

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  
149 **ARTICLE 2**  
**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.

293  
294ARTICLE 3  
MAYOR

295      Section 3-1 Election, Term of Office, Compensation  
296      There shall be a mayor, elected by and from the qualified voters  
297      of the city. He shall hold office for the term of four years from  
298      the first Sunday in January following the election and until his  
299      successor is qualified. The mayor shall receive for his services such  
300      salary as the city council shall by ordinance, determine and he  
301      shall receive no other compensation from the city. No increase  
302      or reduction in the salary of the mayor shall take effect during  
303      the year in which such increase or reduction is voted, and no  
304      change in such salary shall be made between the election of a new  
305      council and the qualification of the new council.

306      Section 3-2 Executive Powers, Enforcement of Ordinances

307      The executive powers of the city shall be vested solely in the  
308      mayor and may be exercised by him either personally or through  
309      the several officers or boards in their respective departments,  
310      under his general supervision and control. The mayor shall cause  
311      the laws, ordinances and orders for the government of the city  
312      to be enforced and shall cause a record of all his official acts to  
313      be kept.

314      Section 3-3 Appointments by Mayor, Confirmation

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

323      Section 3-4 Removal of Officials

324      The mayor may, with the approval of a majority of the members  
325      of the city council, remove the head of a department or member  
326      of a board before the expiration of his term of office, except  
327      members of the school committee and officials appointed by the  
328      Governor. The person to be removed shall receive a copy of the  
329      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) \_\_\_\_\_

49 Commonwealth of Massachusetts, \_\_\_\_\_ ss.  
50 Subscribed and sworn to on this day of \_\_\_\_\_, nineteen  
51 hundred and \_\_\_\_\_ before me, \_\_\_\_\_  
52 (Signed) \_\_\_\_\_

53 Justice of the peace,  
54 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

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.)

600 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.

## 609 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 ARTICLE 7

### 702 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.

## ARTICLE 8

### 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.





