be proposed by the initiative process and whether, in its present form,
726 it may lawfully be adopted by the city council or the school committee. If the opinion of the city
727 solicitor is that the measure is not in proper form, the reply shall state the reasons for this
728 opinion, in full. A copy of the opinion of the city solicitor shall be mailed to the members of the
729 petitioners committee.

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

748 (d) Action on Petitions - Within 30 days following the date a petition has been returned to
749 the city clerk or the secretary of the school committee and after publication under subsection (f),
750 the city council or the school committee shall act with respect to each initiative petition by
751 passing it without change, by passing a measure which is stated to be in lieu of the initiative
752 measure or by rejecting it. The passage of a measure which is in lieu of an initiative measure
753 shall be deemed to be a rejection of the initiative measure. If the city council or the school
754 committee fails to act within 30 days following the date the measure is returned to it, the measure
755 shall be deemed to have been rejected on the thirtieth day. If an initiative measure is rejected, the
756 city clerk or the secretary of the school committee shall promptly give notice of that fact to the
757 petitioners committee by certified mail.

758 (e) Supplementary Petitions - Within 60 days following the date an initiative petition has
759 been rejected, a supplemental initiative petition may be filed with the city clerk or the secretary
760 of the school committee, but only by persons constituting the original petitioners committee. The
761 supplemental initiative petition shall be signed by a number of additional voters equal to at least
762 5 per cent of the total number of registered voters as of the date of the most recent regular city
763 election. The signatures on the initial petition filed under subsection (c) and the signatures on the
764 supplemental petition filed under this subsection, taken together, shall contain the signatures of
765 at least 15 per cent of the total number of registered voters as of the date of the most recent
766 regular city election. If the number of signatures to this supplemental petition is found to be
767 sufficient by the city clerk, the city council shall call a special election to be held on a date not
768 less than 35 nor more than 90 days following the date of the certificate of the city clerk that a

769 sufficient number of registered voters have signed the supplemental initiative petition and shall
770 submit the proposed measure, without alteration, to the voters for determination, but if a city
771 election is to be held within 120 days following the date of the certificate, the city council may
772 omit calling the special election and cause the question to appear on the election ballot at the
773 approaching election for determination by the voters.

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

778 (g) Form of Question - The ballots used when voting on a measure proposed by the voters
779 under this section shall contain a question in substantially the

780 following form:

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

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

785 o YES o NO

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

789 SECTION 9-2: CITIZEN REFERENDUM PROCEDURES

790 (a) Petition, Effect on Final Vote - If, within 21 days following the date on which the city
791 council or the school committee has voted finally to approve any measure, a petition signed by a
792 number of voters equal to at least 15 per cent of the total number of voters as of the date of the
793 most recent regular city election and addressed to the city council or to the school committee,
794 protesting against the measure or any part of it is filed with the secretary of the school committee
795 or city clerk, the effective date of that measure shall be temporarily suspended. The school
796 committee or the city council shall immediately reconsider its vote on the measure or part of it
797 and, if the measure is not rescinded, the city council shall provide for the submission of the
798 question for a determination by the voters either at a special election, which it may call at its
799 convenience, within such time as may be requested by the school committee or at the next
800 regular city election; provided, however, that pending this submission and determination, the
801 effect of the measure shall continue to be suspended.

802 (b) Certain Initiative Provisions to Apply - The petition described in this section shall be
803 termed a referendum petition and section 9-1, as the section relates to the filing and certification
804 of signatures, shall apply to such referendum petitions, except that the words “measure or part
805 thereof protested against” shall be deemed to replace the word “measure” and the word
806 “referendum” shall be deemed to replace the word “initiative”. Subject to section 9-5, the
807 measure or part thereof protested against shall be null and void unless a majority of those voting
808 on the question shall vote in favor of the measure or part thereof protested against at the election.

