

CHARTER

Editor's note: This charter was approved by the electorate on 11-5-96.

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PREAMBLE

We, the people of the City of Manchester, State of New Hampshire, in order to maintain our right of local self-government and to secure the benefits and advantages granted by the state constitution, do adopt and establish this home rule charter. This charter expresses the desire we, the citizens, have to govern ourselves in the most effective, efficient and beneficial manner. We resolve for ourselves and for our children that there be a representative government which promotes the general welfare and stimulates harmony and creativity among all its citizens. Through the elective process, we secure for ourselves and future generations a municipal government which strives to achieve compassion, freedom and justice.

ARTICLE I. POWERS

SECTION 1.01 INCORPORATION.

The residents of the city shall continue to be a body politic and corporate under the name of Manchester and shall have, exercise and enjoy all rights, immunities, powers and privileges and shall be subject to all duties and liabilities now incumbent upon them as a municipal corporation. All existing property of the city shall remain vested in it, and all existing debts and obligations of the city shall remain obligatory upon it after the adoption of this charter. All ordinances not inconsistent with the provisions of this charter shall continue to remain in full force and effect until amended or appealed.

SECTION 1.02 GENERAL POWERS.

The city shall have all the powers as now or hereafter may be conferred upon cities under the New Hampshire State Constitution and under the Revised Statutes Annotated.

ARTICLE II. THE MAYOR AND BOARD OF ALDERMEN

Board of Aldermen

SECTION 2.01 GOVERNING BODY.

The administration of the fiscal affairs, municipal resources and other affairs of the city shall be vested in a principal officer to be called the mayor and a board of directors to be called the board of aldermen who as a body, acting together, shall be known as the board of mayor and aldermen.

SECTION 2.02 COMPOSITION, ELIGIBILITY AND TERM.

- (a) The board of aldermen shall be composed of fourteen (14) members, one each from the twelve wards of the city and two from the city at-large.
- (b) Aldermen representing a ward shall be residents and qualified voters of the ward. Aldermen at-large shall be residents of the city.
- (c) Aldermen shall be elected to serve a term of two years.
- (d) The board of aldermen shall be the final judge of the election and qualifications of its members.

SECTION 2.03 POWERS AND DUTIES.

- (a) The board of aldermen shall act as the policy making and legislative body for the city government.
- (b) Unless a contrary intent or provision appears in this charter or in State law, the board of aldermen shall have all the powers and discharge all the duties conferred or imposed on city councils, boards of aldermen or selectmen of towns.
- (c) The board of aldermen shall provide for the performance of all duties and obligations imposed on the city by this charter or State law.
- (d) The board of aldermen shall nominate and appoint the city officers listed in Section 3.07 of this Charter.

SECTION 2.04 POWER TO DELEGATE AUTHORITY.

- (a) The board of aldermen may delegate such of its powers as may be lawfully delegated to authorities, boards, commissions, departments or officers.
- (b) The board of aldermen shall not, in the exercise of this power, decrease the administrative and executive powers of mayor and department heads as granted by this charter.

SECTION 2.05 VACANCIES.

- (a) Should a vacancy occur in the office of mayor, the aldermen shall elect a mayor, who shall serve until the next regularly scheduled election for the office of mayor, and until his successor is duly elected and qualified, pursuant to R.S.A. 45:6.
- (b) Should a vacancy occur in the office of alderman, the remaining members shall call a special election in the ward in which the vacancy shall have occurred, to fill the vacancy.
- (c) Should a vacancy occur in the office of school committee-man, the board of aldermen shall fill the vacancy until an election is held.

(Amended by electorate 11-3-15)

SECTION 2.06 MEETINGS.

- (a) Regular meetings of the board of mayor and aldermen shall be held at least monthly as provided by ordinance.
- (b) Special meetings of the board of mayor and aldermen may be called by the mayor or eight (8) of the aldermen.
- (c) The board of mayor and aldermen shall provide a period of public comment at least monthly.

The Mayor

SECTION 2.07 ELIGIBILITY AND TERM.

- (a) The mayor shall be elected for a term of two years.
- (b) The mayor shall have been a resident of the city for at least one (1) year prior to filing for the office of mayor, and be a qualified voter of the city.

SECTION 2.08 POWERS AND DUTIES.

- (a) *Chief executive officer.* The administrative and executive powers of the city shall be vested in the mayor.
- (b) *Administrative powers.* The mayor shall have the power to supervise the administrative affairs of the city. The mayor shall carry out the policies enacted by the board of aldermen and perform other duties as are consistent with those of a chief executive.
- (c) The mayor shall not, in the exercise of his powers, decrease the policy making power of the aldermen as granted in this charter.
- (d) *Presiding officer.* The mayor shall be the presiding officer at all meetings of the board of mayor and aldermen.
- (e) *Voting powers.* The mayor shall have the power to break tie votes of the board of aldermen, pursuant to R.S.A. 45:9.
- (f) *Communication.* The mayor shall keep the aldermen informed of the condition of the city and shall make such recommendations as he may deem advisable.
- (g) *Law enforcement authority.* The mayor shall enforce, or direct other officials to enforce the ordinances of the city, this charter and all general laws and special acts applicable to the city.
- (h) *Budget officer.* The mayor shall exercise administrative control over the expenditure of all appropriations; establish a budget format and the procedures for the adoption of the budget; review all departmental budgetary requests; and make recommendations to the board of aldermen regarding financial policies, appropriation resolutions and revenues.
- (i) *Other powers and duties.* The mayor shall exercise all other powers and discharge all other duties not inconsistent with this charter, municipal ordinances, general law and all special acts pertaining to the city not hereby repealed by this charter.

SECTION 2.09 VETO POWER.

The mayor shall have veto power upon the action of the board of aldermen in all matters. No vote can be passed or appointment made by the board of aldermen over his veto unless a vote to override the veto is approved by at least two-thirds (2/3) of all the aldermen elected.

SECTION 2.10 APPOINTMENTS.

- (a) The mayor shall appoint the members of the standing committees of the board of aldermen and school committee and shall choose the chair for each committee.
- (b) The mayor shall appoint, based upon merit and due consideration of qualifications, all department heads, except the city officers as listed in Section 3.07, and the board of aldermen shall confirm the appointment by a vote of eight (8) aldermen.
- (c) The mayor shall nominate members of boards, commissions and authorities unless such power is granted to someone other than the mayor by state law or this charter. All such appointments shall be made pursuant to the provisions established in Article III, Sections 3.11.

SECTION 2.11 REMOVALS.

- (a) The mayor may remove a department head by giving the department head written notice of and the basis for such action. The removal shall become effective upon the vote of nine (9) members of the board of aldermen. The department head shall be given the opportunity to be heard prior to such vote.
- (b) See Article III, Section 3.14 for the removal procedures for members of boards, commissions and committees.
- (c) See Article III, Section 3.10 for removal of appointed city officers.

ARTICLE III. DEPARTMENTS AND DEPARTMENT HEADS

Departments

SECTION 3.01 DEPARTMENTS.

- (a) All departments of the city in existence on the effective date of this charter shall remain as then organized unless and until nine (9) aldermen shall vote to establish, eliminate, combine or otherwise reorganize departmental structure by ordinance to meet the future needs of the city. Such ordinances(s) shall describe the functions of the departments so

established.

(b) In exercising the powers set forth herein, the aldermen shall detail in any ordinance passed, the scope and duties of any department and shall have the power to consolidate similar functions performed by several departments in one or more departments.

(c) The board of aldermen may by majority vote transfer support functions from one department to another in the interest of economy or efficiency or in keeping with good business practice.

SECTION 3.02 DEPARTMENTS EXISTING AT ADOPTION.

(a) For reference, the following departments of the city exist at the adoption of this charter. The departments existing are as follows:

Board of Assessors
Department of Aviation
Building Department
Office of City Clerk
Economic Development Office
Elderly Services Administration
Finance Department
Fire Department
Health Department
Highway Department
Information Systems
Library
Office of the Mayor
Parks, Recreation, and Cemetery
Personnel Department
Police Department
Public Building Services
Risk Management
Office of City Solicitor
Office of Tax Collector
Traffic Department
Water Department
Welfare Department
Office of Youth Services

(b) It shall be the duty of the first mayor holding office under the provisions of this charter to draft and submit to the board of aldermen within nine (9) months after the adoption of this charter, an ordinance consistent with the charter which defines the functions and duties of each department existing at the time of the ordinance.

