

**METHUEN HOME RULE CHARTER  
PRELIMINARY REPORT AND DRAFT**  
February 16, 2011

**Respectfully submitted by Methuen Home Rule Charter Review Commission:**

Joseph J. Pappalardo, Chairman  
Dorothy Kalil, Vice-Chairman  
Kenneth Bourassa, Clerk  
John A. Cronin, Jr.  
Dennis A. DiZoglio

Maureen Donovan  
Barbara Grondine  
Patricia Uliano  
Robert Vogler

**SUMMARY OF CONTENTS**

	<u>Page</u>
Summary of Charters in Methuen. . . . .	iii
Article 1. Incorporation; Short Title; Power . . . . .	1
Article 2. Legislative Branch . . . . .	2
Article 3. Executive Branch . . . . .	7
Article 4. School Committee . . . . .	11
Article 5. Financial Procedures . . . . .	13
Article 6. Administrative Departments . . . . .	17
Article 7. Nominations and Elections . . . . .	18
Article 8. Free Petition; Initiative; Referendum; Recall . . . . .	20
Article 9. General Provisions . . . . .	24
Article 10. Transitional Provisions . . . . .	30
Article 11. Provision for Elected Charter Review Commission . . . . .	32
Chronology of Charter Amendments . . . . .	33

Footnote #1 Proposed changes are represented in bold print, underlined, and italicized

Footnote #2 The current Home Rule Charter may be reviewed on the city of Methuen’s website or a copy picked up at City Hall

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

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

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

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

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

**Section 1-1. Incorporation.**

The Inhabitants of the municipality of Methuen, within the corporate limits established by law, shall continue to be a body corporate and politic under the name "City of Methuen".

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

This instrument shall be known, and may be cited as the Methuen Home Rule Charter.

**Section 1-3. Form of Government.**

The administration of the fiscal, prudential, and municipal affairs of the City, with the government thereof, shall be vested in an executive branch, to consist of the Mayor, and a legislative branch, to consist of the City Council. The executive branch shall never exercise any legislative power, and the legislative branch shall never exercise any executive powers. Except as may otherwise be specifically authorized by the Charter, no member of the City Council, nor any committee thereof, shall take any part in the conduct of the administrative business of the City.

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

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

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

**Section 1-5. Construction.**

The powers of the municipality under the Charter are to be construed liberally in favor of the City, and the specific mention of particular powers is not intended to limit, in any way, the general powers of the municipality as stated in Section 1-4.

**Section 1-6. Intergovernmental Relations.**

Subject only to express limitations in the construction of statutes of the Commonwealth, the City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the Commonwealth, or any political subdivision or agency thereof, or the United States government or any agency thereof.

**ARTICLE 2  
Legislative Branch**

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

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

(b) Eligibility

*Residents of the City/District shall be eligible to hold the office of City Councilor.* A member of the City Council shall, notwithstanding his removal from one district to another, continue to serve and to perform his official duties during his term of office.

(c) Election and Term –

*The term of office for all elected offices in the city shall be for two (2) years beginning on the first secular day in January after their election and until their successors are qualified.*

**Section 2-2. Organization.**

After the Councilors elect have been sworn, the City Council shall be called together by the oldest member by age who shall preside. The City Council shall then elect, from among its members, a Chairman and Vice Chairman to serve at the pleasure of the City Council. The Chairman shall preside at all meetings of the City Council and perform such other functions as may be assigned by the Charter, by ordinance, or by vote of the City Council. The Vice Chairman shall act as Chairman of the Council during the absence or disability of the Chairman.

(Elimination of appointed Councilor on School Committee approved by voters November 3rd, 1981; see Resolution #758).

### Section 2-2A Committees

The Chairman of the City Council shall appoint all standing committees, all special committees, shall fill committee vacancies and designate the rank of the members of each committee unless specifically directed otherwise by a majority vote of the council. There shall be the following standing committees:

#### Budget, Finance and Personnel Committees

The City Council Chairman shall ensure items referred to Committee be reported on as soon as possible after item is referred. Any item submitted to a sub-committee of the City Council shall be reported back to the City Council with recommendations for action, if any.

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

The City Council shall, by ordinance, establish an annual salary for its members. Councilors shall be prohibited from receiving any other compensation or anything of value.

