

By Mr. Trombley of Waltham, petition of Peter G. Trombley and another (with the approval of the mayor and city council) relative to providing for a charter for the city of Waltham. Local Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

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

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

1 SECTION 1. The following shall be the Charter for the City
2 of Waltham

3 **TABLE OF CONTENTS**

4 ARTICLE 1 Incorporation, Title, Form of Government, Powers
5 Section 1-1 Incorporation
6 Section 1-2 Title
7 Section 1-3 Form of Government
8 Section 1-4 Powers of the City
9 Section 1-5 Construction
10 Section 1-6 Intergovernmental Relations
11 Section 1-7 Definitions

12 ARTICLE 2 City Council
13 Section 2-1 Composition, Eligibility, Election and Term
14 Subsection A. Composition
15 Subsection B. Eligibility
16 Subsection C. Election and Term
17 Section 2-2 Compensation
18 Section 2-3 President of the Council
19 Section 2-4 Exercise of Powers, Quorum, Vote Required
20 Subsection A. Exercise of Powers
21 Subsection B. Quorum, Vote Required

- 22 Section 2-5 Rules of Procedure, Regular Meetings, Special
23 Meetings
24 Subsection A. Rules of Procedure
25 Subsection B. Regular Meetings
26 Subsection C. Special Meetings
27 Subsection D. Open Meetings
28 Section 2-6 Filling of Vacancies
29 Section 2-7 Council Request of Mayor to Attend Council
30 Meeting
31 Section 2-8 Passage of Ordinances, Repeal, Amendment
32 Section 2-9 Order, Ordinance or Resolution, Passage at One
33 Session
34 Section 2-10 Ordinance, Publication
35 Section 2-11 Election of City Clerk
36 ARTICLE 3 Mayor
37 Section 3-1 Election, Term of Office, Compensation
38 Section 3-2 Executive Powers, Enforcement of Ordinances
39 Section 3-3 Appointments by Mayor, Confirmation
40 Section 3-4 Removal of Officials
41 Section 3-5 Temporary Appointments
42 Section 3-6 Temporary Absence of the Mayor
43 Section 3-7 Vacancy in Office of Mayor
44 Section 3-8 Mayor's Attendance at Council Meeting
45 Section 3-9 Adoption of Measures, Mayor's Veto
46 Section 3-10 Call of Special Council Meeting by Mayor
47 Section 3-11 Employees in Mayor's Office not Subject to Civil
48 Service
49 ARTICLE 4 School Committee
50 Section 4-1 Composition, Election, Terms, Organization, Dual
51 Employment
52 Section 4-2 Powers and Duties
53 Section 4-3 School Committee Vacancy
54 Section 4-4 Open and Public Meetings, Roll Call Vote
55 Section 4-5 Superintendent of Schools, Selections, Appoint-
56 ment, Duties and Compensation of other School Employees
57 Section 4-6 School, Location and Erection, of Approval
58 Required

- 59 ARTICLE 5 Nominations and Elections
60 Section 5-1 Preliminary Elections, Contents of Notice or City
61 Council Order
62 Section 5-2 Inclusion of Name on Ballot, Prerequisites
63 Section 5-3 Candidates for Nomination, Qualifications,
64 Statement and Petition
65 Section 5-4 Official Ballot, Posting Lists of Candidates,
66 Drawing for Position on Ballot
67 Section 5-5 Counting Ballots, Canvass of Returns
68 Section 5-6 Determination of Candidates for Election
69 Section 5-7 Nomination of Candidates, Conditions Making
70 Preliminary Election Unnecessary
71 ARTICLE 6 Adoption of Charter, Effect, Transitional Provisions
72 Section 6-1 Effect of Charter on Legislative Powers of City
73 Section 6-2 Effect of Charter on Obligations, Taxes and Legal
74 Acts
75 Section 6-3 Effect of Adoption of Charter on Ordinances, etc.
76 Section 6-4 Existing Organization to Continue Until
77 Superseded
78 Section 6-5 Officials to Expedite Transition to Adopted Plan
79 ARTICLE 7 Initiative and Referendum Petition
80 Section 7-1 Initiative Petition, Measure Defined
81 Section 7-2 Initiative Petitions, Validity of Signatures, Filing,
82 Certification
83 Section 7-3 Initiative Petition, Requirements for Passage and
84 Submission to Electorate; Date of Election
85 Section 7-4 Procedure if Initiative Petition has Fewer
86 Signatures
87 Section 7-5 Contents of Ballot for Proposed Measure
88 Section 7-6 Referendum Petition; Effect on Final Passage
89 Section 7-7 Submission of Proposed Measure to Voters
90 Section 7-8 Measures with Conflicting Provisions
91 ARTICLE 8 General Provisions
92 Section 8-1 Oath of Office, Time of Taking
93 Section 8-2 Primaries and Caucuses Prohibited
94 Section 8-3 Public Contracts Prohibiting Public Employees
95 from Having Financial Interest in, Penalty
96 Section 8-4 Purchase or Taking of Land by City
97 Section 8-5 Failure to Fill Vacancy
98 Section 8-6 Capital Improvement Program

