

**HOME RULE CHARTER  
OF THE CITY OF METHUEN**

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## **SUMMARY OF CHARTERS IN THE CITY OF METHUEN**

The City of Methuen was originally organized as a Town by Chapter 12 of the Acts and Resolves of 1725, "Being an act for dividing the City of Haverhill and erecting a new Town there and in parts adjacent by the name of Methuen"; the name of the Town being given by Governor Dummer after Lord Methuen.

- The City functioned under a Selectmen/Open Town Meeting form of government from 1726 until 1917.
- The General Court, by Chapter 116 of the Acts and Resolves of 1916, established a Selectmen/Representative Town Meeting form of government.
- The General Court, thereafter, by Chapter 289 of 1917, allowed the Town to organize as a City.
- On January 7th, 1921, the Supreme Judicial Court, in the case of Attorney General ex rel. Mann vs. City of Methuen, 236 Mass. 564, found that the City Charter had not been appropriately adopted under the Constitution of the Commonwealth. Though the Court did not strike down the Charter, it left open the legality of all City action thereafter.
- The General Court subsequently enacted Chapter 241 of 1921, providing for the establishment of a Selectmen/Representative Town Meeting form of government. This Charter existed from 1921 to 1973.
- On January 1st, 1973, Methuen's first Home Rule Charter became effective. Said Charter established a strong Town Administrator with a twenty-one member Town Council. Said Charter was written by the first Home Rule Charter Commission. This "Town Form" was declared to be, in law, a City by the Appeals Court on December 12th, 1978 in the case of Chadwick vs. Scarth, 6 Mass. App. 725.
- On January 1st, 1978, Methuen's second Home Rule Charter became effective. Said Charter, while keeping the Town Manager/Town Council form of government, reduced the Town Manager's power by requiring Council approval of such matters as contracts and appointments.
- On May 4th, 1993, at a Special Town Election, the citizens accepted Chapter 332 of the Acts and Resolves of 1992 providing for a Mayor and lifetime term limitations for the Mayor and City Council.

For a complete listing of all Charter amendments, see Chronology of Charter Amendments, (Appendix I).

## **ARTICLE 1 Incorporation; Short Title; Power**

### **Section 1-1. Incorporation.**

The Inhabitants of the municipality of Methuen, within the corporate limits established by law, shall continue to be a body corporate and politic under the name "City of Methuen". **NO CHANGES**

### **Section 1-2. Short Title.**

This instrument shall be known, and may be cited as the Methuen Home Rule Charter. **NO CHANGES**

### **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 an executive branch, to consist of the Mayor, and a legislative branch, to consist of the City Council. The executive branch shall never exercise any legislative power, and the legislative branch shall never exercise any executive powers. Except as may otherwise be specifically authorized by the Charter, no member of the City Council, nor any committee thereof, shall take any part in the conduct of the administrative business of the City. **NO CHANGES**

### **Section 1-4. Powers of the Municipality.**

Subject only to express limitations on the exercise of any power or function by a municipality in the Constitution or the statutes of the Commonwealth, it is the intent and the purpose of the voters in Methuen, through the adoption of the Charter, to secure for the City all powers it is possible to secure under the Constitution and statutes of the Commonwealth, as fully and as completely as though each such power was specifically and individually enumerated herein.

Methuen will constitutionally have a city form of government and the General Laws that apply only to cities, or treat cities differently than towns, will automatically apply to Methuen. ~~For example, Methuen will conform to the debt limit, bond and notes issuances, etc. of Chapter 44, the Municipal Finance Act, as it applies to cities.~~ – **DELETE SENTENCE**

### **Section 1-5. Construction.**

The powers of the municipality under the Charter are to 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 municipality as stated in Section 1-4. – **NO CHANGES**

### **1-6. Intergovernmental Relations.**

Subject only to express limitations in the construction of statutes of the Commonwealth, the City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the Commonwealth, or any political subdivision or agency thereof, or the United States government or any agency thereof. – **NO CHANGES**

## **ARTICLE 2 Legislative Branch**

### **Section 2-1. Composition; Eligibility; Election and Term.**

(a) Composition – There shall be a City Council consisting of nine members which shall exercise the legislative powers of the City. Six Councilors shall be nominated and elected from the voters by districts, two Councilors to be elected from each of the three districts of the City. Three Councilors shall be nominated and elected at large. Precincts 1, 2, 6, 10 and 14 to be known as the Central District; Precincts 3, 7, 9, 12 and 13 to be known as the East District; and Precincts 4, 5, 8, 11 and 15 to be known as the West District. (Increase in number of precincts from 9 to 12 approved by Legislature, June 10<sup>th</sup>, 1986, Chapter 88 of the Acts and Resolves of 1986). (Increase in number of precincts from 12 to 15 approved by the Legislature, November 10, 2022, Chapter 267 of the Acts of 2022.) The City Council shall be the judge of the election and qualification of its members.

(b) Eligibility – Only voters who at all times during their term of office shall be and remain residents of the City shall be eligible to hold the office of Councilor. A member of the City Council shall, notwithstanding his their removal from one district to another, continue to serve and to perform his their official duties during his their term of office.

(c) Election and Term – The term of office of all members of the City Council shall be for two years, beginning on the first secular day in January after their election and until their successors are qualified. No person shall hold office of City Councilor for more than three consecutive terms. (Consecutive term limits approved by the Legislature, September 24<sup>th</sup>, 1999, Chapter 82 of the Acts and Resolves of 1999 and adopted by the Voters November 2<sup>nd</sup>, 1999. This Act eliminated lifetime term limits.) – **NO CHANGES**

### **Section 2-2. Organization.**

After the Councilors elect have been sworn, the City Council shall be called together by the member with the total lifetime seniority serving on the Methuen City Council and the oldest member elected who shall preside. The City Council shall then elect, from among its members, a Chairman and Vice Chairman to serve at the pleasure of the City Council for a one-year term. This change does not preclude the Chair or Vice-Chair from serving consecutive terms as Chair and Vice-Chair. The Chairman shall preside at all meetings of the City Council and perform such other functions as may be assigned by the Charter, by ordinance, or by vote of the City Council. The Vice Chairman shall act as Chairman of the Council during the absence or disability of the Chairman. (Elimination of appointed Councilor on School Committee approved by voters November 3rd, 1981; see Resolution #758).

### **Section 2-3. Compensation; Expenses.**

The City Council shall, by ordinance, establish an annual salary and expense allowance for its members.

No ordinance increasing such salary or expense allowance shall be effective, however, unless it shall have been adopted by a two-thirds vote of the full Council during the first eighteen months of the term for which Councilors are elected and the new salary and expense schedule is to be effective upon the commencement of the terms of office of the next City Council to be elected. – **NO CHANGES**

### **Section 2-4. General Powers and Duties.**

Except as otherwise provided by law or by the Charter, all **legislative** powers of the City shall be vested in the City Council which shall provide for their exercise and for the performance of all duties and obligations imposed on the City by law.

### **Section 2-5. Prohibitions.**

No Councilor shall, while a member of the City Council, hold any other office or position the salary or compensation for which is payable out of the City treasury.

No former Councilor shall hold any compensated appointive City office or City employment until one year after the expiration of **his** **their** service on the City Council. This provision shall not prevent a City officer or employee who has taken a leave of absence from such duties in order to serve as a member of the City Council from returning to such office or employment following service as a member of the City Council.

**Adopted new language**

*No currently serving Councilor or a Councilor who is out of office for less than **2 years** shall hold any other office or position the salary or compensation for which is payable out of the City treasury.*

*No former Councilor shall hold any compensated appointive City office or City employment until **2 years** after the expiration of such councilor's service on the City Council. This provision shall not prevent a City officer or employee who has taken a leave of absence from such duties in order to serve as a member of the City Council from returning to the same office or position of city employment held at the time of said councilor's assumption of office following service as a member of the City Council. **The mayor may seek a waiver of this provision, provided however, that a waiver involving a sitting councilor must be approved by the full council by a unanimous vote, except that any currently serving councilor who is the subject of such a waiver shall not participate in the vote on the waiver request, and a waiver for a former councilor out of office for less than 2 years must be approved by a unanimous vote of the full council.***

## Section 2-6. Filling of Vacancies.

**Section 2-6 – Filling of Vacancies** – Once the City Clerk has knowledge of a vacancy, the City Clerk shall immediately inform the Mayor, City Council and City Solicitor if a vacancy occurs in the office of Councilor-at-Large or in the office of District Councilor, whether by failure to elect or otherwise. The City Council the remaining Councilors shall, within twenty-one days following the date such vacancy is declared to exist, act to fill the said vacancy. The Council shall elect, as acting Councilor whichever of the defeated candidates for the seat in which the vacancy is declared to exist, that person who was next in line and was certified and received at 20% of the lowest vote getter's ballots who received the highest number of votes at the at the last regular City election immediately preceding the date the vacancy is declared to exist, and who received at least twenty (20) percent of the total votes (ballots) cast for the office at such election, and who remains eligible and willing to serve.

There being no such person, the Council Chair shall make an application for candidacy available in the City Clerk's office and post said application on the City of Methuen's website. Within 21-days, the City Council Chair shall announce and schedule a public hearing to hear from the applicants who wish to fill the vacancy. Then the City Council will vote amongst the applicants, to be an acting Councilor to serve for the balance of the unexpired term. If such choice is not made as hereinbefore provided within the said twenty-one days, the choice shall be made by the Councilor senior in length of service, or if there be more than one such, by the Councilor senior both in age and in terms of service. Any person so chosen shall be sworn and commence to serve forthwith. No vacancy shall be filled, in the manner hereinbefore provided, if a regular City election is to be held within one hundred twenty days following the date the vacancy is declared to exist.

## Section 2-7. Exercise of Powers; Quorum; Rules of Procedure.

(a) Exercise of Powers - Except as otherwise prohibited by law or the Charter, the legislative powers of the City Council may be exercised in a manner determined by it. **NO CHANGES**

(b) Quorum - ~~A majority of the full~~ The presence of 5 members of the City Council shall constitute a quorum. The presence of 5 members of the City Council The affirmative vote of a majority of the full City Council shall be necessary to adopt any appropriation order. Except as otherwise provided by law or the Charter, any other motion or measure may be adopted by a majority vote of those present.

(c) Rules of Procedure - The City Council shall, from time to time, establish rules for its proceedings. Regular meetings of the City Council shall be held at a time and place fixed by ordinance but which shall be not less frequent than once monthly. Special meetings of the City Council may be held on the call of the Chairman of the City Council, or on the call of any three or more members, by written notice delivered to the place of residence ~~or business~~ of each member ~~or via electronic mail~~ at least ~~forty-eight~~ 48 hours in advance of the time set. **All such notices shall be posted as required by law.** Except as otherwise authorized by General Laws, all sessions of the City Council shall be open to the public and press. Every matter coming before

the City Council for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate, and up-to-date record of the proceedings of the City Council shall be kept and shall be open to inspection by the public.

## Section 2-8. Council Staff.

(a) City Accountant – The City Council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, a City Accountant to hold office for a term of two years and until his/her successor is qualified. (Odd numbered year appointment by amendment approved by the Legislature June 28<sup>th</sup>, 1996 as Chapter 145 of the Acts and Resolves of 1996. Amendment submitted by City Council Order #3738, approved February 5<sup>th</sup>, 1996.)

~~The City Accountant shall keep and have charge of the accounts of the City. He shall regularly audit the books and accounts of all City agencies, and he shall have such powers and perform such other duties as the City Council may prescribe in addition to such duties as may be prescribed by law.~~

(a) Clerk of the Council - The City Council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, a Clerk of the Council to hold office for a term of two years. ~~or until his/her successor is qualified.~~ The Clerk of the Council shall give notice of all meetings of the City Council to its members and to the public, keep a record of its proceedings and perform such duties as may be assigned by the Charter, by ordinance, or by other vote of the City Council. (Odd numbered year appointment by amendment approved by the Legislature June 28<sup>th</sup>, 1996 as Chapter 145 of the Acts and Resolves of 1996. Amendment submitted by City Council Order #3738, approved February 5<sup>th</sup>, 1996.)

(b) Assistant Clerk of the Council – The City Council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, an Assistant Clerk of the Council to hold office for a term of two years. The Assistant Clerk shall assist the Clerk of the Council in performing duties as prescribed by the Council Chair or as directed by a vote of the City Council. (Chapter 252 of the Acts of November 1, 2022) (Amendment submitted by the City Council Order # 5697 approved January 19, 2022)

(c) City Solicitor - The City Council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, a City Solicitor to hold office for a term of two years ~~and until his/her successor is qualified.~~ (Odd numbered year appointment by amendment approved by the Legislature June 28<sup>th</sup>, 1996 as Chapter 145 of the Acts and Resolves of 1996. Amendment submitted by City Council Order #3738, approved February 5<sup>th</sup>, 1996.)