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

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

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

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

No Councilor shall, while a member of the City Council, hold any other office or position the salary or compensation for which is payable out of the City treasury. No former Councilor shall hold any compensated appointive City office or City employment until two (2) years after the expiration of his service on the City Council. This provision shall not prevent a City officer or employee who has taken a leave of absence from such duties in order to serve as a member of the City Council from returning to such office or employment following service as a member of the City Council.

**Section 2-6. Filling of Vacancies.**

If a vacancy occurs in the office of Councilor-at-Large or in the office of District Councilor, whether by failure to elect or otherwise, the remaining Councilors shall, within twenty-one days following the date such vacancy is declared to exist, act to fill the said vacancy. The Council shall elect, as acting Councilor whichever of the defeated candidates for the seat in which the vacancy is declared to exist, that person who received the highest number of votes at the last regular City election immediately preceding the date the vacancy is declared to exist, and who received at least twenty (20) percent of the total votes cast for the office at such election, and who remains eligible and willing to serve.

There being no such person, the Council shall choose from among the voters entitled to vote for such Councilor, an acting Councilor to serve for the balance of the unexpired term. If such choice is not made as hereinbefore provided within the said twenty-one days, the choice shall be made by the Councilor senior in length of service, or if there be more than one such, by the Councilor senior both in age and in terms of service. Any person so chosen shall be sworn and commence to serve forthwith. No vacancy shall be filled, in the manner hereinbefore provided, if a regular City election is to be held within one hundred twenty days following the date the vacancy is declared to exist.

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

(a) Exercise of Powers - Except as otherwise prohibited by law or the Charter; the legislative powers of the City Council may be exercised in a manner determined by it.

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

(c) Rules of Procedure - The City Council shall, from time to time, establish rules for its proceedings. Regular meetings of the City Council shall be held at a time and place fixed by ordinance but which shall be not less frequent than once monthly. Special meetings of the City Council may be held on the call of the Chairman of the City Council, or on the call of any three or more members, by written notice delivered to the place of residence or business of each member at least forty-eight hours in advance of the time set. Except as otherwise authorized by General Laws, all sessions of the City Council shall be open to the public and press. Every matter coming before the City Council for action shall be put to a vote, the result of which shall be duly recorded. A full, accurate, and up-to-date record of the proceedings of the City Council shall be kept and shall be open to inspection by the public.

## **Section 2-8. Council Staff.**

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

The City Accountant shall keep and have charge of the accounts of the City. He shall regularly audit the books and accounts of all City agencies, and he shall have such powers and perform such other duties as the City Council may prescribe in addition to such duties as may be prescribed by law. *The City Accountant shall be especially qualified to perform the duties of the office having a Masters Degree in accounting or CPA and at least five years of municipal finance experience.*

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

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

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

(d) Salaries - The City Council shall set the salaries of the City Accountant, Clerk of the Council, Mayor and City Solicitor. (Approved by voters November 5th, 1985; see Resolution #1380 and Chapter 182 of the Acts and Resolves of 1985).

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

(a) In General - No measure shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property. Except as otherwise provided by the Charter, every adopted measure shall become effective at the expiration of thirty days after adoption or at any later date specified therein. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the Charter, or as provided in the initiative and referendum procedures.

(b) Emergency Measures - An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble, which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the City Council.

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

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

**Section 2-10. Delegation of Powers.**

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

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

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

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

**ARTICLE 3  
EXECUTIVE BRANCH**

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

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

(b) Term of Office – The term of office of Mayor shall be two years, beginning on the first secular day of January following his election and until his successor is qualified.

(c) Compensation – The City Council shall, by ordinance, establish an annual salary for the Mayor.

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

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

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

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

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

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

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

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

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

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

(i) *The Mayor* shall negotiate and may execute contracts involving any subject within his jurisdiction. All contracts shall be awarded by the Mayor, however, all contracts, prior to said award, and shall meet with approval, by vote, of the majority of the City Council.

(j) *The Mayor* shall be responsible for the purchasing of all supplies, materials and equipment for all departments and activities of the City, but not including food for schools, school books and other instructional materials, supplies and equipment; library books and related printed and audio-visual subject material, unless otherwise requested by the School Committee or the Library Trustees.

(k) The City of Methuen shall have a board of no less than three (3) Assessors appointed by the Mayor and he shall designate one of his appointees as Chairman thereof.