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.

138 Section 1-7 Definitions.

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

141 “Ordinance:” a vote or order of the city council entitled
142 “ordinance” and designed for permanent regulation of any matter
143 within the jurisdiction of the city council as laid down in this
144 charter.

145 “Elected at large:” elected by and from all the voters of the city.

146 “Regular municipal election:” the biennial election of municipal
147 officers for which provision is made in this matter.

148 **ARTICLE 2**
149 **City Council**

150 Section 2-1 Composition, Eligibility, Election and Term.

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

160 B. Eligibility — Any voter shall be eligible to hold the office
161 of councillor at large. A ward councillor shall be a voter and a
162 resident of the ward from which he is elected, at the time of his
163 election, provided, however, a ward councillor who removes from
164 the ward from which he was elected to another ward in the city,
165 may continue to serve and to discharge his duties until the
166 expiration of the term for which he was elected.

167 C. Election and Term — The term of office of all members of
168 the city council shall be for two years beginning at 1:00 p.m. on
169 the first Sunday in January of each even numbered year following
170 their election, until their successors are qualified.

171 Section 2-2 Compensation

172 The members of the city council shall receive for their services
173 such salary as the city council shall by ordinance determine, and
174 they shall receive no other compensation from the city. No

175 increase or reduction in the salaries of city councillors shall take
176 effect during the year in which such increase or reduction is voted,
177 and no change in such salaries shall be made between the election
178 of a new council and the qualification of the new council.

179 Section 2-3 President of the Council.

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

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

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

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

201 Section 2-5 Rules of Procedure, Regular Meetings, Special
202 Meetings.

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

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

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

215 D. Open Meeting — A full and accurate journal of the
216 proceedings of all meetings of the council shall be kept and shall
217 be open to the inspection of any registered voter of the city, except
218 as otherwise authorized by section twenty-three A, B and C of
219 chapter thirty-nine of the Massachusetts General Laws (M.G.L.).
220 All sessions of the council shall be open to the public and to the
221 press and every matter coming before the council for action shall
222 be put to a vote, the result of which shall be duly recorded.

223 Section 2-6 Filling of Vacancies

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

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

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

240 Section 2-8 Passage of Ordinances, Repeal, Amendment

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

249 No ordinance making a grant, renewal or extension, whatever
250 its kind or nature, of any franchise or special privilege shall be
251 passed as an emergency measure, and except as provided in section
252 seventy and seventy-one of chapter one hundred and sixty-four
253 and in chapter one hundred and sixty-six of the Massachusetts