Department Heads

SECTION 3.03 NOMINATIONS.

Department heads shall be nominated by the mayor based upon merit and after due consideration of qualifications for office. The board of mayor and aldermen shall adopt a procedure for the selection of department heads which shall require a job description for each position, the posting and advertising of any vacancy in appropriate publications and final selection after an interview process has been completed. Qualified candidates shall be interviewed by the mayor or appropriate commission under Section 3.08 of this charter. The mayor may nominate his choice from among such candidates. No department head shall take office until the nomination has been confirmed by a vote of eight (8) aldermen.

SECTION 3.04 AUTHORITY.

(a) *Chief administrative officer.* The department head shall be the chief administrative officer of the department, subject

to departmental policies, the supervisory authority of the mayor as to administration and policy directives of the board of aldermen or policies established by boards and commissions in accordance with section 2.04 of this charter.

(b) *Exclusive personnel responsibility.* The department head shall have exclusive personnel authority within the department. All appointments and promotions shall be made solely on the basis of merit and only after appropriate examination or review of the applicant's relative knowledge, skills, abilities and experience. Hiring, assignment, promotion, and discipline of personnel within the department shall be subject to the requirements of personnel ordinances and the provisions contained in collective bargaining agreements.

(c) *Supervisory authority.* The department head shall supervise the activities of the department and its employees and shall maintain a proper record of such activities, including money expended.

(d) *Budgetary authority.* The department head shall prepare such budget and program plans and requests as may be necessary for the operation and development of the department. The department head shall submit the same to the mayor for inclusion in the city budget, all in accordance with guidelines set by the mayor.

(e) *Small purchase expenditures.* The department head shall be responsible for budget expenditures made under the small purchase procedures of this charter or ordinances of the city.

SECTION 3.05 TENURE OF OFFICE.

Effective upon the adoption of this charter there shall be no set terms for department heads, subject to the provisions of Article X, Section 10.06.

SECTION 3.06 REMOVAL OF DEPARTMENT HEADS.

The mayor may remove a department head by giving the department head written notice of and the basis for such action. The removal shall not be effective until it has been confirmed by the vote of nine (9) aldermen. The department head shall be given the opportunity to be heard prior to such vote.

Appointed Officers

SECTION 3.07 APPOINTED CITY OFFICERS.

(a) There shall be a city clerk. The city clerk shall be nominated and appointed by the board of aldermen as prescribed by state law.

(b) The Board of Assessors shall consist of three (3) full time members and shall continue to act in its current capacity as a board of appeals for abatements, unless nine (9) members of the Board of Aldermen vote to reorganize the Assessors office pursuant to Section 3.01. The assessors shall be nominated by the board of aldermen, subject to confirmation by eight (8) aldermen, subject to the provisions of Section 3.08 of this charter. One of the three assessors shall be appointed department head by the board of aldermen. The department head shall chair the Board of Assessors.

(c) There shall be a finance officer. The finance officer shall be nominated and appointed by the board of aldermen subject to the provisions of Section 3.08 of this charter.

SECTION 3.08 NOMINATIONS OF APPOINTED OFFICERS.

City officers shall be nominated by the board of aldermen based upon merit and after due consideration of qualifications for office. The board of mayor and aldermen shall adopt a procedure for the selection of officers which shall require a job description for each position, the posting and advertising of any vacancy in appropriate publications and final selection after an interview process has been completed.

SECTION 3.09 TENURE OF OFFICE.

Effective upon the adoption of this charter there shall be no set terms for appointed city officers, subject to the provisions of Article X, Section 10.06.

SECTION 3.10 REMOVAL OF APPOINTED OFFICERS.

The board of aldermen may remove a city officer by giving the city officer written notice of and the basis for such action. The removal shall not be effective until it has been confirmed by the vote of nine (9) aldermen. The city officer shall be given the opportunity to be heard prior to such vote.

Boards, Commissions, and Authorities

SECTION 3.11 DEPARTMENTAL BOARDS AND COMMISSIONS.

(a) In order to provide citizen input to the city departments, the board of mayor and aldermen may establish commissions to consult, advise and make policy recommendations to the department heads and board of mayor and aldermen on matters appropriate to the department.

(b) Upon request of the board of mayor and aldermen or the department head, the commission may advise the board or the department head on specific matters referred to the commission.

(c) The commission shall have no responsibility for personnel decisions or administration of the department unless otherwise required by state statute or this charter.

(d) If specifically requested to do so by the mayor, the commission may serve as a nominating committee to recommend a candidate or candidates to the mayor for department head.

(e) Upon request of the board of aldermen the commission shall assume the policy making authority of the board of aldermen in accordance with Section 2.04 of this charter. The board of aldermen shall retain the right to rescind such action.

SECTION 3.12 EXISTING DEPARTMENTAL BOARDS AND COMMISSIONS.

(a) Each departmental board or commission which exists on the effective date of this charter shall remain in existence unless changes are made in accordance with Section 3.01 above or by this charter. The following is a list of departmental boards, commissions, and authorities in the city at the adoption of this charter:

Airport Authority. The Airport Authority shall continue to have seven members. Two members of the Airport Authority shall continue to be residents of the Town of Londonderry as directed by the Intermunicipal Agreement. At least two members of the authority shall hold airmen's certificates or higher or the military equivalent.

Fire Commission. The Fire Commission shall continue to have five members.

Board of Health. The Board of Health shall continue to have five members. The Board of Health shall have at least one physician, one dentist and one nurse among its membership.

Highway Commission. The Highway Commission shall continue to have five members.

Parks, Recreation and Cemetery Commission. The Parks, Recreation and Cemetery Commission shall continue to have five members.

Police Commission. The Police Commission shall continue to have five members.

Water Commission. The Water Commission shall continue to have seven members. The mayor shall be an ex-officio member of the Water Commission with a vote.

(b) One member of each departmental commission shall be a representative from organized labor, who shall hold a valid union membership at the time of nomination and during his term of office. The mayor shall invite organized labor to submit names for consideration for appointment to these commissions.

SECTION 3.13 ADDITIONAL BOARDS AND COMMISSIONS.

The board of mayor and aldermen may establish additional commissions, boards or authorities by ordinance to consult, advise and make policy recommendations to the board of mayor and aldermen.

SECTION 3.14 MEMBERSHIP LIMITATION, APPOINTMENT, ORGANIZATION, TERMS, AND REMOVAL.

The following provisions shall apply to all commissions, boards and authorities, whether departmental commissions or commissions established by ordinance, and to extent permitted by law, commissions or boards established or required by statute hereinafter referred to as "commission:"

(a) *Membership limitations.*

(1) No commission shall be comprised entirely of members of the same political party. No commission shall have a majority of members from any one ward of the city. The mayor and aldermen shall seek broad geographical representation for members of all commissions.

(2) The mayor shall establish procedures to give reasonable notice of vacancies before they are filled and provide an opportunity for application by citizens of the city.

(3) Members of commissions shall be residents of the city except as required by law.

(b) *Appointments and organization.* The members of all commissions of the city shall be nominated by the mayor and shall not take office until the appointment has been confirmed by a vote of eight (8) aldermen, unless the appointment has been made by the aldermen under the provisions of Section 3.14(g)2. Each January, all commissions shall choose one of its members to chair the commission and one to serve as secretary.

(c) In the event of a vacancy in any commission as a result of resignation, death, expiration of term or other reason, the above nomination and appointment process shall be followed subject to the provisions of 3.14(b).

(d) *Terms and limits.* Members of commissions shall serve for three (3) year terms and shall be limited to two (2) consecutive full terms on the same commission. (A full term shall be considered a term of two (2) years or more.) No member shall take office for a term, having served two (2) consecutive terms, unless two (2) years shall have elapsed since such member completed the second consecutive term.