809 SECTION 9-3: INELIGIBLE MEASURES

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

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

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

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

816 (4) any appropriation for the payment of the city's debt or debt service;

817 (5) an appropriation of funds to implement a collective bargaining agreement;

818 (6) proceedings relating to the appointment, removal, discharge, employment, promotion,
819 transfer, demotion or other personnel action;

820 (7) any proceedings repealing or rescinding a measure or part of it which is protested by
821 referendum procedures;

822 (8) any proceedings providing for the submission or referral to the voters at an election;
823 and

824 (9) resolutions and other votes constituting ordinary, routine matters not
825 suitable as the subject of a referendum petition.

826 SECTION 9-4 RECALL

827 (a) Application - Any holder of an elected office in the city, with more than 6 months
828 remaining in the term of office for which the officer was elected, may be recalled therefrom by
829 the voters of the city in the manner provided in this section. No recall petition shall be filed
830 against an officer within 6 months after taking office.

831 (b) Recall Petition - A recall petition may be initiated by the filing of an affidavit
832 containing the name of the officer sought to be recalled and a statement of the grounds for recall,
833 provided that the affidavit is signed by at least 500 voters for the office of mayor or councilor-at-
834 large and at least 300 voters for any other elected official. The city clerk shall thereupon deliver
835 to those voters making the affidavit, copies of petition blanks demanding such recall, copies of
836 which printed forms the city clerk shall keep available. The blanks shall be issued by the city
837 clerk, with signature and official seal attached thereto. The blanks shall be dated, shall be
838 addressed to the city council and shall contain the names of all the persons to whom the blanks
839 are issued, the number of blanks so issued, the name of the person whose recall is sought, the
840 office from which removal is sought and the grounds of recall as stated in the affidavit. A copy
841 of the petition shall be entered in a record book to be kept in the office of the city clerk. Said
842 recall petition shall be returned and filed with the city clerk within 28 days after the filing of the
843 affidavit, and shall have been signed by at least 20 percent of the voters of the city for any officer
844 elected at large and signed by at least 20 percent of the voters of the ward for an officer elected
845 by ward. The city clerk shall submit the petition to the registrars of voters and the registrars shall,
846 within 5 days, certify thereon the number of signatures which are names of voters.

847 (c) Recall Election - If the petition shall be found and certified by the city clerk to be
848 sufficient, the city clerk shall submit the same with such certificate to the city council within 5
849 days, and the city council shall give written notice of the receipt of the certificate to the officer
850 sought to be recalled and shall, if the officer does not resign within 5 days thereafter, order an
851 election to be held on a date fixed by the city council not less than 64 days and not more than 90
852 days after the date of the city clerk's certificate that a sufficient petition has been filed; provided,
853 however, that if any other city election is to occur within 120 days after the date of the
854 certificate, the city council shall postpone the holding of the recall election to the date of such
855 other election. If a vacancy occurs in said office after a recall election has been ordered, the
856 election shall not proceed as provided in this section.

857 (d) Office Holder - The incumbent shall continue to perform the duties of the office until
858 the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the
859 remainder of the unexpired term subject to recall as before. If recalled, the officer shall be
860 deemed removed and the office vacant. The vacancy created thereby shall be filled under articles
861 2, 3, 4 and 5 of this charter for filling vacancies in such office. A person chosen to fill the
862 vacancy caused by a recall shall hold office until the next regular city election. Should the person
863 be a candidate in the subsequent election, that person will not be allowed to have "candidate for
864 re-election" appear on the ballot at such election.

865 (e) Ballot Proposition - The form of the question to be voted upon shall be substantially
866 as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be
867 recalled?" Yes No

868 If a majority of the votes cast upon the question of recall is in the affirmative, such
869 elected officer shall be recalled.

870 (f) Repeat of Recall - In the case of an officer subjected to a recall election and not
871 recalled thereby, no recall petition shall be filed against such officer until at least 270 days after
872 the election at which the officer's recall was submitted to the voters of the city.

873 (g) Office Holder Recalled - No person who has been recalled from an office or who has
874 resigned from office while recall proceedings were pending against such person, shall be
875 appointed to any city office within 2 years after such recall or such resignation.