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

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

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

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

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

Whenever a vacancy, either temporary or permanent, occurs in a Methuen Agency and Methuen employees/offices and the needs of the City require that such office be filled, the Mayor may designate the head of another City agency or a City officer or employee, or some other person, especially fitted by merit and fitness, to perform the duties of the office on a temporary basis until such time as the position can be filled as otherwise provided by law, Charter or ordinance. The Mayor shall file a certificate, in substantially the following form, with the City Clerk whenever he makes a designation under this section:

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

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

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

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

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

Every order, ordinance, resolution or vote adopted or passed by the City Council relative to the affairs of the City shall be presented to the Mayor for his approval. If approved, he must sign it. If not, he shall return it, with his written objections, to the City Council who shall, again, consider it. To override the Mayor's objections, a two-thirds vote is required. Further, the failure of the Mayor to submit his disapproval of the measure with written objections within ten (10) days after it is presented to him shall be deemed valid and in full force and effect. This section shall not apply to emergency measures as provided in Sections 2-9(a) and 2-9(b) of this Charter. *This section shall not apply to any measure enacted by the City Council creating or establishing a subcommittee of the City Council.*

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

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

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

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

(a) Special Election - If a vacancy in the office of Mayor occurs in the first year of the term for which the Mayor is elected, whether by reason of death, resignation, removal from office, incapacity, or otherwise, the City Council shall forthwith order a special election to be held within sixty (60) days following the date the vacancy is created to fill such vacancy for the balance of the then unexpired term.

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

of the City Council as the Mayor under this section, a vacancy shall exist in his seat on the City Council, which shall be filled in the manner provided in Section 2-6.

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

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

The terms of office of Department Heads of the City of Methuen shall be three years. The term “Department Heads”, as used herein, shall mean the Fire Chief, Director of Public Works, Veterans’ Service Agent, City Clerk, Treasurer/Tax Collector, Community Development Director, Police Chief, and the Executive Director of the Council on Aging and such other officers who may be designated as Department Heads under City ordinances.

## **ARTICLE 4 School Committee**

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

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

(b) Eligibility – Only voters shall be eligible to hold office of School Committeeman.

(c) Election and Term – The terms of School Committeemen shall be two years beginning the first secular day in January after election and until their successors are qualified.

### **Section 4-2. Organization.**

The School Committee shall annually organize by the election from among its members a Vice Chairman and a Secretary. The Vice Chairman shall preside at all meetings of the committee in the event of the absence or the disability of the Chairman.

School Committee members shall be prohibited from receiving any other compensation or anything of value

## Section 4-2A Charter Objection

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

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

The School Committee shall have the powers and duties, which School Committees have under the General Laws. The powers of the School Committee shall include, but not be limited to, the power to: (1) appoint a Superintendent; (2) appoint all other officers and employees connected with the schools, except as otherwise provided by this Charter, fix their compensation and define their duties, make rules concerning their tenure of office and discharge them; (3) furnish all school buildings with proper fixtures, furnishings and equipment; and (4) make all reasonable rules and regulations consistent with law, for the management of the public schools of the City and for conducting the business of the Committee.

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

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

## Section 4-5. Prohibitions.

No member of the School Committee shall, during the term for which he was elected, hold any other compensated City office or City employment under the jurisdiction of the School Committee, nor shall he be eligible for appointment to any compensated City office or City employment under the jurisdiction of the School Committee until two (2) years after the term for which he was elected has expired. This provision shall not prevent a City officer or employee, under the jurisdiction of the School Committee, who has taken a leave of absence from such duties in order to serve as a member of the School Committee from returning to such office or employment following such services as a member of the School Committee.

#### **Section 4-6. Filling of Vacancies.**

If a vacancy occurs in the office of School Committeeman, whether by failure to elect or otherwise, the remaining School Committeemen shall, within twenty-one days following the date such vacancy is declared to exist, act to fill the said vacancy. The School Committee shall elect as acting School Committeeman whichever of the defeated candidates for election to the School Committee who received the highest number of votes at the last regular City election immediately preceding the date the vacancy is declared to exist and who received at least twenty (20) percent of the total votes cast for the office at such election, and who remains eligible and willing to serve. There being no such person, the School Committee shall choose from among the voters an acting School Committeeman to serve the balance of the unexpired term. If such choice is not made as hereinbefore provided within the said twenty-one days, the choice shall be made by the School Committeeman senior in length of service, or if there be more than one such, by the School Committeeman senior both in age and in terms of service. Any person so chosen shall be sworn and commence to serve forthwith. No vacancy shall be filled, in the manner hereinbefore provided, if a regular City election is to be held within one hundred twenty days following the date the vacancy is declared to exist.

