
ACTS, 1986. – Chaps. 134, 135.

SECTION 1. The first paragraph of section 37 of chapter 280 of the acts of 1932, as appearing in section 1 of chapter 163 of the acts of 1983, is hereby amended by striking out the second sentence.

SECTION 2. The state secretary shall cause the following question to be placed on the official ballot to be used in the city of Pittsfield at the biennial state election to be held in the year nineteen hundred and eighty-six:—

"Shall an act passed by the general court in the year nineteen hundred and eighty-six, entitled 'An Act authorizing the compensation of members of the school committee of the city of Pittsfield', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative then this act shall take full effect on January first, nineteen hundred and eighty-seven, but not otherwise.

Approved June 24, 1986.

Chapter 134. AN ACT RELATIVE TO USE OF CERTAIN BUILDINGS AT THE NORFOLK COUNTY HOSPITAL.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, within one month of the opening of a Norfolk county jail and house of correction constructed to replace the county facility located at 47 Village avenue in the town of Dedham, the so-called Braintree alternative center on the grounds of Norfolk county hospital shall be closed. The commonwealth shall not by eminent domain, purchase, gift, or otherwise take an ownership interest for the purposes of maintaining a correctional facility in any buildings or lands comprising the Norfolk county hospital and being temporarily used to house inmates in the custody of the county.

Approved June 24, 1986.

Chapter 135. AN ACT PROVIDING FOR A CHARTER FOR THE CITY OF WALTHAM.

Be it enacted, etc., as follows:

SECTION 1. The following shall be the charter for the city of Waltham

TABLE OF CONTENTS

ARTICLE 1 Incorporation, Title, Form of Government, Powers

Section 1-1 Incorporation

Section 1-2 Title

Section 1-3 Form of Government

Section 1-4 Powers of the City

Section 1-5 Construction

Section 1-6 Intergovernmental Relations

Section 1-7 Definitions

ARTICLE 2 City Council

Section 2-1 Composition, Eligibility, Election and Term

Subsection A. Composition

Subsection B. Eligibility

Subsection C. Election and Term

Section 2-1 Compensation

Section 2-3 President of the Council

Section 2-4 Exercise of Powers, Quorum, Vote Required

Subsection A. Exercise of Powers

Subsection B. Quorum, Vote Required

Section 2-5 Rules of Procedure, Regular Meetings, Special Meetings

Subsection A. Rules of Procedure

Subsection B. Regular Meetings

Subsection C. Special Meetings

Subsection D. Open Meetings

Section 2-6 Filling of Vacancies

Section 2-7 Council Request of Mayor to Attend Council Meeting

Section 2-8 Passage of Ordinances, Repeal, Amendment

Section 2-9 Order, Ordinance or Resolution, Passage at One Session

Section 2-10 Ordinance, Publication

Section 2-11 Election of City Clerk

ARTICLE 3 Mayor

Section 3-1 Election, Term of Office, Compensation

Section 3-2 Executive Powers, Enforcement of Ordinances

Section 3-3 Appointments by Mayor, Confirmation

Section 3-4 Removal of Officials

Section 3-5 Temporary Appointments

Section 3-6 Temporary Absence of the Mayor

Section 3-7 Vacancy in Office of Mayor

Section 3-8 Mayor's Attendance at Council Meeting

Section 3-9 Adoption of Measures, Mayor's Veto

Section 3-10 Call of Special Council Meeting by Mayor

Section 3-11 Employees in Mayor's Office not Subject to Civil Service

Section 3-12 Approval of Contracts by Mayor

ARTICLE 4 School Committee

Section 4-1 Composition, Election, Terms, Organization, Dual Employment

Section 4-2 Powers and Duties

Section 4-3 School Committee Vacancy

Section 4-4 Open and Public Meetings, Roll Call Vote

Section 4-5 Superintendent of Schools, Selections, Appointment, Duties and Compensation of other School Employees

Section 4-6 School, Location and Erection of, Approval Required

ARTICLE 5 Nominations and Elections

Section 5-1 Preliminary Elections, Contents of Notice or

ACTS, 1986. – Chap. 135.