254 General Laws, no such grant, renewal or extension shall be made
255 otherwise than by ordinance.

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

258 Section 2-9 Order, Ordinance or Resolution, Passage at One
259 session.

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

264 Section 2-10 Ordinance, Publication.

265 Every proposed ordinance or loan order, except emergency
266 measures as hereinbefore defined and revenue loan orders, shall
267 be published once in full in at least one newspaper of the city,
268 and in any additional manner that may be provided by ordinance,
269 at least ten days before its final passage. After such final passage,
270 it shall, in the same manner as before, again be published once,
271 as amended and completed, except in the case of an emergency
272 ordinance which may be passed as hereinbefore provided and
273 which shall take effect on its passage, and shall be so published
274 at the earliest practicable moment; provided, that if any ordinance
275 or proposed ordinance, or codification of ordinances or proposed
276 ordinances, shall exceed in length eight octavo pages of ordinary
277 book print, then, in lieu of the advertising required by this section,
278 the same may be published by the city council in a municipal
279 bulletin or printed pamphlet, and if so published in full at least
280 ten days before its final passage, and thereafter, as amended and
281 completed, again published in such bulletin or pamphlet, said
282 publications shall be deemed sufficient without the newspaper
283 publication as herein required.

284 Section 2-11 Election of City Clerk

285 The council shall, by a majority vote, elect a city clerk to hold
286 office for three years and until his successor is qualified. He shall
287 have such powers, and perform such duties as the council may
288 prescribe or as may be prescribed by law. He shall keep the records
289 of the meetings of the council. The person holding the office of
290 city clerk at the time when any of the plans set forth in this charter
291 has been adopted by the city shall continue to hold office for the
292 term for which he was elected and until his successor is qualified.

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 and confirmed.

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 be removed shall receive a copy of the reasons for his removal, and he may, if he desires, request a

330 hearing on the matter before the city council. He may be
331 represented by counsel at the hearing. The city council shall
332 request the mayor to appear at said hearing.

333 Section 3-5 Temporary Appointments

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

347 Section 3-6 Temporary Absence of the Mayor

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

354 Section 3-7 Vacancy in Office of Mayor

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

360 If a vacancy occurs during the last year of the term beginning
361 January first, a meeting of the city council shall be called by the
362 city clerk, forthwith, and the city council shall elect, by majority
363 vote of all members of the city council, one of its members as
364 mayor for the remainder of the unexpired term. If the city council
365 fails so to elect at said meeting or within thirty days thereafter,
366 the president of the city council shall become acting mayor;
367 provided however that if the president declines to serve as mayor
368 the city councillor with the greatest number of years of service

369 on the city council shall become mayor. Upon the qualification
370 of any city councillor as mayor under the provisions of this
371 section, he shall exercise all the rights and powers of mayor
372 including compensation and shall be sworn to the faithful
373 discharge of his duties and a vacancy shall exist in his seat on the
374 city council.

375 Section 3-8 Mayor's Attendance at Council Meeting

376 The mayor, when requested by the city council to be present
377 at a council meeting to answer questions relative to matters
378 properly within the jurisdiction of the council, shall be informed,
379 in writing, of the subject matter to be discussed. The mayor shall
380 personally, or through the head of a department or a member of
381 a board, attend such meeting and publicly answer all such
382 questions. The person so attending shall not be obliged to answer
383 any questions relating to any other matter. The mayor may attend
384 and address the city council in person or through the head of a
385 department, or a member of a board, upon any subject.

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

387 Every measure relative to the affairs of the city adopted by the
388 city council, except such measures as relate to (1) the internal
389 affairs of the city council, (2) the election of officers whose election
390 by the city council is authorized by law or by the charter, or (3)
391 budgets submitted under section thirty two of chapter forty-four
392 of the General Laws or to appropriations by the city council under
393 section thirty-three of said chapter, shall be presented to the mayor
394 for his approval. If the mayor does approve it, he shall signify
395 his approval by signing it. If he does not approve of it, he shall
396 return it, with his objections in writing, to the city council. The
397 city council shall enter the objections of the mayor upon its records
398 and shall again consider the measure. If the city council,
399 notwithstanding such disapproval of the mayor, shall pass such
400 measure by a two-thirds vote of all its members, it shall be
401 considered approved and shall then be in force, but such vote shall
402 not be taken for at least seven days after the measure has been
403 returned to the city council. If any measure is not returned by the
404 mayor within ten days following the date it is presented to him,
405 it shall be considered approved. A filing with the clerk of the
406 council shall be considered a return by the mayor to the city

407 council. All votes taken on measures returned by the mayor shall
408 be by roll call.