#### **Section 4-7. Budget Hearing.**

(a) At least thirty (30) days before the meeting at which the School Committee is to vote on the budget request which it will submit to the Mayor for inclusion in the budget he is required to submit to the City Council, the School Committee shall cause to be published in a local newspaper and shall post on the City of Methuen government website a general summary of their proposed budget and the date of the hearing thereon. The summary shall indicate specifically areas of increase from the present budget, if any, and the reasons for such changes and a notice stating (1) the times and places where complete copies of their proposed budget will be available for public examination, and (2) the date, not less than seven nor more than fourteen days following such publication, and the place at which a public hearing will be held by the School Committee on their proposed budget.

(b) The School Committee shall submit its annual budget to the City Council for approval in the following format: Expenditures for the school department in the City, including administration, if any, shall be broken down categorically by line item. Example: Teacher salaries, custodial salaries, teacher aide salaries, teacher supplies, maintenance supplies, etc.

**ARTICLE 5**  
**Financial Procedures**

**Section 5-1. Submission of Budget; Budget Message.**

Within the period prescribed by state statute, the Mayor shall submit to the City Council a proposed budget for the ensuing fiscal year which shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year, and accompanying budget message, and supporting documents, including the estimated effect of the proposed budget on the tax rate. The proposed budget, including departmental requests, shall be in the same format as prescribed by the Mayor.

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

**Section 5-2. Action on the Budget.**

(a) Public Hearing - The City Council shall publish in one or more newspapers of general circulation in the City the general summary of the proposed budget as submitted by the Mayor by a notice stating: (1) the times and places where copies of the proposed budget are available for inspection by the public, and (2) the date, time and place, not less than two weeks after such publication, when a public hearing on said proposed budget will be held by the City Council.

(b) Adoption of the Budget - The City Council shall adopt the budget, with or without amendments, within forty-five days following the date the budget is filed with the Clerk of the Council. In amending the budget, it may delete or decrease any programs or amounts except expenditures required by law or for debt service, but except on the recommendation of the Mayor, it shall not increase any item in or the total of the proposed budget.

If the City Council fails to take action with respect to any item in the budget within forty-five days after receipt of the budget, but no later than June 30<sup>th</sup> such amount shall, without any action by the City Council, become a part of the appropriations for the ensuing fiscal year, and be available for the purposes specified.

**Section 5-3. Capital Improvement Program.**

(a) Submission - The Mayor shall prepare and submit annually to the City Council a five-year capital improvement program at least thirty days prior to the final date for submission of the operating budget.

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

(c) Public Hearing - The City Council shall publish in one or more newspapers of general circulation in the City the general summary of the capital improvement program and a notice stating: (1) the times and places where copies of the capital improvement program are available for inspection by the public; and, (2) the date, time and place not less than two weeks after such publication, when a public hearing on said program will be held by the City Council.

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

#### **Section 5-4. Provision for Outside Audit.**

At least once in every three years an outside audit of the books and accounts shall be made. In the event that the Commonwealth shall fail in any such period to provide for an audit to be conducted, within ninety days following the date a written request for them to do so is made by the City Council, the City Council shall provide for such an audit to be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the City government or of any of its affairs or employees.