(e) *Removal for cause.* After a finding by the board of aldermen that there is cause to remove a member of a commission of the city, the member may be removed by a vote of nine (9) aldermen voting on a motion stating specific reasons.

(f) *Attendance.* If any member of a commission fails to attend one third (1/3) of the regularly scheduled meetings of the

board or commission during a calendar year or misses four (4) consecutive meetings held by such commission, the record of attendance shall be reported to the mayor and aldermen who, upon a finding of no reasonable explanation for such absences, shall declare the office vacant.

(g) *Appointment of commissions.*

(1) No member of a commission shall serve in holdover status for a period longer than ninety (90) days after the expiration of any term. At the end of such period, the office shall become vacant unless the mayor has re-nominated the incumbent or nominated a replacement. The mayor shall submit a nomination to the aldermen for confirmation not later than ninety (90) days after the expiration of the term.

(2) In the event the mayor shall fail to submit a nomination in said ninety (90) day period, the position shall be filled by the board of aldermen which shall be entitled to nominate and confirm its choice. Such confirmation vote shall require the votes of nine (9) aldermen.

(3) In the event the mayor makes a nomination in said ninety (90) day period and the nominee is not confirmed, the mayor shall be entitled to nominate a new candidate within ninety (90) days after the rejection of the prior nominee. There shall be no limit on the number of nominees the mayor may nominate as long as nominations are made within ninety (90) days of the rejection of the prior nominee.

ARTICLE IV. SCHOOLS AND SCHOOL COMMITTEE

SECTION 4.01 SCHOOL DISTRICT.

The city of Manchester shall to continue to constitute a single school district and except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall to continue to exercise such power in relation thereto as these respective bodies have under the law in effect at the time of the adoption of this charter.

SECTION 4.02 SCHOOL COMMITTEE.

The School Committee shall be comprised of fourteen (14) members, one each from the twelve wards of the city and two from the city at-large. The school committee shall sit and act together as one body. The mayor shall be an ex-officio member with all the powers and privileges of the other committee members and shall be chairman of the committee.

SECTION 4.03 SUPERINTENDENT OF SCHOOLS.

The school committee shall nominate a candidate for superintendent of schools for election in accordance with state law.

SECTION 4.04 VACANCIES.

Should a vacancy occur in the office of school committeeman, the board of aldermen shall fill such vacancy until an election is held.

ARTICLE V. ELECTIONS

Terms and Definitions

SECTION 5.01 NON-PARTISAN BALLOT SYSTEM.

The mayor, aldermen, school committee members, ward clerks, selectmen and moderators shall be elected by non-partisan ballot.

(Amended by electorate 11-3-15)

SECTION 5.02 MUNICIPAL GENERAL ELECTION.

"Municipal general election" shall mean the biennial municipal election to be held on the Tuesday next following the first Monday of November in each odd numbered year at which time the qualified voters shall choose city and ward officers.

SECTION 5.03 MUNICIPAL PRIMARY ELECTIONS.

"Municipal primary election" shall mean the biennial municipal primary, conducted by the regular election officers, to be held at the regular polling places in each ward on the third Tuesday of September in each odd numbered year at which time the qualified voters shall nominate candidates for the municipal general election held in November.

SECTION 5.04 FILING FEE.

"Filing fee" shall mean the fee paid to the city clerk for the use of the city by each candidate who submits a declaration of candidacy. The amount of the fee for each office shall be as follows: mayor, \$100; aldermen, \$50; school committee, \$25; and all other offices, no fee.

(Amended by electorate 11-3-15)

SECTION 5.05 FILING PERIOD.

“Filing period” shall mean the ten (10) consecutive working days (excluding Saturday and Sunday) commencing on the second Monday in July in each odd numbered year during which candidates for municipal office shall file their declarations of candidacy.

SECTION 5.06 NOMINATING PETITIONS.

“Nominating petitions” shall mean petitions filed with the city clerk by each candidate who submits a declaration of candidacy, and who chooses not to pay the filing fee. The number of petitions for each office shall be as follows: mayor, 200; aldermen, 100; school committee, 50; and other offices none.

(Amended by electorate 11-3-15)

SECTION 5.07 PRIMARY SYSTEM.

(a) In the event, two candidates or fewer, or in the case of at-large aldermanic and school committee elections four candidates or fewer, file for an elected office, the primary election for said office will be declared unnecessary by the city clerk, who shall then declare the candidates nominated and place them upon the municipal general election ballot.

(b) In each primary election, the two candidates, or four candidates in the case of an at-large aldermanic and school committee elections, receiving the highest number of votes shall be selected from those running for said office and shall be placed on the general election ballot.

Political Calendar

SECTION 5.08 AUTHORITY.

Prior to the municipal primary election, the city clerk with the advice and approval of the city solicitor, shall prepare a political calendar for the municipal primary election and the municipal general election setting forth the dates when action is required under the election laws. Any action taken by any candidate or official in connection with the election laws which shall be in accordance with dates set forth in such calendar shall be deemed duly performed for the purposes of the election laws. Copies of such calendar shall be available in the office of the city clerk.

Elected Officers

SECTION 5.09 CITY AND WARD OFFICERS.

At every municipal general election, the following officers shall be elected:

(a) The mayor, the two aldermen at-large, and the two school committeemen at-large of the city; and

(b) One alderman, one member of the school committee, one moderator, one ward clerk and three selectmen by the voters in each ward.

(Amended by electorate 11-3-15)

SECTION 5.10 TERMS OF OFFICE AND VACANCIES.

(a) The city and ward officers so chosen shall hold their respective offices for two (2) years from the first Tuesday in January next following the election and until others are chosen and qualified. Should a vacancy occur in the office of the mayor or alderman, the board of aldermen shall fill such vacancy for the unexpired term.

(b) Should such a vacancy occur in the office of school committeeman, the board of aldermen shall fill such vacancy.

(c) Unexpired term shall mean the remainder of the term or period until a successor is elected and sworn in to fill such term under the provisions of this charter.

(Amended by electorate 11-3-15)

Checklist and Voter Registration

SECTION 5.11 BOARD OF REGISTRARS.

(a) *Number of members.* There shall be a board of registrars consisting of five (5) members. Four (4) members shall be registered voters who shall have been residents of the city for at least five (5) years immediately preceding the date of their appointment. The fifth member shall be the city clerk.

(b) *Appointments.* Each member, except the city clerk, shall be appointed by the mayor subject to the approval of the board of aldermen.

(c) *Political representation.* The four (4) registered voter members of the board shall represent the two (2) leading political parties at the preceding state election, but in no event shall more than two (2) of the registered voters of the board be of the same political party.

(d) *Term of office.* Appointments to the board shall continue to be made annually in April, and each member, except the city clerk, shall serve a three (3) year term beginning on the first day of May and continuing until his successor is appointed and qualified. Except for the City Clerk, no member shall serve more than two (2) consecutive three year terms.

(e) *Vacancies.* Vacancies for the unexpired term shall be filled in the same manner as the original appointment.

(f) *Organization.* Annually in May before transacting any other business, the board of registrars shall appoint one of its members as chairman and one as clerk.

SECTION 5.12 ACTIONS BY A SINGLE REGISTRAR.

Any member of the board of registrars, at a place, on the days, and during the hours designated for registration, may accept applications and may examine applicants and witnesses under oath. All actions by a single registrar shall be subject to the revision and acceptance of the board of registrars.

SECTION 5.13 DEPUTY REGISTRARS.

The board of registrars is empowered, from time to time, to appoint such deputies as may be required, who shall perform all duties as directed by the board of registrars, including registration of voters.

SECTION 5.14 PROHIBITION AGAINST HOLDING OTHER PUBLIC OFFICES.

Except for the City Clerk, no person shall be appointed as a registrar or deputy registrar who holds any other elective or appointed political office. The acceptance by a registrar or deputy registrar of an office which he is prohibited from holding shall vacate his office as registrar or deputy registrar.

SECTION 5.15 SESSIONS.

The board of registrars shall be in session to receive applications during the normal business hours of the city clerk's office and at such times as may be determined by the board of registrars.

Qualifications for Office

SECTION 5.16 CITIZENSHIP.