The City Solicitor shall represent the municipality in all court matters, advise the City Council and municipal boards and officers upon all legal questions and perform such other duties as the City Council may prescribe in addition to such duties as may be prescribed by law. (Appointment by the City Council approved by voters November 5th, 1985; see Resolution #1380 and Chapter 182 of the Acts and Resolves of 1985).

(d) Salaries - The City Council shall set the salaries of ~~the City Accountant, Clerk of the Council, Mayor and City Council City Solicitor~~. In addition, the City Council shall set the salaries of its employees comparable with municipal salary scales. The City Council shall review the Mayor's, City Council's and their employees' salaries every 5 years. (Approved by voters November 5th, 1985; see Resolution #1380 and Chapter 182 of the Acts and Resolves of 1985).

## Section 2-9. Measures; Emergency Measures; Charter Objection.

- (a) In General - No measure shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property. Except as otherwise provided by the Charter, every adopted measure shall become effective at the expiration of thirty days after adoption or at any later date specified therein. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the Charter, or as provided in the initiative and referendum procedures.
- (b) Emergency Measures - An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the City Council. **NO CHANGES**

An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency measure, and except as provided in General Laws, Chapter 166, Sections 70 and 71 (relating to utility lines), no such grant, renewal or extension shall be made otherwise than by ordinance. After its adoption, an emergency measure shall be published as prescribed for other adopted measures. It shall become effective upon adoption or at such later time as it may specify. **NO CHANGES**

13 (c) Charter Objection – On the first occasion that the question on adoption of a measure is put to the City Council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the City Council, whether regular or special. If ~~two or more other members shall join the member in objection, three members object~~, the postponement shall be until the next regular meeting; but for an emergency measure, at least four members in all must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter.

## Section 2-10. Delegation of Powers.

The City Council may delegate to one or more City agencies, the powers vested in the City Council by the laws of the Commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such City agency, and may, in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

**NO CHANGES**

**Section 2-11. Inquiries and Investigations.**

~~The City Council may require any City officer or member of a board or commission to appear before it, and give such information as it may require in relation to his office, its function, and performance. The City Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section.~~

~~The City Council may make investigations into the affairs of the City and into the conduct of any City agency, and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.~~

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

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

(c) Mayor - The city council, by majority vote, shall identify the scope of its inquiry and request specific information from the mayor on any municipal matter and may request that the mayor be present to answer written questions relating to that information at a meeting to be held not earlier than 7 business days from the date the mayor receives the council's request. The mayor shall attend such meeting and respond to the council's questions. The mayor shall not be required to answer questions relating to any other matter.

(d) Notice - The city council, by majority vote, shall give a minimum of 7 business days' notice to a person it may require to appear before it under this section. The notice shall include specific questions on which the city council seeks information, and no person called to appear before the city council under this section shall be required to respond to any question not relevant or related to those questions presented in advance and in writing. The mayor shall receive notice of such request in writing at the same time such notice is given to the person required to appear.

**(NEW) Section 2-12 School-Municipal Cooperation**

The City Council, Mayor and the School Committee shall endeavor to keep each other apprised of important developments related to the budget, policies, upcoming issues and other important matters of the city and schools and shall seek to work together in the best interests of the residents of the city. Joint meetings of the two bodies shall be held at least 3 2 times annually, to include the annual budget meeting as provided in section 6-2 of the charter, and such other meetings as the council and school committee shall jointly determine.

## ARTICLE 3 EXECUTIVE BRANCH

### Section 3-1. Mayor – Qualifications; Term of Office; Compensation.

(a) Mayor; Qualifications – The Chief Executive Officer of the City shall be a Mayor, elected by and from the qualified voters of the City. Any voter domiciled in the City shall be eligible to hold the office of Mayor. ~~He~~ **The Mayor** shall devote ~~his~~ **their** full time to the office and shall not hold any other public office, elective or appointive, ~~nor engage~~ and shall file written disclosure to the **City Clerk** in any other business activity whether or not such business activity is pursued for gain, profit or other pecuniary advantage, during ~~his~~ **their** term.

(b) Term of Office – The term of office of Mayor shall be two years, beginning on the first Monday of January following ~~his~~ **their** election and until ~~his~~ **their** successor is qualified. No person shall hold the office of Mayor for more than three consecutive terms. (Consecutive term limits approved by the Legislature September 24<sup>th</sup>, 1999, Chapter 82 of the Acts and Resolves of 1999 and adopted by the Voters November 2<sup>nd</sup>, 1999).

(c) Compensation – The City Council shall, by ordinance, establish an annual salary for the Mayor. **The Mayor's salary shall be reviewed every 5 years.**

### Section 3-2. Executive Authority and Duties.

The executive powers of the City shall be vested solely in the Mayor, and may be exercised by ~~him~~ **them** either personally or through the several City agencies under ~~his~~ **their** general supervision and control. The Mayor shall see that all of the provisions of the General Laws, of this Charter, of votes of the City Council which require enforcement by ~~him~~ **them** or officers subject to ~~his~~ **their** direction and supervision are faithfully carried out and shall cause a record of all ~~his~~ **their** official duties to be kept. He shall have the following authority and duties:

13. (a) ~~He~~ **The Mayor** shall supervise and direct the administration of all departments, commissions, boards and offices, except the City Council, the School Committee, ~~the City Accountant~~, the City Solicitor and the Clerk **and Assistant Clerk** of the Council.

14. (b) ~~He~~ **The Mayor** shall fix the compensation of all City officers and employees appointed by ~~him~~ **them** within the limits established by City ordinances and existing appropriations.

15. (c) ~~He~~ **The Mayor** shall attend all regular meetings of the City Council, unless excused at ~~his~~ **their** own request, and shall have a voice but no vote in all of its deliberations.

(d) ~~He~~ **The Mayor**, in collaboration with the CAFO, shall keep full and complete records of ~~his~~ **their** office, and shall render as often as may be required by the City Council, but not less than once a year, a full report of all operations during the period reported on, which report shall be made available to the public.

(e) ~~He~~ **The Mayor** shall keep the City Council fully advised as to the needs of the City and shall recommend to the City Council for adoption such measures requiring action by them as he may deem necessary or expedient.

(f) ~~He~~ **The Mayor** shall have full jurisdiction over **and responsibility for** the rental, ~~and~~ use ~~and of all City facilities under his~~ **his** control. ~~He shall be responsible for the~~ maintenance and repair of all City property under **his** **the Mayor's** control.

(g) ~~He~~ **The Mayor** shall be responsible for the appointment, subject to the approval of the City Council, of any necessary building and facilities committees having to do with the preparation of plans and supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the City Council, provided, however, that the approval of the School Committee shall be obtained for school construction or improvement plans.

(h) ~~He~~ **The Mayor** shall keep a full and complete inventory of all property of the City, both real and personal.

(i) ~~He~~ Except as provided in Articles 6 and 7 of this Charter, the Mayor shall negotiate and may execute contracts involving any subject within ~~his~~ **their** jurisdiction of the office of the **Mayor**. All contracts, shall be awarded by the Mayor, however, only **contracts above the bid threshold under MGL Chapter 30 B, prior to said award,** shall meet with approval, by vote, of the majority of the City Council. Any contract that is exempt by MGL Chapter 30 B threshold, shall require approval by a majority vote of the City Council.

(j) ~~He~~ **The Mayor** shall be responsible for the purchasing of all supplies, materials and equipment for all departments and activities of the City, ~~but not including food for schools, schoolbooks and other instructional materials, supplies and equipment, library books and related printed and audiovisual subject material, unless otherwise requested by the School Committee or the~~ and upon request of the Library Trustees; School purchases will be managed by the Chief Administrative and Financial Officer (CAFO) shall determine as provided in Section 7-5 of the Charter.

(k) **The Mayor** shall appoint a Board of Assessors ~~The City of Methuen shall have a board of~~ no less than three (3) ~~Assessors~~ members ~~appointed by the Mayor and he~~ and shall designate one of ~~his~~ **their** appointees member to serve as Chairman thereof.

(l) ~~He~~ **The Mayor** shall perform any other duties required by the ordinances or other votes of the City Council.

(m) ~~He~~ **The Mayor** shall exercise general supervision and direction over all City agencies unless otherwise provided by law. Each City agency shall furnish to ~~him~~ **them**, forthwith upon ~~his~~ **their** request, any information, materials or otherwise as he may request and as needs of ~~his~~ **their** office and the interests of the City require.

### **Section 3-3. Appointments by the Mayor.**

Except as otherwise provided by this Charter, the Mayor shall appoint, upon merit and fitness alone, and may remove subject to the provisions of the civil service laws, the provisions of this Charter, or other pertinent statutes where applicable, all officers and employees of the City, except employees of the School Department. All appointments of Department Heads, Assistant Department Heads, Division Heads, Police Superior Officers of the rank of Sergeant and above, Fire Department Superior Officers of the rank of Lieutenant and above, the Conservation Commission Agent, and all Boards and Commissions shall be subject to confirmation **by 5 votes a majority vote of the full City Council**. The Mayor shall submit, in writing, to the City council, at least ten days prior to the next regular meeting when the appointment is to be made, the name of any person he desires to appoint to a City position. (Approved by the voters November 5th, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996).

### **Section 3-4. Temporary Appointments to City Offices.**

Whenever a vacancy, either temporary or permanent, occurs in a City office and the needs of the City require that such office be filled, the Mayor may designate the head of another City agency or a City officer or employee, or some other person, especially fitted by merit and fitness, to perform the duties of the office ~~for a period not exceeding ninety (90) calendar days. One (1) subsequent extension of a temporary appointment to a City office for a period not exceeding sixty (60) calendar days shall be permitted, and such extension shall require the affirmative vote of two-thirds of the full City Council. on a temporary basis until such time as the position can be filled as otherwise provided by law, Charter or ordinance.~~ The Mayor shall file a certificate, in substantially the following form, with the City Clerk whenever ~~he or she the Mayor~~ makes a designation under this section:

I designate (name of person) to **temporarily** perform the duties of the office of (designate office in which vacancy exists) **for a period not exceeding ninety (90) calendar days until the office can be filled by** (here set out the regular procedure for filling the vacancy, or when the regular officer will return). ~~on a temporary basis until the office can be filled by~~ I certify that said person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the City of Methuen.

*The CRC voted to amend this section by replacing the text with the language of the Home Rule Petition - TR-21-45*

### **Section 3-5. Communications; Special Meetings.**

13. (a) Communications to the City Council - Within six weeks following the start of each fiscal year, the Mayor shall submit to City Council, and make available for public distribution, a complete report on the financial and administrative activities and status of the City for the preceding fiscal year. He shall from time to time, and, whenever requested by the City Council, by written communication, keep the City Council fully informed of the financial condition and administrative issues of the City and shall recommend to them such measures for their consideration as, in his **their** judgment, the needs of the City require.

(b) Special Meetings of the City Council - The Mayor may at any time call a special meeting of the City Council for any purpose by causing a notice thereof to be delivered in hand, or residence of each member of the City Council **and/or via by electronic mail**. Such notice shall, except in an emergency as determined by the Mayor, be delivered at least forty-eight (48) hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held.

### **Section 3-6. Approval of Mayor; Exception (Veto).**

Every order, ordinance, resolution or vote adopted or passed by the City Council relative to the affairs of the City, **except memorial resolutions, the selection of city officers under the jurisdiction of the City Council and any other matters relating to internal affairs of the City Council** shall be presented to the Mayor for **his** approval **within 3 business days of such adoption or passage**. If **the Mayor approved of the measure, he** **the Mayor must** shall sign it; If the Mayor disapproves of the measure, **not, he** **the Mayor shall return the measure it, with his** **the specific reason for disapproval attached to the measure in writing ten objections**, to the City Council. **The City Council who** shall enter the objections of the Mayor on its records and within 10 business days from the date of its return to the City Council, shall again, **consider the same measure it**. If the City Council, notwithstanding such disapproval by the Mayor, shall again pass the order, ordinance, resolution or vote by 2/3 vote of the full council, it shall then be deemed in force, notwithstanding the failure of the Mayor to approve the same. If the Mayor has neither signed a measure nor returned it to the City Council within 10 days following the date it was presented to the Mayor, the measure shall be deemed approved and in full force. To override the Mayor's objections, a two-thirds vote is required. Further, the failure of the Mayor to submit his **their** disapproval of the measure with written objections within ten (10) days after it is presented to him **them** shall be deemed valid and in full force and effect. This section shall not apply to emergency measures as provided in Sections 2-9(a) and 2-9(b) of this Charter.

