

CITY OF AUBURN CHARTER

as adopted by the voters of the City of Auburn

November 8, 2005

CHARTER COMMISSION

John Cleveland, Chair
Charles Morrison, Vice Chair
Richard Trafton, Secretary
Edward Desgrosseilliers
Ellen Peters
Gerard Dennison
Julia Orne
Susan Martin
Robert Thorpe

David Adams, deceased
Harry Woodard, Jr., retired

**Auburn Hall
60 Court Street
Auburn, ME 04210**

PREAMBLE

We the people of the City of Auburn, under the constitution and laws of the State of Maine, in order to secure the benefits of local self-government and to provide an open and accountable council-manager government, do adopt this Charter, conferring on the City certain powers, subject to certain restrictions and following certain procedures. By this action we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and intergovernmental cooperation.

Article 1 - Grant of Powers

Sec. 1.1 Corporate existence.

The City of Auburn ("City") is a municipal corporation under the name of "City of Auburn" and shall have all the rights, immunities, powers, and privileges, and shall be subject to all the duties, liabilities, and obligations provided in this Charter, of a municipal corporation and may enact ordinances, orders, resolves, and regulations not inconsistent with the State of Maine Constitution and laws.

Sec. 1.2 Construction.

The City's powers under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power granted in this Article.

Sec. 1.3 Intergovernmental relations.

The City may participate by contract or otherwise with any governmental entity of this State or any other state or states in the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Article 2 - City Council

Sec. 2.1 Powers and duties.

All powers granted to the City by this Charter and State law, except as otherwise specified by this Charter, are vested in the City Council. The City Council shall be the municipal officers of the City for all purposes required by statute or ordinance.

Sec. 2.2 Composition and compensation.

The City Council shall be comprised of the Mayor and seven (7) City Councilors. Five (5) Councilors shall be elected one (1) from each ward by and from the ward's registered voters. Two (2) Councilors shall be elected at-large by and

from the registered voters of the City. The Councilors shall hold office for a term of two (2) years or until their successors are elected and qualified. A write-in candidate for City Council must receive at least twenty-five (25) valid write-in votes in order to qualify for election to that position. The City Council may appoint by rule non-voting student representatives to serve with the City Council.

The City Council shall, not later than June 30, 2006, determine the annual salary of the Councilors by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilors elected at the next regular election. The Councilors shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 2.3 Vacancies; forfeiture of office.

In case of the death, resignation, or removal from office more than six (6) months prior to the next regular election, an unexpired term of Councilor shall be filled by a special election, either citywide or in the ward in which the vacancy occurs, as the case may be, the warrants for which shall be issued by the City Council. Whenever the office of Councilor becomes vacant within six (6) months prior to the next municipal election, the City Council shall appoint a qualified representative at-large or from the ward in which the vacancy occurs, as the case may be, to serve until the person elected to fill the vacancy takes office.

A Mayor or Councilor shall forfeit office if that person:

- a. Lacks at any time during the term of office any qualifications for the office prescribed by this Charter or by law, including residency of the ward from which elected;
- b. Violates any express prohibition of this Charter;
- c. Is convicted of a crime involving moral turpitude; or
- d. Fails to attend three (3) consecutive regular meetings of the City Council, or of any board or authority to which appointed by the Mayor under Article 3, Section 3, without being excused by the City Council.

Sec. 2.4 Meetings.

The City Council shall, at the call of the City Clerk or Deputy City Clerk, first meet at Auburn Hall or such other public location within the City within forty-five (45) days after the regular municipal election to be sworn to the faithful discharge of their duties by the City Clerk or Deputy City Clerk. The City Council shall meet for subsequent meetings at such time and place as set by ordinance or resolution

except that it shall meet regularly twice each month. All meetings of the City Council, other than “executive sessions,” shall be open to the public as required by State statute, and the City Council shall promote effective public participation in and public notice of its meetings in the contemporary means of information sharing. Agendas and supporting information for meetings shall be available to the public at the City Clerk’s office at least two (2) business days prior to the meeting, as well as electronically through the City’s website, if available. Special meetings may be called by the Mayor, or shall be called by the Mayor or City Manager on the written request of a majority of the voting members of the City Council addressed to the Mayor or the City Manager.

Sec. 2.5 Quorum.

A majority of the voting members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn or compel attendance of absent members.

Sec. 2.6 Process.

A. Record. The City Council shall keep a record of its own proceedings which, except for “executive sessions” shall be available to the public.