To file as a candidate for or to hold any elective city or ward office, a person must be a citizen of the United States either by birth or naturalization.

SECTION 5.17 DOMICILE.

To file as a candidate for or to hold any elective city or ward office, a person must have and maintain during his term of office a domicile in the city or ward as the case may be.

SECTION 5.18 REGISTERED VOTER.

To be a candidate for or to hold any elective city or ward office, a person must be a registered and qualified voter in the City of Manchester.

SECTION 5.19 MAYOR.

To file as a candidate for the office of mayor one must be a resident of the city for one (1) year immediately preceding and shall continue to be a resident of the city during his term of office.

(Amended by electorate 11-3-15)

Nominations

SECTION 5.20 CANDIDATES.

The name of any candidate shall not be printed upon the ballot for the municipal primary election unless such candidate:

- (a) Shall have met all qualifications for office sought; and
- (b) Shall have filed during the filing period a declaration of candidacy and any other required forms together with the requisite filing fee or shall have filed during the period the requisite number of nominating petitions.

Primary

SECTION 5.21 POSTING NOTICE OF PRIMARY.

Each ward clerk shall cause notice of such primary to be posted in three (3) public places in such ward no later than the last Tuesday of July of each odd numbered year.

Post-Election Procedure

SECTION 5.22 PRESERVATION OF BALLOTS AND CHECKLISTS.

The clerks of the wards shall preserve all votes, whether by machine or by ballot, cast and counted at each election and shall deliver them immediately, together with the checklist used at such election, to the city clerk. All municipal general election votes and checklists shall be preserved by the city clerk for a period of sixty (60) days.

SECTION 5.23 DECLARATION OF ELECTION RESULTS.

When the city clerk has received the returns for an office all wards comprising the elective district for that office, he shall examine, record and total such returns. Within twenty-four (24) hours of the closing of the polls the city clerk shall declare elected to the office the same number of persons as the number of officers to which the elective district is entitled. Those persons declared officers elect shall be those persons who received the highest number of votes cast.

Recounts

SECTION 5.24 APPLICATION AND FILING FEE.

Any candidate for whom a vote was cast for any office in any election or who was named on the ballot, who is not, according to the count first made by the officials, elected to such office or chosen as one of the final candidates after a primary election, may apply to the city clerk for a recount of the votes cast, provided that the application is received within two (2) days after the municipal primary or general election results. The application must be accompanied by a fee equal to the filing fee established for such office.

SECTION 5.25 BOARD OF RECOUNT.

(a) *Number of members.* There shall be a board of recount consisting of three (3) members: One member of the board of aldermen designated by the mayor, one member of the Republican party and one member of the Democratic party nominated by the mayor and confirmed by the board of mayor and aldermen. The Republican and Democrat shall not be members of the board of mayor and aldermen.

(b) *Term of office.* The term of office shall be for two (2) years. The provisions of Section 3.14 shall not apply to the board of recount.

(c) *Vacancies.* Vacancies for unexpired shall be filled in the same manner as the original appointment.

(d) *Noncompensatory.* The members of the board of recount shall not be entitled to compensation for their duties as such board.

SECTION 5.26 TIME AND NOTICE.

The board of recount shall fix a time for such recount immediately upon the deadline for the filing of an application, but not later than seven (7) days after the receipt of the application, and shall notify the opposing candidates thereof, and as soon thereafter as circumstances permit, such recount shall be held.

SECTION 5.27 CONDUCT OF RECOUNT.

Upon the date set for the recount, the ballots shall be counted by the board of recount. The various candidates, and their counsel, shall have the right to inspect the ballots and participate in the recount under such suitable rules as the board may adopt.

SECTION 5.28 DECLARATION OF RESULTS.

(a) *Declaration of results.* If a recount shall show that a candidate other than the one declared elected or nominated has the greatest number of votes cast for that office, the board of recount shall declare such candidate elected or nominated.

(b) *Refund of fee.* If the recount shall show that the applicant was elected or nominated, the city clerk, within ten (10) days after such recount, shall return the filing fee.

(c) *Assessment of cost.* If the election results shall show that the applicant lost the election by more than ten (10) percent of the votes cast for that office, such applicant's request for a recount shall be deemed frivolous. If the recount is unsuccessful in overturning the election results, the applicant shall be required to pay the cost of the recount, as determined by the city clerk, within ten (10) days after such determination.

(d) *Right of appeal.* Nothing herein shall be construed as affecting the right of any person to appeal to the court in any matter relative to the election.

Political Campaign Reporting

SECTION 5.29 POLITICAL CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

The provisions of this section shall apply to any municipal election.

Definitions.

(a) "Candidate" shall mean any person publicly declared as such and for whom votes are sought in an election for the offices of mayor, alderman, or school committee.

(b) "Incumbent Official" shall mean an incumbent mayor, aldermen, or school committee member.

(c) "Contribution" shall mean a payment, gift, subscription, assessment, contract, payment for services, dues advance, forbearance or loan to a candidate, an incumbent official or political committee made for the purpose of influencing the

nomination or election of any candidate. Contributions shall include the use of any thing of value but shall not include the services of volunteers who receive no pay therefor or the use of personal resources by a candidate on his behalf.

(d) "Expenditure" shall mean the disbursement of money or thing of value or the making of a legally binding commitment, for political purposes, to make such a disbursement in the future.

(e) "Measure" shall mean any question which is submitted or intended to be submitted to a popular vote at an election.

(f) "Municipal election" shall mean the municipal primary election and the municipal general election.

(g) "Political Committee" shall mean any organization of two (2) or more persons to influence through contributions and or expenditures municipal elections or measures, including the political committee of a political party as hereinafter defined.

(h) "Political committee of a political party" shall mean the state, county, city, ward or town committee of a political party.

Reporting.

(i) *Consent.* Any political committee which is organized to support a candidate in any election shall secure the written consent of the candidate or his fiscal agent before it receives contributions or makes expenditures. Such written consent shall be filed by the city clerk at the time the political committee registers as provided in the following paragraph.

(j) *Registration of political committee.* Prior to the municipal election for which the political committee, is organized, the committee shall file with the city clerk a statement of the purpose of the political committee and a statement of the name, address, occupation and principal place of business, of its chairman, treasurer and other officers, provided, however, that a political committee to promote the nomination of a candidate of a municipal election may not be organized within forty-five (45) days of a municipal primary election.

(k) *Report.*

(1) Each candidate and each political committee whose combined contributions or combined expenditures equal or exceed \$500 dollars shall file a disclosure report with the city clerk within ten (10) days immediately preceding and immediately following an election.

(2) Each incumbent official whose combined contributions or combined expenditures equal or exceed \$500 within any quarter of the calendar year shall file a disclosure report with the city clerk within thirty (30) days of the end of each calendar quarter.

(3) The disclosure report shall be itemized, signed and sworn to either by the incumbent official, the candidate or by the candidate's campaign chairman or treasurer, as applicable, showing each receipt regardless of amount with the full name and address of the contributor and the amount of the contribution made up to the date of the initial report or made since the date of the last report. The report shall also show each expenditure with the full name and address of persons, corporations, committee, or whomever was paid or is to be paid, with the specific nature of the amount of each expenditure made up to the date of the initial report or made since the date of the last report.

(l) *Statement.* Any candidate whose contributions or expenditures are less than the amount designated in the preceding paragraph shall file a statement to that effect which shall be signed and sworn to as set forth in the preceding paragraph.

(m) *Prohibition.* No candidate shall be entitled to nomination or election until the sworn itemized report or statement required to be filed by him or on his behalf has been filed as herein before required.

(n) *Penalty.* Any candidate, or any member of his political committee, who is convicted for failure to comply with this section shall be subject to penalty as provided by law.

(o) *Public inspection.* All reports, statements, written consents and registrations filed by candidates, political committees and political committees of political parties shall be open to the public.

(Amended by electorate 11-3-15)

Applicability of Statutes-Election Materials

SECTION 5.30 STATE ELECTION LAWS.