### **Section 3-7. Temporary Absence of Mayor.**

(a) Acting Mayor - Whenever, by reason of sickness, absence from City or other unexpected cause, the Mayor shall be unable to perform the duties of **his** **their** office for a period of three (3) successive working days or more, the City Council shall appoint from among its members an Acting Mayor to serve in the Mayor's absence.

(b) Powers of an Acting Mayor - The Acting Mayor shall have all the powers of the Mayor except that he ~~the Mayor~~ shall not make any permanent appointment or removal to or from any office, ~~board or commission~~, unless the disability of the Mayor shall have continued for sixty (60) days or more without having resigned, nor shall he approve or disapprove of any measure passed by the City Council unless the time within the Mayor must act would expire before the return of the Mayor.

### **Section 3-8. Vacancy in Office of Mayor.**

(a) Special Election - If ~~Whenever~~ a vacancy occurs in the office of Mayor ~~by death, removal, resignation, or any other reason during the ~~one~~ the first year~~ ~~12 months~~ of the term for which the Mayor is elected, whether by reason of death, resignation, removal from office, incapacity, or otherwise, the City Council shall forthwith order a special election to be held as prescribed in MA General Laws Chapter 43, Section 59-A and Article 3-8 (a) of the Charter of the City of Methuen, within sixty (60) days following the date the vacancy is declared by the City Clerk created to fill such vacancy for the balance of the then unexpired term. Between the date of the vacancy declared by the City Clerk and the certification of the results of the special election, the vacancy in the office of Mayor shall be filled as provided in Section 3-7 (a). The candidate elected as Mayor in such special election shall be sworn to office immediately upon certification of the results of the special election.

(b) Council Election – If a vacancy in the office occurs in the second year of the term for which the Mayor was elected, whether by reason of death, resignation, removal from office, or otherwise, a meeting of the City council shall be called forthwith and they shall elect, by a majority vote, one of its members as Mayor for the unexpired term. Failing to so elect at said meeting, or, thirty (30) days thereafter, the Chairman of the City Council shall become Acting Mayor for the unexpired term. Upon the qualification of the City Council member or Chairman of the City Council as the Mayor under this section, a vacancy shall exist in his ~~their~~ seat on the City Council which shall be filled in the manner provided in Section 2-6.

(c) Powers; Term of Office – The Mayor elected under Section 3-8(a) or 3-8(b) shall have all the powers of the Mayor. He shall serve for the balance of the term unexpired at the time of ~~his~~ ~~their~~ election to the office.

### **Section 3-9. Terms of Office – Department Heads.**

The terms of office of Department Heads of the City of Methuen shall be three years. ~~Department Heads shall be defined in the Municipal Code. The term "Department Heads", as used herein, shall mean the Fire Chief, Director of Public Works, Veterans' Service Agent, City Clerk, Treasurer/Tax Collector, and the Executive Director of the Council on Aging and such other officers who may be designated as Department Heads under City ordinances. (Approved by the voters November 5<sup>th</sup>, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996).~~

## ARTICLE 4 School Committee

### Section 4-1. Composition; Eligibility; Election; Term.

(a) Composition – There shall be a School Committee consisting of seven members, six of whom shall be nominated and elected at large, and the Mayor who shall serve as the seventh member of the School Committee. The Mayor shall also serve as the Chairman thereof with full power to vote. The School Committee shall exercise control and management of the public schools of the City. (Mayor as ex-officio Chairman approved by the voters November 5<sup>th</sup>, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996).

(b) Eligibility – ~~Only voters shall be eligible to hold office of School Committeeman. Member.~~ A school committee member shall, at the time of election, be a voter.

(c) Election and Term – The terms of School Committeemen shall be two years, beginning the first secular day in January after election, ~~except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day~~ and until their successors are qualified. No person shall hold the office of school committee member for more than three consecutive ~~years~~ terms. (Establishment of term limits approved by the Legislature, September 24<sup>th</sup>, 1999, Chapter 82 of the Acts and resolves of 1999 and adopted by the Voters November 2<sup>nd</sup>, 1999).

### Section 4-2. Organization.

- (a) The School Committee shall annually organize by the election from among its members a ~~Chairman~~, a Vice ~~Chairman~~ and a Secretary. ~~The mayor shall be eligible to serve as an officer of the school committee. The method of election of the chair, Vice-Chair and Secretary shall be prescribed within the rules of the school committee. The Vice Chairman shall preside at all meetings of the committee~~ in the event of the absence ~~or the disability~~ of the Chairman.
- (b) Powers and Duties - The chair shall prepare the agenda for school committee meetings. The chair shall preside at all meetings of the school committee, regulate its proceedings and decide all questions of order. The chair shall appoint all members of the committees of the school committee, whether special or standing. The chair shall have the same powers to vote upon measures coming before the school committee as any other member of the school committee. The chair shall perform any other duties consistent with the office that are established by charter, ordinance or other vote of the school committee.

### Section 4-3 -5. Prohibitions.

No currently serving member of the School Committee shall, ~~during the term for which he was elected~~, hold any other compensated city position, office or City employment under the jurisdiction of the School Committee. No former member of the school committee shall hold any compensated city/school office or city/school employment until 1 year following the date on which that member's service on the school committee has terminated. ~~nor shall he be eligible for appointment to any compensated City office or City employment under the jurisdiction of the School Committee until one year after the term for which he was elected has expired.~~ This provision section shall not prevent a city/school officer or other city/school employee, ~~under the jurisdiction of the School Committee~~, who has ~~taken a leave of absence~~ vacated a position from such duties in order to serve as a member of the School Committee from returning to ~~such the~~ same office or other position of city/school employment held at the time the position was vacated; ~~provided however, that no such person shall be eligible for any other municipal position until at least 1 year following the termination of service following such services as a member of the School.~~

#### **Section 4-4. Location and Erection of Schools; Approvals Required.**

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

**NO CHANGES**

#### **Section 4-5 Compensation**

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

#### **Section 4-3 4-6. General Powers and Duties.**

The School Committee shall have the powers and duties which are conferred on School Committees ~~have under by~~ the General Laws and ~~may have such the~~ additional powers and duties ~~provided by charter, as the City Council may, by ordinance, or otherwise and not inconsistent with the General Laws.~~ ~~from time to time assign.~~ The powers of the School Committee shall include: ~~but not be limited to, the power to:~~

(1i) appoint Selecting and removing a Superintendent of the schools who shall be charged with the administration of the school system, subject only to policy guidelines and directives adopted by the school committee and, upon recommendation of the Superintendent, to establish and appoint assistant or associate superintendents as authorized by the General Laws;

(2ii) appoint all other officers and employees connected with the schools, except as otherwise provided by this Charter, fix their compensation and define their duties, make rules concerning their tenure of office and discharge them; making all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as deemed necessary or desirable;

(3iii) adopting and overseeing the administration of an annual operating budget for the school department, subject to appropriation by the city council; provided, however, that the school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment unless a central municipal maintenance department, which may include maintenance of school buildings and grounds, is established;

(4iv) make all reasonable rules and regulations consistent with law, for the management of the public schools of the City and for conducting the business of the Committee. provided further, that whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee for the planning or construction of the new, remodeled or renovated school building.

#### **Section 4-67. Filling of Vacancies.**

Immediately following posting of the certified results of an election, the City Clerk shall immediately inform the Mayor, Superintendent of Schools and School Committee members if a vacancy occurs in the office of a School Committeeman member, whether by failure to elect or otherwise, the remaining School Committeemen members shall immediately, within twenty-one days following the date such vacancy is declared to exist, act to fill the said vacancy. The School Committee shall elect as acting School Committeeman member whichever of the defeated candidates for election to the School Committee who received the highest number of votes at the last regular City election immediately preceding the date the vacancy is declared to exist, and that person who was next in line and was certified and received at least twenty (20) percent of the total votes cast lowest vote getter's ballots for the office at such election, and who remains eligible and willing to serve.

There being no such person, the School Committee shall make an application for candidacy available in the City Clerk's office and post said application on the City of Methuen's website. Within 21 days, the School Committee shall announce and schedule a public hearing to hear from the applicants who wish to fill the vacancy. Then the School Committee will vote amongst the applicants, to be choose from among the voters an acting School Committeeman member to serve the balance of the unexpired term. If such choice is not made as hereinbefore provided within the said twenty-one days, the choice shall be made by the School Committeeman member senior in length of service, or if there be more than one such, by the School Committeeman member senior both in age and in terms of service. Any person so chosen shall be sworn and

commence to serve forthwith. No vacancy shall be filled, in the manner hereinbefore provided, if a regular City election is to be held within one hundred twenty days following the date the vacancy is declared to exist.

#### **Section 4-78. Budget Hearing.**

(a) At least thirty (30) days before the meeting at which The School Committee is to vote on the shall submit its annual budget request which it will submit to the Mayor for inclusion in the budget he is required to submit to the City Council, following the directions of the chief administrative and financial officer as stated in Article 6, s. 3.

(b) Upon submission of the School Committee's budget request prepared and submitted as required in (a) above, the School Committee shall cause to be published in a local newspaper and shall post on the city website and the School Department official website, a general summary of their proposed budget and the date of the hearing thereon. The summary shall indicate specifically areas of increase from the present budget, if any, and the reasons for such changes and a notice stating (1) the times and places where complete copies of their proposed budget will be available for public examination, and (2) the date, not less than seven nor more than fourteen days following such publication, and the place at which a public hearing will be held by the School Committee on their proposed budget. The School Committee shall submit its annual budget to the City Council for approval in the following format: Expenditures for each individual school building in the City, including administration, if any, shall be broken down categorically by line item. Example: Teacher salaries, custodial salaries, teacher aide salaries, teacher supplies, maintenance supplies, etc.

### **ARTICLE 5**

#### **Other Elected Officials**

##### **Section 5-1 Housing Authority**

(a) Election, Eligibility – Two members of the Methuen Housing Authority shall be elected by the voters of the city at large. Any voter shall be eligible to hold the office of housing authority member. Members of the Housing Authority will fulfill their responsibilities under state law and regulation governing housing authorities, and shall perform all the duties and exercise the powers incumbent by law upon the office. No person shall hold the office of elected member of the Housing Authority for more than 3 consecutive terms.

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

(c) Filling of Vacancy – Should a vacancy occur in the office of an elected housing authority member up to 90 days before a regular municipal election, the Mayor shall appoint a voter to serve in the seat until the next municipal election. Such appointment shall be subject to council confirmation under Section 2-10 of the charter. The person elected to the seat at the next regular municipal election shall be sworn to office immediately to complete the term of the existing vacancy as well as the term to which elected.

If the office of an elected housing authority member becomes vacant within 90 days of a regular municipal election, the seat shall be filled at such election and the housing authority member elected shall be sworn to office immediately to complete the term of the existing vacancy as well as the term to which elected.

A person serving as a housing authority member under this section shall not be entitled to have the words "candidate for reelection" printed next to that person's name on the subsequent municipal election ballot.

## **Section 5-2 City Representatives to Greater Lawrence Technical School District Committee**

(a) Election, Eligibility – Two (2) voters serving as the City's representatives to the Greater Lawrence Technical School District Committee shall be elected by the voters of the city at large. Any voter shall be eligible to hold the office of district school committee member. The City's district school committee members will fulfill their responsibilities under state law and regulation governing regional school district school committees, and the regional school agreement among the participating towns, and shall perform all the duties and exercise the powers incumbent by law upon the office. No person shall hold the office of elected member of the Greater Lawrence Technical School District Committee for more than 3 consecutive terms.

(b) Term of Office – The term of office of the City' representatives to the Greater Lawrence Technical School District Committee members shall be 2 years, beginning on the first Monday in the January succeeding the their election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until a successor has been qualified.

(c) Filling of Vacancy - Should a vacancy occur in the office of an elected regional school district representative up to 90 days before a regular municipal election, the Mayor shall appoint a voter to serve in the seat until the next municipal election. Such appointment shall be subject to council confirmation under Section 2-10 of the charter. The person elected to the seat at the next regular municipal election shall be sworn to office immediately to complete the term of the existing vacancy as well as the term to which elected.

A person serving as a regional school district representative under this section shall not be entitled to have the words "candidate for reelection" printed next to that person's name on the subsequent municipal election ballot.

## **Section 5-3 Elected Members of the Nevins Library Board of Trustees**

(a) Election, Eligibility - Two (2) members of the Nevins Library Board of Trustees shall be elected by the voters at large. Any voter shall be eligible to hold the office of elected library board trustee. The elected members of the Nevins Library Board of Trustees will perform all duties and exercise the powers as provided under state law and regulation governing libraries to the extent applicable, special legislation applying to the library, and bylaws adopted by the trustees relating to the operation of the library. No person shall hold the office of elected member of the Nevins Library Board of Trustees for more than 3 consecutive terms.