	City Council Order
Section 5-2	Inclusion of Name on Ballot, Prerequisites
Section 5-3	Candidates for Nomination, Qualifications, Statement and Petition
Section 5-4	Official Ballot, Posting Lists of Candidates, Drawing for Position on Ballot
Section 5-5	Counting Ballots, Canvass of Returns
Section 5-6	Determination of Candidates for Election
Section 5-7	Nomination of Candidates, Conditions Making Preliminary Election Unnecessary
ARTICLE 6	Adoption of Charter, Effect, Transitional Provisions
Section 6-1	Effect of Charter on Legislative Powers of City
Section 6-2	Effect of Charter on Obligations, Taxes and Legal Acts
Section 6-3	Effect of Adoption of Charter on Ordinances, etc.
Section 6-4	Existing Organization to Continue Until Superseded
Section 6-5	Officials to Expedite Transition to Adopted Plan
ARTICLE 7	Initiative and Referendum Petition
Section 7-1	Initiative Petition, Measure Defined
Section 7-2	Initiative Petitions, Validity of Signatures, Filing, Certification
Section 7-3	Initiative Petition, Requirements for Passage and Submission to Electorate; Date of Election
Section 7-4	Procedure if Initiative Petition has Fewer Signatures
Section 7-5	Contents of Ballot for Proposed Measure
Section 7-6	Referendum Petition; Effect on Final Passage
Section 7-7	Submission of Proposed Measure to Voters
Section 7-8	Measures with Conflicting Provisions
ARTICLE 8	General Provisions
Section 8-1	Oath of Office, Time of Taking
Section 8-2	Primaries and Caucuses Prohibited
Section 8-3	Public Contracts Prohibiting Public Employees from Having Financial Interest in, Penalty
Section 8-4	Purchase or Taking of Land by City
Section 8-5	Failure to Fill Vacancy
Section 8-6	Capital Improvement Program
Section 8-7	Adoption or Change of Zoning Ordinance

ARTICLE 1.

INCORPORATION, TITLE, FORM OF GOVERNMENT, POWERS.
Section 1-1 Incorporation

The inhabitants of the city of Waltham shall continue to be a municipal corporation under the name existing at the time of the adoption of this charter, and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties, liabilities and obligations provided for in this charter, or otherwise pertaining to or incumbent upon said city as a municipal corporation.

Section 1-2 Title

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

Waltham Charter.

Section 1-3 Form of Government

The administration of the fiscal, prudential and municipal affairs of the city, with the government thereof, shall be vested in the executive branch, to consist of the mayor, and the legislative powers shall be vested in the legislative branch, to consist of the city council.

Section 1-4 Powers of the City

Subject only to express limitations in the exercise of any power or function by a city in the constitution or statutes of the commonwealth, it is the intent and the purpose of the charter to confer upon the city all powers it is possible to confer under the constitution and statutes of the commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1-5 Construction

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

Section 1-6 Intergovernmental Relations

Subject to express requirements of the constitution and statutes of the commonwealth, the city may exercise any of its powers and 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 civil division or agency thereof or the United States government or any agency thereof.

Section 1-7 Definitions

The following words as used in this charter shall, unless the context otherwise requires, have the following meanings:—

"Ordinance", a vote or order of the city council entitled "ordinance" and designed for permanent regulation of any matter within the jurisdiction of the city council as laid down in this charter.

"Elected at large", elected by and from all the voters of the city.

"Regular municipal election", the biennial election of municipal officers for which provision is made in this matter.

**ARTICLE 2.
CITY COUNCIL.**

Section 2-1 Composition, Eligibility, Election and Term

A. Composition – There shall be a city council consisting of fifteen members which shall exercise the legislative powers of the city. Nine of these members, to be known as ward councillors, shall be nominated and elected by and from the voters of nine council wards, one ward councillor to be elected from each such ward. Six of the members, to be known as councillors at large, shall be nominated and elected by and from the voters of the city at large. One of the members of the city council shall be elected by the council annually as its president.

B. Eligibility – Any voter shall be eligible to hold the office of councillor at large. A ward councillor shall be a voter and a resident of the ward from which he is elected, at the time of his election; provided,

ACTS, 1986. – Chap. 135.

however, that a ward councillor who removes from the ward from which he was elected to another ward in the city, may continue to serve and to discharge his duties until the expiration of the term for which he was elected.

C. Election and Term – The term of office of all members of the city council shall be for two years beginning at one o'clock post meridiem on the first Sunday in January of each even numbered year following their election, until their successors are qualified.

Section 2-2 Compensation

The members of the city council shall receive for their services such salary as the city council shall by ordinance determine, and they shall receive no other compensation from the city. No increase or reduction in the salaries of city councillors shall take effect during the year in which such increase or reduction is voted, and no change in such salaries shall be made between the election of a new council and the qualification of the new council.

Section 2-3 President of the Council

Officers of the Council – After a majority of the councillors-elect have been sworn, the city council shall be called to order by the city clerk or assistant city clerk or in the absence of both such officials, by the member present in senior years of service, who shall preside. The city council shall then elect from among its members, by roll call vote, a president. Eight votes shall be necessary for election. No other business shall be in order until the president has been elected. The president shall preside at meetings of the city council and perform such other functions as may be assigned by the charter, by ordinance or by vote of the city council.

Section 2-4 Exercise of Powers, Quorum, Vote Required

A. Exercise of Powers – Except as otherwise provided by law or the charter, the legislative powers of the city council shall be exercised in a manner determined by it.

B. Quorum, Vote Required – Every member of the council may vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all members of the council shall be necessary to adopt any motion, resolution or ordinance unless otherwise required by statute or any other provision of this charter.

