

HOUSE No. 04102

The committee on Municipalities and Regional Government, reports, on House, No. 4001, a Bill reestablishing a charter for the city of Northampton (House, No. 4102)[Local Approval Received]. May 17, 2012. Michael F. Kane, for the committee.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Twelve
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An Act reestablishing a charter for the city of Northampton.

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

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

2 ARTICLE 1

3 INCORPORATION; SHORT TITLE; DEFINITIONS

4 SECTION 1-1: INCORPORATION

5 The inhabitants of the city of Northampton, within the territorial limits established by law, shall
6 continue to be a municipal corporation, a body corporate and politic, under the name "City of
7 Northampton".

8 SECTION 1-2: SHORT TITLE

9 This instrument shall be known and may be cited as the city of Northampton Charter.

10 SECTION 1-3: DIVISION OF POWERS

11 The administration of the fiscal, prudential and municipal affairs of the city of Northampton,
12 with the government thereof, shall be vested in an executive branch headed by a mayor and a
13 legislative branch consisting of a city council. The legislative branch shall never exercise any
14 executive power, and the executive branch shall never exercise any legislative power.

15 SECTION 1-4: POWERS OF THE CITY

16 Subject only to express limitations on the exercise of any power or function by a municipal
17 government in the constitution or general laws, it is the intention and the purpose of the voters of
18 Northampton through the adoption of this charter to secure for themselves and their government
19 all of the powers it is possible to secure as fully and as completely as though each such power
20 were specifically and individually enumerated herein.

21 SECTION 1-5: CONSTRUCTION

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

25 SECTION 1-6: INTERGOVERNMENTAL RELATIONS

26 Subject only to express limitations in the constitution or general laws, the city of Northampton
27 may exercise any of its powers or perform any of its functions, and may participate in the
28 financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth or
29 any of its agencies or political subdivisions, or with the United States government or any of its
30 agencies.

31 SECTION 1-7: DEFINITIONS

32 Unless another meaning is clearly apparent from the manner in which the word or phrase is used,
33 the following words and phrases as used in this charter shall have the following meanings:

34 (1) "Charter", this charter and any adopted amendments to it.

35 (2) "City", the city of Northampton.

36 (3) "City agency", any multiple member body, any department, division, or office of the city of
37 Northampton.

38 (4) "City office or department head", a person having charge of a city department.

39 (5) "Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding
40 immediate action.

41 (6) "Full city council", "full school committee" "full multiple member body", the entire
42 authorized membership of the city council, school committee or other multiple member body
43 notwithstanding any vacancy which might exist. (7) "general laws", laws enacted which apply
44 alike to all cities and towns, to all cities, or to a class of 2 or more cities, or to a class of cities
45 and towns of which Northampton is a member.

46 (8) "General Laws", the General Laws of the Commonwealth of Massachusetts, a codification
47 and revision of statutes enacted on December 22, 1920, and including all amendments thereto
48 subsequently adopted.

49 (9) "Initiative measure", a measure proposed by the voters through the initiative process provided
50 under this charter.

51 (10) "Local newspaper", a newspaper of general circulation within Northampton, with either a
52 weekly or daily circulation.

53 (11) "Majority vote", when used in connection with a meeting of a multiple member body, shall
54 mean a majority of those present and voting, unless another provision is made by ordinance or by
55 such body's own rules, provided however that General Law provisions related to any vote to
56 meet in "executive session" shall always require a majority of members of the body.

57 (12) "Measure", any ordinance, order, or other vote or proceeding adopted, or which might be
58 adopted, by the city council or the school committee.

59 (13) "Multiple member body", any council, commission, committee, sub-committee or other
60 body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not
61 including the city council, the school committee or an advisory committee appointed by the
62 mayor.

63 (14) "Organization or reorganization plan", a plan submitted by the mayor to the city council
64 which proposes a change in the organization or the administrative structure of the city
65 administration or organization, or a change in the way in which a municipal service or services
66 are delivered.

67 (15) "Quorum", a majority of all voting members of a multiple member body unless some other
68 number is required by law or by ordinance.

69 (16) "Referendum measure", a measure adopted by the city council or the school committee that
70 is protested under the referendum procedures of this charter.

71 (17) "Voters", registered voters of the city of Northampton.

72 (18) “Year”, unless otherwise specified, shall mean a calendar year.

73 ARTICLE 2

74 LEGISLATIVE BRANCH

75 SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

76 (a) Composition - There shall be a city council consisting of 9 members which shall exercise the
77 legislative powers of the city. Two of these members, to be known as councilors-at-large, shall
78 be nominated and elected by and from the voters at large. Seven of these members, to be known
79 as ward councilors, shall be nominated and elected by and from the voters from each ward; 1
80 such ward councilor to be elected from each of the 7 wards into which the city is divided under
81 section 7-7.

82 (b) Term of Office - The term of office for councilors shall be 2 years each, beginning on the
83 first Monday in the January succeeding their election, except when said first Monday falls on a
84 legal holiday, in which event the term shall begin on the following day, and until their successors
85 have been qualified.

86 (c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A ward
87 councilor must be a voter in the ward from which election is sought. If a ward councilor or a
88 councilor-at-large removes from the city during the term for which elected, such office shall
89 immediately be deemed vacant and filled in the manner provided in section 2-11. A ward
90 councilor who removes from the ward from which elected and who remains a resident of the city
91 may continue to serve during the term for which elected.

92 SECTION 2-2: PRESIDENT AND VICE-PRESIDENT, ELECTION; TERM; POWERS

93 (a) Election and Term - As soon as practicable after the councilors-elect have been qualified
94 following each regular city election, as provided in section 10-11, the members of the city
95 council shall elect from among its members a president and vice-president who shall serve for 2
96 year terms. The method of election of the president and vice-president shall be prescribed within
97 the rules of the city council.

98 (b) Powers and Duties - The president shall prepare the agenda for city council meetings in
99 consultation with the mayor and the city clerk. The president shall preside at all meetings of the
100 city council, regulate its proceedings and shall decide all questions of order. The president shall
101 appoint all members of all committees of the city council, whether special or standing. The
102 president shall have the same powers to vote upon all measures coming before the city council as
103 any other member of the city council. The president shall perform any other duties consistent
104 with the office that may be provided by charter, by ordinance or by other vote of the city council.
105 The vice-president shall preside in the absence of the president.

106 SECTION 2-3: PROHIBITIONS

107 (a) Holding Other City Position - No member of the city council shall hold any other
108 compensated city position. No former member of the city council shall hold any compensated
109 appointed city position until 1 year following the date on which the former member's service on
110 the city council has terminated. This provision shall not prevent a city employee who vacated a
111 position in order to serve as a member of the city council from returning to the same position
112 upon the expiration of the term for which he was elected.

113 (b) Interference with Administration - No city council or any member of the city council shall
114 give orders or directions to any employee of the city appointed by the mayor, either publicly or
115 privately.

116 SECTION 2-4: COMPENSATION

117 The members of the city council shall receive such salary for their services as may from time to
118 time be set by ordinance. No ordinance increasing or reducing the salary of the members of the
119 city council shall be effective unless it shall have been adopted by a two thirds vote of the full
120 city council. No ordinance increasing the salary of councilors shall be effective unless it shall
121 have been adopted during the first 18 months of the term for which the city council is elected and
122 unless it provides that the salary increase is to take effect upon the organization of the city
123 government following the next regular city election.

124 SECTION 2-5: GENERAL POWERS

125 Except as otherwise provided by the General Laws or by this charter, all powers of the city shall
126 be vested in the city council which shall provide for their exercise and for the performance of all
127 duties and obligations imposed upon the city by law.

128 SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

129 (a) Exercise of Powers - Except as otherwise provided by general law or by this charter, the
130 legislative powers of the city council may be exercised in a manner determined by it.

131 (b) Quorum - The presence of 5 members shall constitute a quorum for the transaction of
132 business. Except as otherwise provided by general law or by this charter, the affirmative vote,
133 taken by roll call vote, of 6 members shall be required to adopt an appropriation order. Except as

134 otherwise provided by law or this charter, the affirmative vote, taken by roll call vote, of a
135 majority of the full city council shall be required to adopt any ordinance.

136 (c) Rules of Procedure - The city council shall from time to time adopt rules regulating its
137 procedures, which shall be in addition to the following:

138 (i) Regular meetings of the city council shall be held at a time and place fixed by ordinance. All
139 regular meetings of the city council shall provide for a period of public comment, provided
140 however, the city council may promulgate rules that regulate such period of public comment as
141 deemed appropriate.