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

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

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

Section 5-6 Management Audits

- a) In General – A complete management audit of each city agency shall be made at least once in every eight years in order to accomplish the following purposes:
- 1) To identify any areas which hinder or prevent the city agency from performing its assigned responsibilities, goals or objectives and to offer suggestions for the removal of such obstacles and to suggest ways in which the responsibilities, goals or objectives might better be met.
  - 2) To evaluate the adequacy of management practices being utilized in the agency, with respect to fiscal controls and use of available personnel and equipment.
  - 3) To suggest specific ways and means by which the functions and services of the agency might be improved.
- b) Elements to be Considered – Each such management audit shall include, but need not be limited to, a consideration of the following:
- 1) Organization, staffing and manpower
  - 2) Adequacy of financial controls
  - 3) Facilities and equipment
  - 4) Goal setting long and short range
  - 5) Procurement practices
  - 6) Overtime policies
  - 7) Cost comparisons with other municipalities and comparable private enterprise activities
- c) Organization of Reports – Each management audit shall consist of the following parts:
- 1) Introduction – A brief explanation of the methods used to conduct the audit
  - 2) Scope – A statement of the extent of the examination made
  - 3) Major Contacts – A listing of the names of all persons interviewed in the conduct of the management audit and an outline of the procedures followed.
  - 4) Findings – Details of the practices found during the management audit, which, in the opinion of the audit team, requires modification or other change in order to strengthen and improve the agency and its performance.
  - 5) Recommendations – Specific suggestions for actions to be taken either by the agency itself through changes in its own internal policies and operating procedures, or by the city council, based upon specific findings made.
- d) Administration – The city council shall be responsible for the conduct of all management audits under this section. The city council shall determine which city agencies shall be reviewed in any particular year and shall provide a schedule to assure that each city agency is so audited at least once in ever eight years. The city council shall determine the manner in which such audits shall be conducted and shall award all contracts for professional consulting services in connection therewith. The City Council may delegate the details of the overview of such audits to a standing committee, or to the city auditor or other designee who shall keep it fully informed of the implementation of all changes suggested in such audit reports by the city agencies concerned.

“No official of the City of Methuen, except in the case of an emergency involving the health and safety of the people or their property, shall knowingly expend or cause to be expended in any fiscal year any sum in excess of that official’s departmental or other governmental unit’s appropriation duly made in accordance with the law, nor commit the city, nor cause it to be committed, to any obligation for the future payment of money in excess of that appropriation, with the exception of court judgments.”

Any official who intentionally violates this section shall be personally liable to the city for any amounts expended in excess of an appropriation to the extent that the city does not recover these amounts from the person or persons to whom the amounts were paid. The superior court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the city under this act and to order relief that the court finds appropriate to prevent further violations of this section. Any violation of this section shall be considered sufficient cause for removal.”

“For the purposes of this act, the word “official” shall mean a permanent, temporary or acting city department head, including the superintendent of schools, and all members of municipal bodies, committees, including the school. Committee, and commissions which recommend, authorize or approve the expenditure of funds, and the word “emergency” shall mean a major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected and immediate threat to the health and safety of persons or property.” Said paragraphs reiterate what the Mass General Laws are stating in simpler terms. Reference to deal with matters such as wrongdoings, Statute 1909, c. 486, Section 16, provides: “No official of said city, except in case of extreme emergency...shall expend intentionally any fiscal year any sum in excess of the appropriations duly made in accordance with aw...Any official who shall violate the provisions of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or both.”

**Section 5-7. Chief Financial Officer Obtaining Five (5) Quotes from Banks.**

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

**ARTICLE 6**  
**Administrative Departments**

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

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

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

(a) The Mayor may, from time to time, prepare and submit to the City Council, reorganization plans, which may, subject to applicable law and the Charter, reorganize, consolidate or abolish any City agency, in whole or in part, or establish new City agencies, as he deems necessary or expedient. Such reorganization plan shall be accompanied by an explanatory message when submitted.

(b) Every such reorganization plan shall, upon receipt by the Clerk of the Council, be referred to an appropriate committee of the City Council which shall, not more than thirty days later, hold a public hearing on the matter and shall, within ten days following such hearing, report either that it approves or that it disapproves of the plan. Said plan shall be posted on the City of Methuen Government website with a general description of the proposed plan and the date of the hearing thereon. A reorganization plan shall become effective ninety days after the date it is received by the City Council, unless the City Council has, prior to that date, voted to disapprove the reorganization plan, or, unless a later effective date is specified in the plan. A reorganization plan presented by the Mayor to the City Council under this section may not be amended by it, but shall either be approved or rejected as submitted and shall not be subject to the objection as provided in Section 2-9(c).

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

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

**ARTICLE 7**  
**Nominations and Elections**

**Section 7-1. City Elections; General and Preliminary.**

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

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

**Section 7-2. Preliminary Elections.**

(a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For an office which is to be filled by vote of the whole City, not less than one hundred **and fifty** signatures, not less than fifty from each of the three districts. For an office, which is elected by the voters in a district, not less than fifty signatures from said district.

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

(c) Determination of Candidates for Election – The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number so to be elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.