The provisions of the Revised Statutes Annotated relating to state elections, including but not limited to, time computation, voters and checklists, nominations, preparation of voting materials, absentee voting, pre-election procedure, vacancies, elective districts, political expenditures and contributions and purity of elections, as are not already made specifically applicable to municipal elections, shall apply to all municipal primary and general elections to the extent practicable. The city clerk, in consultation with the chief legal officer, shall determine the applicability of state election laws.

SECTION 5.31 FORMS.

The city clerk shall prepare all forms and related materials necessary for the municipal primary and general elections, including but not limited to, declarations of candidacy, nominating petitions, assent to candidacy, affidavits of qualifications and disclosure forms.

SECTION 5.32 BALLOTS.

(a) *Preparation by city clerk.* The city clerk shall prepare sufficient official and sample ballots and all related material for use at the municipal primary election and municipal general election.

(b) *Format.* The ballot position for candidates in each of the elective offices in the city shall be alphabetical by surname.

(c) *Delivery.* The ballots shall be delivered to the moderator or other officer in charge of the election within one (1) hour of the election.

(d) *Write in votes.* All ballots shall make provisions for write in votes. If a candidate receiving write in votes qualifies as a winner of a primary or general election, that candidate shall be included on the general election ballot or declared elected as if qualified under the other provisions of this charter, if otherwise qualified to hold the office.

SECTION 5.33 WARDS.

Charter amendment passed at the 11/5/2019 municipal general election transferring the ward boundary descriptions from the City Charter to City Ordinances effective upon passage.

ARTICLE VI. BUDGETS AND APPROPRIATIONS

SECTION 6.01 FISCAL YEAR.

The fiscal year of the city shall begin on the first day of July and end on the last day of June.

SECTION 6.02 BUDGET REVIEW AND RECOMMENDATIONS.

(a) The mayor and such other officials as the mayor shall select, shall review all departmental budgets to submit the budget in form set forth in Section 6.03.

SECTION 6.03 BUDGET FORMULATION, SUBMISSION AND MESSAGE.

(a) The mayor shall establish the form and organization of procedures for preparation and adoption of the annual budget, the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

(b) On or before the last day of March of each year, the mayor shall submit to the board of aldermen a budget for the ensuing fiscal year and an accompanying message.

(c) The mayor's budget message shall explain the budget in fiscal terms and as an outline of city programs contained and affected. 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 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.

(d) The budget as presented shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the estimated property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be arranged to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding two (2) fiscal years. It shall indicate in separate sections:

(1) Proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit and program, purpose or activity, and the method of financing such expenditures;

(2) Proposed capital expenditures for at least the ensuing two (2) fiscal years; detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and

(3) The anticipated income and expense and profit and loss for the ensuing year for each utility or other enterprise fund operated by the city.

For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus the fund balance carried forward, exclusive of reserves.

SECTION 6.04 BUDGET ADOPTION.

(a) *Notice and hearing.* The board of mayor and aldermen shall publish a copy of the proposed budget, a notice stating the times and place where copies of the message and budget are available for inspection by the public, and the time and place for a public hearing on the mayor's budget as submitted, at least one week in advance of the public hearing.

(b) *Amendment before adoption.* After the public hearing, the board of mayor and aldermen may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income and provided that no consolidation of city departments shall be accomplished solely in the budget process without separate and specific additional action by the board of mayor and aldermen. If amendments are made to the budget

submitted by the mayor, a second public hearing may be held providing public comment on the changes made, prior to the final adoption of the budget.

(c) *Adoption.* The board of mayor and aldermen shall adopt the budget on or before the second Tuesday in June of the fiscal year currently ending. Such adoption shall include such appropriation and revenue ordinances as shall be required to fund the budget adopted. The power of the mayor to veto acts of the board shall apply to the entire budget or any line item thereof stating the specific reasons for the objection and the proposed alternatives to the item vetoed, subject to the power of the board of aldermen to override. In the event of the exercise of a line item veto all portions of the budget not so vetoed shall be passed. (As used herein "line item" shall mean any object of expenditure listed in the budget.) The school department budget shall constitute a single line item. Action by the board of aldermen on any veto shall be completed by June 30. The final adoption of the budget shall require, subject to the veto powers of the mayor, the vote of eight members of the board of aldermen.

(d) If the board of mayor and aldermen shall fail to adopt appropriation resolutions for the ensuing fiscal year as provided herein, the budget as originally submitted by the mayor shall become the budget.

SECTION 6.05 AMENDMENTS AFTER ADOPTION.

(a) *Supplemental appropriations.* If during the fiscal year the mayor certifies after consultation with and verification by the finance officer that there are available for appropriation revenues in excess of those estimated in the budget, the board of mayor and aldermen may make supplemental appropriations for the year up to the amount of such excess, after observing the budget procedures set forth in Section 6.04 of this charter.

(b) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the mayor after consultation with and verification by the finance officer that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the mayor shall report to the board of mayor and aldermen without delay, indicating the estimated amount of the deficit, any remedial action taken by the mayor and recommendations as to any other steps to be taken. The board of mayor and aldermen shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may reduce one or more appropriations.

(c) *Transfer of appropriations.* At any time during the fiscal year the board of mayor and aldermen may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units after consultation with and verification by the finance officer of the accounts and balances involved and the fact that such funds are unencumbered. The mayor may authorize a department head to transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the board in writing prior to its next meeting. This provision shall not apply to intra-departmental transfers in the school district budget.

(d) *Limitation; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

SECTION 6.06 SCHOOL DISTRICT BUDGET.

The school committee shall prepare and submit its budget proposal. The budget shall be subject to the approval of the board of mayor and aldermen. The budget shall be submitted in accordance with the budget schedule established by the mayor under Section 6.03(a). The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve. The school committee shall then submit a revised budget which shall not exceed the maximum dollar amount established by the board of mayor and aldermen. The school committee shall administer, expend and account for the funds approved by the board of mayor and aldermen and shall have the exclusive authority to transfer funds among line items in the school budget.

SECTION 6.07 SCHOOL COMMITTEE BUDGET HEARINGS.

The school committee shall conduct two (2) public hearings. The first shall be held prior to the submission of the school district budget to the board of mayor and aldermen; the second shall be held within thirty (30) days from the time of adoption of the school committee budget by the board of mayor and aldermen.

SECTION 6.08 ADMINISTRATION OF THE BUDGET.

The board of mayor and aldermen may provide by ordinance any additional procedures for administering of the budget.

SECTION 6.09 OVERSPENDING OF APPROPRIATIONS PROHIBITED.

No payment shall be made or obligation incurred against any appropriation except in accordance with appropriations made. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payments made illegal.

SECTION 6.10 DEBT LIMIT.

The debt limit for the city shall be as prescribed by state law as amended from time to time.

SECTION 6.11 FINANCE OFFICER.

The finance officer, in addition to other duties set forth in this charter or by law, shall maintain accounting control over the finances of the city, shall make financial reports at least quarterly, and shall perform such other duties relating to budget management and control as the board of mayor and aldermen by ordinance may require.

SECTION 6.12 INDEPENDENT AUDIT.

(a) There shall be an Independent City Auditor nominated and appointed by the Board of Aldermen based upon merit and after due consideration of qualifications for office.

(b) The Independent City Auditor shall report to the Board of Mayor and Aldermen or to such committee as the Board of Mayor and Aldermen may designate.

(c) It shall be the duty of the Independent City Auditor to assure that an independent audit shall be made of all books and accounts of the City at least once every year. The audit shall be performed in accordance with the auditing standards promulgated by the Comptroller General of the United States and by certified public accountants or a firm of such accountants experienced in municipal accounting who have no personal interest, direct or indirect, in the fiscal affairs of City government. The Independent City Auditor shall, through a competitive bid process, provide for the selection of the independent auditors in accordance with the City's procurement code. The results of such audit shall be made public and reported to the Board of Mayor and Aldermen.

(d) It shall be the duty of the Independent City Auditor to:

(1) Conduct post-audits of the accounts and records of any City department.

(2) Conduct such program result audits of a department as the Board of Mayor and Aldermen or any committee designated by the Board of Mayor and Aldermen may direct.