142 (ii) Special meetings of the city council shall be held at the call of the president or at the call of
143 any 3 or more members, for any purpose. Notice of said meeting shall, except in an emergency
144 of which the president shall be the sole judge, be delivered to each member at least 48 weekday
145 hours in advance of the time set and shall specify the date, time, and location of the meeting and
146 the purpose or purposes for which the meeting is to be held. A copy of each such notice shall
147 immediately be posted as the general laws relative to such postings shall require.

148 (iii) All sessions of the city council and of every committee or subcommittee of the council shall
149 at all times be open to the public unless another provision is allowed by law.

150 (iv) A full, accurate, up-to-date account of the proceedings of the city council shall be
151 maintained by the city clerk, which shall include a record of each vote taken, and which shall be
152 made available with reasonable promptness following each meeting, but not later than the next
153 regularly scheduled meeting. Unless otherwise provided by law, the minutes of any executive
154 session shall be made available as soon as their publication would not defeat the lawful purposes
155 of the executive session.

156 SECTION 2-7: ACCESS TO INFORMATION

157 (a) In General - The city council may make investigations into the affairs of the city and into the
158 conduct and performance of any city agency.

159 (b) Information Requests - The city council may require any member of an appointed multiple-
160 member body or any city employee to appear before it to give any information that the city
161 council may require in relation to the municipal services, functions, powers, or duties which are
162 within the scope of responsibility of that person and not within the jurisdiction of the school
163 committee.

164 (c) Mayor - The city council at any time may request from the mayor specific information on any
165 municipal matter and may request the mayor to be present to answer written questions relating
166 thereto at a meeting to be held not earlier than 7 days from the date of the receipt by the mayor of
167 said questions. The mayor shall personally, or through any designated city employee, attend such
168 meeting and respond to said questions. The mayor or the person so designated to attend shall not
169 be required to answer questions relating to any other matter.

170 (d) Notice - The city council shall give a minimum of 7 days notice to any person it may require
171 to appear before it under the provisions of this section. The notice shall include specific
172 questions on which the city council seeks information, and no person called to appear before the
173 city council under this section shall be required to respond to any question not relevant or related
174 to those presented in advance and in writing.

175 SECTION 2-8: APPOINTMENTS OF THE CITY COUNCIL

176 Subject to appropriation, the city council may employ such staff as it deems necessary.

177 SECTION 2-9: ORDINANCES AND OTHER MEASURES

178 (a) Measures- Except as otherwise provided by the charter, every adopted measure shall become
179 effective at the expiration of 10 days after adoption or upon the signature of the mayor,
180 whichever occurs first. No ordinance shall be amended or repealed except by another ordinance
181 adopted in accordance with the charter, or as provided in the initiative and referendum
182 procedures.

183 (b) Emergency Measures- An emergency measure shall be introduced in the form and manner
184 prescribed for measures generally except that it shall be plainly designated as an emergency
185 measure and shall contain statements after the enacting clause declaring that an emergency exists
186 and describing the scope and nature of the emergency in clear and specific terms. A preamble
187 which declares and defines the emergency shall be separately voted on and shall require the
188 affirmative vote of two thirds of the full city council. An emergency measure may be passed with
189 or without amendment or rejected at the meeting at which it is introduced. No measure making a
190 grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall
191 be passed as an emergency measure, and except as provided by the laws of the Commonwealth,
192 no such grant, renewal or extension shall be made otherwise than by ordinance. An emergency
193 measure shall become effective upon adoption or at such later time as it may specify.

194 (c) Charter Objection- On the first occasion that the question on adoption of a measure is
195 put to the city council, if a single member present objects to the taking of the vote, the vote shall
196 be postponed until the next meeting of the city council whether regular or special. If 2 members
197 present shall object, such postponement shall be until the next regular meeting; if it is an
198 emergency measure at least 4 members must object. This procedure shall not be used more than

199 once for any specific matter notwithstanding any amendment to the original matter. A charter
200 objection shall have privilege over all motions but must be raised prior to or at the call for a vote
201 by the presiding officer and all debate shall cease.

202 SECTION 2-10: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

203 The mayor shall refer to the city council and simultaneously file with the city clerk, the name of
204 each person the mayor desires to appoint as a department head or as a member of a multiple-
205 member body, but not including any position which is subject to the civil service law. The city
206 council shall refer each name submitted to it to a standing committee of the council which shall
207 review each candidate for appointment and shall make a recommendation to the full city council
208 not less than 7 nor more than 45 days after the referral. The committee may require any person
209 whose name has been referred to it to appear before the committee, or before the city council, to
210 give any information relevant to the appointment that the committee, or the city council, may
211 require. Appointments made by the mayor shall become effective on the forty-fifth day after the
212 date on which notice of the proposed appointment was filed with the city clerk unless approved
213 or rejected by the city council within the 45 days.

214 SECTION 2-11: FILLING OF VACANCIES

215 If a vacancy in the office of councilor occurs prior to the eighteenth month of the term for which
216 the councilor is elected, the city council shall forthwith, in the manner provided in section 7-1,
217 order a special election to be held within 90 days following the date the vacancy is created, to fill
218 such vacancy until the next regular city election. The person elected at such regular city election
219 shall be sworn to office immediately. If a regular city election is to be held within 120 days
220 following the date the vacancy is created, a special election need not be held and the office shall

221 be filled by the voters at such regular city election. Election to fill the vacant seat of a ward
222 councilor shall be held only in the affected ward, while an election to fill a vacant seat of a
223 councilor-at-large shall be held in all wards of the city.

224 ARTICLE 3

225 EXECUTIVE BRANCH

226 Section 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE;

227 COMPENSATION; PROHIBITIONS

228 (a) Mayor, Qualifications – The chief executive officer of the city shall be a mayor, elected by
229 and from the voters of the city at large. Any voter shall be eligible to hold the office of mayor.
230 The mayor shall devote full time to the office and shall not hold any other elective public office.

231 (b) Term of Office – The term of office of the mayor shall be 4 years, beginning on the first
232 Monday in the January succeeding his or her election, except when said first Monday falls on a
233 legal holiday, in which event the term shall begin on the following day, and until the mayor’s
234 successor has been qualified.

235 (c) Compensation – The city council shall, by ordinance, establish an annual salary for the
236 mayor. No ordinance increasing or reducing the salary of the mayor shall be effective unless it
237 shall have been adopted by a two thirds vote of the full city council. No ordinance increasing the
238 salary of the mayor shall be effective unless it shall have been adopted during the first 18 months
239 of the term for which the mayor is elected and unless it provides that the salary increase is to take
240 effect upon the organization of the city government following the next regular city election.

241 (d) Prohibitions – The mayor shall hold no other compensated city position. No former
242 mayor shall hold any compensated appointed city office or city employment until one year
243 following the date on which such former mayor’s city service has terminated. This provision
244 shall not prevent a city officer or other city employee who has vacated a position in order to
245 serve as mayor from returning to the same office or other position of city employment held at the
246 time such position was vacated; provided, however, no such person shall be eligible for any other
247 municipal position until at least one year following the termination of service as mayor. This
248 prohibition shall not apply to persons covered under the leave of absence provisions of section
249 37 of chapter 31 of the General Laws.

250 SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

251 The executive powers of the city shall be vested solely in the mayor and may be exercised by the
252 mayor either personally or through the several city agencies under the general supervision and
253 control of the office of the mayor. The mayor shall cause the charter, the laws, the ordinances
254 and other orders for the government of the city to be enforced, and shall cause a record of all
255 official acts of the executive branch of the city government to be kept. The mayor shall exercise
256 general supervision and direction over all city agencies, unless otherwise provided by law or by
257 this charter. Each city agency shall furnish to the mayor, forthwith upon request, any information
258 or materials as the mayor may request and as the needs of the office of mayor and the interest of
259 the city may require. The mayor shall supervise, direct and be responsible for the efficient
260 administration of all city activities and functions placed under the control of the mayor by law or
261 by this charter. The mayor shall be responsible for the efficient and effective coordination of the
262 activities of all agencies of the city and for this purpose shall have authority consistent with law
263 to call together for consultation, conference and discussion at reasonable times all persons

264 serving the city, whether elected directly by the voters, chosen by persons elected directly by the
265 voters, or otherwise. The mayor shall be, by virtue of the office, a member of every appointed
266 multiple member body of the city. The mayor shall have a right, as such ex officio member, to
267 attend any meeting of any appointed multiple member body of the city, at any time, including, so
268 called executive sessions, to participate in the discussions, to make motions and to exercise every
269 other right of a regular member of such body, but not including the right to vote.