Section 2-5 Rules of Procedure, Regular Meetings, Special Meetings

A. Rules of Procedure – The city council shall from time to time establish rules for its proceedings.

B. Regular Meetings – Regular meetings of the city council shall be held at a time and place fixed by ordinance.

C. Special Meetings – Special meetings of the city council may be held at the call of the mayor, as provided in section 3-10, on the call of the city council president or on the call of any three or more councillors, by written notice delivered in hand or to the place of residence of each member of the council at least forty-eight hours in advance of the time set, and which includes notice of the subjects which are to be acted upon, and no other business shall be in order.

D. Open Meetings – A full and accurate journal of the proceedings of

all meetings of the council shall be kept and shall be open to the inspection of any registered voter of the city, except as otherwise authorized by sections twenty-three A, twenty-three B and twenty-three C of chapter thirty-nine of the General Laws. All sessions of the council shall be open to the public and to the press and every matter coming before the council for action shall be put to a vote, the result of which shall be duly recorded.

Section 2-6 Filling of Vacancies

If a vacancy occurs at any time in the office of a councillor at large, such vacancy shall be filled forthwith by a majority vote of all the remaining members of the city council for the remainder of the unexpired term. If a vacancy occurs before the last nine months of the term in office of a ward councillor, the city council shall forthwith order an election to fill such vacancy for the remainder of the unexpired term.

Section 2-7 Council Request of Mayor to Attend Council Meeting

The city council at any time may request from the mayor, specific information on any municipal matter within its jurisdiction, and may request him to be present to answer questions relating thereto at a meeting to be held not earlier than one week from the date of receipt of said request. The council shall inform the mayor, in writing, of the subject matter to be discussed at said meeting.

Section 2-8 Passage of Ordinances, Repeal, Amendment

No ordinance shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property, and only then if no member of the city council objects thereto. No ordinance shall be regarded as an emergency measure unless the emergency is defined and declared in a preamble thereto separately voted on and receiving the affirmative vote of two-thirds of the members of the city council.

No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency measure, and except as provided in section seventy and seventy-one of chapter one hundred and sixty-four and in chapter one hundred and sixty-six of the General Laws, no such grant, renewal or extension shall be made otherwise than by ordinance.

No ordinance shall be amended or repealed except by an ordinance adopted in accordance with this charter.

Section 2-9 Order, Ordinance or Resolution, Passage at One Session

Any ordinance, order or resolution may be passed through all its stages of legislation at one session, provided that no member of the council objects thereto; but if any member of the council objects, the measure shall be postponed for that meeting.

Section 2-10 Ordinance, Publication

Every proposed ordinance or loan order, except emergency measures and revenue loan orders, shall be published once in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance, at least ten days before its final passage. After such final passage, it shall, in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and

which shall take effect on its passage, and shall be so published at the earliest practicable moment; provided, however, that if any ordinance or proposed ordinance, or codification of ordinances or proposed ordinances, shall exceed in length eight octavo pages of ordinary book print, then, in lieu of the advertising required by this section, the same may be published by the city council in a municipal bulletin or printed pamphlet, and if so published in full at least ten days before its final passage, and thereafter, as amended and completed, again published in such bulletin or pamphlet, said publications shall be deemed sufficient without the newspaper publication as herein required.

Section 2-11 Election of City Clerk

The council shall, by a majority vote, elect a city clerk to hold office for three years and until his successor is qualified. He shall have such powers and perform such duties as the council may prescribe or as may be prescribed by law. He shall keep the records of the meetings of the council.

ARTICLE 3.
MAYOR.

Section 3-1 Election, Term of Office, Compensation

There shall be a mayor, elected by and from the qualified voters of the city. He shall hold office for the term of four years from the first Sunday in January following the election and until his successor is qualified. The mayor shall receive for his services such salary as the city council shall by ordinance, determine and he shall receive no other compensation from the city. No increase or reduction in the salary of the mayor shall take effect during the year in which such increase or reduction is voted, and no change in such salary shall be made between the election of a new council and the qualification of the new council.

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 him either personally or through the several officers or boards in their respective departments, under his general supervision and control. The mayor shall cause the laws, ordinances and orders for the government of the city to be enforced and shall cause a record of all his official acts to be kept.

Section 3-3 Appointments by Mayor, Confirmation

The mayor shall appoint, subject to confirmation by a majority vote of all the members of the city council, all department heads and members of municipal boards except those for whom some other method of appointment is provided by the charter or by law, members of the school committee and officials appointed by the governor. Such persons shall hold office for the term for which they were appointed and until their successors are appointed, confirmed and qualified.

Section 3-4 Removal of Officials

The mayor may, with the approval of a majority of the members of the city council, remove the head of a department or member of a board before the expiration of his term of office, except members of the school committee and officials appointed by the governor. The person to

ACTS, 1986. – Chap. 135.

be removed shall receive a copy of the reasons for his removal, and he may, if he desires, request a hearing on the matter before the city council. He may be represented by counsel at the hearing. The city council shall request the mayor to appear at said hearing.