(Amended by electorate 11-2-04)

SECTION 6.13 BIENNIAL BUDGETING.

In the event the legislature of the state of New Hampshire authorizes the use of biennial budgeting practices, the board of mayor and aldermen may adopt, consistent with this charter, the biennial budgeting process and set by ordinance any procedures necessary in order to effectively carry out said changes.

SECTION 6.14 FUND DEPOSITORIES.

The Board of Mayor and Aldermen shall provide by ordinance for the designation of one (1) or more depositories of city funds, the periodic deposit of funds and the security required for such funds.

SECTION 6.15 LIMITATION ON BUDGET INCREASE.

A. Limitation on budget increase.

1. Recognizing that final tax rates for the City of Manchester are set by the New Hampshire Department of Revenue Administration pursuant to RSA 21 J:35, I, the board of mayor and aldermen of the City of Manchester and the Manchester School District shall develop their annual budget proposals and shall act upon such proposals in accordance with the mandates of this section.

2. Section 6.15 does not apply to the Enterprise Funds of the City of Manchester, i.e., the Aviation Department, the Environmental Protection Division, the Parking Division, the Water Works, the Recreation Enterprise Division and such other enterprise funds as duly created by the board of mayor and aldermen. Section 6.15 does not apply to the Central Business Service District. Section 6.15 does not apply to amounts payable in connection with municipal bond obligations, whether issued for school or municipal purposes. *Override Provision.* Budgetary restrictions described in any part of Section 6.15 may be overridden upon a vote of two-thirds (2/3) of all aldermen elected. Such override only applies to the budget then under consideration. Supplemental appropriations require two-thirds (2/3) override votes, or the limitations expressed in this section will apply.

3. In submitting their proposed budgets to the board of aldermen, the mayor and school district shall not propose total expenditures excluding amounts payable in connection with municipal bond obligations in an amount exceeding the budget established during the prior fiscal year, excluding amounts payable in connection with municipal bond obligations for the prior fiscal year, increased by a factor equal to the average of the changes in the Consumer Price Index-Urban (CPI-U) for the three (3) calendar years immediately preceding budget adoption as published by the U.S. Bureau of Labor Statistics. If the average of the changes in the Consumer Price Index-Urban as published by the United States Department of Labor for the three (3) immediately preceding calendar years declines, then the increase in total expenditures, excluding amounts payable in connection with municipal bond obligations, shall be zero.

4. In establishing a combined municipal budget, the board of mayor and aldermen shall assume estimated property tax revenues only in an amount not to exceed the property tax revenues raised, excluding property tax revenues raised for amounts payable in connection with municipal bond obligations, during the prior fiscal year increased by a factor equal to the average of the changes in the National Consumer Price Index-Urban as published by the United States Department of Labor for the three (3) calendar years immediately preceding the year of the budget adoption. If the average of the changes

in the Consumer Price Index-Urban as published by the United States Department of Labor for the three (3) immediately preceding calendar years declines, then the increase in property tax revenues, excluding property tax revenues raised for amounts payable in connection with municipal bond obligations, shall be zero.

B. *Exception to budget increase limitation.* Capital expenditures may be excepted from being included in the expenditures that are subject to the prior limitation upon a two-thirds (2/3) vote of all the aldermen elected. Capital expenditures include land, land improvements, easements, buildings, building improvements, vehicles, machinery, equipment and infrastructure assets. The exception made under this section shall only apply to the budget then under consideration, unless two-thirds (2/3) of all the aldermen elected, vote to renew the exception for the next budget year.

C. *Budget limitation in revaluation year.* When there is a citywide revaluation, the board of mayor and aldermen shall adhere to the following limitations for a positive or negative revaluation: Property tax revenues raised in the prior fiscal year, excluding property tax revenues raised for amounts payable in connection with municipal bond obligations of the prior fiscal year, shall not be increased by a factor more than the average of the changes in National Consumer Price Index-Urban as published by the United States Department of Labor for the three (3) calendar years immediately preceding budget adoption, then this figure shall be used in establishing the new municipal budget.

D. *Budget limitation with annual changes in assessments.* When annual changes in real estate values occur as a result of State of New Hampshire assessing requirements, the board of mayor and aldermen shall adhere to a maximum increase in real estate tax revenues as follows:

1. The real estate taxes raised from the prior year shall not be increased by a factor of more than the average of the changes in the National Consumer Price Index-Urban as published by the United States Department of Labor for the three (3) calendar years immediately preceding budget adoption, plus real estate taxes calculated by applying the prior year real estate tax rate to the net increase in new construction. "Net increase in new construction" is defined as the total assessed dollar value resulting from building permit activity less total assessed dollar value resulting from demolition permit-activity for the period of April 1 - March 31 preceding budget adoption.

E. *Total Expenditures.* Total expenditures, excluding amounts payable in connection with municipal bond obligations, for any given budget year shall not exceed the amount of funds reasonably calculated to be derived from property tax revenues pursuant to Paragraph A.4. herein, increased by the other revenues generated by the City.

F. *Effective Date:* Upon Passage

(Approved by electorate 11-3-09; amendment approved by electorate 11-8-11)

ARTICLE VII. PROCUREMENT PROCEDURES

SECTION 7.01 PROCUREMENT CODE.

All purchases made by the city for materials, supplies, services, repairs, construction, or other items shall be made in accordance with a procurement code, which shall be adopted by ordinance by the board of mayor and aldermen. The procurement code shall promote fair and equitable treatment to all suppliers or prospective suppliers of goods or services, promote effective competition among prospective suppliers of goods and services, make as uniform as possible the procedures among various departments and agencies of the city, and promote the economical, effective, and efficient use of the city's total resources.

SECTION 7.02 PROCUREMENT METHODS.

(a) As set forth hereinafter, the procurement code shall specify conditions precedent to and procedures applicable to competitive sealed bidding. As alternatives to competitive sealed bidding, the procurement code may specify conditions precedent to and procedures applicable to the use of one or more of the following methods of procurement: Competitive sealed proposal; small purchase procedures; special competitive selection procedures; and special purchase procedures. Such methods shall be as set in the 1982 Charter or the ordinance adopted thereunder in effect on the effective date of this charter until amended by the board of mayor and aldermen. Any such amendment shall conform with the laws of the State of New Hampshire. No such amendment shall eliminate the requirement for procurement methods as set forth herein but may change the provisions of such procedures for the good of the city.

(b) The city shall not preclude, otherwise qualified businesses or individuals of the City of Manchester from participating in the bidding process. In so far as it is possible, the city shall encourage local businesses to participate in the bidding process.

SECTION 7.03 PROCUREMENT MANAGER.

Subject to the same appointment and removal provisions of this charter as to department heads, the mayor may appoint a professionally qualified and experienced procurement manager for the city to promote the continued development of purchasing policies and practices and to secure the advantages of centralized procurement or cooperative procurement processes.

ARTICLE VIII. GENERAL PROVISIONS

Administrative Rules and Policies

SECTION 8.01 ESTABLISHMENT OF RULES.

The board of mayor and aldermen may establish rules, procedures and standards, hereinafter called policies, relating to matters over which the board has jurisdiction. Such policies shall be set forth in a manual which shall be maintained by the city clerk and made available to the departments.

SECTION 8.02 STATEMENT OF POLICY.

(a) The board of mayor and aldermen shall provide by ordinance for the adoption by city authorities, boards, commissions, departments and officers written statements of policy or interpretations thereof formulated or used in the discharge of their duties.

(b) These statements of policies shall include a general description of the organization of the department, the general course and method of its operations, the methods by which the public may obtain information or make submissions or requests, as well as forms and instructions used in dealing with the public, and a description of such other procedures which may directly bear on relations with the public, including any applicable appeal procedure.

(c) Each authority, board, commission, department and officer shall file all such adopted rules with the city clerk and shall transmit to the city clerk and make available to the public all other written statements of policy or interpretation formulated or used by the agency in the discharge of its duties.

Charter Review Committee

SECTION 8.03 PERIODIC REVIEW.

(a) Not less than once every ten (10) years the board of mayor and aldermen shall cause the question of charter revision to be considered by the voters under the provision of state law. Except as set forth below, nothing in this provision shall limit the availability of the charter amendment process provided by law.