409 Section 3-10 Call of Special Council Meeting by Mayor

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

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

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

426 ARTICLE 4

427 School Committee

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

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

442 Section 4-2 Powers and Duties

443 Except as otherwise provided in this charter and subject to any
444 laws which limit the amount of money that may be appropriated

445 in any city for school purposes, the school committee, in addition
446 to the powers and duties conferred and imposed by law on school
447 committees, may provide, when necessary, temporary accommo-
448 dations for school purposes, may make all repairs, the
449 expenditures for which are made from the regular appropriation
450 for the school department, shall have control of all school
451 buildings and grounds connected therewith and shall make all
452 reasonable rules and regulations, consistent with law, for the
453 management of the public schools of the city and for conducting
454 the business of the committee.

455 Section 4-3 School Committee Vacancy

456 If a vacancy occurs at any time in the office of school committee
457 by failure to elect, or otherwise, the city council and the remaining
458 members of the school committee shall meet in joint convention,
459 which shall be called by the city clerk forthwith, and elect a
460 suitable person to fill the vacancy until the first Sunday in January
461 following the next regular municipal election; and, if there would
462 be a vacancy on said first Sunday, it shall be filled at such regular
463 municipal election for the balance of the unexpired term. The
464 mayor, if present, shall preside at the convention.

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

466 All meetings of the school committee shall be open to the press
467 and to the public, except as otherwise authorized by Section 23
468 A and 23 B of Chapter 39 of the General Laws. The vote in any
469 particular measure taken in open session shall be recorded by roll
470 call vote when requested by two members. All votes taken in
471 executive session shall be recorded by roll call vote.

472 Section 4-5 Superintendent of Schools, Selections, Appoint-
473 ment, Duties and Compensation of other School Employees

474 The school committee shall elect a superintendent of schools
475 annually, except as provided in Section forty-one of Chapter
476 seventy-one of M.G.L., and may, under Chapter thirty-one of
477 M.G.L., appoint, suspend, or remove at pleasure such subordinate
478 officers or assistants, including janitors of school buildings, as it
479 may deem necessary for the proper discharge of its duties and the
480 conduct of its business; it shall define their terms of service and
481 their duties and shall fix their compensation.

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

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

493

ARTICLE 5

494

Nominations and Elections

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

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

503 The notice, or order adopted by the city council, for regular,
504 preliminary and special elections shall specify by name all the
505 offices to be voted for and state, in the form in which it will appear
506 upon the ballot, any question submitted to the voters. They shall
507 specify the time when the polls will be opened and when the polls
508 will be closed. The polls at such election shall be open during such
509 hours as the city council may prescribe; provided, that they shall
510 be opened not earlier than seven o'clock in the forenoon nor later
511 than ten o'clock in the forenoon and shall be kept open at least
512 six hours, but in no event later than eight o'clock in the evening.
513 The ballots to be used at such elections shall be governed by the
514 provisions of section forty-nine of Chapter 43 of M.G.L.

515 Section 5-2 Inclusion of Name on Ballot, Prerequisites

516 Except as otherwise provided in section 5-7, there shall not be
517 printed on the official ballot to be used at any regular or special
518 election the name of any person as a candidate for any office unless

519 such person has been nominated as such at a preliminary election
520 for nomination, held as provided in sections 5-1 to 5-7, inclusive.
521 There shall not be printed on the official ballot for use at such
522 preliminary election the name of any candidate for nomination
523 at such election, unless such person shall have filed, within the
524 time limited by section 5-3, the statement and petition therein
525 described.

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

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

538 STATEMENT OF CANDIDATE

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

548 (Signed) _____

549 Commonwealth of Massachusetts, _____ ss.
550 Subscribed and sworn to on this day of _____, nineteen
551 hundred and _____ before me, _____

552 (Signed) _____

553 Justice of the peace,
554 or (Notary Public).

555 PETITION ACCOMPANYING STATEMENT OF
556 CANDIDATE

557 Whereas (name of candidate) is a candidate for nomination for
558 the office of (state the term), we the undersigned, voters of the
559 city of _____, duly qualified to vote for a candidate for said
560 office, do hereby request that the name of said (name of candidate)
561 as a candidate for nomination for said office be printed on the
562 official ballot to be used at the preliminary election to be held
563 on the _____ Tuesday of _____, nineteen hundred and
564 _____.