Section 3-5 Temporary Appointments

Whenever a vacancy in the office of the head of any department appointed by the mayor occurs, whether by reason of disability, death, resignation, or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed three months. Whenever a vacancy continues beyond three months, the mayor may make a second three month appointment, but no temporary appointment shall be continued beyond six months without the approval of the city council. Any such appointee shall exercise all the rights and powers of the office including compensation, shall perform all of the duties and responsibilities of the office and shall be sworn to the faithful discharge of his duties.

Section 3-6 Temporary Absence of the Mayor

If the mayor is absent or unable from any cause temporarily to perform his duties, such duties shall be performed by the president of the city council. The person upon whom such duties shall evolve shall be called "acting mayor" and he shall possess the powers of mayor only in matters not admitting delay, but shall have no power to make permanent appointments.

Section 3-7 Vacancy in Office of Mayor

If a vacancy occurs in the office of mayor by death, removal or resignation at any time during the first three years of the term ending December thirty-first, the city clerk shall forthwith order an election to fill such vacancy for the remainder of the unexpired term.

If a vacancy occurs during the last year of the term beginning January first, a meeting of the city council shall be called by the city clerk, forthwith, and the city council shall elect, by majority vote of all members of the city council, one of its members as mayor for the remainder of the unexpired term. If the city council fails so to elect at said meeting or within thirty days thereafter, the president of the city council shall become acting mayor; provided however that if the president declines to serve as mayor the city councillor with the greatest number of years of service on the city council shall become mayor. Upon the qualification of any city councillor as mayor under the provisions of this section, he shall exercise all the rights and powers of mayor including compensation and shall be sworn to the faithful discharge of his duties and a vacancy shall exist in his seat on the city council.

Section 3-8 Mayor's Attendance at Council Meeting

The mayor, when requested by the city council to be present at a council meeting to answer questions relative to matters properly within the jurisdiction of the council, shall be informed, in writing, of the subject matter to be discussed. The mayor shall personally, or through the head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not

ACTS, 1986. – Chap. 135.

be obliged to answer any questions relating to any other matter. The mayor may attend and address the city council in person or through the head of a department, or a member of a board, upon any subject.

Section 3-9 Adoption of Measures, Mayor's Veto

Every measure relative to the affairs of the city adopted by the city council, except such measures as relate to the internal affairs of the city council, the election of officers whose election by the city council is authorized by law or by the charter, or budgets submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter, shall be presented to the mayor for his approval. If the mayor does approve it, he shall signify his approval by signing it. If he does not approve of it, he shall return it, with his objections in writing, to the city council. The city council shall enter the objections of the mayor upon its records and shall again consider the measure. If the city council, notwithstanding such disapproval of the mayor, shall pass such measure by a two-thirds vote of all its members, it shall be considered approved and shall then be in force, but such vote shall not be taken for at least seven days after the measure has been returned to the city council. If any measure is not returned by the mayor within ten days following the date it is presented to him, it shall be considered approved. A filing with the clerk of the council shall be considered a return by the mayor to the city council. All votes taken on measures returned by the mayor shall be by roll call.

Section 3-10 Call of Special Council Meeting by Mayor

The mayor may at any time call a special meeting of the city council by causing a notice of such meeting, specifying the matters which he desires to be considered, to be delivered in hand or to the place of residence of each councillor. Public notice of said meeting shall be posted at least forty-eight hours in advance of the time set for such meeting; however, in the event of an emergency, of which the mayor shall be the judge, a lesser period shall suffice and no other business except as specified shall be in order.

Section 3-11 Employees in Mayor's Office not Subject to Civil Service

The civil service laws shall not apply to the appointment of the mayor's secretaries or of the stenographers, clerks, administrative assistant, and other employees in the mayor's office, and the mayor may remove such appointees without a hearing and without making a statement of the cause of their removal.

Section 3-12 Approval of Contracts by Mayor

All contracts made by any department, board or commission where the amount involved is two thousand dollars or more shall be in writing, and no such contract shall be deemed to have been made or executed until the approval of the mayor is affixed thereto. Any construction contract shall, and all other contracts may, where the amount exceeds five thousand dollars be required to be accompanied by a bond with sureties satisfactory to the mayor or by a deposit of money, certified check or other security for the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has been carried out in all respects; and no such contract shall

be altered except by a written agreement of the contractor, the sureties on his bond, if any, and the officer, department or board, as the case may be, making the contract, with the approval of the mayor affixed thereto. Any cash deposit or check payable to a city received as security for performance under this section may be deposited by said treasurer in any bank or trust company under a separate account to be known as a performance deposit account.

The provisions of this section shall be deemed to have been complied with on all purchases made under the provisions of sections twenty-two A and twenty-two B of chapter seven of the General Laws when one municipality acting on behalf of other municipalities complies with the provisions of this section, or when purchases are made from a vendor holding a contract with the commonwealth for the item or items being purchased.