876 SECTION 9-5: REQUIRED VOTER PARTICIPATION

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

881 SECTION 9-6: SUBMISSION OF OTHER MATTERS TO VOTERS

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

886 SECTION 9-7: CONFLICTING PROVISIONS

887 If 2 or more measures passed at the same election contain conflicting provisions, only the
888 1 receiving the greatest number of affirmative votes shall take effect.

889 ARTICLE 10

890 GENERAL PROVISIONS

891 SECTION 10-1: CHARTER CHANGES

892 This charter may be replaced, revised or amended in accordance with any procedure
893 made available under the state constitution or by the General Laws.

894 SECTION 10-2: SPECIFIC PROVISION TO PREVAIL

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

897 SECTION 10-3: RULES AND REGULATIONS

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

903 SECTION 10-4: PERIODIC REVIEW OF ORDINANCES

904 Not later than July 1, at 5-year intervals, in each year ending in a 5 or in a 0, the mayor
905 and city council shall provide for a review to be made of some or all of the ordinances of the city
906 to prepare a proposed revision or recodification of them. This review shall be made by a special
907 committee to be established by ordinance. All members of the committee shall be voters of the
908 city. The special committee shall file its report with the city clerk at a date specified by
909 ordinance. The review of city ordinances shall be under the supervision of the city solicitor.
910 Copies of any recommendations shall be made available to the public at a cost not to exceed the
911 actual cost of the reproduction.

912 SECTION 10-5: PERIODIC REVIEW OF CHARTER

913 Not later than July 1, at 10-year intervals, in each year ending in a 3, the mayor and city
914 council shall provide for a review to be made of the city charter. This review shall be made by a
915 special committee to be determined by ordinance. All members of the committee shall be voters
916 of the city. The special committee shall file its report with the city clerk at a date specified by
917 ordinance. Copies of any recommendations shall be made available to the public at a cost not to
918 exceed the actual cost of the reproduction.

919 SECTION 10-6: UNIFORM PROCEDURES GOVERNING MULTIPLE-MEMBER
920 BODIES

921 (a) Officers – All appointed multiple-member bodies shall elect a chair, a vice-chair and a
922 secretary and any other officer it deems necessary.

923 (b) Meetings - All appointed multiple-member bodies of the city shall meet regularly at
924 the times and places that the multiple-member body, by the body's own rules, prescribe. Special
925 meetings of any multiple-member body shall be held at the call of the chair or by a majority of
926 the members of the body. Notice of the meeting shall be posted as required by law. Except as
927 may otherwise be authorized by law, all meetings of all multiple-member bodies shall at all times
928 be open to the public.

929 (c) Meeting Documents and Submissions - Each appointed multiple-member body shall
930 determine its own rules and order of business. Each multiple-member body shall provide for the
931 keeping of agendas, minutes and related submissions of its proceedings. All such documents

932 shall be a public record and certified copies shall be placed on file in the office of the city clerk
933 within a reasonable period from the date of approval.

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

937 (e) Quorum - A majority of the members of an appointed multiple-member body shall
938 constitute a quorum. Unless some other provision is made by the multiple-member body's own
939 rules while a quorum is present, except on procedural matters, a majority of the full membership
940 of the body shall be required to vote on any matter representing an exercise of the powers of the
941 multiple-member body. General Laws related to a vote to meet in "executive session" shall
942 always require a majority of members of the body.

943 SECTION 10-7: REFERENCES TO GENERAL LAWS

944 All references to General Laws contained in the charter refer to the General

945 Laws of the commonwealth and are intended to refer to and to include any amendments
946 or revisions to such chapters or sections or to the corresponding chapters and sections of any
947 rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the
948 adoption of this charter.