B. Qualification. The City Council shall be judge of the qualification and election of its members and shall determine and enforce this Charter as well as its rules relating to procedure, misconduct, and forfeiture of office.

C. Action. The City Council shall act only by oral motion or written ordinance, order, or resolve, except that all acts by which the City Council appropriates or expends funds shall be by written ordinance, order, or resolve. All ordinances, orders, and resolves, except resolves making appropriations, shall be confined to one subject clearly expressed in its title. Appropriation resolves shall be confined to the subject of appropriations. No ordinance, order for the issue of bonds or notes, or appropriation resolve shall be passed until it has been read on two (2) separate days, except when the requirement of a reading on two (2) separate days has been dispensed by unanimous vote of the Councilors present and voting. Every ordinance shall be published in full within five (5) days after its final passage, by posting a copy of the same at the City Clerk’s office, as well as electronically on the City’s website, if available, and shall take effect and be in force five (5) days after the date of passage unless otherwise specifically provided in the ordinance.

D. Voting. A roll call vote shall be taken upon both first and second reading of all ordinances and entered on the record of the proceedings of the City Council by the City Clerk. An ordinance may be read by title only

if, in the judgment of the Mayor, or in the Mayor's absence the presiding officer, it would be unduly burdensome or repetitive to read the full text. A roll call vote shall be taken on the passage of any order or resolve when requested by any Councilor. Except as otherwise required by this Charter, action by the City Council shall require at least four (4) affirmative votes. Five (5) affirmative votes shall be required to adopt ordinances to take effect immediately upon enactment.

Sec. 2.7 Standard codes.

The City Council may adopt any standard code of technical regulations by reference in an adopting ordinance, provided that such ordinance shall state the title, date of issuance, and issuing authority of the standard code or amendment which is adopted.

Sec. 2.8 Review of Charter and ordinances.

The City Council shall provide for the review of the City's Charter and ordinances in their entirety at least once every fifteen (15) years.

Sec. 2.9 Offices incompatible.

Except where authorized by law, no Councilor shall hold any other elected public office during the term for which the Councilor was elected. No Councilor shall hold any other City office or employment during the term for which the Councilor was elected. Nothing in this section shall be construed to prohibit the City Council from selecting any Councilor to represent the City on the governing board of any regional or other intergovernmental agency.

No former Councilor shall hold any compensated appointive City office or City employment until at least one (1) year after expiration of that Councilor's elective term.

Article 3 - Mayor

Sec. 3.1 Eligibility, election, and tenure of office. The Mayor shall be elected by and from the registered voters of the City. The Mayor's term of office shall be two (2) years or until a successor is elected and qualified, except when elected to fill a vacancy, he or she shall hold office only for the unexpired term or until a successor is elected and qualified. Any write-in candidate for Mayor whose name does not appear on the printed ballot must receive at least one hundred (100) valid write-in votes in order to qualify for election.

The City Council shall, not later than June 30, 2006, determine by ordinance the annual salary of the Mayor, but no ordinance increasing such salary shall become effective until the date of the commencement of the term of the Mayor

elected at the next regular election. The Mayor shall receive reimbursement for actual and necessary expenses incurred in the performance of mayoral duties.

Sec. 3.2 Vacancy.

In case of the death, resignation, or removal from office more than six (6) months prior to the next regular election, the unexpired term of Mayor shall be filled by a special election, the warrants for which shall be issued by the City Council. Whenever the office of Mayor becomes vacant within six (6) months prior to the next municipal election, or whenever the Mayor, for any reason, is unable to attend to the duties of his or her office, the City Council shall appoint one of its members as presiding officer to perform the duties of Mayor.

Sec. 3.3 Powers and duties.

The Mayor shall preside at all meetings of the City Council, but shall have no veto and no vote except in the case of a tie. The Mayor shall communicate to the City Council such information and recommend such measures as the business and interests of the City require. The Mayor shall be the official head of the City for ceremonial purposes and all purposes of martial law. The Mayor shall perform such other duties as the City Council may request or as conferred by the State law not inconsistent with the office or this Charter. The Mayor may create committees and appoint persons to serve on such committees. The Mayor shall coordinate the actions of such boards, committees, and commissions as they may exist to promote the effective administration of the City's interests. Except as otherwise directed by State statute, this Charter, City ordinance, or interlocal agreement, the Mayor may appoint Councilors to serve, either in his or her stead or independently, on all boards, committees, commissions, and quasi-municipal corporations when required.