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

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

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

(a) Information to Voters - If the candidate in a regular City election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election. “*Veteran status should be added if requested by the Veteran and certified by the Veterans Agent.*”

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

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

The City of Methuen shall be divided into twelve precincts, so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits. The twelve precincts shall be separated into three districts. The Central District shall include Precincts 1, 2, 6 and 10; the East District shall include Precincts 3, 7, 9 and 12; and the West District shall include Precincts 4, 5, 8 and 11

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

Except as expressly provided in the Charter and authorized by statute, all City elections shall be governed by the laws of the Commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of Charter amendments and other propositions, the counting of votes and the declaration of results.

**ARTICLE 8**

**Free petition; Initiative; Referendum; Recall**

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

(a) Individual Petitions, Action Discretionary - The City Council and the School Committee shall receive all petitions which are addressed to them and signed by a voter and may, in their discretion, take such action in regard to such petitions as they deem necessary and appropriate.

(b) Group Petitions; Action Required - The City Council (or the School Committee), as the case may be, shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it and which is signed by at least one hundred fifty voters. The hearing shall be held by the City Council or the School Committee, or, in either case, by a

committee or sub-committee thereof and the action by the City Council or School Committee shall be taken not later than three months after the petition is filed with the City Clerk. Hearings on two or more petitions filed under this section may be held at the same time and place. The City Clerk shall mail notice of the hearing to the ten petitioners whose names first appear on each petition at least seven days before the hearing. Notice by publication at least seven days prior to all such hearings shall also be made, and shall be at public expense. No hearing shall be heard upon any one subject matter more than once in any given twelve-month period.

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

(a) Commencement of Proceedings – Initiative procedures shall be started by the filing of an initiative petition with the City Clerk. *The question shall be filed by the city clerk and will forward the initiative petition to the City Solicitor to be approved as to form.* The petition shall be addressed to the City Council or the School Committee, shall contain a request for passage of a particular measure set forth in the petition and shall be signed by not less than ten per cent of the total number of voters.

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

Within five days after the filing of said petition the registrars of voters shall ascertain by what number of voters the petition is signed, and what percentage that number is of the total number of voters and shall attach thereto their certificate showing the result of such examination.

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

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

(b) Referral to City Solicitor - If the City Clerk determines that a sufficient number of signers are voters, he shall transmit a copy of the petition to the City Solicitor.

Within fifteen days after his receipt of the petition the City Solicitor shall advise the City Clerk in writing whether the measure may be proposed by initiative procedures and whether it may lawfully be passed by the City Council or the School Committee. If the opinion

of the Solicitor is that the measure may not lawfully be passed, he shall state his reason or reasons therefore in his reply. The City Clerk shall forthwith furnish a copy of the City Solicitor's opinion to the person designated on the petition as filing the same.

“Initiative Petition; Requirements for Passage and Submission to Electorate. A citizen initiative petition shall be signed by voters equal in number to at least seven percent of the total number of voters. However, as a preliminary matter, a petition that contains no less than 150 signatures may first be submitted to the City Clerk who shall forthwith refer the same to the City Solicitor who within seven days of said referral shall issue an opinion that such measure may lawfully be passed by the City Council or the School Committee. If said opinion states that the measure may be so passed the petition containing the total amount of signatures required as first described herein shall be submitted to the City Clerk. Within twenty days after the date of the certificate of the registrars to that effect the City Council or the School Committee: (1) shall pass said measure without alteration, subject to the referendum vote provided by this Charter; or (2) the City Council shall call a special election to be held on a date fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, that if any City election is otherwise to occur within one hundred and twenty days after the date of said certificate, the City Council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such approaching election.

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

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

Referendum Petition; Effect on Final Passage – If within twenty-nine days after the final passage of any measure, except a revenue loan order, by the City Council or by the School Committee, a petition signed by voters equal in number to at least ten per cent of the total number of voters, and addressed to the City Council or to the School Committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the City Clerk, the same shall thereupon and thereby be suspended from taking effect; and the City Council or the School Committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the City Council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular City election, or at a special election which may, in its discretion, be called for the purpose and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof.

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

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

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

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

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

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

**Section 8-6. Recall Petitions.**

(a) Who Can Be Recalled - The holder of any elective City office may be recalled therefrom by the voters as herein provided.

(b) Recall Petition - Any one hundred fifty voters may file with the City Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for the recall. The City Clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall printed forms of which he shall keep available. The blanks shall be issued by the City Clerk with his signature and the official seal attached hereto. They shall be dated, shall be addressed to the City Council and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the City Clerk. The recall petition shall be returned and filed with the City Clerk within sixty days after the filing of the affidavit, and shall have been signed by at least fifty per cent of the number of voters of the City who have voted in the last preceding local election, or in the case of a district councilman, of the district, who shall add to their signatures the street and number, if any, of their residences.