949 SECTION 10-8: COMPUTATION OF TIME

950 In computing time under this charter the day of the act or event after which the
951 designated period of time begins to run shall not be included. The last day of the period shall be
952 included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be
953 extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of
954 time designated is fewer than 7 days, intermediate Saturdays, Sundays and legal holidays shall
955 not be included, when the period is 7 days or more, Saturdays, Sundays and legal holidays shall
956 be included.

957 SECTION 10-9: OATHS OR AFFIRMATIONS FOR THE OFFICE OF MAYOR, CITY 958 COUNCIL, SCHOOL COMMITTEE, CITY CLERK

959 A mayor-elect, the city council members-elect, the school committee members-elect and
960 a city clerk-elect shall, on the first Monday in the January of each even-numbered year, meet and
961 take an oath or affirmation to the faithful discharge of the duties of their office by the city clerk.
962 If the first Monday in January of such even-numbered years falls on a legal holiday, the oaths or
963 affirmations shall be taken on the following day. The city clerk shall first take the oath or
964 affirmation to the discharge of the duties of the office by a judge of a court of record or by a
965 justice of the peace. Upon receiving the oath or affirmation, each official shall document the
966 same by signing an oath or affirmation that shall be kept in a bound book maintained by the city

967 clerk. In the case of the absence of the mayor-elect or any member-elect of the city council or
968 school committee on the day the oath is administered, the oath or affirmation may at any time
969 thereafter be administered to that person by the city clerk, the assistant city clerk, a judge of a
970 court of record or by a justice of the peace. Modifications to this section may be prescribed by
971 ordinance.

972 SECTION 10-10: CERTIFICATE OF ELECTION OR APPOINTMENT

973 Every person who is elected or appointed to an office or as a member of a multiple-
974 member body shall receive a certificate of that election or appointment from the city clerk.
975 Except as otherwise provided by law, every person who is elected or appointed to an office or as
976 a member of a multiple-member body, before performing any act under this election or
977 appointment, shall take and subscribe to an oath or affirmation to qualify to enter upon the
978 duties. A record of this oath shall be kept by the city clerk.

979 SECTION 10-11: LIMITATION ON OFFICE HOLDING

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

984 SECTION 10-12: FELONY CONVICTION

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

987 SECTION 10-13: ENFORCEMENT OF CHARTER PROVISIONS

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

998 ARTICLE 11

999 TRANSITIONAL PROVISIONS

1000 SECTION 11-1: CONTINUATION OF EXISTING LAWS

1001 All general or special laws, city ordinances and rules and regulations of or pertaining to
1002 the city of Pittsfield, including special acts creating regional entities and arrangements of which
1003 the city is a member, that are in force when this charter takes effect, and not specifically or by
1004 implication repealed by this charter, shall continue in full force and effect until amended or
1005 repealed, rescinded by law or until they expire by their own limitation. In any case in which this
1006 charter is found to be inconsistent with any general or special law that would otherwise be
1007 applicable, this charter shall be deemed to prevail. Every inconsistency between the prior law
1008 and this charter shall be decided in favor of this charter.

1009 SECTION 11-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

1010 Except as specifically provided for in this charter, all city agencies shall continue to
1011 perform the duties of the agency until re-elected, reappointed or until successors to the respective
1012 positions are duly appointed or elected or until the duties have been transferred and assumed by
1013 another city agency.

1014 SECTION 11-3: TRANSFER OF RECORDS AND PROPERTY

1015 All records, property and equipment of a city agency, or part thereof, the powers and
1016 duties of which are assigned in whole or in part to another city agency, shall be transferred
1017 immediately to that agency.

1018 SECTION 11-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

1019 All official bonds, recognizance, obligations, contracts and other instruments entered into
1020 or executed by or to the city before the adoption of this charter

1021 and all taxes, assessments, fines, penalties and forfeitures, incurred or imposed, due or
1022 owing to the city, shall be enforced and collected and all writs, prosecutions, actions and causes
1023 of action, except as otherwise provided in this charter, shall continue without abatement and
1024 remain unaffected by the charter. No legal act done by or in favor of the city shall be rendered
1025 invalid by reason of the adoption of this charter.