Sec. 3.4 Offices incompatible.

Except where authorized by law, no Mayor shall hold any other elected public office during the term for which the Mayor was elected. No Mayor shall hold any other City office or employment during the term for which the Mayor was elected. Nothing in this section shall be construed to prohibit the Mayor to represent the City on the governing board of any regional or other intergovernmental agency.

No former Mayor shall hold any compensated appointive City office or City employment until at least one (1) year after expiration of the Mayor's elective term.

Article 4 - School Committee

Sec. 4.1 Powers and duties. The School Committee shall have all powers and shall perform all duties necessary for care and management of the City's public schools pursuant to State law, which grants these powers and responsibilities to the School Committee, except as otherwise provided in this Charter. The School Committee shall accomplish its duties within the financial limitations established by the City Council in its annual appropriation resolve and such supplemental appropriations voted by the City Council, together with such other revenues it may receive from the Federal or State governments, as well as gifts, grants, and payments from other sources. The School Committee shall be judge of the qualification and election of its members, except as otherwise provided by State law, and shall determine and enforce this Charter as well as its rules relating to procedure, misconduct, and forfeiture of office.

Sec. 4.2 Composition and compensation. The School Committee shall consist of the Mayor, or a City Councilor selected by the Mayor, and seven (7) other members. Five (5) members shall be elected, one (1) from each ward by and from its registered voters. Two (2) members shall be elected at-large by and from the City's registered voters. Members shall hold office for a term of two (2) years or until their successors are elected and qualified except that any candidate whose name does not appear on the printed ballot must receive at least twenty-five (25) valid write-in votes in order to qualify for election to that position. The School Committee may appoint by rule non-voting student representatives to serve with the School Committee.

Upon recommendation from the School Committee, the City Council shall, not later than June 30, 2006, determine the annual salary of the School Committee members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the School Committee members elected at the next regular election. The School Committee members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Sec. 4.3 Vacancies; forfeitures of office.

In case of the death, resignation, or removal from office more than six (6) months prior to the next regular election, an unexpired term of member shall be filled by a special election, either citywide or in the ward in which the vacancy occurs, as the case may be, the warrants for which shall be issued by the City Council. Whenever the office of member becomes vacant within six (6) months prior to the next municipal election, the School Committee shall appoint a qualified representative at-large or from the ward in which the vacancy occurs, as the case may be, to serve until the person elected to fill the vacancy takes office.

A member shall forfeit office if that member:

- a. Lacks at any time during term of office any qualification for that office prescribed by this Charter or law, including residency of the ward from which elected;
- b. Violates any express prohibition of this Charter;
- c. Is convicted of a crime involving moral turpitude; or
- d. Fails to attend three (3) consecutive regular meetings of the School Committee without having been excused by the School Committee.

Sec. 4.4 Meetings.

The School Committee shall, at the call of the City Clerk or Deputy City Clerk, first meet at Auburn Hall or such other public location within the City within forty-five (45) days after the regular municipal election to be sworn by the City Clerk or Deputy City Clerk to the faithful discharge of their duties, and to elect a chairperson who shall be a voting member. The School Committee shall meet for subsequent meetings at such time and place as it determines by rule. Meetings of the School Committee other than “executive sessions” shall be open to the public as required by State statute, and the School Committee shall promote public participation in and public notice of its meetings in the contemporary means of information sharing. Agendas and supporting information for meetings shall be available to the public at the Superintendent of Schools’ office at least two (2) business days prior to the meeting as well as electronically through the City’s website, if available.

Sec. 4.5 Quorum.

A majority of the voting members of the School Committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn or compel attendance of absent members.

Sec. 4.6 Record.

The School Committee shall keep a record of its own proceedings which, except for “executive sessions,” shall be available to the public.

Sec. 4.7 Voting.

A roll call vote shall be taken on the passage of any order or resolve when requested by any member. Any action by the School Committee shall require at least four (4) affirmative votes; however, in the event of a tie the measure fails. Five (5) affirmative votes shall be required to hire or fire the Superintendent of Schools.

Sec. 4.8 Offices incompatible.

Except where authorized by law, no member shall hold any other elected public office during the term for which the member was elected. No member shall hold any other City office or employment during the term for which the member was elected. Nothing in this section shall be construed to prohibit a member from representing the City on the governing board of any regional or other intergovernmental agency.

No former member shall hold any compensated appointive City office or City employment until at least one (1) year after expiration of the member's elective term.

Sec. 4.9 Superintendent of Schools.

