SENATE DOCKET, NO. 1849 FILED ON: 6/19/2013

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:
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Tricia Farley-Bouvier	*3rd Berkshire*
Paul W. Mark	*2nd Berkshire*

SENATE DOCKET, NO. 1849 FILED ON: 6/19/2013

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:

SECTION 1. Chapter 280 of the acts of 1932 is hereby repealed.

SECTION 2. Chapter 231 of the acts of 1933 is hereby repealed.

SECTION 3. Chapter 272 of the acts of 1937 is hereby repealed.

SECTION 4. Chapter 611 of the acts of 1958 is hereby repealed.

SECTION 5. Chapter 258 of the acts of 1960 is hereby repealed.

SECTION 6. Chapter 733 of the acts of 1965 is hereby repealed.

SECTION 7. Chapter 82 of the acts of 1966 is hereby repealed.

SECTION 18. Chapter 231 of the acts of 1966 is hereby repealed.

SECTION 9. Chapter 744 of the acts of 1968 is hereby repealed.

SECTION 10. Chapter 202 of the acts of 1976 is hereby repealed.

SECTION 11. Chapter 564 of the acts of 1977 is hereby repealed.

SECTION 12. Chapter 168 of the acts of 1978 is hereby repealed.

SECTION 13. Chapter 416 of the acts of 1979 is hereby repealed.

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 Chapter 525 of the acts of 1979 is hereby repealed.

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 Chapter 10 of the acts of 1981 is hereby repealed.

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 Chapter 163 of the acts of 1983 is hereby repealed.

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 Chapter 179 of the acts of 1983 is hereby repealed.

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 Chapter 280 of the acts of 1983 is hereby repealed.

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 Chapter 401 of the acts of 1983 is hereby repealed.

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 Chapter 410 of the acts of 1983 is hereby repealed.

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 Chapter 92 of the acts of 1987 is hereby repealed.

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

ARTICLE 1

INCORPORATION; SHORT TITLE; DEFINITIONS

SECTION 1-1: INCORPORATION

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

SECTION 1-2: SHORT TITLE

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

SECTION 1-3: DIVISION OF POWERS

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

SECTION 1-4: POWERS OF THE CITY

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

SECTION 1-5: CONSTRUCTION

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

SECTION 1-6: INTERGOVERNMENTAL RELATIONS

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

SECTION 1-7: DEFINITIONS

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

(1) “Charter”, this charter and any adopted amendments to it.

(2) “City”, the city of Pittsfield.

(3) “City agency”, any multiple member body, any department, division or office of the city of Pittsfield.

(4) “City office or department head”, a person having charge of a city office or department.

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

(6) “Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

(7) “Full city council”, the entire authorized membership of the city council, notwithstanding any vacancy which might exist.

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

(9) “Full school committee”, the entire authorized membership of the school committee, notwithstanding any vacancy that exists.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 2