270 SECTION 3-3: APPOINTMENTS BY THE MAYOR

271 The mayor shall appoint, subject to the review of such appointments by the city council as
272 provided in section 2-10, all city officers and department heads and the members of multiple-
273 member bodies for whom no other method of appointment or selection is provided by the
274 charter, excepting only persons serving under the school committee, and persons serving under
275 the city council. All appointments to multiple-member bodies shall be for terms established in
276 accordance with the provisions of article 6. Upon the expiration of the term of any member of a
277 multiple-member body, a successor shall be appointed as provided for in accordance with the
278 provisions of article 6. The mayor shall fill any vacancy for the remainder of the unexpired term
279 of any member of a multiple-member body. All appointments and promotions made by the
280 mayor shall be made on the basis of merit and fitness demonstrated by examination, past
281 performance, or by other evidence of competence and suitability. Each person appointed to fill
282 an office or position shall be a person especially fitted by education, training and previous work
283 experience to perform the duties of the office or position for which the person is chosen.

284 SECTION 3-4: TEMPORARY APPOINTMENTS TO CITY OFFICES

285 Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs of the
286 city require that such office be filled, the mayor may designate the head of another city agency or
287 a city officer or city employee, or some other person to perform the duties of the office on a
288 temporary basis until such time as the position can be filled as otherwise provided by law or by
289 this charter. The mayor shall file a certificate in substantially the following form, with the city
290 clerk, whenever a person is designated under this section:

291 I designate (name of person) to perform the duties of the office of (designate office in which
292 vacancy exists) on a temporary basis until the office can be filled by (here set out the regular
293 procedure for filling the vacancy, or when the regular officer shall return). I certify that said
294 person is qualified to perform the duties which will be required and that I make this designation
295 solely in the interests of the city of Northampton.

296 (signed)

297 Mayor

298 Persons serving as temporary officers under the authority of this section shall have only those
299 powers of the office indispensably essential to the performance of the duties of the office during
300 the period of such temporary appointment and no others. Notwithstanding any general or special
301 law to the contrary, no temporary appointment shall be for more than 90 days, provided,
302 however, not more than two 30 day extensions of a temporary appointment may be made when a
303 permanent vacancy exists in the office.

304 SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

305 (a) Communications to the City Council - The mayor shall, from time to time, by written
306 communications, recommend to the city council for its consideration such measures as, in the
307 judgment of the mayor, the needs of the city require. The mayor shall, from time to time, by
308 written communication, keep the city council fully informed of the financial and administrative
309 condition of the city and shall specifically indicate in any such reports any fiscal, financial or
310 administrative issues facing the city.

311 (b) Special Meetings of the City Council - The mayor may at any time call a special meeting of
312 the city council, for any purpose. Notice of said meeting shall, except in an emergency of which
313 the mayor shall be the sole judge, be delivered at least 48 weekday hours in advance of the time
314 set and shall specify the date, time, and location of the meeting and the purpose or purposes for
315 which the meeting is to be held. A copy of each such notice shall, immediately be posted as the
316 General Laws relative to such postings shall require.

317 SECTION 3-6: APPROVAL OF MAYOR, VETO

318 Every order, ordinance, resolution or vote adopted or passed by the city council relative to the
319 affairs of the city, except memorial resolutions, the selection of city officers by the city council
320 and any matters relating to the internal affairs of the city council, shall be presented to the mayor
321 for approval within 3 business days of such adoption or passage. If the mayor approves of the
322 measure the mayor shall sign it; if the mayor disapproves of the measure the mayor shall return
323 the measure, with the specific reason or reasons for such disapproval attached thereto, in writing,
324 to the city council. The city council shall enter the objections of the mayor on its records, and not
325 sooner than 10 business days, nor later than 30 days from the date of its return to the city council,
326 shall again consider the same measure. If the city council, notwithstanding such disapproval by

327 the mayor, shall again pass the order, ordinance, resolution or vote by a two thirds vote of the
328 full council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve
329 the same. If the mayor has neither signed a measure nor returned it to the city council within 10
330 days following the date it was presented to the mayor, the measure shall be deemed approved
331 and in force.

332 SECTION 3-7: TEMPORARY ABSENCE OF THE MAYOR

333 (a) Acting Mayor – Whenever, by reason of sickness, absence from the city or other cause, the
334 mayor shall be unable to perform the duties of the office, the president of the city council shall
335 be the acting mayor. The city council, by the affirmative vote of 7 members, shall determine
336 whether the mayor is unable to perform the duties of the office. Notwithstanding any general or
337 special law to the contrary, said vote shall be taken in public session by a call of the role.

338 (b) Powers of Acting Mayor – The acting mayor shall have only those powers of the mayor as
339 are indispensably essential to the conduct of the business of the city in an orderly and efficient
340 manner and on which action may not be delayed. The acting mayor shall have no authority to
341 make any permanent appointment or removal from city service unless the disability or absence of
342 the mayor shall extend beyond 60 days nor shall an acting mayor approve or disapprove of any
343 measure adopted by the city council unless the time within which the mayor must act would
344 expire before the return of the mayor. During any period in which any member of the city
345 council is serving as acting mayor, such councilor shall not vote as a member of the city council.

346 SECTION 3-8: DELEGATION OF AUTHORITY BY MAYOR

347 The mayor may authorize any subordinate officer or employee of the city to exercise any power
348 or perform any function or any duty which is assigned by this charter, or otherwise, to the mayor

349 and the mayor may rescind or revoke any such authorizations previously made: provided,
350 however, that all acts performed under any such delegation of authority during such period of
351 authorization shall be and remain the acts of the mayor. Nothing in this section shall be
352 construed to authorize a mayor to delegate the powers and duties as a school committee member,
353 the power of appointment to city office or employment or to sign or return measures approved by
354 the city council.

355 SECTION 3-9: VACANCY IN OFFICE OF MAYOR

356 (a) If a vacancy in the office of mayor occurs prior to the eighteenth month of the term for which
357 the mayor is elected, the city council shall forthwith, in the manner provided in section 8-1, order
358 a special election to be held within 90 days following the date the vacancy is created, to fill such
359 vacancy until the next regular city election. The person elected at such regular city election shall
360 take office immediately. If a regular city election is to be held within 120 days following the date
361 the vacancy is created a special election need not be held and the office shall be filled by vote at
362 such regular city election.

363 (b) If a vacancy in the office of mayor occurs between the nineteenth and twenty-second month
364 of the term for which the mayor is elected, the city council president shall serve as mayor until
365 the next regular election. The person elected as mayor under this subsection shall take office
366 immediately and serve for the balance of the then unexpired term.

367 (c) If a vacancy in the office of mayor occurs during the twenty-third and fortieth month of the
368 term for which the mayor is elected, the city council shall forthwith, in the manner provided by
369 section 8-1, order a special election to be held within 90 days following the date the vacancy is
370 created, to serve for the balance of the then unexpired term.

371 (d) If a vacancy in the office of mayor occurs during or after the forty-first month of the term for
372 which the mayor was elected, the city council president shall serve for the balance of the then
373 unexpired term.

374 (e) In the event that the city council president is unable to serve as mayor under this section, the
375 city council shall elect, from among its membership, a person to serve as mayor.

376 (f) Any person serving as mayor under this section shall receive the compensation then in effect
377 for the office of mayor.

378 ARTICLE 4

379 SCHOOL COMMITTEE

380 SECTION 4-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

381 (a) Composition – There shall be a school committee which shall consist of 10 members. Two of
382 these members shall be nominated and elected by and from the voters of the city at large and 7 of
383 these members shall be nominated and elected by ward. The mayor shall serve, by virtue of the
384 office, as the chair of the school committee with all of the same powers and duties as the
385 members elected by the voters as school committee members.

386 (b) Term of Office – The term of office for the elected school committee members shall be for 2
387 years, beginning on the first Monday in January succeeding their election, except when said first
388 Monday falls on a legal holiday, in which event the term shall begin on the following day, and
389 until their successors have been qualified.

390 (c) Eligibility – A school committee member shall at the time of election be a voter. If a school
391 committee member removes from the city during the term for which elected such office shall

392 immediately be deemed vacant and filled in the manner provided in section 4-6. A ward school
393 committee member who removes from the ward from which elected and who remains a resident
394 of the city may continue to serve during the term for which elected.

395 SECTION 4-2: SCHOOL COMMITTEE CHAIR AND VICE CHAIR

396 (a) Chair – The mayor, as school committee chair, shall preside at all meetings of the
397 school committee, regulate its proceedings and shall decide all questions of order. The school
398 committee chair shall appoint all members of all committees of the school committee, whether
399 special or standing. The school committee chair shall have the same powers to vote upon all
400 measures coming before the school committee as any other member of the school committee.
401 The school committee chair shall perform such other duties consistent with the office as may be
402 provided by this charter or by vote of the school committee.