ARTICLE 4. SCHOOL COMMITTEE.

Section 4-1 Composition, Election, Terms, Organization, Dual Employment

The school committee shall consist of seven members, one of whom shall be the mayor, who shall be chairman. The remaining six members shall be elected at large, each to serve four years, three of whom shall be elected biennially. The members of the school committee shall elect one of its members to serve as vice chairperson annually. The committee shall organize annually on the first Sunday in January, and shall elect one of its members as vice chairman, who shall preside at all meetings of the committee at which the mayor is not present. No member of the school committee shall, while a member thereof, hold any other office or position in the school department the salary or compensation for which is payable out of the city treasury.

Section 4-2 Powers and Duties

Except as otherwise provided in this charter and subject to any laws which limit the amount of money that may be appropriated in any city for school purposes, the school committee, in addition to the powers and duties conferred and imposed by law on school committees, may provide, when necessary, temporary accommodations for school purposes, may make all repairs, the expenditures for which are made from the regular appropriation for the school department, shall have control of all school buildings and grounds connected therewith and shall make all reasonable rules and regulations, consistent with law, for the management of the public schools of the city and for conducting the business of the committee.

Section 4-3 School Committee Vacancy

If a vacancy occurs at any time in the office of school committee by failure to elect, or otherwise, the city council and the remaining members of the school committee shall meet in joint convention, which shall be called by the city clerk forthwith, and elect a suitable person to fill the vacancy until the first Sunday in January following the next regular municipal election; and, if there would be a vacancy on said first

Sunday, it shall be filled at such regular municipal election for the balance of the unexpired term. The mayor, if present, shall preside at the convention.

Section 4-4 Open and Public Meetings, Roll Call Vote

All meetings of the school committee shall be open to the press and to the public, except as otherwise authorized by section twenty-three A and twenty-three B of chapter thirty-nine of the General Laws. The vote in any particular measure taken in open session shall be recorded by roll call vote when requested by two members. All votes taken in executive session shall be recorded by roll call vote.

Section 4-5 Superintendent of Schools, Selections, Appointment, Duties and Compensation of other School Employees

The school committee shall elect a superintendent of schools annually, except as provided in section forty-one of chapter seventy-one of the General Laws, and may under chapter thirty-one of the General Laws appoint, suspend, or remove at pleasure such subordinate officers or assistants, including janitors of school buildings, as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties and shall fix their compensation.

Section 4-6 Schools, Location and Erection of, Approvals Required

No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first obtained. No plans for the construction of or alterations in a school building shall be accepted, and no work shall begin on the construction or alteration of a school building, except with the approval of the school committee and the mayor. The mayor shall notify the school committee in writing prior to or at the time of each change in plans after work is begun. This section shall not require such approval for the making of ordinary repairs.

ARTICLE 5.
NOMINATIONS AND ELECTIONS.

Section 5-1 Preliminary Elections, Contents of Notice or City Council Order

Not later than the fifth Tuesday preceding every regular city election and preceding every special election at which any office mentioned in this charter is to be filled, there shall be held, except as otherwise provided in section 5-7, a preliminary election for the purpose of nominating candidates for such general or special election, and section 9-2 of this charter shall not apply.

The notice, or order adopted by the city council, for regular, preliminary and special elections shall specify by name all the offices to be voted for and state, in the form in which it will appear upon the ballot, any question submitted to the voters. They shall specify the time when the polls will be opened and when the polls will be closed. The polls at such election shall be open during such hours as the city council may prescribe; provided, that they shall be opened not earlier than seven o'clock in the forenoon nor later than ten o'clock in the forenoon and shall be kept open at least six hours, but in no event later than eight

ACTS, 1986. – Chap. 135.

o'clock in the evening. The ballots to be used at such elections shall be governed by the provisions of section forty-nine of chapter forty-three of the General Laws.

Section 5-2 Inclusion of Name on Ballot, Prerequisites

Except as otherwise provided in section 5-7, there shall not be printed on the official ballot to be used at any regular or special election the name of any person as a candidate for any office unless such person has been nominated as such at a preliminary election for nomination, held as provided in sections 5-1 to 5-7, inclusive. There shall not be printed on the official ballot for use at such preliminary election the name of any candidate for nomination at such election, unless such person shall have filed, within the time limited by section 5-3, the statement and petition therein described.

Section 5-3 Candidates for Nomination, Qualifications, Statement and Petition

Any person who is qualified to vote for a candidate for any elective municipal office and who is a candidate for nomination thereto, shall be entitled to have the name of said person as such candidate printed on the official ballot to be used at a preliminary election; provided, that within the time prescribed by section ten of chapter fifty-three of the General Laws in the case of preliminary elections in cities such person shall file with the city clerk a statement, in writing, of such person's candidacy, and with it the petition of at least fifty voters, qualified to vote for the said office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE

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

(Signed) _____

Commonwealth of Massachusetts, _____ ss.