The City Clerk shall within twenty-four hours of receipt submit the petition to the registrars of voters and the registrars shall forthwith certify thereon the number of signatures, which are names of voters.

(c) City Council's Action on Receiving Petition - If the petition shall be found and certified by the City Clerk to be sufficient, he shall submit the same with his certificate to the City Council without delay, and the City Council shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than forty-five nor more than sixty days after the date of the City Clerk's certificate that a sufficient petition is filed; provided, however, that if any other City election is to occur within sixty days after the date of the certificate, the city council shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(d) Nomination of Candidates - Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the City Clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

(e) Incumbent Holds Office Until Election – The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

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

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

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of the said propositions. Under the proposition shall appear the word "Candidates", the directions to voters required by Section 42 of Chapter 54 of the General Laws, and beneath this, names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question is in the negative, the ballots for candidates need not be counted.

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

## **General Provisions**

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

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

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

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

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

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

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

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

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

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

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

General meetings of the voters may be held from time to time, according to the right secured to the people by the Constitution of the Commonwealth; and all such

meetings may, and upon the request in writing of one hundred voters setting forth the purpose thereof, shall be duly called by the City Council.

**Section 9-7. Severability.**

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

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

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

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

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

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

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

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

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

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

1. A written notice of intent to remove and a statement of the cause or causes therefore shall be delivered by registered mail to the last known address of the person sought to be removed.

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

3. Between one and ten days after the public or closed hearing is adjourned, the City Council shall direct the appointing authority to take final action by either removing the officer or employee or notifying him that the notice has been rescinded.

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

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

(i) A person who holds a position for a fixed term, when his term expires; and

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

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

(a) Meetings - **All public bodies** of the City, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the City as they may prescribe. Except in emergencies, special meetings of any public body shall be held on the call of the respective chairman or by one-third of the members thereof by written notice delivered to the residence or place of business of each member at least forty-eight hours in advance of the time set. Notice of such meetings shall be filed with the City Clerk's office and posted in a manner conspicuously visible to the public at all hours in or on Methuen City Hall. Special meetings of any public body shall also be called within one week after the date of the filing with the City Clerk of a petition signed by at least one hundred voters and which states the purpose or purposes for which the meeting is to be called. Except in cases of special emergency as otherwise authorized by the General Laws, all meetings of all public bodies shall be open and public; however, the public body may meet in a closed or executive session but only in accordance with and for those purposes specifically delineated in the General Laws as they apply to such closed or executive sessions.

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

(c) Rules and Journal - Each public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes. All minutes shall be a public record kept available in a place convenient to the public at all times and certified copies shall be kept available in the City Clerk's office.

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

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

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

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

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

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

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

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

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

1. Proceedings relating to the organization or operation of the City Council or School Committee;
2. An emergency measure passed in conformity with the Charter;
3. The City budget as a whole or the School Committee budget as a whole;
4. A revenue loan order;
5. An appropriation for the payment of the City debts or obligations;
6. Any proceeding or part thereof, relating to the election, employment, appointment, suspension transfer, demotion, removal or discharge of any City officer or employee
7. Any proceeding repealing or rescinding a measure, or a part thereof, which is protested by referendum procedures.

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

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

(h) Municipality - Methuen shall have a municipal form of government.

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

(j) Public body - The words "public body" shall mean any body consisting of two or more persons, whether elected, appointed or otherwise constituted.

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

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

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

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

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

## **ARTICLE 10**

### **Transitional Provision**

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

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

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

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

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

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

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

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

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

All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the City before its adoption of the Charter, and all taxes, special

assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the City, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the Charter; and no legal act done by or in favor of the City shall be rendered invalid by its adoption of the Charter.

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

The salary to be paid to each member of the City Council elected at the first election shall be determined by the City Council but under no circumstances shall an annual salary exceed *\$4,800.00 for a Councilor, \$5,400.00 for the position of Vice-Chairman: and \$6,000.00 for the position of Chairman.* This salary if any shall continue until changed by ordinance under the provisions of Section 2-3 of the Charter.