403 (b) Vice-Chair - As soon as practicable after the school committee members-elect have been
404 qualified following each regular city election, the school committee shall organize by electing 1
405 of the persons elected to the office of school committee member to serve as school committee
406 vice- chair. The school committee vice-chair shall preside in the absence of the mayor.

407 SECTION 4-3: PROHIBITIONS

408 No member of the school committee shall hold any other compensated city position. No former
409 member of the school committee shall hold any compensated appointed city office or city
410 employment until 1 year following the date on which such member's service on the school
411 committee has terminated. This provision shall not prevent a city officer or other city employee
412 who has vacated a position in order to serve as a member of the school committee from returning
413 to the same office or other position of city employment held at the time such position was

414 vacated; provided, however, no such person shall be eligible for any other municipal position
415 until at least 1 year following the termination of service as a member of the school committee.

416 SECTION 4-4: COMPENSATION

417 The city council may, by ordinance, establish an annual salary for the elected members of the
418 school committee. No ordinance increasing or reducing the salary of elected members of the
419 school committee shall be effective unless it shall have been adopted by a two thirds vote of the
420 full city council. No ordinance increasing the salary of the elected members of the school
421 committee shall be effective unless it shall have been adopted during the first 18 months of the
422 term for which elected school committee members are elected and unless it provides that the
423 salary increase is to take effect upon the organization of the city government following the next
424 regular city election.

425 SECTION 4-5: SCHOOL COMMITTEE POWERS AND DUTIES

426 The school committee shall have all powers which are conferred on school committees by the
427 General Laws and such additional powers and duties as may be provided by the charter, by
428 ordinance, or otherwise and not inconsistent with said grant of powers conferred by the General
429 Laws. The powers and duties of the school committee shall include the following:

430 (1) To elect a superintendent of the schools who shall be charged with the administration of the
431 school system, subject only to policy guidelines and directives adopted by the school committee
432 and, upon the recommendation of said superintendent, to establish and appoint assistant or
433 associate superintendents as provided in section 59 of chapter 71 of the General Laws;

434 (2) To make all reasonable rules and regulations for the management of the public school system
435 and for conducting the business of the school committee as may be deemed necessary or
436 desirable;

437 (3) To adopt and to oversee the administration of an annual operating budget for the school
438 department, subject to appropriation by the city council. The school committee shall have
439 general charge and superintendence of all school buildings and grounds and shall furnish all
440 school buildings with proper fixtures, furniture and equipment. The school committee shall
441 provide ordinary maintenance of all school buildings and grounds; unless a central municipal
442 maintenance department which may include maintenance of school buildings and grounds is
443 established in accordance with law. Whenever the school committee shall determine that
444 additional classrooms are necessary to meet the educational needs of the community, at least 1
445 member of the school committee, or a designee of the school committee, shall serve on the
446 agency, board or committee to which the planning or construction of such new, remodeled or
447 renovated school building is delegated.

448 SECTION 4-6: FILLING OF VACANCIES

449 Whenever a vacancy shall occur in the office of school committee member the president
450 of the city council shall, within 30 days following the date of such vacancy, call a joint meeting
451 of the city council and the school committee to act to fill said vacancy. The city council and
452 school committee shall choose a person to fill the vacancy from among the voters entitled to vote
453 for such office. Persons elected to fill a vacancy by the city council and school committee shall
454 serve only until the next regular city election, when the office shall be filled by the voters. The
455 candidate elected to an office filled by appointment prior to the election shall be sworn to such

456 office immediately to complete the then unexpired term in addition to the term for which elected.
457 No vacancy shall be filled, in the manner herein provided, if a regular city election is to be held
458 within 120 days following the date the vacancy is declared to exist. Persons serving as school
459 committee members under this section shall not be entitled to have the words “candidate for
460 reelection” printed against their names on the election ballot.

461 ARTICLE 5

462 OTHER ELECTED OFFICIALS

463 SECTION 5-1: CITY CLERK

464 (a) Election; Eligibility - The city clerk shall be elected by and from the voters of the city at
465 large. Any voter shall be eligible to hold the office of city clerk. The city clerk shall devote full
466 time to the office and shall not hold any other elective public office. The city clerk shall perform
467 all the duties and exercise the powers incumbent by law upon the office.

468 (b) Term of Office – The term of office of the city clerk shall be 2 years, beginning on the
469 first Monday in the January succeeding his or her election, except when said first Monday falls
470 on a legal holiday, in which event the term shall begin on the following day, and until the city
471 clerk’s successor has been qualified.

472 (c) Compensation – The city council shall, by ordinance, establish the salary for the office of the
473 city clerk.

474 (d) Temporary Absence - In case of the temporary absence of the city clerk, the mayor shall
475 appoint an acting city clerk. The mayor shall be the sole judge of whether a temporary absence
476 exists in the office of city clerk.

477 (e) Filling of Vacancy - Whenever a vacancy shall occur in the office of city clerk, the
478 city council shall, within 30 days following the date of such vacancy, act to fill said vacancy. A
479 person elected to fill a vacancy by the city council shall serve only until the next regular city
480 election, when the office shall be filled by the voters. The person elected at such regular city
481 election shall take office immediately. No vacancy shall be filled, in the manner herein provided,
482 if a regular city election is to be held within 120 days following the date the vacancy is declared
483 to exist. A person serving as city clerk under this section shall not be entitled to have the words
484 "candidate for reelection" printed against his or her name on the election ballot.

485 Trustees under the will of Charles E. Forbes

486 Five members shall be elected by and from the voters of the city at large for a term of 4 years, so
487 arranged that all members are not elected at the same time. Vacancies shall be filled in a like
488 manner as a city clerk vacancy.

489 Elector under the Oliver Smith will

490 One member shall be elected by and from the voter of the city at large for a term of 2 years.
491 Vacancies shall be filled in a like manner as a city clerk vacancy.

492 Superintendents of Smith's Agricultural School

493 Three members shall be elected by and from the voters of the city at large for a term of 2 years.
494 Vacancies shall be filled in a like manner as a city clerk vacancy.

495 Community Preservation Committee

496 Two members shall be elected by and from the voters of the city at large for a term of 4
497 years. Vacancies shall be filled in a like manner as a city clerk vacancy.

498 ARTICLE 6

499 ADMINISTRATIVE ORGANIZATION

500 SECTION 6-1: ORGANIZATION OF CITY AGENCIES

501 The organization of the city into operating agencies for the provision of services and the
502 administration of the government may be accomplished only through an administrative order
503 submitted to the city council by the mayor. No administrative order may originate with the city
504 council. The mayor may, subject only to express prohibitions in a general law or this charter,
505 submit proposals to reorganize, consolidate or abolish any city agency, in whole or in part, or to
506 establish such new city agencies as is deemed necessary, but no function assigned by this charter
507 to a particular city agency may be discontinued or assigned to any other city agency unless this
508 charter specifically so provides. The mayor may from time to time prepare and submit to the city
509 council administrative orders that establish operating divisions for the orderly, efficient or
510 convenient conduct of the business of the city. These administrative orders shall be accompanied
511 by a message of the mayor which explains the benefits expected to ensue and advises the city
512 council if any provision of an administrative order shall require amendments, insertions,
513 revisions, repeal or otherwise of existing ordinances. Whenever the mayor proposes an
514 administrative order, the city council shall hold one or more public hearings on the proposal
515 giving notice by publication in a local newspaper, which notice shall describe the scope of the
516 proposal and the time and place at which the public hearing will be held, not less than 7 nor more
517 than 14 days following said publication. An organization or reorganization plan shall become
518 effective at the expiration of 60 days following the date the proposal is submitted to the city
519 council unless the city council shall, by a majority vote, within such period vote to disapprove

520 the plan. The city council may vote only to approve or to disapprove the plan and may not vote
521 to amend or to alter it.

522 SECTION 6-2: MERIT PRINCIPLES

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

528 ARTICLE 7

529 FINANCE AND FISCAL PROCEDURES

530 SECTION 7-1: FISCAL YEAR

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

533 SECTION 7-2: ANNUAL BUDGET POLICY

534 The mayor shall call a joint meeting of the city council and school committee, to include the
535 superintendent of schools, before the commencement of the budget process to review the
536 financial condition of the city, revenue and expenditure forecasts, and other relevant information
537 prepared by the mayor in order to develop a coordinated budget.