Subscribed and sworn to on this day of _____, nineteen hundred and _____ before me, _____

(Signed) _____
Justice of the Peace,
or (Notary Public).

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Whereas (name of candidate) is a candidate for nomination for the office of (state the term), we the undersigned, voters of the city

ACTS, 1986. – Chap. 135.

of _____, duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the _____ Tuesday of _____, nineteen hundred and _____.

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

No acceptance by the candidate for nomination named in the said petition shall be necessary to its validity or its filing, and the petition, which may be on one or more papers, need not be sworn to.

Section 5-4 Official Ballot, Posting Lists of Candidates, Drawing for Position on Ballot

On the first day, other than Sunday or a legal holiday, following the expiration of the time for filing the above described statement and petition, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly qualified as candidates for nomination, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots which shall contain said names, in their order as drawn by the clerk, and no others, with a designation of residence, and of the office and term of service, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election. In drawing for position on the ballot the candidates shall have an opportunity to be present in person or by one representative each. Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on such such directions as will aid the voter, as, for example: "vote for one", "vote for two", and the like, and the ballots shall be headed as follows:

OFFICIAL PRELIMINARY BALLOT

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

Section 5-5 Counting Ballots, Canvass of Returns

The election officers shall, immediately upon the closing of the polls at preliminary elections, count the ballots and ascertain the number of votes cast in the several voting places for each candidate, and forthwith make return thereof upon blanks to be furnished, as in regular elections, to the city clerk who shall canvass said returns and shall forthwith determine the result thereof, insert the same in one or more newspapers published in the city, and post the same in a conspicuous place in the city hall.

Section 5-6 Determination of Candidates for Election

The two persons receiving at a preliminary election the highest

ACTS, 1986. – Chap. 135.

number of votes for nomination for an office shall, except as provided by section 5-7, be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular or special election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity; provided, however, that a person nominated at a preliminary election may withdraw from nomination by a request signed and duly acknowledged by such person and filed with the city clerk within six days succeeding five o'clock in the afternoon of the day of holding such preliminary election. Such nominee shall be replaced by the candidate with the next highest number of votes in said preliminary, unless otherwise provided by the charter of the city.

If two or more persons are to be elected to the same office at such regular or special election, the several persons, equal in number to twice the number so to be elected, who receive at such preliminary election the highest number of votes for nomination for that office shall, except as provided by section 5-7, be the sole candidates for that office whose names may 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, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates to a number exceeding twice the number to be elected.

Section 5-7 Nomination of Candidates, Conditions Making Preliminary Election Unnecessary

If, at the expiration of the time for filing statements of candidates to be voted for at any preliminary election, the number of statements which have been filed with the city clerk for a particular office does not exceed twice the number of persons to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said 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 any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.

ARTICLE 6.

ADOPTION OF CHARTER, EFFECT, TRANSITIONAL PROVISIONS.

Section 6-1 Effect of Charter on Legislative Powers of City

None of the legislative powers of the city shall be abridged or impaired by this charter, but all such legislative powers shall be possessed and exercised by the city council.

Section 6-2 Effect of Charter on Obligations, Taxes and Legal Acts

All official bonds, recognizances, obligations, contracts and other

ACTS, 1986. – Chap. 135.

instruments entered into or executed by or to the city before the adoption of this charter, and all taxes, special assessments, fines, penalties, forfeitures incurred or due or owing to the city, shall be enforced and collected, and all writs, imposed, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by this charter; and no legal act done by or in favor of the city shall be rendered invalid by its adoption of this charter.

Section 6-3 Effect of Adoption of Charter on Ordinances, etc.

Ordinances, resolutions, orders or other regulations of the city, existing at the time of adoption of this charter, shall continue in full force and effect until repealed, modified or superseded.

Section 6-4 Existing Organization to Continue Until Superseded

Until superseded under this charter, the organization of the executive and administrative departments, and the powers and duties of the officers and employees of the city of Waltham Charter, and the fiscal year of the city shall remain as constituted at the time of the adoption of this charter; but the city council may, at any time by ordinance consistent with general laws, reorganize consolidate or abolish departments, in whole or in part, transfer the duties, powers and appropriations of one department to another, in whole or in part, establish new departments, and increase, reduce, establish or abolish salaries of heads of departments or members of boards. This section shall not authorize any action which is in conflict with chapter thirty-one of the General Laws.

Section 6-5 Officials to Expedite Transition to Adopted Plan

The mayor, the city council, and the city clerk in office when any plan set forth in this charter has been adopted, or is proposed for adoption, shall comply with all requirements of this charter relating to such proposed adoption and to the election of the officials specified in said plan, in order that all things necessary for the nomination and election of the officials first to be elected under the provisions of this charter and of the plan so adopted may be done.

ARTICLE 7.
INITIATIVE AND REFERENDUM PETITION.