LEGISLATIVE BRANCH

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

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

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

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

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

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

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

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

SECTION 2-3: PROHIBITIONS

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

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

SECTION 2-4: COMPENSATION

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

SECTION 2-5: GENERAL POWERS

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

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

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

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

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

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

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

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

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

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

SECTION 2-7: ACCESS TO INFORMATION

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

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

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

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

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

SECTION 2-8: APPOINTMENTS OF THE CITY COUNCIL

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

SECTION 2-9: ORDINANCES AND OTHER MEASURES

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

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

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

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

SECTION 2-10: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

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

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

SECTION 2-11: FILLING OF VACANCIES

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

ARTICLE 3

EXECUTIVE BRANCH

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

(a) Mayor Qualifications – The chief executive officer of the city shall be a

mayor, elected by the voters of the city at large. Any voter shall be eligible

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

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

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

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

SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

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

SECTION 3-3: APPOINTMENTS BY THE MAYOR

The mayor shall appoint, subject to review by the city council under section

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

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

SECTION 3-4: TEMPORARY APPOINTMENTS TO CITY OFFICES

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

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

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

SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

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

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

SECTION 3-6: APPROVAL OF MAYOR, VETO

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

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

SECTION 3-7: TEMPORARY ABSENCE OF THE MAYOR

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

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

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

SECTION 3-8: DELEGATION OF AUTHORITY BY MAYOR

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

SECTION 3-9: VACANCY IN OFFICE OF MAYOR

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

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

ARTICLE 4

SCHOOL COMMITTEE

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

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

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

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

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

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

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

SECTION 4-3: PROHIBITIONS

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

SECTION 4-4: COMPENSATION

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

SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

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

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

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

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

SECTION 4-6: FILLING OF VACANCIES

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

ARTICLE 5

CITY CLERK

SECTION 5-1: ELECTION; TERM

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

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

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

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

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

ARTICLE 6

ADMINISTRATIVE ORGANIZATION

SECTION 6-1: ORGANIZATION OF CITY AGENCIES

The organization of the city into 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 of a general law or this charter, submit proposals to reorganize, consolidate or abolish any agency, in whole or in part, or to establish a new agency as is deemed necessary, establish terms of office and prescribe the functions and administrative

procedures to be followed by all such agencies. No function assigned by this charter to a particular agency may be discontinued or assigned to any other agency unless specified by this charter. The mayor may prepare and submit to the city council, administrative orders that establish agencies 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 disapprove the plan. The city council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

SECTION 6-2: MERIT PRINCIPLES

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

ARTICLE 7

FINANCE AND FISCAL PROCEDURES

SECTION 7-1: FISCAL YEAR

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

SECTION 7-2: ANNUAL BUDGET MEETING

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

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

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

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

SECTION 7-4: ACTION ON THE OPERATING BUDGET

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

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

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

SECTION 7-5: CAPITAL IMPROVEMENT PROGRAM

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

(1) a general summary of its contents;

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

improvement;

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

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

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

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

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

SECTION 7-6: INDEPENDENT AUDIT

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

SECTION 7-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

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

ARTICLE 8

ELECTIONS

SECTION 8-1: PRELIMINARY ELECTIONS

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

SECTION 8-2: PRELIMINARY ELECTION PROCEDURES

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

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

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

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

SECTION 8-3 REGULAR CITY ELECTION

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

SECTION 8-4: BALLOT POSITION, REGULAR CITY ELECTION

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

SECTION 8-5: NON-PARTISAN ELECTIONS

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

SECTION 8-6: WARDS

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

SECTION 8-7: APPLICATION OF STATE GENERAL LAWS

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

ARTICLE 9

CITIZEN PARTICIPATION MECHANISMS

SECTION 9-1: CITIZEN INITIATIVE MEASURES

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

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

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

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

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

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

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

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

following form:

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

effect?

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

o YES o NO

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

SECTION 9-2: CITIZEN REFERENDUM PROCEDURES

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

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

SECTION 9-3: INELIGIBLE MEASURES

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

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

(2) an emergency measure adopted under the charter;

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

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

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

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

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

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

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

SECTION 9-4 RECALL

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

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

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

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

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

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

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

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

SECTION 9-5: REQUIRED VOTER PARTICIPATION

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

SECTION 9-6: SUBMISSION OF OTHER MATTERS TO VOTERS

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

SECTION 9-7: CONFLICTING PROVISIONS

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

ARTICLE 10

GENERAL PROVISIONS

SECTION 10-1: CHARTER CHANGES

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

SECTION 10-2: SPECIFIC PROVISION TO PREVAIL

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

SECTION 10-3: RULES AND REGULATIONS

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

SECTION 10-4: PERIODIC REVIEW OF ORDINANCES

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

SECTION 10-5: PERIODIC REVIEW OF CHARTER

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

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

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

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

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

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

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

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

SECTION 10-7: REFERENCES TO GENERAL LAWS

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

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

SECTION 10-8: COMPUTATION OF TIME

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

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

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

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

SECTION 10-10: CERTIFICATE OF ELECTION OR APPOINTMENT

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

SECTION 10-11: LIMITATION ON OFFICE HOLDING

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

SECTION 10-12: FELONY CONVICTION

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

SECTION 10-13: ENFORCEMENT OF CHARTER PROVISIONS

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

ARTICLE 11

TRANSITIONAL PROVISIONS

SECTION 11-1: CONTINUATION OF EXISTING LAWS

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

SECTION 11-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

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

SECTION 11-3: TRANSFER OF RECORDS AND PROPERTY

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

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

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

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

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

and in accordance with the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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