538 SECTION 7-3: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE

539 At least 45 days before the beginning of the fiscal year, the mayor shall submit to the city council
540 a proposed operating budget for all city agencies, which shall include the school department, for
541 the ensuing fiscal year with an accompanying budget message and supporting documents. The
542 budget message submitted by the mayor shall explain the operating budget in fiscal terms and in
543 terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the
544 city for the ensuing fiscal year, describe important features of the proposed operating budget and
545 include any major variations from the current operating budget, fiscal policies, revenues and
546 expenditures together with reasons for these changes. The proposed operating budget shall
547 provide a complete fiscal plan of all city funds and activities and shall be in the form the mayor
548 deems desirable; provided, however, that the budget for elected officials shall identify the cost of
549 compensation and the cost of benefits for those officials. The school budget, as adopted by the
550 school committee shall be submitted to the mayor at least 30 days before the submission of the
551 proposed operating budget to the city council. The mayor shall notify the school committee of
552 the date by which the proposed budget of the school committee shall be submitted to the mayor.
553 The mayor and the superintendent of schools shall coordinate the dates and times of the school
554 committee's budget process under the General Laws.

555 SECTION 7-4: ACTION ON THE OPERATING BUDGET

556 (a) Public Hearing - The city council shall publish in at least 1 local newspaper a notice of the
557 proposed operating budget as submitted by the mayor. The notice shall state (1) the times and
558 places where copies of the entire proposed operating budget are available for inspection by the
559 public, and (2) the date, time and place not less than 14 days after its publication, when a public
560 hearing on the proposed operating budget will be held by the city council.

561 (b) Adoption of the Budget - The city council shall adopt the proposed operating budget, with or
562 without amendments, within 45 days following the date the proposed budget is filed with the city
563 clerk. In amending the proposed operating budget, the city council may delete or decrease any
564 amounts except expenditures required by law, but except on the recommendation of the mayor,
565 the city council shall not increase any item in or the total of the proposed operating budget,
566 unless otherwise authorized by the General Laws. If the city council fails to take action on any
567 item in the proposed operating budget within 45 days after its receipt, that amount shall, without
568 any action by the city council, become a part of the appropriations for the year, and be available
569 for the purposes specified.

570 SECTION 7-5: CAPITAL IMPROVEMENT PROGRAM

571 (a) Submission - The mayor shall submit a capital improvement program to the city council at
572 least 120 days before the start of each fiscal year. The capital improvement program shall
573 include:

574 (1) a general summary of its contents;

575 (2) a list of all capital improvements proposed to be undertaken during the next ensuing 5 years,
576 with supporting information as to the need for each capital improvement;

577 (3) cost estimates, methods of financing and recommended time schedules for each
578 improvement; and,

579 (4) the estimated annual cost of operating and maintaining each facility and piece of major
580 equipment involved.

581 This information is to be annually revised by the mayor with regard to the capital improvements
582 still pending or in the process of being acquired, improved or constructed.

583 (b) Public Hearing - The city council shall publish in at least one newspaper of general
584 circulation in the city a notice stating: (1) the times and places where entire copies of the capital
585 improvements program are available for inspection by the public; and, (2) the date, time and
586 place not less than 14 days after such publication, when a public hearing on said plan
587 will be held by the city council.

588 (c) Adoption - At any time after the public hearing but before the first day of the last month of
589 the current fiscal year, the city council shall by resolution adopt the capital improvements
590 program with or without amendment, provided that each amendment must be voted separately
591 and that any increase in the capital improvements program as submitted must clearly identify the
592 method of financing proposed to accomplish such increase.

593 SECTION 7-6: INDEPENDENT AUDIT

594 The city council shall annually provide for an outside audit of the books and accounts of the city
595 to be conducted by a certified public accountant, or a firm of certified public accountants, which
596 has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers.

597 The mayor shall annually provide to the city council a sum of money sufficient to satisfy the
598 estimated cost of conducting the audit as presented to the mayor, in writing, by the city council.

599 The award of a contract to audit shall be made by the city council on or before September 15 of
600 each year. The clerk of the council shall coordinate the work of the individual or firm selected.

601 The report of the audit shall be filed in final form with the city council not later than March 1 in
602 the year following its award.

603 SECTION 7-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

604 Except as otherwise may be provided by law, no official of the city of Northampton shall
605 knowingly and intentionally expend in any fiscal year any sums in excess of the appropriations,
606 awards, grants or gifts, duly made in accordance with law, or involve the city in any contract for
607 the future payment of money in excess of these appropriations, awards, grants or gifts. It is the
608 intention of this section that section 31 of chapter 44 of the General Laws shall be strictly
609 enforced. Any official who violates this section shall be personally liable to the city for any
610 amounts so expended to the extent that the city does not recover these amounts from the person
611 to whom the sums were paid.

612 ARTICLE 8

613 ELECTIONS

614 SECTION 8-1: PRELIMINARY ELECTIONS

615 A preliminary election for the purposes of nominating candidates for mayor, councilor-at-large,
616 school committee member-at-large, city clerk, ward city councilor, ward school committee
617 member, trustees under the will of Charles E. Forbes, elector under the Oliver Smith will,
618 superintendents of Smith's Agricultural School and elected members of the Community
619 Preservation Committee, shall be held on the third Tuesday in September in each odd-numbered
620 year in which they are to be elected, but the city clerk may, with the approval of the city council,
621 reschedule the preliminary election to the fourth Tuesday in September to avoid a conflict with
622 any civil or religious holiday.

623 Whenever a special election to fill a vacancy is to be held, a preliminary election shall be
624 conducted, if necessary, 28 days before the date established for the special election; provided,
625 however, that a preliminary election to fill a vacancy for ward councilor or ward school
626 committee member, if necessary, shall be held only in the affected ward.

627 SECTION 8-2: PRELIMINARY ELECTION PROCEDURES

628 (a) Signature Requirements - The number of signatures of voters required to place the name of a
629 candidate on the official ballot to be used at a preliminary election shall be as follows: for the
630 office of mayor not less than 150 such certified signatures, for the office of councilor-at-large,
631 school committee member at large, or city clerk, not less than 100 such certified signatures; for
632 the office of ward city councilor, ward school committee member, trustees under the will of
633 Charles E. Forbes, elector under the Oliver Smith will, superintendents of Smith's Agricultural
634 School or the Community Preservation Committee, not less than 50 such certified signatures.
635 Signatures of voters shall be made on a form prescribed by the registrars of voters and shall be
636 made available no earlier than April 2 in each preliminary election year, and such forms shall
637 be submitted to the registrars of voters for certification of the names thereon on or before the
638 fourteenth day preceding the day fixed for submission to the city clerk. Said forms shall be
639 submitted to the city clerk on or before 5 o'clock in the afternoon on the forty-fifth day prior to
640 the declared date of such preliminary election. An individual may appear on the ballot for only
641 one office at any preliminary, regular or special city election.

642 (b) Ballot Position - The order in which names of candidates for each office appear on the ballot
643 shall be determined by a drawing, by lot, conducted by the city clerk at least 40 days before the
644 preliminary election. Such drawing shall be open to the public.

645 (c) Determination of Candidates - The 2 persons receiving at a preliminary election the highest
646 number of votes for nomination for an office shall, except as provided by subsection (d) of this
647 section, be the sole candidates for that office whose names shall be printed on the official ballot
648 to be used at the regular or special city election at which such office is to be voted upon, and no
649 acceptance of a nomination shall be necessary to its validity. If 2 or more persons are to be
650 elected to the same office at such regular or special city election, the several persons equal in
651 number to twice the number so to be elected receiving at such preliminary election the highest
652 number of votes for nomination for that office shall, except as provided by subsection (d) of this
653 section, be the sole candidates for that office whose names shall be printed on the official ballot.
654 If the preliminary election results in a tie vote among candidates for nomination receiving the
655 lowest number of votes which, but for said tie vote, would entitle a person receiving the same to
656 have their name printed on the official ballot for the election, all candidates participating in said
657 tie vote shall have their names printed on the official ballots, although in consequence thereof
658 there shall be printed on such ballots the names of candidates exceeding twice the number to be
659 elected.

660 (d) Condition Making Preliminary Unnecessary - If at the expiration of the time for filing
661 statements of candidates to be voted for at any preliminary election, not more than twice as many
662 such statements have been filed with the city clerk for an office as are to be elected to such
663 office, the candidates whose statements have thus been filed shall be deemed to have been
664 nominated to said office, and their names shall be voted on for such office at the succeeding
665 regular or special city election, as the case may be, and the city clerk shall not print said names
666 upon the ballot to be used at said preliminary election and no other nomination to said office
667 shall be made. If in consequence it shall appear that no names are to be printed upon the official

668 ballot to be used at any preliminary election in any ward or wards of the city, no preliminary
669 election shall be held in any such ward or wards.

670 SECTION 8-3 REGULAR CITY ELECTION

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

673 SECTION 8-4: BALLOT POSITION, REGULAR CITY ELECTION

674 The order in which names of candidates for each office appear on the ballot for each office shall
675 be determined by a drawing, by lot, conducted by the city clerk no later than 7 days after the
676 certification of the preliminary election results. Such drawing shall be open to the public.