(d) Term of Office – The term of office of the elected members of the Nevins Library Board of Trustees shall be 2 years, beginning on the first Monday in the January succeeding the their election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until a successor has been qualified.

(c) Filling of Vacancy – Should a vacancy occur in the office of 1 or more of the elected members of the Nevins Library Board of Trustees up to 90 days before the next municipal election, the remaining members of the Library Board of Trustees shall nominate a voter to serve until the next municipal election. The City Council shall confirm such nomination.

If the office of an elected library trustee becomes vacant within 90 days of a regular municipal election, the seat shall be filled at such election and the voter elected as library trustee shall be sworn to office immediately to complete the term of the existing vacancy as well as the term to which elected.

A person serving as a library trustee under this section shall not be entitled to have the words “candidate for reelection” printed next to that person’s name on the subsequent municipal election ballot.

## ARTICLE 5 6 Financial and Fiscal Procedures

### Section 5 6-1. Fiscal Year

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

### Section 6-12 - Submission of Budget; Budget Message. Annual Budget Meeting

At least 100 days before the beginning of the fiscal year, the mayor shall call a joint meeting of the city council and school committee, including the superintendent of schools, to review the financial condition of the city, and other relevant information prepared by the mayor and the chief administrative and financial officer in order to develop a coordinated budget.

### Section 6-3 (formerly Section 5-1)-Submission of Budget; Budget Message

Within the period prescribed by state statute, On or before May 1 of each year, the Mayor shall submit to the City Council a proposed operating budget for all city agencies for the ensuing fiscal year which shall provide a complete financial plan of all City funds and activities which shall include the school department, for the ensuing fiscal year, and with an accompanying budget message and supporting documents. including the estimated effect of the proposed budget on the tax rate. The proposed budget, including departmental requests, shall be in the same format as prescribed by the Mayor.

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The message of the Mayor The budget message submitted by the mayor shall explain the operating budget for all City agencies both in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed financial fiscal policies of the City for the ensuing fiscal year, describe the important features of the proposed operating budget, indicate and include any major variations changes from the current operating budget fiscal year in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the City's debt position and include such other material as the Mayor deems desirable or the City Council

~~may reasonably require.~~ All departments, including the school department, boards, commissions, agencies, offices and other units of city government shall submit budget requests to the mayor upon the schedule and in the form established by the Chief Administrative and Financial Officer. The proposed operating budget shall provide a complete fiscal plan of all city funds and activities.

The school budget, as adopted by the School Committee shall be submitted to the mayor at least 30 days before the submission of the proposed operating budget to the City Council. The Mayor shall notify the school committee of the date by which the proposed budget of the school committee shall be submitted to the mayor.

#### Section 5 6-2 4. Action on the Operating Budget.

(a) Public Hearing - The City Council shall publish in at least one or more local newspapers of general circulation in the City a notice of the general summary of the proposed operating budget as submitted by the Mayor. ~~by a~~ The notice shall state: (1) the times and places where copies of the entire proposed operating budget are available for inspection by the public, and (2) the date, time and place, ~~not less than two weeks after such publication;~~ when a public hearing on said proposed operating budget will be held by the City Council, ~~not less than 14 days after publication of the notice.~~ *The CDC discussed the language "The City Council shall publish in at least one local newspaper of general circulation in the City a notice of the general summary of the proposed operating budget as submitted by the Mayor" to expand the notification to include, at minimum, the City's website or sending a postcard to residents, in English and Spanish, of the municipal budget process.*

(b) Adoption of the Budget - The City Council shall adopt the proposed operating budget, ~~with or without which may have~~ amendments, within forty-five days following the date the budget is filed with the Clerk of the Council and the City Clerk. In amending the proposed operating budget, ~~it~~ the City Council may delete or decrease any programs or amounts except expenditures required by law; ~~or for debt service,~~ provided however that ~~but~~ except on the recommendation of the Mayor, ~~it~~ the City Council shall not increase any item in or the total of the proposed operating budget, unless otherwise authorized by the General Laws. If the City Council fails to take action with respect to any item in the proposed operating budget within forty-five days after receipt of the budget, such amount shall, without any action by the City Council, become a part of the appropriations for the year, and be available for the purposes specified.

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

such as, a transfer of funds from one department to another, once the City Council approves, should be updated to reflect the current status of the budget.

### **Section 5-6-5. Financial Oversight by the Chief Administrative and Financial Officer**

For each proposed appropriation order, lease or contract arrangement for a term of more than 1 fiscal year, including collective bargaining agreements, and with respect to any proposed city council vote necessary to effectuate a financial transfer, ordinance revision or special legislation which may require the expenditure of funds or would otherwise financially obligate the city for a period in excess of 1 year or with respect to a vote to authorize borrowing under a law other than section 4, 6 or 6A of chapter 44 of the General Laws, the chief administrative and financial officer shall submit in writing to the mayor and city council and, if appropriate, the school committee, a certification that it is the chief administrative and financial officer's professional opinion, after an evaluation of all pertinent financial information reasonably available, that the city's financial resources and revenues are and will continue to be adequate to support such proposed expenditures or obligations without a detrimental impact on the continuous provision of the existing level of municipal services.

If the chief administrative and financial officer fails to provide such certification within 7 days after a request for such certification from the mayor, city council or school committee, the appropriation order, financial transfer, ordinance revision, special legislation, borrowing authorization, lease or contract arrangement for a term of more than 1 fiscal year, or collective bargaining agreement may be approved; provided, however, that the absence of the certification of the officer shall be expressly noted in the order or vote.

### **Section 5-6-6. Capital Improvement Program.**

(a) Submission – Not later than ~~March 30~~ April 30 of the year, the Mayor, after consultation with the Chief Administrative Financial Officer shall prepare and submit annually to the City Council ~~a five year~~ the Capital Improvement Program at least thirty days prior to the final date for submission of the operating budget, for the ensuing fiscal year.

(b) Contents - The Capital Improvement Program shall ~~include~~ address all capital needs of the city and shall include:

- (1) a ~~general clear~~ summary of its contents;
- (2) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years, with supporting data ~~information as to the need for each capital improvement~~;
- (3) cost estimates, methods of financing and recommended time schedules; ~~for each improvement~~; and
- (4) the estimated annual cost of operating and maintaining ~~each facility~~ the facilities ~~included~~ and piece of major equipment involved.

The above ~~This~~ information shall be annually revised and extended each year by the Mayor and Chief Administrative and Financial Officer with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

(c) Public Hearing - The City Council shall publish in ~~at least~~ one or more newspapers of general circulation in the City ~~the general summary of the capital improvement program~~ and a notice stating: (1) the times and places where ~~entire~~ copies of the capital improvement program

are available for inspection by the public; and, (2) the date, time and place ~~not less than two weeks after such publication, when~~ ~~of~~ a public hearing ~~on the plan~~ ~~said program~~ ~~will to~~ be held by the City Council not less than 14 days after publication of such notice.

(d) Adoption – ~~At any time~~ ~~A~~fter the public hearing ~~but and on or~~ before the last day ~~and on or before the twentieth day~~ of the last month of the current fiscal year, the City Council shall, by resolution, adopt the capital improvements program, ~~with or without amendment~~ ~~which may be amended~~, provided that each amendment ~~must~~ ~~shall~~ be voted ~~on~~ separately and that any increase in the capital improvement program, as submitted, ~~must~~ ~~shall~~ clearly identify the method of financing proposed to accomplish this increase.

#### **Section 5-7 6-7. Financial Forecast**

Not later than ~~March 30~~ ~~April 30~~ of each year, the mayor shall submit a 4-year revenue and expenditure financial forecast to the city council.

#### **Section 5-4 6-8. Provision for Outside Independent Audit.**

~~At least once in every three years~~ ~~The city council shall annually provide for~~ an outside audit of the books and accounts ~~of the city~~ ~~shall be made~~ to be conducted by a certified public accountant or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. ~~In the event that the Commonwealth shall fail in any such period to provide for an audit to be conducted, within ninety days following the date a written request for them to do so is made by the City Council, the City Council shall provide for such an audit to be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the City government or of any of its affairs or employees.~~ The mayor shall annually provide to the City Council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the Mayor, in writing, by the City Council. The award of a contract to audit shall be made by the City Council on or before September 15 of each year. The report of the audit shall be filed in final form with the City Council not later than March 1 in the year following its award. At least every 5 years, the City Council shall conduct a competitive procurement process to retain these auditing services, and no certified public accountant or a firm of certified public accountants or the firm's principals shall be awarded more than 2 consecutive contracts.

**NO CHANGES**

#### **Section 5-5 6-9. Annual Audit of Department Heads.**

~~There will be a financial audit done by a private public accountant or firm of all department heads who are responsible for any negotiating or any individual who awards any contracts or investments in the interest of the City.~~

~~This audit shall be done annually and if this audit finds that there is no wrongdoing as far as the residents of the City are concerned, a report stating such shall be placed on file with the City Clerk. If any wrongdoing is found, then the private accountant shall forward to the District Attorney's office of Essex County, any such evidence of wrongdoing for his their necessary action.~~

#### **Section 6-9 Financial Impacts of Long Term Commitments**

Upon receipt of a written request from the mayor or a written request from the city council, the chief administrative and financial officer shall within a reasonable period of time provide an oral or written assessment, or both, as the mayor or city council may request, of the current and future financial impact of the cost of any proposed appropriation, lease or contract arrangement for a term of more than 1 fiscal year, collective bargaining agreement or borrowing authorization which shall include, but not be limited to, an assessment of how that cost item would relate to the continuous provision of the existing level of municipal services. To the extent reasonable, the assessment shall include an analysis or other information of a financial nature requested by the mayor or the city council. The assessment and analysis shall be provided by the chief administrative and financial officer as a professional opinion.

#### **Section 5-6. Chief Financial Officer Obtaining Five (5) Quotes from Banks.**

~~The Treasurer shall obtain not less than five (5) quotes on interest rates from separate corporate financial institutions when borrowing or investing City funds and shall file such records of transaction with the City Council. This section does not pertain to bond issues.~~

#### **Section 6-10 Expenditures in Excess of Appropriations**

No official of the city, except in the case of an emergency, shall knowingly expend or cause to be expended in a fiscal year any sum in excess of that official's departmental or other governmental unit's appropriation duly made in accordance with law and no official shall commit the city or cause the city to be committed to any obligation for the future payment of money in excess of that appropriation, except for court judgments. An official who intentionally violates this section shall be personally liable to the city for the amounts expended in excess of an appropriation to the extent that the city does not recover these amounts from the person to whom the amounts were paid. The superior court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the city or by the attorney general under this section and to order relief that the court finds appropriate to prevent further violations of this section.

Notwithstanding any general or special law to the contrary, any violation of this section shall be considered sufficient cause for removal by the school department or general government appointing authority pursuant to subsection (c) of section 10-13 of article 10 of the city charter.

### **ARTICLE 6 7 Administrative Departments**

#### **Section 6 7-1. Reorganization Plans by City Council.**

Except as otherwise prohibited by law or the Charter, the City Council may, by ordinance, reorganize, consolidate or abolish any existing City agency, in whole or in part; establish new City agencies and prescribe the functions of any City agencies. All City agencies under the direction and supervision of the Mayor shall be headed and administered by officers appointed by ~~him~~ the Mayor.

## **Section 6 7-2. Reorganization Plans by Mayor.**

- (a) The Mayor may, from time to time, prepare and submit to the City Council, reorganization plans which may, subject to applicable law and the Charter, reorganize, consolidate or abolish any City agency, in whole or in part, or establish new City agencies, as ~~he~~ **the Mayor** deems necessary or expedient. Such reorganization plan shall be accompanied by an explanatory message when submitted ~~and shall address the need for revision of existing ordinances or adoption of new ordinances to implement the proposed reorganization.~~
- (b) Every such reorganization plan shall, upon receipt by the Clerk of the Council, be referred to an appropriate committee of the City Council which shall, not more than thirty days later, hold a public hearing on the matter and shall, within ten days following such hearing, report either that it approves or that it disapproves of the plan. A reorganization plan shall become effective ninety days after the date it is received by the City Council, unless the City Council has, prior to that date, voted to disapprove the reorganization plan, or, unless a later effective date is specified in the plan. A reorganization plan presented by the Mayor to the City Council under this section may not be amended by it, but shall either be approved or rejected as submitted and shall not be subject to ~~the a~~ **charter** objection as provided in Section 2-9(c).