Section 7-1 Initiative Petition, Measure Defined

A petition conforming to the requirements hereinafter provided and requesting the city council to pass a measure, except an order granted under section seventy or section seventy-one of chapter one hundred and sixty-four or chapter one hundred and sixty-six of the General Laws or requesting the school committee to pass a measure, therein set forth or designated, shall be termed an initiative petition, and shall be acted upon as hereinafter provided. In this and the seven following sections, "measure" shall mean an ordinance passed or which could be passed by the city council or a resolution, order or vote passed or which could be passed by the school committee, as the case may be.

Section 7-2 Initiative Petitions, Validity of Signatures, Filing,

Certification

Signatures to initiative petitions need not be all on one paper. All such signature papers pertaining to any one measure shall be fastened together and shall be filed in the office of the city clerk as one instrument, with the endorsement thereon of the names and addresses of three persons designated as filing the same. With each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any.

Within seven working days after the filing of said petition the registrars of voters shall ascertain the number of registered voters who have signed the petition, shall determine the percentage which that number bears to the total number of registered voters in the city as of the last state election and shall attach to the petition their certificate showing the results of their examination.

The city clerk shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, according as the petition is addressed, and at the same time shall send a copy of said certificate to the first ten persons designated on the petition as filing the same.

When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made thereto by a registered voter of the city within forty-eight hours after such certification by filing such objections with the city council or the school committee, and a copy thereof with the registrars of voters. A copy of the objections so filed shall forthwith be transmitted to the state ballot law commission which shall hold a public hearing on said objections, shall render a decision on the matter referred to it within fourteen days after the objections were filed and transmit a copy of its decision to the city council or the school committee.

Section 7-3 Initiative Petition, Requirements for Passage and Submission to Electorate; Date of Election

If any initiative petition is signed by registered voters equal in number to at least fifteen per cent of the whole number of registered voters, the city council or the school committee shall, within twenty days after the date of the certificate of the registrars to that effect:-

(1) Pass said measure without alteration, subject to the referendum vote provided by this charter, or

(2) The city council shall call a special election to be held on a Tuesday fixed by it not less than forty-five nor more than sixty days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; provided, if the regular municipal election is otherwise to occur within one hundred and twenty days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election.

Section 7-4 Procedure if Initiative Petition has Fewer Signatures

If an initiative petition is signed by registered voters equal in number to at least eight per cent but less than fifteen per cent of the total number of registered voters, and said measure be not passed without

alteration within twenty days by the city council or the school committee, as provided in the preceding section, such proposed measure, without alteration, shall be submitted by the city clerk to a vote of the registered voters of the city at the next regular municipal election. A proposed measure under this section or section 7-3 shall become effective if it shall be approved by registered voters of the city equal in number to one-third of the whole number thereof and also by a majority of the voters voting on such measure, but not otherwise.

Section 7-5 Contents of Ballot for Proposed Measure

The ballots used when voting upon a proposed measure under section 7-3 or section 7-4, or a measure of part thereof protested against under the following section, shall state the nature of the measure in terms sufficient to show the substance thereof.

Section 7-6 Referendum Petition; Effect on Final Passage

If within twenty days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by registered voters of the city, equal in number to at least twelve per cent of the total number of registered voters as of the last state election, and addressed to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city clerk shall submit the same, by the method herein provided, to a vote of the registered voters of the city, either at the next regular municipal election, or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the registered voters voting on the same at such election vote in favor thereof.

The petition described in this section shall be termed a referendum petition and section 7-2, with the exception of the last paragraph, shall apply to the procedure in respect thereto, except that the words "measure of part thereof protested against" shall for this purpose be understood to replace "measure" in said section wherever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

Section 7-7 Submission of Proposed Measure to Voters

The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the registered voters of the city for adoption or rejection at a regular or special municipal election any proposed measure, or a proposition for the repeal or amendment of any measure. A proposed measure under this section or section 7-3 shall become effective if it shall be approved by registered voters of the city equal in number to one-third of the whole number thereof and also by a majority of voters voting on such measure, but not otherwise.

Section 7-8 Measures with Conflicting Provisions

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

ARTICLE 8.
GENERAL PROVISIONS.

Section 8-1 Oath of Office, Time of Taking

On the first Sunday in January following a regular municipal election, at one o'clock post meridiem in the afternoon, the mayor-elect, the councillors-elect, and school committee members-elect, shall meet and be sworn to the faithful discharge of their duties. The oath may be administered by the city clerk or by a justice of the peace, and a certificate thereof shall be entered in the journal of the city council. At any regular council meeting thereafter the oath may be administered in the presence of the city council to the mayor, or to any councillor or school committee member absent from the meeting on the first Sunday in January.

Section 8-2 Primaries and Caucuses Prohibited

No primary or caucus for municipal officers shall be held. Candidates for mayor, city council, school committee, shall be nominated in accordance with section six of chapter fifty-three of the General Laws.