The School Committee shall choose a Superintendent of Schools solely on the basis of executive and administrative qualifications. The Superintendent of Schools need not be a resident of the City at the time of appointment, but shall be a resident of the City during tenure of office unless otherwise approved by the School Committee.

Article 5 - Nominations and Elections

Sec. 5.1 Date of elections and procedures.

On the Tuesday following the first Monday in November in odd-numbered years, registered voters of each ward shall ballot for a Mayor, a Councilor, and a School Committee member from that ward as well as two (2) Councilors and two (2) School Committee members at-large. The terms of all Councilors and School Committee members shall begin and end simultaneously. All votes cast for the several officers shall be counted, declared, and recorded in public ward meetings, by causing the names of the persons voted for and the number of votes given for each to be written on the ward record. The City Clerk shall, as soon as convenient, examine the copies of the records of the several wards and notify in writing the persons who have been elected Mayor, Councilor, and School Committee members. If no person has been elected to an office, or if the person elected refuses to accept the office, the City Clerk shall issue warrants for another election. The City Clerk shall declare the person receiving the highest number of votes for an office elected to such office.

Sec. 5.2 Wardens and ward clerks.

The City Clerk shall nominate wardens and ward clerks who shall be confirmed by the City Council. Wardens and ward clerks shall be residents of the City and shall hold office for two (2) years from the first Monday in December following the

regular municipal election or until a replacement has been confirmed. Wardens and ward clerks shall swear their faithful performance of duties to the City Clerk or Deputy City Clerk.

Sec. 5.3 Nominations for elective offices.

Nomination of each candidate for elective office shall be by petition, available from the City Clerk at least one hundred twenty (120) days prior to the election. Petitions for Mayor shall be signed by not less than one hundred (100) registered voters. Petitions for Councilor and School Committee shall be signed by at least twenty-five (25) registered voters of the candidate's ward, except that at-large candidates' petitions may have signatures from registered voters from any ward.

Sec. 5.4 Nomination petition.

Nomination petitions shall be provided by the City Clerk with whom they shall be filed not later than seventy-five (75) days prior to the election.

Sec. 5.5 List of candidates.

The City Clerk shall, at least sixty-five (65) days prior to the election, certify and make available to the public, in print and electronically, the names and residences of candidates who have filed nomination petitions.

Sec. 5.6 Ballots.

The City Clerk shall provide specimen ballots and official ballots for use in all City elections. Specimen ballots shall be marked "Specimen" and shall be on a paper of a color different from the official ballots. The City Clerk shall make specimen ballots available to the public in print and electronically. No ballot shall show party designation.

Article 6 - City Manager

Sec. 6.1 Appointment.

The City Council shall appoint a City Manager by an affirmative vote of at least five (5) Councilors. The City Manager shall appoint an Assistant City Manager who shall be confirmed by a majority vote of the City Council.

Sec. 6.2 Salary.

The City Council shall set by order the salary of the City Manager.

Sec. 6.3 Qualification.

The City Council shall choose a City Manager solely on the basis of executive and administrative qualifications. The City Manager need not be a resident of the City at the time of appointment, but shall be a resident of the City during tenure of office unless otherwise approved by the City Council.

Sec. 6.4 Powers and duties.

The City Manager shall be administrative head of the City government and shall be responsible to the City Council for the administration of all departments other than the Department of Education. Powers and duties of the City Manager shall be as follows:

- a. Appoint and suspend or remove all City employees and appointive administrative officers provided for by or under this Charter except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any administrative officer, subject to the City Manager's direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- b. Direct and supervise the administration of all departments, offices, and agencies of the City except as otherwise provided by this Charter, ordinance or law;
- c. Attend City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote.
- d. See that all laws, provisions of this Charter, and acts of the City Council subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision are faithfully executed;
- e. Prepare and submit the annual budget and capital program to the City Council, and implement the final budget approved by the City Council to achieve the goals of the City;
- f. Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;

- g. Make such other reports as the City Council may require concerning operations;
- h. Keep the City Council fully advised as to the financial condition and future needs of the City;
- i. Make recommendations to the City Council concerning the affairs of the City and facilitate the work of the City Council in developing policy;
- j. Provide staff support services for the Mayor and Councilors;
- k. Assist the City Council to develop long-term goals for the City and strategies to implement these goals;
- l. Encourage and provide staff support for regional and intergovernmental cooperation;
- m. Promote partnerships among the City Council, staff, and citizens in developing public policy and building a sense of community; and
- n. Perform such other duties as are specified in this Charter or may be required by the City Council.