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

*“This Charter shall become fully effective upon installation of offices in January of the year following the year in which the Charter is adopted, except as otherwise provided in this section.*

*a) Forthwith following the organization of the City Council in the year following the year in which the Charter is adopted, the City Council shall provide for a complete review of the ordinances of the city to bring them into conformity with this Charter such review shall be conducted generally in conformity with provisions of Section 9-3. The City Council shall provide for the adoption of a new compilation of all city ordinances not later than the last day of June in the second year following the year in which the Charter is adopted.*

*b) Each municipal member body shall arrange forthwith for full compliance with the provisions of Section 9-11.*

*c) Forthwith following the organization of the City Council in the year following the year in which the Charter is adopted, the City Council shall cause to be established a special committee to advise in the implementation of the provisions of Section 5-6. Such special committee shall consists of not less than seven (7) or more than eleven (11) persons, chosen by the City Council, including local business leaders, representatives of organized labor and civic organizations. Said special committee shall proposed a plan for the implementation of a management audit system, which plan shall, in particular, propose an order of priority in which such audits are to be conducted. Such plan shall be submitted for the review and consideration of the City Council within one (1) year following the dates on which this City Council is organized.*

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

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

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

(a) **Acts to be Retained-**

Chapter 332 –1992- establishing position of mayor. Said Act shall be retained so far as it is consistent with this charter, provided however, that the provisions of said act relative to limit on terms of service shall no longer be in effect.

Chapter 145-1996-term of city accountant, term of city solicitor.

Chapter 182-1985-relative to city solicitor

Chapter 550-1978-relative to Community Development Board/Department,

Chapter 60-2000-appointment of alternative members to the Community Development Board.

Chapter 95-1993-relative to the Methuen Housing Authority,

Chapter 184-1991-relative to Preliminary Elections.

Chapter 88-1996-relative to precincts.

Chapter 141-2008-exemption police chief from civil service

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

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

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

ARTICLE XI.

General Provision for Elected Charter Review Commission

Section 11-1 In General this charter may be replaced, revised or amended in accordance with any procedure made available under the state constitution, or by statutes enacted in accordance with the state constitution.

Section 11-2 The City of Methuen shall provide, in every year ending in a zero, for a review of the Charter and shall call for the Election of a Charter Review Commission in accordance with State Statute to review and/or revise the Methuen Home Rule Charter of the City Said election shall not require submittal of an Initiative Petition. Recommended changes shall be placed on the ballot for voter approval.

ARTICLE XII.

Section 12-1 Abutter Notice

Section 12-1 Notice of all meetings held by the Community Development Board and the City Council pursuant to the provisions of Chapter 40A, & 5 of the General Laws regarding amendments to the Comprehensive Zoning Ordinance, shall be sent to all abutters, and abutters to abutters, as defined said chapter, whose property shall be affected thereby.

## CHRONOLOGY OF CHARTER AMENDMENTS

1. Home Rule Charter adopted April 23rd, 1977, effective January 1st, 1978.

2. Article 2, City Council, Section 2-2, Organization. Amendment approved by the voters November 3rd, 1981. Amendment submitted to voters by the City Council, Resolution #758, approved March 16th, 1981.

This section originally read as follows:

Section 2-2 Organization.

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

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

This section originally read as follows:

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

4. Article 8, Referendum Petitions, Section 8-3. Amendment approved by the voters November 5th, 1985. Amendment submitted to voters by the City Council, Resolution #1359, approved February 25th, 1985. Said amendment added the last two sentences at the end of the second paragraph.

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

Said Act:

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

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

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

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

Amendment changed:

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

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

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

"Section 7-4 Precincts and Districts.

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

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

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

8. Section 9-10 of Article 9, Removals and Suspensions. The following was added: "Nothing in this section shall be construed as granting a right to such a hearing to a person who is a member of Local 3699, American Federation of State, County and Municipal Employees, AFL-CIO, Methuen Support Staff Employees Unit. Said member shall be governed by the disciplinary procedure of said Unit's collective bargaining agreement with the City of Methuen." Chapter 76 of the Acts and Resolves of 1996.

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

Amendment changed:

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

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

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

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

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

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

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

This section originally read as follows:

"Section 3-3. Appointments by the Mayor.

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

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

12. Article 4, School Committee, Section 4-1, sub-section (a), Composition.

Amendment approved by the voters November 5th, 1996; see Resolution #3745 and Chapter 148 of the Acts and Resolves of 1996.

This sub-section originally read as follows:

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

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

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

The second sentence thereof originally read as follows:

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

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

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

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

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

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

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

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

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