## **Section 6 7-3. Publication of Reorganization Plan.**

An up-to-date record of any reorganization plan under this article shall be kept on file in the office of the City Clerk and copies of all such plans shall be included as an appendix in any publication of the ordinances of the City.

## **Section 7-4 Department of Administration and Finance**

- (a) There shall be in the city a department of administration and finance which shall be responsible for the overall budgetary and financial administration of the city. The department shall be under the direction and control of a chief administrative and financial officer. The department shall include the chief assessor, treasurer-collector, director of information technology, purchasing agent, director of human resources, auditor, and the school business manager. Employees performing similar duties but with different titles shall report to and be under the direction of the chief administrative and financial officer. The chief administrative and financial officer, with the approval of the mayor and city council, shall appoint all such officers and employees.
- (b) The chief administrative and financial officer shall report to and be under the charge and direction of the mayor. Nothing in this section shall abrogate the powers and duties of the city council or the school committee under any general or special law, except as specifically provided in this section.

Whenever the term "chief financial officer" or "director of budget and finance" appears in a general or special law, charter provision or an ordinance, regulation, contract or other document with reference to the city, it shall mean the chief administrative and financial officer of the city.

The chief administrative and financial officer shall not hold an elective office and shall devote the officer's full time and attention to the duties of the position.

(c) Duties of the Chief Administrative and Financial Officer - The powers and duties of the chief administrative and financial officer shall include:

(i) coordinating, administering and supervising all financial services and activities in all departments, including the school department, boards, commissions, agencies, offices and other units of city government;

(ii) assisting in all matters related to municipal financial affairs in all departments, including the school department, boards, commissions, agencies, offices and other units of city government;

(iii) implementing and maintaining uniform systems, controls and procedures for all financial activities in all departments, including the school department, boards, commissions, agencies, offices and other units of city government, the operations of which have a financial impact upon the general fund and enterprise funds of the city, and including, but not limited to, maintaining all financial and accounting data and records;

(iv) implementing and maintaining uniform financial data processing capabilities for all departments, including the school department, boards, commissions, agencies, offices and other units of city government;

(v) supervising all financial data processing activities of agencies, offices and other units of city government as identified in (ii), (iii) and (iv) above;

(vi) reviewing all current and proposed activities of all departments, including the school department, boards, commissions, agencies, offices and other units of city government;

(vii) implementing and maintaining uniform budget guidelines and procedures within all departments, including the school department, boards, commissions, agencies, offices and other units of city government;

(viii) assisting in the development and preparation of budgets and spending plans of all departments, including the school department, boards, commissions, agencies, offices and other units of city government, including contracts to which the city is a party;

(ix) monitoring the expenditure of all city funds, including periodic reporting by and to appropriate agencies of the status of accounts; and

(x) reviewing the spending plan for each department, including the school department, boards, commissions, agencies, offices and other units of city government.

If a duty is not expressly charged to any other department, city council, school committee, board, commission, agency or office, it shall be the duty of the chief administrative and financial officer to promote, secure and preserve the financial interests of the city.

## Section 7-5 Combined School and Municipal Finance Functions

As authorized by Chapter 278 of the Acts of 2018, *An Act Providing for the Financial Stability of the City of Methuen*, the city shall be deemed to have accepted section 37M of chapter 71 of the General Laws for the purposes of consolidating the business and financial operations and functions of the school department with those of the city under the authority of the chief administrative and financial officer.

The acceptance of said provision may be revoked but neither the school committee nor the city shall revoke acceptance of said section 37M of said chapter 71 in any year in which a loan issued by the commonwealth to the city remains outstanding.

## Section 7-6 Merit Principles

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

## ARTICLE 7 8 Nominations and Elections

### 1. ARTICLE 7 8 - Nominations and Elections

**Jennifer Kannan made a motion, seconded by Dennis DiZoglio to insert the language of from Article 8-1 of the 2019 CRC draft into Article 7-1 of the original Charter – Nominations and Elections – Unanimous.**

#### Section 7 8-1. City Elections; General and Preliminary.

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

On the ~~fourth~~ third Tuesday of ~~September~~ preceding every regular City election, ~~there~~ shall be held a preliminary election ~~shall be held~~ for the purpose of nominating candidates.

#### Section 7 8-2. Preliminary Elections.

- (a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For ~~an~~ the offices ~~which is to be filled by vote of the whole City of Mayor and Councilor at Large~~, not less than one hundred and fifty signatures, and for all other offices to be filled by vote of the whole City, not less than 100 signatures, provided however, that for all such offices a minimum of 25 signatures must be certified as being from each of the three council districts into which the City is divided. ~~not less than fifty from each of the three districts.~~ For an office which is elected by the voters in a district, not less than fifty 50 signatures from said district.
- (b) Ballot Position - The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the City Clerk in the presence of such candidates or their representatives as may choose to attend such drawings.
- (c) Determination of Candidates for Election – The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number so to be elected receiving at such

preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which but for said tie vote would entitle a person receiving the same to have ~~his~~ their name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence, there be printed thereon candidates to a number exceeding twice the number to be elected.

(d) Nominations of Candidates; Conditions Making Preliminary Election Unnecessary :

If, at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been filed with the City Clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the City Clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If, in consequence, it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any district or districts of the City, no preliminary election shall be held in any such district or districts.

**Section 7 8-3. Regular Election.**

(a) Information to Voters - If the candidate in a regular City election is an incumbent of the office to which ~~he~~ they seeks election, against ~~his~~ their name shall appear the phrase "candidate for reelection".

(b) Ballot Position - The order in which names of candidates appear on the ballot for each office in a regular City election shall be determined by a drawing by lot conducted by the City Clerk in the presence of such candidates or their representatives as may choose to attend.

**Section 7 8-4. Precincts and Districts.**

The ~~territory~~ City of Methuen shall be divided into twelve precincts, so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits. The twelve precincts shall be separated into three districts. The Central District shall include Precincts 1, 2, 6, 6-A, and 10 and 14; the East District shall include Precincts 3, 7, 9, and 12, 13 and 13-A; and the West District shall include Precincts 4, 5, 8, and 11 and 15. (Increase in precincts from 9 to 12 approved by the Legislature June 10th, 1986 - Chapter 88 of the Acts and Resolves of 1986; see Resolution #1473) (Increase in number of precincts from 12 to 15 approved by the Legislature, November 10, 2022, Chapter 267 of the Acts of 2022.)

**Section 7 8-5. Application of State Laws.**

Except as expressly provided in the Charter and authorized by statute, all City elections shall be governed by the laws of the Commonwealth relating to the right to vote, the

registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of Charter amendments and other propositions, the counting of votes and the declaration of results.

## **ARTICLE 8 9 Free petition; Initiative; Referendum; Recall – Citizen Participation Mechanisms**

### **Section 8 9-1. Free Petition.**

- a) Individual Petitions, Action Discretionary - The City Council and the School Committee shall receive all petitions which are addressed to them and signed by a voter and may, in their discretion, take such action in regard to such petitions as they deem necessary and appropriate.
- b) Group Petitions; Action Required - The City Council (or the School Committee), as the case may be, shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it, and which is signed by at least one hundred fifty voters. The hearing shall be held by the City Council or the School Committee, or, in either case, by a committee or sub-committee thereof and the action by the City Council or School Committee shall be taken not later than three months after the petition is filed with the City Clerk. Hearings on two or more petitions filed under this section may be held at the same time and place. The City Clerk shall mail notice of the hearing to the ten petitioners whose names first appear on each petition at least (7) seven days before the hearing. Notice by publication to be posted on the city's website and notice of its availability to be released on all municipal social media channels at least (7) seven days prior to all such hearings shall also be made and shall be at public expense. No hearing shall be heard upon any one subject matter more than once in any given twelve-month period.

### **Section 8 9-2. Citizen Initiative Measures.**

- a) Commencement of Proceedings – Initiative procedures shall be started by the filing of an initiative petition with the City Clerk or the Secretary of the School Committee. The petition shall be addressed to the City Council or the School Committee shall contain a request for passage of a particular measure set forth in the petition and shall be signed by not less than ten per cent of the total number of voters at least 250 voters. At least 25 signatures must be certified from each district. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

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

~~Within five days after the filing of said petition the registrars of voters shall ascertain by what number of voters the petition is signed, and what percentage that number is of~~

~~the total number of voters and shall attach thereto their certificate showing the result of such examination.~~

~~The City Clerk shall forthwith transmit the said certificate with the said petition to the City Council or to the School Committee, according as the petition is addressed and at the same time shall send a copy of said certificate to the persons designated on the petition as filing the same.~~

~~When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made with regard to the signatures thereon by a voter within forty-eight hours after such certification by filing such objections with the City Council or the School Committee, and a copy thereof with the registrars of voters. Any such objection shall be determined forthwith.~~

b) Referral to City Solicitor - If The City Clerk or the Secretary of the School Committee shall, immediately following the receipt of a proposed petition, determines that a sufficient number of signers are voters, he shall transmit shall deliver a copy of the petition to the City Solicitor. Within fifteen days after his their receipt of the petition The City Solicitor shall, within 15 days following the receipt of a copy of the petition, in writing, advise the City Council or the School Committee and the City Clerk in writing whether the measure may be as proposed may lawfully be proposed by the initiative procedures process and whether, in its present form, it may lawfully be passed adopted by the City Council or the School Committee. If the opinion of the Solicitor is that the measure may not lawfully be passed in proper form, he the reply shall state his the reason or reasons therefor in his this reply opinion, in full. The City Clerk shall forthwith furnish A copy of the opinion of the City Solicitor's opinion to the person designated on the petition as filing the same shall be mailed to the members of the petitioners committee.

(c) Initiative Petition; Requirements for Passage and Submission to Electorate - If any initiative petition is signed by voters equal in number to at least ten per cent of the total number of voters, and, in the opinion of the City Solicitor, such measure may lawfully be passed by the City Council or the School Committee, the City Council or the School Committee, within twenty days after the date of the certificate of the registrars to that effect: (1) shall pass said measure without alteration, subject to the referendum vote provided by this Charter; or (2) the City Council shall call a special election to be held on a date fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, that if any City election is otherwise to occur within one hundred and twenty days after the date of said certificate, the City Council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such approaching election.

~~The ballots used when voting upon a proposed measure under this section shall state the nature of the measure in terms sufficient to show the substance thereof.~~

**(c) Submission to City Clerk** - If the city solicitor determines that the petition is in a proper form, the city clerk shall provide blank forms for the use of subsequent signers and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city solicitor, together with the names and addresses of the first 10 voters who signed the originating petition. The city clerk shall notify the first 10 voters that the blank forms are issued. Within 30 days following the date of the notice, the petition shall be returned and filed with the city clerk signed by at least 7 per cent of the total number of registered voters as of the date of the most recent regular city election. Signatures to an initiative petition need not all be on 1 paper, but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and address of the person designated as filing the papers. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within 10 days following the filing of the petition, the registrars of voters shall ascertain the number of voters that signed the petition and the percentage that number is of the total number of voters as of the date of the most recent regular city election. The registrars of voters shall attach to the petition a certificate showing the results of its examination and shall return the petition to the city clerk or the secretary of the school committee, depending on how the petition is addressed. A copy of the registrars of voters' certificate shall also be mailed to the members of the petitioners committee.

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

**(e) Supplementary Petitions** - Within 60 days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the city clerk or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters equal to at least 7 per cent of the total number of registered voters as of the date of the most recent regular city election. The signatures on the initial petition filed under subsection (c) and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least 14 per cent of the total number of registered voters as of the date of the most recent regular city election. The registrars of voters shall attach to the supplementary petition a certificate showing the results of its examination and shall return the petition to the city clerk. If the number of signatures to this supplemental petition is found to be sufficient, the city council shall call a special election to be held on a date not less than 35 nor more than 90 days following the date of the certificate of the city clerk that a sufficient number of registered voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination, but if a city election is to be held within 120 days following the date of the certificate, the city council may omit calling the special election and

cause the question to appear on the election ballot at the approaching election for determination by the voters.