Sec. 6.5 Removal.

The City Council may remove the City Manager from office only as follows:

- a. The City Council shall adopt by affirmative vote of at least five (5) members a preliminary resolution which must state the particular reasons for removal and which may suspend the City Manager from duty for a period not to exceed forty-five (45) days. The Mayor or presiding officer shall promptly deliver a copy of the resolution to the City Manager. If the City Manager is not available to personally receive a copy, the Mayor or presiding officer shall mail a copy to the City Manager by certified mail, return receipt requested, restricted delivery.
- b. Within five (5) days after a copy of the resolution is delivered, unclaimed, or refused, the City Manager may file with the City Council a written request for a public hearing, which shall be held at a City Council meeting not earlier than fifteen (15) days, nor later than thirty (30) days, after the request is filed. The City Manager may file with the City Council a written statement not later than five (5) days before the hearing.
- d. After the hearing, if requested by the City Manager, the City Council may adopt, by affirmative vote of at least five (5) Councilors, a final

resolution of removal, which may be effective immediately. If no hearing is requested, the City Council may adopt, by affirmative vote of at least five (5) Councilors, a final resolution of removal at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to or unclaimed or refused by the City Manager.

The City Manager shall continue to receive his/her salary until the effective date of the final resolution of removal.

Sec. 6.6 Vacancy.

During a vacancy in the City Manager's office or during the absence or disability of the City Manager, the Assistant City Manager shall perform the duties of City Manager unless otherwise directed by majority vote of the City Council.

Article 7 - Departments, Offices, and Agencies

Sec 7.1 General provisions.

A. Creation of departments. The City Council may establish City departments, offices, or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this Charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

B. Direction by City Manager. All departments, offices, and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. The Mayor and Councilors shall direct administrative functions of the City solely through the City Manager.

Sec 7.2 Personnel system.

A. Merit principle. All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

B. Merit system. Consistent with all federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the City's departments, offices, and agencies.

Article 8 - Financial Management

Sec. 8.1 Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Sec. 8.2 Submission of budget and budget message.

On or before the first day of May of each year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

Sec. 8.3 Budget message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the City Manager deems desirable.

Sec. 8.4 Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require for effective management and an understanding of the relationship between the budget and the City's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- a. The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose, or activity, method

of financing such expenditures, and methods to measure outcomes and performance related to the goals;

- b. Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practicable, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and
- c. The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the City, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

Sec. 8.5 City Council action on budget.

A. Notice and hearing. The City Council shall provide public notice of the budget process in the contemporary means of information sharing, including the City's website, if any, for:

1. The times and places where copies of the message and budget are available for inspection by the public, and
2. The time and place of the public hearing, not less than two (2) weeks after the City Manager submits the budget to the City Council.

B. Amendment before adoption. After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

C. Adoption. The City Council shall, after at least one (1) public hearing held at the time the City Council considers its "first reading" of the annual appropriation resolve, adopt the budget on or before the last day of the last month of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.

Sec. 8.6. Appropriation and revenue resolve.

Prior to the beginning of the fiscal year the City Council shall adopt an annual appropriation resolve making appropriations by department, fund, service,

strategy, or other organizational unit and authorizing an allocation for each program or activity.

Before any new revenues may be collected to fund the budget, including taxes and changes in existing fees, the City Council shall authorize such revenues by an annual revenue resolve.

Sec. 8.7 Amendments after adoption.

A. Supplemental appropriations. If during or before the fiscal year the City Manager certifies that there are available for appropriation municipal revenues, including those of the Department of Education, in excess of those estimated in the budget, the City Council by resolve may make supplemental appropriations for the year up to the amount of such excess.

B. Emergency appropriations. To address a public emergency affecting life, health, property, or the public peace, the City Council may make emergency appropriations. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the City Council may by such emergency resolve authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

C. Reduction of appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the City Manager shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by the City Manager, and recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or reduce any deficit, and for that purpose it may by resolve reduce or eliminate one or more appropriations.

D. Transfer of appropriations. At any time during or before the fiscal year, the City Council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy, or organizational unit to the appropriation for other departments or organizational units or for a new appropriation. The City Manager may transfer funds among programs within a department, fund, service, strategy, or organizational unit and shall report such transfers to the City Council in writing in a timely manner.

E. Limitation; effective date. No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount

required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 8.8 Administration and fiduciary oversight of the budget.