(b) The local procedures used for amendment, revision, or replacement of the charter shall comply with the procedural laws of the state pertaining to amendment, revision or replacement of a city charter as set forth in RSA 49-B, and no legislative approval shall be required to amend, revise or replace those aspects of the charter pertaining to the school district provided that the proposed charter amendment, revision or replacement shall be consistent with the general laws of the state regarding school districts and shall not divest the district of the powers and duties afforded school districts under state law.

(Amended by electorate 11-3-20)

Compensation

SECTION 8.04 COMPENSATION OF OFFICIALS.

(a) The board of mayor and aldermen may determine the salaries of aldermen and school committee members by ordinance provided that no ordinance shall take effect until the commencement of the next term of office of the board of mayor and aldermen.

(b) The salary of the mayor shall be set at sixty-eight thousand dollars (\$68,000) after the election of a new mayor at the next municipal general election. The mayor's salary shall not be increased from the time of any election until the close of the term of the mayor then elected. The board of aldermen shall have the power to increase the mayor's salary as they deem necessary, but shall not lower said salary.

Incompatibility

SECTION 8.05 INCOMPATIBILITY OF OFFICE.

(a) No elected city official shall be employed by the city or by the school district until completion of the term for which the official was elected.

(b) Acceptance of the elected office of mayor, alderman, school committeeman or welfare commissioner by a city or by a school district employee shall result in termination of employment.

(Approved by electorate 11-8-05)

Library

SECTION 8.06 CONTRACT WITH THE ATHENAEUM.

The contract dated September 6, 1854 between the City and the Manchester Athenaeum executed pursuant to the Laws of 1854, Chapter 1588, is recorded in the office of the city clerk in the Manchester City Reports 1855-1859 beginning at page 107. The pro-visions of this charter referring to commissions and department heads shall apply to the library as may be consistent with the contract and state law.

Local Initiative

SECTION 8.07 INITIATIVE.

(a) On the written petition of a number of voters equal to at least fifteen percent (15%) of the registered voters of the city,

including at least six percent (6%) of the registered voters of each ward, the board of mayor and aldermen shall order non-binding informational questions to be placed on the ballot at any general election, whether federal, state or municipal except a primary held within the municipality in accordance with the procedures set forth below.

(b) The petitions shall be limited to questions which do not involve established operational expenses of the city or questions on appointed or elected officials of the city. Each page comprising the total petition shall be complete unto itself as a separate document setting out in full the proposed initiative questions and shall be in such format as is approved by the city clerk prior to voter signature and each such petition shall be signed by only one voter.

(c) Petitions shall be submitted to the city clerk not less than forty-five (45) days prior to the election at which the question is to be submitted to the voters and such petitions shall be collected within twelve (12) months of the election at which the question will appear.

(d) The city clerk shall certify as to the adequacy of such petitions on the examination of the same after referring the same to the board of registrars for verification and report.

(e) On certification by the city clerk of the adequacy of the petitions, the board of mayor and aldermen shall order such questions placed on the ballot, but the result of any such initiative shall be non-binding, unless otherwise required by law.

Oaths

SECTION 8.08 OATHS.

Every person elected or appointed to any city office shall before assuming the duties of office take the oath of office prescribed by law. The oath of office shall be taken the first Tuesday after the first Monday in January.

Retirement

SECTION 8.09 EMPLOYEE RETIREMENT SYSTEM.

(a) The retirement system for city employees approved on referenda, as proposed by Laws 1973, Chapter 218 and Laws 1976, Chapter 24 shall remain in full force and effect.

(b) Eligible persons within the school department, police department and fire department shall participate in the appropriate state administered retirement system as required by law.

(c) Any amounts which may be paid or payable to, or on account of, any member or retired member on account of any disability to which the city has made contributions under the provisions of any worker's compensation or similar law or plan shall be reduced against or from the city pension on account of the same disability, except that any city employee who is receiving both disability retirement benefits and worker's compensation benefits as of January 1, 1986 shall not be affected. (Ord. of 11/5/85)

Editor's note: This section refers to a local law which applies only to Manchester and is not included in the current recodification of the Revised Statutes.

SECTION 8.10 PENSION ACT REPEAL.

(a) All existing annual pension acts are hereby repealed except that such acts shall continue in force with respect to persons already receiving annual pensions and with respect to present employees not disqualified by law or by ordinance from receiving annual pensions under such acts.

(b) The retirement system may be amended by the Trustees of the City Retirement System to meet the requirements of a qualified trust within the meaning of section 401(a), and to qualify as a governmental plan within the meaning of section 414(d) of the United States Internal Revenue Code of 1968, as amended, or replaced and with the laws of the state of New Hampshire.

Separability

SECTION 8.11 PROVISIONS AND APPLICATION.

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

Special Acts

SECTION 8.12 APPLICABILITY.

Special acts inconsistent with the provisions of this charter are repealed to the extent of such inconsistency.

Veterans

SECTION 8.13 VETERANS RECOGNITION.

In recognition of its veterans who have fought and died for their country, the city shall honor them in appropriate ceremonies on Memorial Day and Veterans Day.

Public Participation

SECTION 8.14 PUBLIC COMMENT BOARDS AND COMMISSIONS.

All boards, commission, authorities and committees, acting together as a full body, shall provide for a period of public comment.

Charter Enforcement

SECTION 8.15 CHARTER ENFORCEMENT PROVISION.

- (a) It shall be the responsibility of all elected officials to ensure the enforcement of and compliance with this charter.
- (b) In the event there is an allegation of a violation of the charter or failure to follow its provisions, such allegation shall be referred to the mayor who shall review the allegation with the official or officials involved.
- (c) In the event such review shall not resolve the matter, the mayor shall refer the allegation to the chief legal officer of the city who shall report findings on the allegation to the mayor and board of aldermen within ninety (90) days.
- (d) If the violation or failure is alleged to involve the mayor, the chairman of the aldermen shall receive the allegation and refer it to the chief legal officer of the city.
- (e) If a violation is found to have occurred, the mayor and aldermen shall direct such action or changes in procedure as shall ensure compliance with this charter. This provision shall comprise administrative procedure and remedy for alleged violations of this charter.
- (f) The board of mayor and aldermen shall provide for any procedures necessary in order to address violations of this charter.

ARTICLE IX. STANDARDS OF CONDUCT

SECTION 9.01 DECLARATION OF POLICY.

Honest government, ethical conduct, the avoidance of conflicts of interest and public perception of ethical and honest conduct of public affairs are essential. This code is adopted to further these purposes.

SECTION 9.02 DEFINITIONS.

- (a) *Business.* Any corporation, partnership, sole proprietorship or other business entity whether or not for profit. Such definition does not include governmental entities.
- (b) *City official.* Mayor, alderman, and member of school committee.
- (c) *Immediate family.* Spouse, children and spouses of children, step-children and spouses of stepchildren.
- (d) *Financial interest.* A monetary or pecuniary interest in a business, entity or matter, whether direct or indirect, not shared by the public at large. A city official shall have a financial interest in the affairs of immediate family members, any business in which the official is an officer, director, proprietor, partner, trustee, member or employee, or any investment in which the official owns directly or indirectly, more than five percent (5%) of the total stock or an interest totaling \$50,000 or more.
- (e) *Personal interest.* *Interest in a matter* which is other than that of the official as a public official and which is more direct than that of the public at large and would influence the action of the public official.

(Amended by electorate 11-3-15)

SECTION 9.03 STANDARDS OF CONDUCT.

This code is written to establish standards of conduct for city officials. It is declaratory and is to be read consistently with the requirements of New Hampshire law and not to create duties less stringent than those required by New Hampshire law. It shall not limit the board of mayor and aldermen or school district from enacting consistent ordinances or rules.