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

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

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

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

YES  NO

**(h) Time of Taking Effect** – Subject to section 9-6, if a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

### Section 8 9-3. Citizen Referendum Procedures.

**(a) Referendum Petition; Effect on Final Passage Vote** – If, within twenty-one days following the date on which the City Council or the School Committee has voted finally to approve ~~after the final passage of~~ any measure, ~~except a revenue loan order, by the City Council or by the School Committee~~, a petition signed by ~~the~~  a number of voters equal ~~in number~~ to at least ~~ten~~ fifteen per cent of the total number of voters, ~~as of the date of the most recent regular city election~~ and addressed to the City Council or to the School Committee, ~~as the case may be~~, protesting against ~~such~~ the measure or any part ~~thereof~~ it, ~~taking effect~~, is filed with the Secretary of the School Committee or the City Clerk, the same shall thereupon and thereby be suspended from taking effect ~~the effective date of that measure shall be temporarily suspended; and the City Council or The School Committee or City Council, as the case may be, shall immediately reconsider its vote on the such measure or part thereof it; and if such the measure or part thereof is not entirely rescinded, the City Council shall provide for the submit~~ submission of the same question for the determination, by ~~the method herein provided, to a vote of the voters either at a special election, which it may call at convenience, within such time as may be requested by the school committee or at the next regular City election; or at a special election which may, in its discretion, be called for the purpose and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof. provided, however, that pending this submission and determination, the effect of the measure shall continue to be suspended.~~

**(b) Certain Initiative Provisions to Apply** - The petition described in this section shall be termed a referendum petition and section 9-2, as the section relates to the filing and certification of signatures, shall apply to such referendum petitions, except that the words “measure or part thereof protested against” shall be deemed to replace the word “measure” and the word “referendum” shall be deemed to replace the word “initiative”. Subject to section 9-6, the measure or part thereof protested against shall be null and void unless a

majority of those voting on the question shall vote in favor of the measure or part thereof protested against at the election.

~~The petition described in this section shall be termed a referendum petition and section 8-2(a) shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.~~

~~In addition to the requirements for filing as mentioned above, the following shall apply: referendum petitions shall be on a form as prepared by the City Clerk and such petition forms may not be issued on any referendum matter until the same has been finally passed in accordance with Article 2, Section 2-9(a) of the Methuen Home Rule Charter. Failure to comply with the above procedure shall invalidate any petition otherwise proper in form and substance.~~  
~~(Approved by voters November 5, 1985; see resolution #1359).~~

#### **Section 8 9-4. Submission of Proposed Measure to Voters.**

~~The City Council may, of its own motion, and shall upon request of the School Committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special City election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.~~

#### **2019 CRC Charter Redraft - Section 9-4 - Ineligible Measures**

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

- (1) proceedings relating to the internal organization or operation of the city council or of the school committee;
- (2) an emergency measure adopted under the charter;
- (3) the city budget or the school committee budget as a whole;
- (4) any appropriation for the payment of the city's debt or debt service;
- (5) an appropriation of funds to implement a collective bargaining agreement;
- (6) proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion or other personnel action;
- (7) any proceedings repealing or rescinding a measure or part of it which is protested by referendum procedures;
- (8) any proceedings providing for the submission or referral to the voters at an election; and
- (9) resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

#### **Section 8 9-5. Measures with Conflicting Provisions.**

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

## CHARTER - Section 8-6 9-5. Recall Petitions.

- (a) Who Can Be Recalled ~~The holder of any elective City office may be recalled therefrom by the voters as herein provided.~~ (a) Application - Any holder of an elected office in the city, with more than 6 months remaining in the term of office for which the officer was elected, may be recalled ~~therefrom~~ by the voters of the city in the manner provided in this section. No recall petition shall be filed against an officer within 6 months after taking office.
- (b) Recall Petition - ~~Any one hundred fifty voters may file with the City Clerk~~ A recall petition may be initiated by the filing of an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for the recall, provided that the affidavit is signed by at least 500 voters for the office of mayor or councilor-at-large and at least 300 voters for any other elected officials; provided, however, that the signatures for a recall petition for the office of district city councilor shall be from certified voters in the district for which the councilor was elected. The City Clerk shall thereupon deliver to ~~those~~ voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms of which ~~he~~ the City Clerk shall keep available. The blanks shall be issued by the City Clerk with ~~his~~ the Clerk's signature and the official seal attached thereto. They blanks shall be dated, shall be addressed to the City Council and shall contain the names of all persons to whom ~~they~~ the blanks are issued, the number of blanks so issued, the name of the person whose recall is sought, the office from which removal is sought and the grounds of recall as stated in the affidavit and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the City Clerk. The recall petition shall be returned and filed with the City Clerk within ~~sixty~~ forty-five days after the filing of the affidavit, and shall have been signed by at least fifty twenty-five per cent of the number of voters of the City ~~for any officer elected at large and signed by at least 25 percent of the voters of the district for an officer elected by district~~ ~~who have voted in the last preceding local election, or in the case of a district councilman, of the district, who shall add to their signatures the street and number, if any, of their residences.~~ The City Clerk shall within twenty four hours of receipt submit the petition to the registrars of voters and the registrars shall, ~~within 5 days, forthwith certify thereon the number of verify the signatures on the petition as being registered voters in Methuen and certify the number of signatures which~~ are names of voters.
- (c) City Council's Action on Receiving Petition - If the petition shall be found and certified by the ~~City Clerk~~ ~~Board of Registrars of voters~~ to be sufficient, ~~he shall submit the same with his certificate to the City Council without delay, and the City Council shall forthwith give written notice of the receipt of the certificate to the officer sought to~~ the person who is the subject of the recall shall have the opportunity to review the certified petition during the regular business hours of the city clerk's office. The city clerk shall submit the registrars of voters' certificate to the city council within 5 days, and the city council shall give written notice of the receipt of the certificate to the officer sought to be recalled and

shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by ~~them~~ the City Council not less than ~~forty five~~ ~~sixty-four~~ days (64) nor more than ~~sixty~~ ~~ninety~~ (90) days after the date of the City Clerk's certificate demonstrating that a sufficient petition is ~~has been~~ filed; provided, however, that if any other City election is to occur within ~~sixty~~ one-hundred and twenty (120) days after the date of the certificate, the city council shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall ~~nevertheless not~~ proceed as provided in this section.

(d) Nomination of Candidates ~~Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the City Clerk shall place his ~~their~~ name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.~~ **Office Holder** - The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled under articles 2, 3, 4 and 5 of this charter for filling vacancies in such office. A person chosen to fill the vacancy caused by a recall shall hold office until the next regular city election. Should the person be a candidate in the subsequent election, that person will not be allowed to have "candidate for re-election" appear on the ballot at such election.

(e) Incumbent Holds Office Until Election ~~The incumbent shall continue to perform the duties of his ~~their~~ office until the recall election. If then re-elected, he shall continue in office for the remainder of his ~~their~~ unexpired term, subject to recall as before, except as provided in this section. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his ~~their~~ successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his ~~their~~ election, the incumbent shall thereupon be deemed removed and the office vacant.~~ **Ballot Proposition** - The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?"

Yes  No

Subject to section 9-6, if a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

(f) Propositions on Ballot ~~Ballots used in a recall election shall submit the following propositions in the order indicated:~~

~~For the recall of (name of officer)~~

~~Against the recall of (name of officer)~~

~~Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of the said propositions. Under the proposition shall appear the word "Candidates", the directions to voters required by Section 42 of Chapter 54 of the General Laws, and beneath this, names of candidates nominated as herein before provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be~~

~~declared elected. If a majority of votes on the question is in the negative, the ballots for candidates need not be counted.~~

~~(f) Re appointment of Person Recalled - No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against him, shall be appointed to any city office within two years after such recall or such resignation.~~

- (f) **Repeat of Recall** - In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least 270 days after the election at which the officer's recall was submitted to the voters of the city.
- (g) **Office Holder Recalled** - No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any city office within 2 years after such recall or such resignation.

## **Section 9-6 Required Voter Participation**

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

## **Section 9-7 Submission of Other Matters to Voters**

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

## **Section 9-78 Conflicting Provisions**

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

# **ARTICLE 9 10 General Provisions**

## **Section 9 10-1. Certificate of Election and Appointment.**

~~Every person who is elected or appointed shall receive a certificate of such election or appointment from the City Clerk which shall bear the date of its expiration. Except as otherwise provided by law, before performing any act under his their election or appointment, he shall take and subscribe to an oath to qualify him to enter upon the duties of office. A record of the taking of such oath shall be made by the City Clerk. Any oath required by this section may be administered by any officer authorized by law to administer oaths. Records of transaction of all officers and boards shall be open to the inspection of the public.~~

## **Section 10-1 Charter Changes**

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

## **Section 9 10-2. Rules and Regulations.**

~~A copy of all rules and regulations adopted by any City agency shall be filed in the office of the City Clerk and made available for review by any person who requests such information.~~

## **Section 10-2 Severability**

If any provision of the charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of the charter's provisions to other persons and circumstances shall not be affected thereby.

## **Section 9 10-3. Re-enactment and Publication of Ordinances.**

The City Council shall, at five year intervals, cause to be prepared by a special committee of the City Council appointed for that purpose proposed revisions or recodifications of all ordinances of the City which shall be presented to the City Council for re-enactment. Such revision or recodification shall be prepared under the supervision of the City Solicitor, or, if the City Council so directs, by special counsel retained for that purpose. Copies of the revised ordinances shall be made available for distribution, provided, however, that a charge not to exceed the actual cost per copy of reproduction may be charged.

## **Section 10-3 Specific Provision to Prevail**

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

## **Section 9 10-4. Liability of City Offices and Agencies.**

All City officers and members of City agencies shall be deemed to be public or municipal officers or officials. Subject to appropriation, the City may indemnify any such officer or member for expenses or damages incurred in the defense or settlement of a claim against him which arose while acting within the scope of his their official duties or employment, but only to the extent and subject to the limitations imposed by the General Laws.

## **Section 10-4 Rules and Regulations**

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

## **Section 9 10-5. Prohibition.**

No member of the executive or legislative branch or of the School Committee shall appear as counsel before any City office or agency.

## **Section 10-5 Periodic Review of Ordinances**

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

### **Section 9 10-6. Meetings of Qualified Voters.**

~~General meetings of the voters may be held from time to time, according to the right secured to the people by the Constitution of the Commonwealth; and all such meetings may, and upon the request in writing of one hundred voters setting forth the purpose thereof, shall be duly called by the City Council.~~

### **Section 10-6 Periodic Review of Charter**

Not later than July 1, at 10-year intervals, ~~in each year ending in a~~ ~~9~~ **after the date of the most recent adoption of the charter**, the mayor and city council shall provide for a review to be made of the city charter. This review shall be made by a special committee to be determined by ordinance. All members of the committee shall be voters of the city. The special committee shall file its report with the city clerk at a date specified by ordinance. Copies of any recommendations shall be made available to the public at a cost not to exceed the actual cost of the reproduction.

### **Section 9 10-7. Severability.**

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

### **Section 10-7 Uniform Procedures Governing Multiple-Member Bodies**

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

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

(c) Meeting Documents and Submissions - Each appointed multiple-member body shall determine its own rules and order of business. Each multiple-member body shall provide for the keeping of agendas, minutes and related submissions of its proceedings. All such documents shall be a public record and certified copies shall be placed on file in the office of the city clerk within a reasonable period from the date of approval.

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

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

### **Section 9 10-8. Specific Provisions Shall Prevail.**

To the extent that any specific provision of the Charter will conflict with any provisions expressed in the Charter in general terms, the specific provisions shall prevail.

### **Section 10-8 References to General Laws**

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

### **Section 9-10-9. References to General Laws.**

All references to the General Laws contained in the Charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the Charter.

### **Section 10-9 Computation of Time**

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

### **Section 9-10-10. Removals and Suspensions.**

(a) In General Any appointed officer or full-time salaried employee of the City, not subject to the provisions of the state civil service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term cause shall include, but not be limited to, the following: incapacity other than temporary, illness, inefficiency, insubordination and conduct unbecoming the office.

(b) Suspension Any appointed officer or full-time salaried employee of the City may be suspended from the office by the appointing authority if such action is deemed by them to be necessary to protect the interest of the City. However, no suspension shall be for more than fifteen days.

Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

(c) Removal The appointing authority, when removing any such officer or employee, shall act in accordance with the following procedure:

1. ~~A written notice of intent to remove and a statement of the cause or causes therefor shall be delivered by registered mail to the last known address of the person sought to be removed.~~
2. ~~Within five days of delivery of such notice, the officer or employee may request a public or closed hearing to be held by the City Council at which he may be represented by counsel, who shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing. Such hearing shall be conducted under the rules of evidence.~~
3. ~~Between one and ten days after the public or closed hearing is adjourned, the City Council shall direct the appointing authority to take final action by either removing the officer or employee or notifying him that the notice has been rescinded.~~
4. ~~After delivery of this notice of intent to remove, if the officer or employee fails to request a hearing, the appointing authority shall take final action either by removing the officer or employee or notifying him that the notice has been rescinded.~~

~~Nothing in this section shall be construed as granting a right to such a hearing to:~~

13. ~~A person who holds a position for a fixed term, when his their term expires; and~~

~~(ii) A person who is a member of Local 3699, American Federation of State, County and Municipal Employees, AFL CIO, Methuen Support Staff Employees Unit. Said member shall be governed by the disciplinary procedure of said Unit's collective bargaining agreement with the City of Methuen. (Chapter 76 of the Acts and Resolves of 1996)~~

## **Section 10-10 Oaths or Affirmations for Elected Offices**

A mayor-elect, the city council members-elect, the school committee members-elect, housing authority members-elect, regional school district representatives-elect, and library trustees-elect shall, on the first Monday in the January of each even-numbered year, meet and take an oath or affirmation to the faithful discharge of the duties of their office administered by the city clerk. If the first Monday in January of such even-numbered years falls on a legal holiday, the oaths or affirmations shall be taken on the following day. In the case of the absence of any elected official as noted above on the day the oath is administered, the oath or affirmation may at any time thereafter be administered to that person by the city clerk, the assistant city clerk, a judge of a court of record or by a justice of the peace. Modifications to this section may be prescribed by ordinance.