1026 SECTION 23. This charter shall take effect upon its ratification by the voters

1027 and in accordance with the following schedule:

1028 (1) All city officers and employees shall continue to perform the duties of the office in
1029 the same manner and to the same extent as previously performed prior to the ratification by the
1030 voters of this charter.

1031 (2) The first election of officers under this charter shall be held on November

1032 3, 2015, to elect a mayor for a 4-year term, members of the city council for

1033 2-year terms, members of the school committee for 2-year terms and a city clerk for a 2-
1034 year term. A preliminary election nominating candidates to be elected shall be held on Tuesday
1035 September 15, 2015, if necessary, under article 8 of the charter.

1036 (3) On January 4, 2016 the persons elected in November 2015 shall be sworn to the
1037 faithful performance of their duties.

1038 (4) Not later than 30 days following the date of the ratification of this charter by the
1039 voters, the city clerk shall give to each member of the general court who represents the city of
1040 Pittsfield or a portion thereof a copy of the vote ratifying this charter.

1041 (5) Immediately after the election at which this charter is adopted, the city council shall
1042 appoint 4 persons to a committee to begin a review of the city ordinances to prepare such
1043 revisions and amendments as may be needed or necessary to bring the ordinances into
1044 conformity with the charter and to fully implement the charter. The city clerk shall be the fifth
1045 member of that committee. The committee shall submit a report, with recommendations, within 1
1046 year following its establishment and may submit interim reports with recommendations at any
1047 time; and provided, further that the city solicitor, or special counsel appointed for this express
1048 purpose, shall serve as an advisor to the committee.

1049 (6) Not later than September 30, 2014, the mayor shall promulgate a series of
1050 administrative orders under article 6 of the charter.

1051 (7) Until such time as modified under article 6 of the charter, individuals holding the
1052 following positions shall be considered department heads of the city: director of finance or the
1053 city treasurer, commissioner of public services, commissioner of public utilities, director of
1054 maintenance, building commissioner, city solicitor, director of veterans' services, director of
1055 cultural development, director of personnel, director of community development, police chief
1056 and fire chief.

1057 (8) Not later than April 1, 2014, the mayor, under section 3-4 of the charter, shall submit
1058 the names of individuals to be appointed to the positions enumerated in subsection 7 of this
1059 section. This provision shall not apply to individuals who were duly appointed under chapter 280
1060 of the acts of 1932.

1061 (9) Not later than February 1, 2014, the mayor shall takes all steps necessary to begin the
1062 process to duly appoint a permanent police chief and a permanent fire chief.

1063 (10) Until such time as modified under article 6 of the charter, chapter 326 of the acts of
1064 2010 relative to the composition of the licensing board and chapter 359 of the acts of 2004
1065 relative to the board of health shall remain in effect.

1066 (11) Until such time as another level of compensation is established under the charter, the
1067 initial compensation for the mayor, city councilors and school committee members shall be that
1068 which is in effect on the date of the 2015 regular city election.

1069 (12) The mayor and the city council in office at time this charter is adopted and the
1070 mayor and successor city council elected under this charter, may adopt measures that clarify,
1071 confirm or extend any of the transitional provisions in order that the transition may be made in
1072 the most expeditious manner possible; provided, that such authority shall not extend beyond 5
1073 years from the date of voter approval of this act.

1074 SECTION 24. The following question shall be placed on the ballot to be used at the
1075 biennial city election on November 5, 2013 in the city of Pittsfield: Shall an act entitled “An Act
1076 Revising the Charter for the City of Pittsfield” be accepted?

1077 The city solicitor shall prepare the summary of the proposed special act charter which
1078 shall appear on the ballot along with the question provided in this section.

1079 If a majority of votes cast in answer to the question is in the affirmative, the city shall be
1080 taken to have accepted the charter of the city of Pittsfield, but not otherwise.

1081 SECTION 25. This act shall take effect upon its passage.