677 SECTION 8-5: NON-PARTISAN ELECTIONS

678 All elections for city offices shall be non-partisan, and election ballots shall be printed without
679 any party mark, emblem, or other political designation.

680 SECTION 8-6: WARDS

681 The territory of the city shall be divided into 7 wards by the city clerk so established as to consist
682 of as nearly an equal number of inhabitants as it is possible to achieve based on compact and
683 contiguous territory, bounded as far as possible by the center line of known streets or ways or by
684 other well-defined limits. Each such ward shall be composed of voting precincts established in
685 accordance with the General Laws. The city council shall from time to time, but at least once in
686 each 10 years, review these wards to insure their uniformity in number of inhabitants.

687 SECTION 8-7: APPLICATION OF STATE GENERAL LAWS

688 Except as otherwise expressly provided in this charter and authorized by law, all city elections
689 shall be governed by the laws of the commonwealth relating to the right to vote, the registration
690 of voters, the nomination of candidates, voting places, the conduct of preliminary, regular and
691 special city elections, the submission of charters, charter amendments and other propositions to
692 the voters, the counting of votes, the recounting of votes, and the determination of results.

693 ARTICLE 9

694 CITIZEN PARTICIPATION MECHANISMS

695 SECTION 9-1: CITIZEN INITIATIVE MEASURES

696 (a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative
697 petition with the city clerk or the secretary of the school committee. The petition shall be
698 addressed to the city council or to the school committee, shall contain a request for the passage
699 of a particular measure which shall be set forth in full in the petition, and shall be signed by at
700 least 250 voters. At least 25 signatures must be certified from each ward. The petition shall be
701 accompanied by an affidavit signed by 10 voters and containing their residential address stating
702 they will constitute the petitioners committee and be responsible for circulating the petition and
703 filing it in proper form.

704 (b) Referral to City Solicitor - The city clerk or the secretary of the school committee shall,
705 immediately following receipt of a proposed petition, deliver a copy of the petition to the city
706 solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, in
707 writing, advise the city council or the school committee and the city clerk whether the measure
708 as proposed may lawfully be proposed by the initiative process and whether, in its present form it
709 may lawfully be adopted by the city council or the school committee. If the opinion of the city

710 solicitor is that the measure is not in proper form, the reply shall state the reasons for this
711 opinion, in full. A copy of the opinion of the city solicitor shall be mailed to the members of the
712 petitioners committee.

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

731 (d) Action on Petitions - Within 30 days following the date a petition has been returned to the
732 city clerk or the secretary of the school committee, and after publication under subsection (f), the

733 city council or the school committee shall act with respect to each initiative petition by passing it
734 without change, by passing a measure which is stated to be in lieu of the initiative measure, or by
735 rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to
736 be a rejection of the initiative measure. If the city council or the school committee fails to act
737 with respect to any initiative measure which is presented to it within 30 days following the date
738 the measure is returned to it, the measure shall be deemed to have been rejected on the thirtieth
739 day. If an initiative measure is rejected, the city clerk or the secretary of the school committee
740 shall promptly give notice of that fact to the petitioners committee, by certified mail.

741 (e) Supplementary Petitions - Within 60 days following the date an initiative petition has been
742 rejected, a supplemental initiative petition may be filed with the city clerk or the secretary of the
743 school committee, but only by persons constituting the original petitioners committee. The
744 supplemental initiative petition shall be signed by a number of additional voters which is equal to
745 at least 5 percent of the total number of registered voters as of the date of the most recent regular
746 city election. The signatures on the initial petition filed under subsection (c), and the signatures
747 on the supplemental petition filed under this subsection, taken together, shall contain the
748 signatures of at least 15 percent of the total number of registered voters as of the date of the most
749 recent regular city election. If the number of signatures to this supplemental petition is found to
750 be sufficient by the city clerk, the city council shall call a special election to be held on a date
751 fixed by it not less than 35 nor more than 90 days following the date of the certificate of the city
752 clerk that a sufficient number of registered voters have signed the supplemental initiative petition
753 and shall submit the proposed measure, without alteration, to the voters for determination, but if
754 any other city election is to be held within 120 days following the date of the certificate, the city

755 council may omit the calling of such special election and cause the question to appear on the
756 election ballot at the approaching election for determination by the voters.

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

761 (g) Form of Question - The ballots used when voting on a measure proposed by the voters under
762 this section shall contain a question in substantially the following form: Shall the following
763 measure which was proposed by an initiative petition take effect?

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

766 o YES o NO

767 (h) Time of Taking Effect – Subject to the provisions of section 9-4, if a majority of the votes
768 cast on the question is in the affirmative, the measure shall be deemed to be effective
769 immediately, unless a later date is specified in the measure.

770 SECTION 9-2: CITIZEN REFERENDUM PROCEDURES

771 (a) Petition, Effect on Final Vote - If, within 21 days following the date on which the city council
772 or the school committee has voted finally to approve any measure, a petition signed by a number
773 of voters equal to at least 15 percent of the total number of voters as of the date of the most
774 recent regular city election and addressed to the city council or to the school committee as the
775 case may be, protesting against the measure or any part of it is filed with the secretary of the

776 school committee or city clerk, the effective date of such measure shall be temporarily
777 suspended. The school committee or the city council shall immediately reconsider its vote on the
778 measure or part of it, and, if the measure is not rescinded, the city council shall provide for the
779 submission of the question for a determination by the voters either at a special election which it
780 may call at its convenience, or within such time as may be requested by the school committee, or
781 at the next regular city election, but pending this submission and determination, the effect of the
782 measure shall continue to be suspended.

783 (b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed
784 a referendum petition and the applicable provisions of section 9-1 as they relate to the filing and
785 certification of signatures shall apply to such referendum petitions, except that the words
786 "measure or part thereof protested against" shall be deemed to replace the word "measure" and
787 the word "referendum" shall be deemed to replace the word "initiative". Subject to the provisions
788 of section 9-4, the measure or part protested against shall be null and void unless a majority of
789 those voting on the question shall vote in favor of the measure or part protested against at the
790 election.

791 SECTION 9-3: INELIGIBLE MEASURES

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

793 (1) proceedings relating to the internal organization or operation of the city council or of the
794 school committee;

795 (2) an emergency measure adopted under the charter;

796 (3) the city budget or the school committee budget as a whole;

797 (4) any appropriation for the payment of the city's debt or debt service;

798 (5) an appropriation of funds to implement a collective bargaining agreement;

799 (6) proceedings relating to the appointment, removal, discharge, employment, promotion,

800 transfer, demotion, or other personnel action;

801 (7) any proceedings repealing or rescinding a measure or part of it which is protested by

802 referendum procedures;

803 (8) any proceedings providing for the submission or referral to the voters at an election; and

804 (9) resolutions and other votes constituting ordinary, routine matters not suitable as the subject of

805 a referendum petition.

806 SECTION 9-4: REQUIRED VOTER PARTICPATION

807 For any measure to be effective under initiative procedure and for any measure to be declared

808 null and void under any referendum procedure, at least 20 percent of the voters as of the most

809 recent regular city election must vote at an election that includes on the ballot submission to the

810 voters of one or more initiative or referendum questions.

811 SECTION 9-5: SUBMISSION OF OTHER MATTERS TO VOTERS

812 The city council may of its own motion, and shall, at the request of the school committee, if a

813 measure originates with that body and pertains to affairs under its jurisdiction, submit to the

814 voters at any regular city election for adoption or rejection any measure in the same manner and

815 with the same force and effect as are hereby provided for submission by initiative or referendum

816 petitions.

817 SECTION 9-6: CONFLICTING PROVISIONS

818 If 2 or more measures passed at the same election contain conflicting provisions, only the one

819 receiving the greatest number of affirmative votes shall take effect.

820 ARTICLE 10

821 GENERAL PROVISIONS

822 SECTION 10-1: CHARTER CHANGES

823 This charter may be replaced, revised or amended in accordance with any procedure made

824 available under the state constitution, or by statutes enacted in accordance with the state

825 constitution.

826 SECTION 10-2: SEVERABILITY

827 The provisions of this charter are severable. If any provision of this charter is held invalid, the

828 other provisions shall not be affected by this holding. If the application of this charter, or any of

829 its provisions, to any person or circumstance is held invalid, the application of the charter and its

830 provisions to other persons and circumstances shall not be affected thereby.

831 SECTION 10-3: SPECIFIC PROVISION TO PREVAIL

832 To the extent that any specific provision of this charter shall conflict with any provision

833 expressed in general terms, the specific provision shall prevail.