## **Section 9 10-11. Procedures.**

- (a) Meetings All multiple member bodies of the City, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the City as they may prescribe. Except in emergencies, special meetings of any multiple member body shall be held on the call of the respective chairman or by one third of the members thereof by written notice delivered to the residence or place of business of each member at least forty eight hours in

advance of the time set. A copy of the said notice shall also be posted on the City bulletin board(s). Special meetings of any multiple member body shall also be called within one week after the date of the filing with the City Clerk of a petition signed by at least one hundred voters and which states the purpose or purposes for which the meeting is to be called. Except in cases of special emergency as otherwise authorized by the General Laws, all meetings of all multiple member bodies shall be open and public; however, the multiple member body may recess for the purpose of discussing in a closed or executive session limited to its own membership, any matter which would tend to defame or prejudice the character or reputation of any person, which would affect the public security, or which might have a direct fiscal effect on the city, provided that the general subject matter for consideration is expressed in the motion calling for such session.

(b) Agendas Except in cases of special emergency, at least forty-eight hours before any meeting of a multiple member body is to be held, an agenda containing all items which are scheduled to come before it at the meeting shall be posted. No action taken on a matter not included in the posted agenda shall be effective unless the body first adopts by special vote a resolution declaring that an emergency exists and that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the City.

(c) Rules and Journal Each multiple member body shall determine its own rules and order of business unless otherwise provided by the Charter or by law and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record kept available in a place convenient to the public at all times and certified copies shall be kept available in the City Clerk's office.

(d) Voting Except on procedural matters, all votes of all multiple member bodies shall be taken by a call of the roll and the ayes and nays shall be recorded in the journal, provided, however, that if the vote is unanimous only that fact need be recorded.

(e) Quorum A majority of the members of a multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the body. No other action shall be valid or binding unless ratified by the affirmative vote of the majority of the full body.

## **Section 10-11 Certificate of Election or Appointment**

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

## **Section 9-12. Definitions.**

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the Charter shall have the following meanings:

(a) Charter The word "Charter" shall mean this Charter and any amendments to it made through any of the methods provided under Article LXXXIX of the amendments to the State Constitution.

(b) Days The word "days" shall refer to business days, not including Saturdays, Sundays, and Legal Holidays, when the time set is seven days or less; when more than seven days, every day shall be included when counting days.

(c) Emergency The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.

(d) Full Council The words "full Council" shall mean the entire authorized complement of the City Council notwithstanding any vacancies which might exist.

(e) Initiative Measure The words "initiative measure" shall mean a measure proposed by initiative procedures under the Charter, including a specific item in a City budget or School Committee budget but excluding:

1. Proceedings relating to the organization or operation of the City Council — or School Committee;
2. An emergency measure passed in conformity with the Charter;
3. The City budget as a whole or the School Committee budget as a whole;
4. A revenue loan order;
5. An appropriation for the payment of the City debts or obligations;
6. Any appropriation of funds necessary to implement a written agreement executed under General Laws, Chapter 149, Section 178I (relating to collective bargaining);
7. Any proceeding or part thereof, relating to the election, employment, — appointment, suspension, transfer, demotion, removal or discharge of any City officer or — employee;
8. Any proceeding repealing or rescinding a measure, or a part thereof, which is protested by referendum procedures.

(f) Majority Vote The words "majority vote" shall mean a majority of those present and voting, provided, that a quorum of the body is present.

(g) Measure The word "measure" shall mean an ordinance passed or which could be passed by the City Council or an order, resolution, vote or other proceeding passed or which could be passed by the City Council or School Committee.

(h) Multiple Member Body The words "multiple member body" shall mean any body consisting of two or more persons, whether elected, appointed or otherwise constituted.

13. Municipality Methuen shall have a municipal form of government.

(j) Number and Gender The singular number may be extended and applied to several persons or things; words imparting the plural number may include the singular; and words imparting the masculine gender shall include the feminine gender.

(k) Referendum Measure The words "referendum measure" shall mean a measure protested by referendum procedures under the Charter, including a specific item in the City budget or School Committee budget, but excluding items #1 through 7 mentioned under the definition of (e) Initiative Measures, and:

(8) any proceeding providing for the submission or referral of a matter to the voters at an election.

(l) City The word "City" shall mean the name "City of Methuen".

(m) City Agency The words "City agency" shall mean any board, commission, committee, department, or office of the City government.

(n) Voters The word "voters" shall mean registered voters of the City of Methuen.

#### **Section 10-12 Recruitment and Appointment of the Chief Administrative and Financial Officer**

(a) The chief administrative and financial officer shall be appointed solely on the basis of administrative and executive qualifications and shall be a person especially fitted by education, training and experience to perform the duties of the office. The chief administrative and financial officer need not be a resident of the city.

(b) When the office of the chief administrative and financial officer becomes vacant or it is known that it will become vacant, the mayor and the city council shall jointly initiate the selection process by giving notice of the intention to establish a screening committee to review applicants for the position and shall send a copy of the notice to each agency or officer responsible for appointing persons to serve on the screening committee. The screening committee shall be formed not later than 21 days after the notice has been sent. No screening committee shall be required if the mayor reappoints an incumbent officer who shall be confirmed by a 2/3 majority vote of the full city council.

(c) The screening committee shall consist of 7 members, 1 of whom shall be appointed by the school committee, 3 of whom shall be appointed by the city council, of whom 1 shall be an expert in municipal management, 1 of whom shall be appointed by the secretary of administration and finance of the commonwealth, and 2 of whom shall be appointed by the mayor, of whom 1 shall be an expert in municipal management.

(d) The screening committee shall recommend to the mayor the names of not less than 2 and not more than 5 candidates whom the majority of the screening committee members believe to be best suited to perform the duties of the position of chief administrative and financial officer. If the screening committee determines that there are not at least 2 candidates qualified to perform the duties of the chief administrative and financial officer, the screening committee shall report to the mayor and the city council that it is unable to complete its assigned task and the mayor and the city council shall direct the screening committee to reopen the search.

(e) The mayor shall appoint, subject to approval by a 2/3 majority vote of the full city council, 1 of the candidates recommended by the screening committee as the chief administrative and financial officer; provided, however, that if the mayor finds that no recommended candidate

is qualified for the office, the mayor and the city council shall direct the screening committee to reopen the search.

(f) Appointments to the position of chief administrative and financial officer shall be for 3-year terms; provided, however, that an incumbent officer may be reappointed by the mayor, subject to confirmation by a 2/3 majority vote of the full city council.

### **Section 10-13 Removals and Suspensions.**

(a) In General - Any appointed officer or full-time salaried employee of the City, not subject to the provisions of the state civil service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause.

(b) Suspension - Any appointed officer or full-time salaried employee of the City may be suspended from the office by the appointing authority if such action is deemed by the appointing authority to be necessary to protect the interest of the City. However, no suspension shall be for more than 15 days. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

(c) Removal - The appointing authority, when removing any such officer or employee, shall act in accordance with the following procedure:

(i). A written notice of intent to remove therefore shall be delivered by registered mail to the last known address of the officer or employee sought to be removed.

(ii). Within five days of delivery of such notice, the officer or employee may request a public or closed hearing to be held by the City Council at which such officer or employee may be represented by counsel, who shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing. Such hearing shall be conducted under the rules of evidence.

(iii). Between 1 and 10 days after the public or closed hearing is adjourned, the City Council shall direct the appointing authority to take final action by either removing the affected officer or employee or notifying such officer or employee that the removal notice has been rescinded.

(iv). After delivery of this notice of intent to remove, if the officer or employee fails to request a hearing, the appointing authority shall take final action either by removing the officer or employee or providing notice to such officer or employee that the notice has been rescinded.

Nothing in this section shall be construed as granting a right to such a hearing to:

- (i) A person who holds a position for a fixed term, when such term expires; and
- (ii) Employees working under any collective bargaining agreement addressing removal and suspension procedures.

### **Section 10 -14 Indemnification of Officials and Employees**

All city officers and employees shall be deemed to be public or municipal officers, employees, and officials, and pursuant to section 9 of Chapter 258 of the General Laws, the city indemnifies all such persons while acting within the scope of their official duties or employment for all liability related damages and costs as Chapter 258 or any successor statute so provides.

### **Section 10-15 Limitation on Office Holding**

Unless otherwise allowed by law or this charter, no person shall simultaneously hold more

than 1 city office or position of employment. This section may be waived by the mayor upon the appointment of a person to an additional office or position of employment with the approval of the council and filing a notice of the waiver with an explanation and justification with the city clerk.

### **Section 10-16 Felony Conviction**

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

### **Section 10-17 Enforcement of Charter Provisions**

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

### **Section 10-18 Definitions**

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the Charter shall have the following meanings:

- (a) Charter - The word "Charter" shall mean this Charter and any amendments to it made through any of the methods provided under Article LXXXIX of the amendments to the State Constitution.
- (b) City - The word "City" shall mean the name "City of Methuen".
- (c) City Agency - The words "City agency" shall mean any board, commission, committee, department, or office of the City government.
- (d) City website, the words "City website" shall mean a site established and maintained by the city as its online repository of municipal information, whether on the internet or accessed through another comparable technology.
- (e) Days - The word "days" shall refer to business days, not including Saturdays, Sundays, and Legal Holidays; when the time set is 7days or less; when more than 7 days every day shall be counted.
- (f) Emergency - The word "emergency" shall mean a sudden, generally unexpected occurrence, or set of circumstances demanding immediate action.
- (g) Full Council - The words "full Council" shall mean the entire authorized complement of the City Council notwithstanding any vacancies which might exist.
- (h) Good Cause - The term cause shall include, but not be limited to, the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

- (i) Initiative Measure - The words "initiative measure" shall mean a measure proposed by the voters through the initiative process provided under this charter.
- (j) Majority Vote - The words "majority vote" shall mean a majority of those present and voting, provided that a quorum of the body is present.
- (k) Measure - The word "measure" shall mean an ordinance passed or which could be passed by the City Council or an order, resolution, vote or other proceeding passed.
- (l) Multiple Member Body – The words “Multiple member body”, shall mean any council, commission, committee, subcommittee or other body consisting of 2 or more persons, whether elected, appointed or otherwise constituted, but not including the city council, the school committee or an advisory committee appointed by the mayor.
- (m) Municipality - The word “Municipality” shall mean the City of Methuen.
- (n) Organization or reorganization plan - The words shall mean a plan proposed and adopted by the council or as submitted by the mayor to the city council which proposes a change in the organization or the administrative structure of the city administration or organization or a change in the way in which municipal services are delivered.
- (o) Qualified Voter - a person who is at least 18 years of age, resident of the district and is registered to vote.  
Quorum – The word shall mean a majority of all voting members of a multiple-member body unless some other number is required by law, this charter, or by ordinance.
- (p) Referendum Measure - The words "referendum measure" shall mean a measure protested by referendum procedures provided under the Charter.
- (q) Voters - The word "voters" shall mean registered voters of the City of Methuen.

## **ARTICLE 10 Transitional Provision**

### **Section 10-1. Continuation.**

~~All by laws, ordinances, resolutions, of the previous City Council votes, and rules and regulations of the City which are in force at the time the Charter is adopted, not inconsistent with the provisions of the Charter, shall continue in force until amended or repealed.~~

### **Section 10-2. Continuation of Government.**

~~All City agencies shall continue to perform their duties until re-appointed, reelected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.~~

### **Section 10-3. Continuation of Administrative Personnel.**

~~Any person holding an office or position in the administrative service of the City, or any person serving in the employment of the City shall retain such office or position and shall~~

continue to perform his ~~their~~ duties until provisions shall have been made in accordance with the Charter for the performance of the said duties by another person or agency; provided, however, that no person in the permanent full time service of employment of the City shall forfeit his ~~their~~ pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.