- (a) *Contracts and Purchases.* A city official shall not have an undisclosed financial or direct personal interest in any contract with the city. In the event a business or family member shall have any such interest, it shall be disclosed if pre-existing the official's taking office, or disclosed prior to any vote to enter such arrangement is taken by the board of mayor and aldermen.
- (b) *Appointment or employment of immediate family member.* No city official shall participate in any way in any decision to employ or appoint any immediate family member to any city position nor any personnel action in connection with such employment or classified appointment.
- (c) *Disclosure of confidential information.* A city official shall not disclose confidential information concerning the city or its business without proper legal authorization; nor shall any official use any such information to advance a private interest. Confidential information is information which the official obtains because of the position held which is not a matter of public record.

(d) No city official shall accept any gift or thing of value which is offered to affect the vote or action of the official, nor shall any official solicit any such gift. This shall not prohibit legal campaign contributions or admission to events to which officials are invited in their official capacities, or food or beverage consumed at such events.

(e) *Conflict of interest.* No city official shall participate in the decision-making process of any matter in which the official or a member of the official's immediate family has a direct personal or financial interest. Any official who believes such an interest exists shall disclose such interest and shall not participate in the matter further. In the event any other official believes an official has a conflict, such conflict shall be disclosed to the city clerk who shall make a record of it. If the official does not believe such a conflict exists, the board of mayor and alderman, or school committee if the official is a member of the school committee, shall make a determination and if it finds a conflict exists, the official shall not participate in the matter further, or the appropriate board may refer the matter to the Conduct Board.

(f) *Financial disclosure.* Within 90 days after the effective date of this charter, the city clerk shall prepare a financial disclosure form requiring all city officials to disclose their own individual business and financial relationships, employment and financial holdings. Such filings shall be updated annually before January 15.

(g) *Non-interference.* The board of mayor and aldermen, the various boards and commissions and the board of school committee shall act in all matters as a body, and shall not seek individually to influence the official acts of any city official, or to direct or request, except in writing, the appointment or removal of any person to or from office; or to interfere in any way with the performance by such officers of their duties. This provision shall not prohibit assistance to constituents in their dealings with city officials if direct requests to the appropriate administrative officials have been unsuccessful, advocacy of particular outcomes on matters pending before the city when the matters are of a general nature, or submission of recommendations or references on behalf of a candidate for city employment which are not inconsistent with this code.

SECTION 9.04 CONDUCT BOARD.

A conduct board is established and shall consist of five (5) members and two (2) alternates to: issue advisory opinions to the board of mayor and aldermen or school committee, if requested to do so by said board or committee, concerning this code and the actions of city officials; Interpret this code; investigate violations of this code if requested to do so by city officials, written and attested complaints by citizens of the city or those doing business with the city, if it finds basis for such complaints, and issue reports after such investigations to the board of mayor and aldermen which may take action after such reports if it deems action necessary and, recommend ordinances to carry out the purposes of this code.

One member shall be the chief legal officer of the city. Two members and one alternate shall be appointed by the mayor and confirmed by the vote of eight (8) aldermen. Two members and one alternate shall be appointed by the board of aldermen by nine (9) votes. No more than three (3) members of the same political party shall serve on the board at the same time. At least one (1) member shall have served as an alderman previously. Members shall be appointed for terms of three (3) years and such terms shall be staggered so no more than two (2) members and one (1) alternate are appointed at one time. Members may not serve for more than six (6) consecutive years.

ARTICLE X. TRANSITION PROVISIONS

Effective Date

SECTION 10.01 EFFECTIVE DATE OF THIS CHARTER.

The effective date of this charter shall be July 1, 1997.

State and Municipal Laws

SECTION 10.02 CONTINUATION OF EXISTING LAWS.

(a) All ordinances, resolutions, rules, regulations and votes of the board of mayor and aldermen which are in force at the adoption of this charter, not inconsistent with the provisions of this charter, shall continue in full force until amended or repealed.

(b) Where the provisions of this charter conflict with provisions of city ordinances, regulations, orders or special acts, the provisions of this charter shall govern. All provisions of city ordinances, rules, regulations, orders and administrative actions not superseded by this charter shall remain in force until otherwise amended.

Departments, Offices and Agencies

SECTION 10.03 TRANSFER OF POWERS.

(a) The powers of administration and policy previously held by city boards, commissions and authorities affected by this charter in Article III, subsection 1 shall be transferred on the effective date of this charter to the mayor and department head in administrative matters or to the board of mayor and aldermen for policy matters unless superseded by state or federal law, intermunicipal agreement, contract or by this charter.

(1) The following boards, commissions and authorities shall maintain the powers and duties granted to them by federal or state law, intermunicipal agreement, contract, or this charter. The composition of, appointment to and governance of, said boards, commissions, authorities shall be subject to the restrictions imposed by state or federal law, intermunicipal agreement, contract or this charter.

(2) All powers and duties not specifically granted by state or federal law, intermunicipal agreement, contract or this charter to a board, commission, authority or committee shall be retained by the mayor and department head in administrative matters and the board of mayor and aldermen in policy matters subject to the provisions of this charter.

Board of Adjustment

Airport Authority

Board of Assessors

Conservation Commission

Board of Health

Historic District Commission

Housing and Redevelopment Authority

Water Commission

Library Trustees

Planning Board

Board of Recount

Board of Registrars

Retirement Board

Transit Authority

Trustees of Trust Funds

(b) All members of boards, commissions, authorities and committees shall continue to serve until reappointed or a successor has been appointed under the provisions of this charter.

SECTION 10.04 TEMPORARY REGULATIONS.

The board of mayor and aldermen may adopt such temporary regulations as they may deem necessary in connection with the transition of government. Every temporary regulation shall be presented and ratified in the same manner prescribed for enacting ordinances. All temporary regulations shall be labeled as such and be automatically repealed in a manner designated by the board of mayor and aldermen in any such temporary regulation.

Officers and Employees

SECTION 10.05 EXISTING OFFICIALS AND EMPLOYEES.

Any person holding a city office or employment under the city shall retain such office or employment and shall continue to perform the duties of the office until provisions have been made in accordance with this charter for the performance of the said duties by another person or agency.

SECTION 10.06 DEPARTMENT HEADS AND APPOINTED CITY OFFICERS EMPLOYMENT TRANSITION.

(a) Department heads and appointed city officers shall continue their service under the present terms of employment. All such provisions for the term, including but not limited to, promotions, removals and benefits shall remain in force during the remainder of the term. Upon the expiration of the department head's existing term, the department head shall continue in service under the provisions established by this charter.

(b) Department heads and appointed city officers in transition from term status to the provisions of this charter shall not be subject to competitive tests or other criteria as a condition of continuance in the office, but shall become subject to the removal provisions in this charter and the personnel system provided for in the ordinances of the city.

SECTION 10.07 SICK LEAVE TRANSITION.

No employee of the city covered by sick leave benefits on the effective date of this charter shall have such benefits reduced unless such change is contained in a ratified collective bargaining agreement covering such employee.

Miscellaneous

SECTION 10.08 INITIAL SALARY OF THE MAYOR.

The salary of the mayor shall become effective upon the inauguration of the mayor in January 1998.

SECTION 10.09 ELECTION OF AT-LARGE ALDERMEN AND SCHOOL COMMITTEE MEMBERS.

The Board of Aldermen and the School Committee shall increase to 14 members upon the election and swearing in of at-large members of the board of aldermen and school committee elected at the municipal general election in November of

1997. The city clerk shall prepare such necessary materials as may be necessary to provide for the election of at-large members of the board of aldermen and school committee at the municipal primary election and the municipal general election of 1997.

SECTION 10.10 VOTING PROCEDURES PRIORTO ELECTION OF ALDERMEN AT-LARGE.

Until such time as the Aldermen at-large representatives of the Board of Aldermen are sworn into office, votes of the Board of Aldermen that require nine (9) members under this charter shall be considered ratified by two-thirds of the present aldermen elect. Votes requiring the approval of eight (8) aldermen under this charter shall be considered ratified upon the approval of a majority of the present aldermen elect.

SECTION 10.11 DEBT LIMIT.

On the effective date of this charter the debt limit of the city is as set forth in Chapter 209.7 of the Laws of 1959.

SECTION 10.12 CONTINUANCE OF CHAPTER551.

Nothing in this Charter shall be construed as repealing Chapter 551 of the Laws of 1971.