The City Council shall provide by ordinance, order, or resolve the procedures for administration and fiduciary oversight of the budget.

Sec. 8.9 Capital program.

A. Submission. The City Manager and Superintendent of Schools shall jointly prepare and submit to a joint meeting of the City Council and School Committee a multi-year capital program no later than one (1) month before the final date for submission of the budget.

B. Contents. The capital program shall include:

1. A clear general summary of its contents;
2. Identification of the long-term goals of the community;
3. A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
4. Cost estimates and recommended time schedules for each improvement or other capital expenditure;
5. Method of financing upon which each capital expenditure is to be reliant;
6. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
7. A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
8. Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 8.10 Action on capital program.

A. Notice and hearing. The City Council and School Committee shall publish the general summary of the capital program and a notice stating:

1. The times and places where copies of the capital program are available for inspection by the public; and

2. The time and place, not less than two (2) weeks after such publication, for joint public hearing(s) on the capital program.

B. Adoption. The City Council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the last day of the last month of the current fiscal year.

Sec. 8.11 Independent audit.

The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits shall be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS).

The City Council and School Committee shall designate, respectively, two (2) Councilors and two (2) School Committee members who shall mutually select a fifth person to serve as an Audit Committee. This Committee shall:

- a. Lead the process of selecting an independent auditor, pursuant to Section 8.16 of this Charter;
- b. Direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls;
- c. Receive the report of the independent auditor and present that report to a joint meeting of the City Council and School Committee with any recommendations from the Committee; and
- d. Review the implementation of the procurement policy and report to the City Council and School Committee as to the strengths and weaknesses of the policy.

Upon recommendation of the Audit Committee, the City Council shall designate such accountant or firm annually, or for a period not exceeding three (3) years, but the designation for any particular fiscal year shall be made no later than one hundred eighty (180) days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement.

Sec. 8.12 Emergency reserve fund.

The City Council shall provide in the appropriation resolve for an emergency reserve fund from which transfers may be made by vote of the City Council to meet emergencies and other unforeseen events. At the end of each fiscal year, remaining monies in the emergency reserve fund which have not been committed shall pass to the undesignated general fund balance.

The emergency reserve fund shall be annually funded in an amount equal to at least one-half of one percent (0.5%) of the total amount to be appropriated for all purposes of the current fiscal year.

Sec. 8.13 Bonds issued.

The City may issue bonds pledging the credit of the City in the manner prescribed by and subject to the provisions of State law. Prior to any vote to issue bonds, the City Council shall provide public notice, in the contemporary means of information sharing, of the general summary of the proposal for such bond issue, stating:

- a. The times and places where copies of the bond proposal are available for inspection by the public; and
- b. The time and place, not less than two (2) weeks after such notice, for a public hearing on the bond proposal.

A. Roads, utilities and vehicles. After public notice and hearing the City Council, by an affirmative vote of five (5) Councilors, may approve issuance of bonds for roads, sidewalks, sewers, water service, vehicles and emergencies.

B. Refinanced bonds. After public notice and hearing the City Council, by an affirmative vote of five (5) Councilors, may approve issuance of bonds to refinance existing City bonds.

C. Buildings and structures.

1. Except for the bond proposals described in Sections A and B, above, the City Council, after public notice and hearing, may approve, by an affirmative vote of five (5) Councilors, issuance of bonds when the cost of any one (1) project is less than nine percent (9%) of the annual appropriation resolve most recently voted by the City Council.

2. When the cost of any one (1) such project exceeds nine percent (9%) of said annual appropriation resolve, the City Council by a majority vote may place such bond proposal on the ballot for citywide election. Such bond proposal must be approved by a majority of those voters who vote in that citywide election.

Every order for the issue of bonds shall provide for a tax levy, or other means of repayment, for each year to meet the annual installment of principal and such interest as may accrue in each respective year.

Sec. 8.14 Temporary loans.

The City may borrow money in anticipation of receipts from taxes during any fiscal year, but the aggregate amount of such loans shall not at any time exceed eighty percent (80%) of the revenue from taxes received during the preceding fiscal year.

Sec. 8.15 Bonds required.

The City Council shall require bonds, with sufficient sureties, from all persons entrusted with the collection, custody, or disbursements of public funds.

Sec. 8.16 Procurement.

The City Council shall by rule adopt, within one (1) year from the adoption of this Charter, a procurement policy for the City's purchase of materials and services for all the City's departments, including the Department of Education. This procurement process shall assure an understandable, comprehensive, fair process for such purchases based on state statute, state rules and regulations, and the City's experience and expertise in this area.