834 SECTION 10-4: RULES AND REGULATIONS

835 A copy of all rules and regulations adopted by any city agency shall be placed on file in the
836 office of the city clerk no later than their effective date and shall be available for review by any
837 person who requests such information at any reasonable time. Unless an emergency exists as
838 determined by the mayor, no rule or regulation adopted by any city agency shall become
839 effective until at least 5 days following the date it is so filed.

840 SECTION 10-5: PERIODIC REVIEW OF ORDINANCES

841 Not later than the first day of July, at 5-year intervals, in each year ending in a 5 or in a zero,
842 beginning in 2015, the mayor and city council shall provide for a review to be made of some or
843 all of the ordinances of the city for the purpose of preparing a proposed revision or recodification
844 of them. This review shall be made by a special committee to be established by ordinance. All
845 members of said committee shall be voters of the city. The special committee shall file its report
846 with the city clerk at a date specified by ordinance. The review of city ordinances shall be under
847 the supervision of the city solicitor. Copies of any recommendations shall be made available to
848 the public at a cost not to exceed the actual cost of the reproduction.

849 SECTION 10-6: PERIODIC REVIEW OF CHARTER

850 Not later than the first day of July, at 10-year intervals, in each year ending in a 9, the mayor and
851 city council shall provide for a review to be made of the city charter. This review shall be made
852 by a special committee to be determined by ordinance. All members of the committee shall be
853 voters of the city. The special committee shall file its report with the city clerk at a date specified
854 by ordinance. Copies of any recommendations shall be made available to the public at a cost not
855 to exceed the actual cost of the reproduction.

856 SECTION 10-7: UNIFORM PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

857 (a) Meetings - All appointed multiple member bodies of the city shall meet regularly at the times
858 and places that they, by their own rules, prescribe. Special meetings of any multiple member
859 body shall be held on the call of the chairman or by a majority of the members of the body.
860 Notice of such meeting shall be posted in accordance with law. Except as may otherwise be
861 authorized by law, all meetings of all multiple member bodies shall at all times be open to the
862 public.

863 (b) Meeting Documents and Submissions - Each appointed multiple member body shall
864 determine its own rules and order of business within the bounds of any applicable ordinance that
865 created it. Each multiple member body shall provide for the keeping of agendas, minutes and
866 related submissions of its proceedings. All such documents shall be a public record, and certified
867 copies shall be placed on file in the office of the city clerk within 15 days of their approval.

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

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

877 (e) Residency – Unless otherwise allowed by law, regulation, ordinance, or by this charter, all
878 members of multiple member bodies shall be residents of the city at all times during their term of

879 office. If a member of a multiple member body removes from the city during the term for which
880 appointed, such seat shall immediately be deemed vacant and filled in the manner provided for in
881 section 3-3.

882 SECTION 10-8: NUMBER AND GENDER

883 Words importing the singular number may extend and be applied to several persons or things;
884 words importing the plural number may include the singular.

885 SECTION 10-9: REFERENCES TO GENERAL LAWS

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

891 SECTION 10-10: COMPUTATION OF TIME

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

898 SECTION 10-11: OATHS OR AFFIRMATIONS FOR THE OFFICE OF MAYOR, CITY 899 COUNCIL SCHOOL COMMITTEE, CITY CLERK

900 A mayor-elect (as applicable), the city council members-elect, the school committee members-
901 elect, and all other elected officials shall, on the first Monday in the January of each even-
902 numbered year, except when said first Monday falls on a legal holiday, in which event on the
903 following day, meet and take an oath or affirmation to the faithful discharge of their duties by the
904 city clerk. The city clerk shall first be take the oath or affirmation to the discharge of the duties
905 of the office by a judge of a court of record, or by a justice of the peace. Upon receiving the oath
906 of affirmation, each said official shall document the same by entering his or her name in a
907 journal maintained by the city clerk. In the case of the absence of the mayor-elect or any
908 member-elect of the city council or school committee on the day the oath is administered, the
909 oath or affirmation may at any time thereafter be administered to that person by the city clerk,
910 the assistant city clerk, a judge of a court of record, or by a justice of the peace. Additional
911 inaugural procedures may be prescribed by ordinance.

912 SECTION 10-12: CERTIFICATE OF ELECTION OR APPOINTMENT

913 Every person who is elected, including those elected by the city council, or appointed to an office
914 of the city, shall receive a certificate of such election or appointment from the city clerk. Except
915 as otherwise provided by law, every person who is elected, including those elected by the city
916 council, or appointed to an office of the city, before performing any act under this appointment
917 or election, shall take and subscribe to an oath or affirmation to qualify to enter upon the duties.
918 A record of this oath shall be kept by the city clerk.

919 SECTION 10-13: LIMITATION ON OFFICE HOLDING

920 Unless otherwise allowed by law or this charter, no person shall simultaneously hold more than 1
921 city office or position of employment. This provision may be waived by the mayor upon the

922 appointment of any person to any additional office or position of employment by filing a notice
923 of such waiver with an explanation and justification with the city clerk.

924 SECTION 10-14: FELONY CONVICTION

925 Any elected official who has been convicted of a state or federal felony while holding office
926 shall be deemed to have vacated said office.

927 SECTION 10-15: ENFORCEMENT OF CHARTER PROVISIONS

928 It shall be the duty of the mayor to see that the charter is faithfully followed and complied with
929 by all city agencies and city employees. Whenever it appears to the mayor that any city agency
930 or city employee is failing to follow any provision of this charter the mayor shall, in writing,
931 cause notice to be given to that agency or employee directing compliance with the charter. If it
932 shall appear to the city council that the mayor personally is not following the provisions of the
933 charter it shall, by resolution, direct the attention of the mayor to those areas in which it believes
934 there is a failure to comply with charter provisions. The procedures made available in chapter
935 231A of the General Laws may be used to determine the rights, duties, status or other legal
936 relations arising under this charter, including any question of construction or validity which may
937 be involved in such determination.

938 ARTICLE 11

939 TRANSITIONAL PROVISIONS

940 SECTION 11-1: CONTINUATION OF EXISTING LAWS

941 All general laws, special laws, city ordinances, and rules and regulations of or pertaining to
942 Northampton, including special acts creating regional entities and arrangements of which the city

943 is a member, that are in force when this charter takes effect, and not specifically or by
944 implication repealed by this charter, shall continue in full force and effect until amended or
945 repealed, or rescinded by law, or until they expire by their own limitation. In any case in which
946 the provisions of this charter are found to be inconsistent with the provisions of any general or
947 special law that would otherwise be applicable, the provisions of this charter shall be deemed to
948 prevail. Every inconsistency between the prior law and this charter shall be decided in favor of
949 this charter.

950 SECTION 11-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

951 All city agencies shall continue to perform their duties until re-elected, reappointed, or until
952 successors to their respective positions are duly appointed or elected, or until their duties have
953 been transferred and assumed by another city agency.

954 SECTION 11-3: TRANSFER OF RECORDS AND PROPERTY

955 All records, property and equipment whatsoever of any city agency, or part thereof, the powers
956 and duties of which are assigned in whole or in part to another city agency, shall be transferred
957 immediately to that agency.

958 SECTION 11-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

959 All official bonds, recognizances, obligations, contracts, and other instruments entered into or
960 executed by or to the city before the adoption of this charter, and all taxes, assessments, fines,
961 penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and
962 collected, and all writs, prosecutions, actions and causes of action, except as otherwise provided
963 in this charter, shall continue without abatement and remain unaffected by the charter; and no

964 legal act done by or in favor of the city shall be rendered invalid by reason of the adoption of this
965 charter.

966 SECTION 11-5: DISPOSITION OF CERTAIN SPECIAL LAWS

967 Certain Special Laws Recognized and Retained – The following special acts are hereby
968 retained: chapter 295 of the acts of 1914 and chapter 488 of the acts of 1977 relative to municipal
969 boundaries; chapter 430 of the acts of 2006 relative to the community preservation committee;
970 chapter 882 of the acts of 1967 establishing the Northampton Industrial Realty Development
971 Corporation; chapter 598 of the acts of 1953; chapter 634 of the acts of 1972; chapter 128 of the
972 acts of 1980; chapter 355 of the acts of 1981; chapter 196 of the acts of 1988; chapter 450 of the
973 acts of 1990; chapter 307 of the acts of 1994; chapter 237 of the acts of 1996; chapter 278 of the
974 acts of 2004; chapter 281 of the acts of 2006; chapter 50 of the acts of 2007; chapter 61 of the
975 acts of 2006; chapter 67 of the acts of 2011 relative to land transactions. chapter 500 of the acts
976 of 2004; chapter 67 of the acts of 2005; chapter 68 of the acts of 2005; chapter 408 of the acts of
977 2008 relative to civil service. chapter 21 of the acts of 1895; chapter 547 of the acts of 1955;
978 chapter 67 of the acts of 1984; chapter 480 of the acts of 1982 relative to the Forbes Library.
979 chapter 201 of the acts of 1916 relative to water supply; chapter 414 of the acts of 1895 relative
980 to the Academy of Music; chapter 207 of the acts of 1983 relative to a civil service appointment;
981 chapter 151 of the acts of 1918; chapter 14 of the acts of 1920; chapter 24 of the acts of 1963
982 relative to the Smith Agricultural School; chapter 709 of the acts of 1914 relative to a bridge
983 between the city of Northampton and the town of Hadley; chapter 309 of the acts of 1987
984 relative to the appointment of special police officers; chapter 63 of the acts of 1992 establishing
985 resident parking areas; chapter 494 of the acts of 2004 and chapter 144 of the acts of 2008

986 relative to licenses for the sale of alcoholic beverages; and chapter 43 of the acts of 2008 relative
987 to the investment of trust funds.