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

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

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

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

OFFICIAL PRELIMINARY BALLOT

594
595 Candidates for nomination for the offices of () in the city
596 of _____ at a preliminary election to be held on the
597 _____ day of _____ in the year nineteen hundred and
598 _____. (The heading shall be varied in accordance with the
599 offices for which nominations are to be made.)

Section 5-5 Counting Ballots, Canvass of Returns

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

Section 5-6 Determination of Candidates for Election

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

624 If two or more persons are to be elected to the same office at
625 such regular or special election, the several persons, equal in
626 number to twice the number so to be elected, who receive at such
627 preliminary election the highest number of votes for nomination
628 for that office shall, except as provided by section 5-7, be the sole
629 candidates for that office whose names may be printed on the
630 official ballot.

631 If the preliminary election results in a tie vote among candidates
632 for nomination receiving the lowest number of votes, which, but

633 for said tie vote, would entitle a person receiving the same to have
634 his name printed upon the official ballot for the election, all
635 candidates participating in said tie vote shall have their names
636 printed upon the official ballot, although in consequence there be
637 printed thereon candidates to a number exceeding twice the
638 number to be elected.

639 Sectin 5-7 Nomination of Candidates, Conditions Making
640 Preliminary Election Unnecessary

641 If, at the expiration of the time for filing statements of
642 candidates to be voted for at any preliminary election, the number
643 of statements which have been filed with the city clerk for a
644 particular office does not exceed twice the number of persons to
645 be elected to such office, the candidates whose statements have
646 thus been filed shall be deemed to have been nominated to said
647 office, and their names shall be voted on for such office at the
648 succeeding regular or special election, as the case may be, and the
649 city clerk shall not print said names upon the ballot to be used
650 at said preliminary election and no other nomination to said office
651 shall be made. If in consequence it shall appear that no names
652 are to be printed upon the official ballot to be used at any
653 preliminary election in any ward or wards of the city, no
654 preliminary election shall be held in any such ward or wards.

655

ARTICLE 6

656

Adoption of Charter, Effect, Transitional Provisions

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

658 None of the legislative powers of the city shall be abridged or
659 impaired by this charter, but all such legislative powers shall be
660 possessed and exercised by that body which is the legislative body
661 of the city under this charter.

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

664 All official bonds, recognizances, obligations, contracts and
665 other instruments entered into or executed by or to the city before
666 the adoption of this charter, and all taxes, special assessments,
667 fines, penalties, forfeitures incurred or due or owing to the city,
668 shall be enforced and collected, and all writs, imposed,
669 prosecutions, actions and causes of action, except as herein

670 otherwise provided, shall continue without abatement and remain
671 unaffected by this charter; and no legal act done by or in favor
672 of the city shall be rendered invalid by its adoption of this charter.

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

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

677 Section 6-4 Existing Organization to Continue Until
678 Superseded

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

692 Section 6-5 Officials to Expedite Transition to Adopted Plan

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

701

702

ARTICLE 7

Initiative and Referendum Petition

703 Section 7-1 Initiative Petition, Measure Defined

704 A petition conforming to the requirements hereinafter provided
705 and requesting the city council to pass a measure, except an order
706 granted under section 70 or 71 of chapter 164 or chapter 166 of

707 the General Laws or requesting the school committee to pass a
708 measure, therein set forth or designated, shall be termed an
709 initiative petition, and shall be acted upon as hereinafter provided.
710 In this and the seven following sections, "measure" shall mean an
711 ordinance passed or which could be passed by the city council or
712 a resolution, order or vote passed by the city council, or a
713 resolution, order or vote passed by the school committee, as the
714 case may be.