The City Council and School Committee shall designate, respectively, two (2) Councilors and two (2) School Committee members, who shall mutually select a fifth person, to serve as a Procurement Policy Committee. This Committee shall:

- a. Lead the process to develop a City procurement policy; and
- b. Report to a joint meeting of the City Council and School Committee with a recommendation from the Committee for a rule to implement the goals stated in this section.

Article 9 - Initiative, Referendum, and Recall

Sec. 9.1 General authority.

A. Initiative. The registered voters of the City shall have the power to propose ordinances, orders, and resolves to the City Council and, if the

City Council fails to adopt the matter proposed without any change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance, order, or resolve relating to appropriation of money, levy of taxes, or salaries of City officers or employees. An initiative which fails to win a majority vote in a citywide election may not be the subject of another initiative for at least six (6) months after the citywide election in which it failed.

B. Referendum. The registered voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance, order, or resolve and, if the City Council fails to repeal the matter so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance, order, or resolve relating to appropriation of money or levy of taxes. A referendum which fails to win a majority vote in a citywide election may not be the subject of another referendum for at least six (6) months after the citywide election in which it failed.

C. Recall. The registered voters of the City shall have the power to recall any elected official, but no recall petition shall be filed against any official within six (6) months after the official takes office, nor, in the case of an official subjected to a recall election and not removed, until at least six (6) months after the recall election.

Sec. 9.2 Commencement of proceedings.

Any five (5) registered voters may commence initiative, referendum, or recall proceedings by filing with the City Clerk an affidavit stating they will constitute a petitioners' committee and be responsible for circulating the petition, filing it in proper form, stating their names and addresses, and specifying the address to which all notices to the committee are to be sent, as well as setting out in full the proposed initiative ordinance, order, or resolve or citing the ordinance, or other matter sought to be reconsidered, or the elected official proposed to be recalled, together with a statement not to exceed two hundred (200) words, of the reasons for the recall. Grounds for the recall should relate to and affect the administration of the official's office and be of a substantial nature directly affecting the rights and interest of the public. Promptly after receipt of a recall petition, the City Clerk shall serve, personally or by certified mail, return receipt requested, restricted delivery, a copy of the affidavit on the elected official sought to be recalled. Within ten (10) days of the copy's delivery, refusal, or being unclaimed, the elected official sought to be recalled may file a statement with the City Clerk not to exceed two hundred (200) words in response.

Promptly after the affidavit of the petitioners' committee is filed, the City Clerk shall issue appropriate petition blanks to the petitioners' committee

Sec. 9.3 Petitions.

A. Number of signatures. Initiative and referendum petitions must be signed by registered voters of the City equal in number to at least ten percent (10%) of the number of registered voters as of the date on which the petitioners' committee filed its affidavit. Recall petitions must be signed by at least fifteen percent (15%) of the number of registered voters as of the date on which the petitioners' committee filed its affidavit.

B. Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached during their circulation the full text of the ordinance, order, or resolve proposed or sought to be reconsidered or the name of the elected official proposed to be recalled and the reasons for that action. Petitions for recall shall be limited to the recall of one individual and shall contain the statement of grounds for the recall and the response of the official sought to be recalled, if any. If no response was filed, the petition shall state that fact.

C. Affidavit of circulator. Each paper of a petition shall have attached to it when filed an affidavit signed by the circulator stating the number of signatures as well as that the circulator: (a.) is a resident of the City; (b.) personally circulated the paper; (c.) had all the signatures signed in the circulator's presence; (d.) believes the signatures are the genuine signature of the persons; and (e.) that each signer had an opportunity before signing to read the full text of the ordinance proposed or to be reconsidered or the name of the elected official proposed to be recalled and the statements of both the official and the petitioners' committee.

D. Time for filing. Referendum affidavits must be filed within thirty (30) days after adoption by the City Council of the ordinance, order, or resolve sought to be reconsidered. Petitions for initiative, referendum and recall must be filed with the City Clerk within ninety (90) days of the City Clerk's issuance of petitions, otherwise the petitions expire.

Sec. 9.4 Procedure after filing.