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989 hapterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterCha
990 pterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterChapt
991 erChapterChapterChapterChapterChapterChapterChapterChapterChapterChapterSECTION 11-6: TIME
992 OF TAKING EFFECT

993 This charter shall take effect upon its ratification by the voters and in accordance with the
994 following schedule:

995 (1) All city officers and employees shall continue to perform their duties in the same manner and
996 to the same extent as they have performed the same prior to the ratification by the voters of the
997 special act charter.

998 (2) The first election of officers under this charter shall be held on the first Tuesday following
999 the first Monday in November 2013 for the purpose of electing a mayor for a 4-year term,
1000 members of the city council for 2-year terms, 2 members of the school committee elected by and
1001 from the voters at large and the school committee members representing wards 1, 3, 5 and 7 for
1002 2-year terms, a city clerk for a 2-year term, 2 trustees under the will of Charles E. Forbes for 4-
1003 year terms, 1 elector under the Oliver Smith will for a 2-year term and 3 superintendents of the
1004 Smith's Agricultural School for 2-year terms. The members of the school committee
1005 representing wards 2, 4 and 6 elected in the 2011 municipal election shall continue to hold office
1006 until the election of 2015 at which time said school committee offices shall be elected for 2-year
1007 terms. The members of the community preservation committee elected in the 2011 municipal

1008 election shall continue to hold office until the election of 2015 at which time said community
1009 preservation committee offices shall be elected for 4-year terms. A preliminary election for the
1010 purpose of nominating candidates to be elected shall be held on the third Tuesday of September
1011 2013, if necessary, as provided in article 7 of this charter.

1012 (3) On the first Monday in January 2014 the persons elected in November 2013 shall be sworn to
1013 the faithful performance of their duties.

1014 (4) Not later than 30 days following the date of the ratification of this charter by the voters, the
1015 city clerk shall give to each member of the General Court who represents any part of
1016 Northampton a copy of the vote ratifying this charter.

1017 (5) Immediately after the election at which this charter is adopted, the city council shall appoint 4
1018 persons to a committee to begin a review of the city ordinances for the purpose of preparing such
1019 revisions and amendments as may be needed or necessary to bring them into conformity with the
1020 provisions of this charter and to fully implement the provisions of this charter. The city clerk
1021 shall be the fifth member. The committee shall submit a report, with recommendations, within 1
1022 year following its establishment and may submit interim reports with recommendations at any
1023 time. The city solicitor, or special counsel appointed for this express purpose, shall serve as an
1024 advisor to the committee.

1025 (6) No later than September 30, 2014, the mayor shall promulgate a series of administrative
1026 orders providing for the organization of city government into operating agencies in accordance
1027 with article 6.

1028 (7) Until such time as modified in accordance with the provisions of article 6, the provisions of
1029 chapter 354 of the acts of 1888 establishing a sewer commission; chapter 464 of the acts of 1906

1030 establishing the terms of office for park commissioners; chapter 103 of the acts of 1927 relative
1031 to the appointment of the city solicitor; chapter 328 of the acts of 2002 establishing a board of
1032 public works and department of public works; and chapter 166 of the acts of 2005 shall remain in
1033 effect.

1034 (8) Forthwith following the 2013 city election, the persons elected as members of the city council
1035 shall meet for the sole purpose of reviewing and revising policies and procedures, rules, or
1036 interim rules that will govern the conduct of the business of the city council until such time,
1037 following the taking of their oath or affirmation, when the city council adopts permanent rules.
1038 Such meetings shall be called by the council member-elect most senior in age and shall be open
1039 to the public, although the business of any such meetings shall be confined to the topics
1040 identified here. The city clerk shall serve as an advisor to the city council-elect in this endeavor.

1041 (9) Until such time as another salary is established in accordance with the provisions of this
1042 charter, the initial of salary for the mayor, city councilor and school committee member shall be
1043 that which is in effect on the date of the 2013 regular city election.

1044 (10) Within 180 days after the effective date of this charter, the city council shall enact an
1045 ordinance establishing an elected official compensation advisory board. Said ordinance shall
1046 contain provisions that the board shall periodically, but no less frequently than 10 years, study
1047 the adequacy and equity of the compensation, benefits and expense allowances of municipal
1048 elected officials and report its findings and recommendations to the mayor and city council and
1049 said reports shall be filed with the city clerk. Said ordinance shall further specify the
1050 composition, term of office and method of appointment of the members of said board and any
1051 other provisions deemed appropriate by the city council.

1052 (11) The mayor and the city council in office at time this charter is adopted, and the mayor and
1053 successor city council elected pursuant to this charter, shall have the authority to adopt measures
1054 that clarify, confirm, or extend any of the transitional provisions in order that such transition may
1055 be made in the most expeditious manner possible. Such authority shall not extend beyond 5 years
1056 from the date of voter approval of this act.

1057 SECTION 2. Certain Other Obsolete Special Laws Repealed- Chapter 250 of the acts of 1883;
1058 chapter 289 of the acts of 1893; chapter 287 of the acts of 1895; chapter 464 of the acts of 1906;
1059 chapter 147 of the acts of 1907; chapter 265 of the acts of 1927; chapter 245 of the acts of 1946;
1060 chapter 63 of the acts of 1953; chapter 655 of the acts of 1951; chapter 123 of the acts of 1954;
1061 chapter 252 of the acts of 1984; chapter 253 of the acts of 1984; chapter 343 of the acts of 1991;
1062 chapter 45 of the acts of 2004 relative to governance and organizational matters and election
1063 procedures; chapter 115 of the acts of 1885; chapter 99 of the acts of 1886; chapter 98 of the acts
1064 of 1892; chapter 266 of the acts of 1903; chapter 130 of the acts of 1902; chapter 60 of the acts
1065 of 1902; chapter 41 of the acts of 1924; chapter 462 of the acts of 1955; chapter 683 of the acts
1066 of 1957; chapter 666 of the acts of 1965; chapter 276 of the acts of 1972; chapter 262 of the acts
1067 of 1983; chapter 115 of the acts of 1885; chapter 99 of the acts of 1886; chapter 177 of the acts
1068 of 1894; chapter 261 of the acts of 1901 relative to time limited financial matters; chapter 128 of
1069 the acts of 1951; chapter 188 of the acts of 1956; chapter 174 of the acts of 1962; chapter 176 of
1070 the acts of 1962; chapter 45 of the acts of 1964; chapter 46 of the acts of 1964; chapter 47 of the
1071 acts of 1964; chapter 349 of the acts of 1964; chapter 725 of the acts of 1966; chapter 655 of the
1072 acts of 1967; chapter 86 of the acts of 1954; chapter 164 of the acts of 1978; chapter 274 of the
1073 acts of 1978; chapter 74 of the acts of 1979; chapter 261 of the acts of 1992 relative to civil

1074 service, retirement and employees no longer in city service; and chapter 191 of the acts of 1915
1075 relative to crossing over the city of Northampton and the town of Hadley are hereby repealed.

1076 SECTION 3. The state secretary shall place on the official ballot to be used in the city of
1077 Northampton at the biennial state election to be held November 6, 2012 the following question:
1078 Shall an act entitled “ An Act Establishing a Charter for the City of Northampton” be accepted?

1079 The city solicitor shall prepare the summary of the proposed special act charter which shall
1080 appear on the ballot along with the question provided in this section and the city clerk shall
1081 submit the question and summary to the state secretary in accordance with section 42C of
1082 chapter 54 of the General Laws.

1083 If a majority of votes cast in answer to the question is in the affirmative, the city shall be taken to
1084 have accepted the charter of the city of Northampton, but not otherwise.

1085 SECTION 4. This act shall take effect upon its passage.

1086