Section 8-3 Public Contracts Prohibiting Public Employees from Having Financial Interest in, Penalty

No mayor or member of the city council or school committee and no officer or employee of the city shall directly or indirectly make a contract with the city, or receive any commission, discount, bonus, gift, contribution or reward from or any share in the profits of any person making or performing such contract, unless the mayor, such member, officer, or employee, immediately upon learning of the existence of such contract, or that such contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of his interest in such contract and shall abstain from doing any official act on behalf of the city in reference thereto. In case of such interest on the part of an officer whose duty it is to sign such contract on behalf of the city, the contract may be signed by any other officer of the city duly authorized thereto by the mayor or if the mayor has such interest by the city clerk; provided, that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued shall not be considered as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.

A violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or both.

Section 8-4 Purchase or Taking of Land by City

The mayor, with the approval of the city council, may, in the name of the city, purchase or take by eminent domain, under chapter seventy-nine of the General Laws, any land within its limits for any municipal purpose. Whenever the price proposed to be paid for land for any municipal purpose is more than twenty-five per cent higher than its average assessed valuation during the previous three years the land shall not be purchased, but shall be taken as aforesaid. No land shall be taken or purchased until an appropriation by loan or otherwise for the general purpose for which land is needed has been made by the city council, by a two-thirds vote of all its members; nor shall a price be paid in excess of the appropriation, unless a larger sum is awarded by a court of competent jurisdiction. All proceedings in the taking of land shall be under the advice of the law department, and a record thereof shall be kept by said department.

Section 8-5 Failure to Fill Vacancy

When a vacancy occurs, for whatever reason, on a municipal multiple-member board whose members are subject to city council approval, the mayor shall submit to the city council the name of a person to fill such vacancy as soon as possible. If the mayor does not submit a name within ninety days after such a vacancy occurs, the city council shall submit names forthwith to the mayor who shall select one of the names submitted or a person of his own choosing for the vacancy within fifteen days.

Section 8-6 Capital Improvement Program

Submission – The mayor shall prepare and submit to the city council a five-year capital improvement program at least six months prior to the last day of each fiscal year.

Contents – The capital improvement program shall include: (1) a clear, concise summary of its contents; (2) a list of all capital improvements proposed to be undertaken during the next five fiscal years with supporting data; (3) cost estimates, method of financing, and recommended time schedules; (4) the estimated annual cost of operating and maintaining the facilities included; (5) a listing of all sources and amounts of revenue. The above information shall be revised and extended each year.

Section 8-7 Adoption or Change of Zoning Ordinance

Adoption or change of the zoning ordinance of the city may be initiated by the submission to the city of a proposed zoning ordinance by the city council, by the board of appeals, by an individual owning land to be affected by change or adoption, by ten registered voters in the city, by the board of survey and planning, by a regional planning agency or by one or more individual city councillors.

SECTION 2. The state secretary shall cause to be placed on the official ballot to be used in the city of Waltham at the biennial state election in the year nineteen hundred and eighty-six the following question:-

"Shall an act passed by the General Court in the year nineteen hundred and eighty-six, entitled 'An Act providing for a charter for the city of Waltham' be accepted?" If a majority of the votes cast in answer to said

ACTS, 1986. – Chaps. 136, 137, 138.

question is in the affirmative, this act shall take effect, but not otherwise.

Approved June 24, 1986.

Chapter 136. AN ACT RELATIVE TO THE USE OF FUNDS RECEIVED FROM THE PROVISIONS OF AMBULANCE SERVICES IN CITIES AND TOWNS.

Be it enacted, etc., as follows:

Section 5 of chapter 40 of the General Laws is hereby amended by striking out clause (21A), as appearing in the 1984 Official Edition, and inserting in place thereof the following clause:—

(21A) For the purchase or hire and for the maintenance of ambulances; provided, however, that the cost of maintenance and operation of such ambulances, including personnel and nonpersonnel expenses and maturing debt and interest, may be defrayed by charges, established by the city or town, upon persons transported by said ambulances.

Approved June 24, 1986.

Chapter 137. AN ACT FURTHER REGULATING THE TESTING OF NEWBORN CHILDREN FOR TREATABLE DISORDERS.

Be it enacted, etc., as follows:

SECTION 1. Section 110A of chapter 111 of the General Laws is hereby amended by striking out the first paragraph, as amended by section 2 of chapter 529 of the acts of 1985, and inserting in place thereof the following paragraph:—

The physician attending a newborn child shall cause said child to be subjected to tests for phenylketonuria, cretinism and such other specifically treatable genetic or biochemical disorders or treatable infectious diseases which may be determined by testing as specified by the commissioner. The commissioner may convene an advisory committee on newborn screening to assist him in determining which tests are necessary.

SECTION 2. This act shall take effect on June first, nineteen hundred and eighty-six.

Approved June 24, 1986.

Chapter 138. AN ACT REQUIRING THE PAYMENT OF CERTAIN STUMPPAGE FEES.