715 Section 7-2 Initiative Petitions, Validity of Signatures, Filing,
716 Certification

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

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

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

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

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

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

754 1. Pass said measure without alteration, subject to the
755 referendum vote provided by this charter, or

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

766 Section 7-4 Procedure if Initiative Petition has Fewer
767 Signatures

768 If an initiative petition is signed by registered voters equal in
769 number to at least eight per cent but less than fifteen per cent of
770 the total number of registered voters, and said measure be not
771 passed without alteration within twenty days by the city council
772 or the school committee, as provided in the preceding section, such
773 proposed measure, without alteration, shall be submitted by the
774 city council to a vote of the registered voters of the city at the
775 next regular municipal election. A proposed measure under this
776 section or section 7-3 shall become effective if it shall be approved
777 by registered voters of the city equal in number to one third of
778 the whole number thereof and also by a majority of the voters
779 voting on such measure, but not otherwise.

780 Section 7-5 Contents of Ballot for Proposed Measure

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

785 Section 7-6 Referendum Petition; Effect on Final Passage

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

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

811 Section 7-7 Submission of Proposed Measure to Voters

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

823 Section 7-8 Measures with Conflicting Provisions

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

827 **ARTICLE 8**

828 **General Provisions**

829 Section 8-1 Oath of Office, Time of Taking

830 On the first Sunday in January following a regular municipal
831 election, at 1:00 p.m. in the afternoon, the mayor-elect, the
832 councillors-elect, and school committee members-elect, shall meet
833 and be sworn to the faithful discharge of their duties. The oath
834 may be administered by the city clerk or by a justice of the peace,
835 and a certificate thereof shall be entered in the journal of the city
836 council. At any regular council meeting thereafter the oath may
837 be administered in the presence of the city council to the mayor,
838 or to any councillor or school committee member absent from
839 the meeting on the first Sunday in January.

840 Section 8-2 Primaries and Caucuses Prohibited

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

845 Section 8-3 Public Contracts Prohibiting Public Employees
846 from Having Financial Interest In, Penalty

847 No mayor or member of the city council or school committee
848 and no officer or employee of the city shall directly or indirectly
849 make a contract with the city, or receive any commission,
850 discount, bonus, gift, contribution or reward from or any share
851 in the profits of any person making or performing such contract,
852 unless the mayor, such member, officer, or employee, immediately
853 upon learning of the existence of such contract, or that such
854 contract is proposed, shall notify in writing the mayor, city council
855 or school committee of the nature of his interest in such contract
856 and shall abstain from doing any official act on behalf of the city
857 in reference thereto. In case of such interest on the part of an officer
858 whose duty it is to sign such contract on behalf of the city, the

859 contract may be signed by any other officer of the city duly
860 authorized thereto by the mayor or if the mayor has such interest
861 by the city clerk; provided, that when a contractor with the city
862 is a corporation or a voluntary stock association, the ownership
863 of less than five per cent of the stock or shares actually issued
864 shall not be considered as involving an interest in the contract
865 within the meaning of this section, and such ownership shall not
866 affect the validity of the contract unless the owner of such stock
867 or shares is also an officer or agent of the corporation or
868 association, or solicits or takes part in the making of the contract.

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

874 Section 8-4 Purchase or Taking of Land by City

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

890 Section 8-5 Failure to Fill Vacancy

891 When a vacancy occurs, for whatever reason, on a municipal
892 multiple-member board whose members are subject to city council
893 approval, the mayor shall submit to the city council the name of
894 a person to fill such vacancy as soon as possible. If the mayor
895 does not submit a name within 90 days after such a vacancy occurs,
896 the city council shall submit names forthwith to the mayor who
897 shall select one of the names submitted or a person of his own
898 choosing for the vacancy within fifteen (15) days.

899 Section 8-6 Capital Improvement Program

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

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

1 SECTION 2. The State Secretary shall cause to be placed on
2 the official ballot to be used in the City of Waltham at the biennial
3 state election in the year nineteen hundred and eighty-six the
4 following question: —

5 Shall an act passed by the General Court in the year 1986
6 entitled "An Act Providing For A Charter For The City Of
7 Waltham" be accepted?

8 If a majority of the votes cast in answer to said question is in
9 the affirmative, this act shall take effect, but not otherwise.