#### **Section 10-4. Transfer of Records and Property.**

All records, property, and equipment whatsoever of any City agency or part thereof, the powers and duties of which are assigned in whole or part to another City agency shall be transferred forthwith to the City agency to which such powers and duties are assigned.

#### **Section 10-5. Effect on Obligations, Taxes and other Legal Acts.**

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

#### **Section 10-6. Council Salary.**

The salary to be paid to each member of the City Council elected at the first election shall be determined by the City Council but under no circumstances shall exceed \$1,000.00 per annum. This salary if any shall continue until changed by ordinance under the provisions of Section 2-3 of the Charter.

#### **Section 10-7. Time of Taking Effect.**

This Charter shall become fully effective on January 1, 1978 but it shall take partial effect in accordance with the following schedule:

- (a) The first regular election shall be held in accordance with Article 7-1 of this proposed Charter on the first Tuesday following the first Monday in November, 1977. All of the provisions of the Charter which relate to the conduct of regular City elections including a preliminary election with regard to the City Council shall take effect as stated in the Charter.
- (b) The School Committee shall only elect three members at large in November of 1977 for a term of two years. The three School Committeemen elected at the regular City election of April, 1977 shall continue to serve until the election of November, 1979. At that time, six School Committeemen will be elected every two years in accordance with the Charter proposed.

(c) ~~The powers and duties of the City Council shall not become fully effective until the first secular day of January, 1978, but in the meantime, the City Council shall prepare for the transition to the new form of government as follows:~~

1. ~~They shall establish qualifications and procedures to follow in the selection of a City Manager to serve under the Charter. The appointment of a City Manager shall be effective on the second Monday of January following their election.~~
2. ~~They shall cause to be prepared rules and regulations governing the conduct of Council business. They shall study the requirements of the new Council and may prepare all necessary ordinances to be effective, for the orderly and convenient exercise of the administrative affairs of the City. They shall consider and prepare such agency reorganizations as they deem advisable, such as a Community Development Authority and a Human Service Board, for their consideration at the first session of the Council after January 1, 1978 but shall take no such action until they have taken the oath of office on the first secular day of 1978.~~

— (d) ~~Representatives to Greater Lawrence Regional Vocational Technical High School. The committee members elected by the City of Methuen to the Greater Lawrence Regional Vocational Technical High School district shall be elected in the following manner.~~

- 1. ~~The committee member to be elected at the April, 1977 election shall serve until the end of 1979 and his **their** replacement shall be elected at the November, 1979 election.~~
- 13. ~~The committee member whose term would have expired after the April, 1979 election shall serve until the end of 1979 and his **their** replacement shall also be elected in the November, 1979 election.~~

~~Thereafter, both representatives that Methuen is entitled to will be elected at the regular election held every two years in accordance with this Charter.~~

— (e) Representatives to Nevins Library.

~~The representatives elected by the City of Methuen to the Nevins Memorial Library will be elected in the following manner:~~

1. ~~The delegate who will be elected in April, 1977 will serve until the end of 1979 and his **their** replacement will be elected in the November, 1979 election.~~
2. ~~The delegate who would have been elected in the April, 1978 election will continue serving as a holdover and he will serve until the end of 1979 and his **their** replacement will be elected at the November, 1979 election.~~

Thereafter, both representatives will be elected in the regular manner.

(f) Any officials elected under the previous Charter shall remain in office until January 1, 1978 unless specific provisions for their continuance is provided for in this Charter.

(g) Community Development Department.

The City Council, within sixty (60) days after taking office, shall file a special act with the Great and General Court of the Commonwealth of Massachusetts to create a Community Development Department which will combine the Methuen Housing Authority, Methuen Redevelopment Authority, Methuen Planning Board and any other boards and commissions that the City Council feels is necessary to coordinate the present responsibilities of these boards and commissions.

(h) Elimination of Fiscal Autonomy for the Methuen School Department.

The City Council shall, within thirty (30) days after taking office in January 1978, submit home rule legislation which shall eliminate fiscal autonomy for the Methuen School Department. Such legislation shall allow the City Council, by a 4/5 vote, to reduce the budget as submitted by the Methuen School Department.

(i) The City Manager appointed in January following the election at which the Charter is adopted shall assist the City Council in the establishment of the new Charter as they may request him to do.

(j) The Councilors in office at the time of the first November election shall continue to serve in that office until December 31st of that year. They shall be responsible for general operation of the government and shall continue to perform all of the powers, duties and functions of their office as though, this, the Charter, had not been adopted except that they shall coordinate all of their long range plans with the new members of the new City Council.

#### Section 10-8. Disposition of Special Acts.

(a) Partial Repeal of Certain Special Acts The following special acts, insofar as they confer power upon the City of Methuen which the City would not otherwise hold under the Charter, General Laws or the Constitution, are retained; otherwise, they are hereby repealed, it being the explicit intention of this paragraph that portions of any special acts retained which limit or restrict a power conferred or the manner in which it is to be exercised be repealed and that powers so conferred are to be exercised in accordance with the Charter.

Chapter 310 of the acts of 1892; Chapter 176 of the acts of 1909; Chapter 57 of the acts of 1968.

(b) Special Act Specifically Retained The following act is hereby recognized, confirmed and retained: Chapter 12 of the acts of 1725.

#### **Section 10-9. City Solicitor Appointment/Time of Taking Effect.**

~~The provisions of Section 2-8(c) relative to the appointment of the City Solicitor shall take effect on July 1st, 1986, provided, however, that the City Council shall, upon the effective date of the act, assume supervision and direction of the City Solicitor and he/she shall become directly responsible and accountable to the City Council. (Approved by voters November 5, 1985, see Resolution #1380 Chapter 182 of the Acts and Resolves 1985.)~~

#### **CHRONOLOGY OF CHARTER AMENDMENTS**

1. Home Rule Charter adopted April 23rd, 1977, effective January 1st, 1978.
2. Article 2, City Council, Section 2-2, Organization. Amendment approved by the voters November 3rd, 1981. Amendment submitted to voters by the City Council, Resolution #758, approved March 16th, 1981.

This section originally read as follows:

#### Section 2-2 Organization.

After the Councilors Elect have been sworn, the City Council shall be called together by the oldest member elected who shall preside. The City Council shall then elect, from among its members, a chairman and vice chairman to serve at the pleasure of the City Council. The chairman shall preside at all meetings of the City Council, and perform such other functions as may be assigned by the Charter, by ordinance or by vote of the City Council. The vice chairman shall act as chairman of the Council during the absence or disability of the chairman. The City Council shall elect from among its members one Councilor to sit as a voting member of the School Committee. This member shall serve at the pleasure of the City Council.

3. Article 4, School Committee, Section 4-1, sub-section (a), Composition. Amendment approved by the voters November 3rd, 1981. Amendment submitted to voters by the City Council, Resolution #758, approved March 16th, 1981.

This section originally read as follows:

(a) Composition - There shall be a School Committee of seven members. Six of these members to be nominated and elected at-large. The seventh member shall be a member of the City Council elected by the City Council. The School Committee shall exercise control and management of the public schools of the City. All school committeemen shall be nominated and elected by the voters at large.

4. Article 8, Referendum Petitions, Section 8-3. Amendment approved by the voters November 5th, 1985. Amendment submitted to voters by the City Council, Resolution #1359, approved

February 25th, 1985. Said amendment added the last two sentences at the end of the second paragraph.

5. Appointment of City Solicitor. Amendment approved by the voters November 5th, 1985. Amendment submitted to the voters by the City Council, Resolution #1380, approved August 5th, 1985 and enacted by the General Court as Chapter 182 of the Acts and Resolves of 1985.

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Said Act:

(a) Struck sub-section (c) of Article 2, Section 2-8, and replaced the same with the present section;

(b) Moved former sub-section (c) to new sub-section (d);

(c) Added new Article 10, Section 10-9.

6. Number of Precincts Increased. Amendment approved by the legislature June 10th, 1986 as Chapter 88 of the Acts and Resolves of 1986. Amendment submitted by the City Council, Resolution #1473, approved April 16th, 1986.

Amendment changed:

(a) Article 2, Section 2-1, sub-section (a), which originally read:

"Precincts 1, 2 and 6 to be known as the central district; precincts 3, 7 and 9 to be known as the east district; and precincts 4, 5 and 8 to be known as the west district".

(b) Article 7, Section 7-4, which originally read:

"Section 7-4 Precincts and Districts.

The territory of the City shall be divided into nine precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

The nine precincts shall be separated into three districts. The central district shall include precincts 1, 2 and 6; the east district shall include precincts 3, 7 and 9; and the west district shall include precincts 4, 5 and 8.".

7. Election of a Mayor and Establishment of Limitation of Terms of City Councilors. Chapter 332 of the Acts and Resolves of 1992 accepted by the voters on May 4th, 1993 replaced the City Manager with a Mayor and placed term limits on the Mayor and City Councilors.

8. Section 9-10 of Article 9, Removals and Suspensions. The following was added:

"Nothing in this section shall be construed as granting a right to such a hearing to a person who is a member of Local 3699, American Federation of State, County and Municipal Employees, AFLCIO, Methuen Support Staff Employees Unit. Said member shall be governed by the disciplinary procedure of said Unit's collective bargaining agreement with the City of Methuen." Chapter 76 of the Acts and Resolves of 1996.

9. Article 2, Sections 2-8(a), (b) and (c), Appointment of City Accountant, Clerk of the Council and City Solicitor. Amendment approved by the legislature approved June 28th, 1996 as Chapter 145 of the Acts and Resolves of 1996. Amendment submitted by the City Council, Order #3738, approved February 5th, 1996.

Amendment changed:

(a) Article 2, Section 2-8, sub-section (a), which originally read:

"(a) City Accountant - As soon as practicable after the Council has been organized, the City Council shall elect, by ballot or otherwise, a City Accountant to hold office for a term of two years and until his **their** successor is qualified."

(b) Article 2, Section 2-8, sub-section (b), which originally read:

"(b) Clerk of the Council - The City Council shall elect, by ballot or otherwise, a Clerk of the Council, who may be the City Clerk, to hold office at the pleasure of the Council."

(c) Article 2, Section 2-8, sub-section (c), which originally read:

"(c) City Solicitor - The City Council shall, on or before July 1st in the year it organizes under Article 2, Section 2-2, elect, by ballot or otherwise, a City Solicitor to hold office for a term of two years and until his/her successor is qualified."

10. Article 3, Section 3-3, Appointments by the Mayor. Amendment approved by the voters November 5th, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996.

This section originally read as follows:

"Section 3-3. Appointments by the Mayor.

Except as otherwise provided by this Charter, the Mayor shall appoint, upon merit and fitness alone, and may remove subject to the provisions of the civil service laws, the provisions of this Charter, or other pertinent statutes where applicable, all officers and employees of the Town, except employees of the School Department. All appointments made by the Mayor shall be subject to confirmation by a majority vote of the full Council. The Mayor shall submit, in writing, to the Town council, at least ten days prior to the next regular meeting when the appointment is to be made, the name of any person he desires to appoint to a Town position."

11. Article 3, a new section 3-9, Terms of Office - Department Heads was added. Amendment approved by the voters November 5th, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996.

12. Article 4, School Committee, Section 4-1, sub-section (a), Composition. Amendment approved by the voters November 5th, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996.

This sub-section originally read as follows:

“(a) Composition - There shall be a School Committee of seven members who shall be nominated and elected at large. The School Committee shall exercise control and management of the public schools of the City.” (Approved by the voters November 3rd, 1981; see Resolution #758).

13. Article 2, Legislative Branch, Section 2-1, Sub-section (c), Election and Term

Amendment approved by the Legislature September 24<sup>th</sup>, 1999, Chapter 82 of the Acts and Resolves of 1999, and adopted by the Voters November 2<sup>nd</sup>, 1999.

The second sentence thereof originally read as follows:

“No person shall hold the office of City Councilor for more than three consecutive or non-consecutive terms”.

14. Article 3, Executive Branch, Section 3-1, Sub-section (b), Term of Office

Amendment approved by the Legislature September 24<sup>th</sup>, 1999, Chapter 82 of the Acts and Resolves of 1999, and adopted by the Voters November 2<sup>nd</sup>, 1999.

The following sentence was added to Sub-section (b):

“No person shall hold the office of Mayor for more than three consecutive terms”.

15. Article 4, School Committee, Section 4-1, Sub-section (c), Election and Term

Amendment approved by the Legislature September 24<sup>th</sup>, 1999, Chapter 82 of the Acts and Resolves of 1999, and adopted by the Voters November 2<sup>nd</sup>, 1999.

The following sentence was added to Sub-section (c):

“No person shall hold the office of School Committee member for more than three consecutive terms”.