A. Certificate of City Clerk; amendment. Within twenty (20) days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the

petitioners' committee by certified mail, return receipt requested, restricted delivery. A petition certified insufficient for lack of the required number of valid signatures may be amended once, if the petitioners' committee files a notice of intention to amend it with the City Clerk within five (5) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections B and C of Section 3 above. Within five (5) days after the supplementary petition is filed, the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by certified mail, return receipt requested, restricted delivery, as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request City Council review under subsection B of this Section within the time required, the City Clerk shall promptly present the certificate to the City Council and the certificate shall then be a final determination as to the sufficiency of the petition.

B. City Council review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request for review by the City Council. The City Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The City Council's determination shall be a final determination as to the sufficiency of the petition. The official proposed to be recalled shall not participate in any proceedings regarding the petition or the election.

C. Court review; new petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Sec. 9.5 Referendum petitions; suspension of effect.

When a referendum petition is filed with the City Clerk, the ordinance, order, or resolve sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is a final determination of insufficiency of the petition; or
- b. The petitioners' committee withdraws the petition; or
- c. The City Council repeals the ordinance, order, or resolve; or

d. Thirty (30) days have elapsed after a vote of the City on the ordinance, order, or resolve.

Sec. 9.6 Action on petitions.

A. Action by City Council. When an initiative or referendum petition has been fully determined sufficient, the City Council shall promptly consider the proposed initiative ordinance, order, or resolve in the manner provided in Article 2 or reconsider the referred ordinance, order, or resolve by voting its repeal. If the City Council fails to adopt a proposed initiative ordinance, order, or resolve without any change in substance within sixty (60) days or fails to repeal the referred ordinance, order, or resolve within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred matter to the voters of the City.

B. Submission to voters. The vote of the City on a proposed or referred ordinance, order, or resolve shall be held not less than one hundred twenty (120) days and not later than six (6) months from the date of the final City Council vote thereon. In the case of a recall petition, the election shall be held not later than six (6) months after the petition is finally determined to be sufficient. If no regular City election is to be held within the period prescribed in this subsection, the City Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election except that the City Council may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred matter shall be available for view at the polls.

C. Withdrawal of petition. An initiative, referendum, or recall petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the City, by filing with the City Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 9.7 Results of election.

A. Initiative. If a majority of the registered voters voting on a proposed initiative ordinance, order, or resolve vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances, orders, or resolves of the same kind adopted by the City Council. If conflicting

ordinances, orders, or resolves are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum. If a majority of the registered voters voting on a referred ordinance, order, or resolve vote for repeal, it shall be considered repealed upon certification of the election results.

C. Recall. If a majority of the registered voters voting on a recall petition vote in favor of the petition, the office of the recalled official shall become vacant upon certification of the election results. If the election results or procedure is legally challenged by the recalled official, that person's right to serve in that office shall be suspended and the City shall not compensate that official pending the resolution of the legal proceeding.

Article 10 - Transition and Severability

Section 10.1 Officers and employees.

A. Rights and privileges preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

B. Continuance of office or employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he or she vacate the office or position. Specifically, until the City Council approves by ordinance the compensation for Mayor, Councilors and School Committee members, the annual compensation for Mayor shall be four thousand dollars (\$4,000.00), for Councilor, one thousand eight hundred dollars (\$1,800.00) and School Committee member six hundred dollars (\$600.00).

C. Personnel system. An employee holding a City position at the time this Charter takes full effect who was serving in that same or a comparable position at the time of its adoption shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the City's personnel system.

D. City election of 2006. For the reason that Article 5 of this Charter provides for elections in odd numbered years, a citywide election of 2006 will be a transition year election when the terms for Mayor, City Councilors, and School Committee members shall be one (1) year in

length terminating in 2007 after the municipal elections of that year as provided in this Charter.

Section 10.2 Pending matters.

All rights, claims, actions, orders, contracts, and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on, or dealt with by the City department, office, or agency appropriate under this Charter.

Section 10.3 Severability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.

Section 10.4 Definition of terms.

As used in this Charter, terms shall be defined and construed by their meaning established by State statute, if any; otherwise, terms shall be defined and construed by their customary usage or plain dictionary meaning. In all cases, the term “days” shall refer to calendar days, not business days.

Section 10.5 Conflicts of interest; ethics.

The City’s policy is that the proper operation of government requires that public officials be independent, impartial, and responsible to the citizens; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. The City Council shall maintain a comprehensive “Conflicts of Interest” or “Ethics” ordinance to further the policy set forth in this section and to promote the objective of protecting the integrity of City government against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.

Section 10.6 Source.

The City has referred to a “Model City Charter” [8th edition] published by the National Civic League, as source material for this Charter.