

# CHARTER AND RELATED LAWS

## SUBPART A. CHARTER

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CHARTER<sup>1</sup>

§ 1. Corporate existence

The inhabitants of the city of Nashua shall continue to be a body politic and corporate under the name of the city of Nashua, and as such shall exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations now incumbent on or pertaining to said city as a municipal corporation.

§ 2. Property: debts

All existing property now of said city of Nashua shall be and remain vested in said city under the provisions of this charter, and all debts and obligations of said city shall be considered and shall continue for all purposes to be the debts and obligations of said city of Nashua under this revised charter.

§ 3. [City Wards]<sup>2</sup>

The City of Nashua is hereby divided into nine wards. At least as often as each recurring federal census, the board of aldermen shall review the ward boundaries and, if necessary to comply with Constitutional requirement to equalize populations, shall, by ordinance, re-divide the city into nine wards. A public hearing on the proposed ward boundaries shall be held not more than 30 days before its adoption by the board of aldermen, at such time and place as the board of aldermen shall direct, and notice of such public hearing shall be published at least 30 days in advance of the hearing by the city clerk. In addition, informational meetings shall be held in all wards proposed for boundary changes not more than 30 days before the vote. All wards shall be composed of contiguous and compact territory, as nearly equal in population as possible, and bounded by natural boundaries, street lines, railroad tracks or other easily identifiable physical features. Until passage of an ordinance re-dividing the city into nine wards, ward lines shall remain as approved by the voters of Nashua on November 5, 2002. Notwithstanding any changes in the ward boundaries, the elected ward officers in office at the time of the re-division of city wards shall continue in said offices until the end of the terms for which they were elected.

**Representation in General Court**—1971, ch. 568:2 eff. Jan. 3, 1972, provided for the apportionment of districts 16 to 24, inclusive, as follows:

|             |        |        |   |
|-------------|--------|--------|---|
| District 16 | Nashua | Ward 1 | 3 |
| District 17 | Nashua | Ward 2 | 4 |
| District 18 | Nashua | Ward 3 | 3 |
| District 19 | Nashua | Ward 4 | 4 |

<sup>1</sup> **Editor’s note**—The charter of the city of Nashua was adopted by the laws of 1913, chapter 427. Since its adoption it has been amended by the laws of 1915, ch. 270; 1919, ch. 3; 1921, ch. 246; 1937, ch. 314; 1941, chs. 277 and 278; 1943, ch. 288; 1957, ch. 377; 1961, chs. 319, 335 and 356; 1965, chs. 425 and 496; 1969, chs. 569, 610, 617 and 627; 1970, ch. 73; 1971, chs. 258, 259, 405 and 568; 1975, ch. 415, §§ 13 – 15. The charter has also been amended, under RSA 49-A: 8-12, providing for home rule amendment of charters by popular referendum without the necessity of a legislative act, by referendum questions 1, 2, 4 and 5 referred to the voters at the November 4, 1975, regular municipal election.

**Charter amendments**—City charters, RSA chapter 49-A.

<sup>2</sup> **Editor’s note**—Bracketed section headings supplied by publisher. For a description of ward boundaries, see NRO 23 – 7.1, eff. July 13, 2011. Prior history: Res. R-82-106, Sept. 28, 1982, effective Jan. 1, 1983; Res. R-91-146, 11-12-91; Res. R-01-247A, 11-6-01, effective 6-1-02; Res. No. R-02-82, 8-13-02; effective 1-1-03; Res. No. R-03-193, 6-13-03 [approved by voters on 11-4-03]; Res. No. R-03-233, 8-15-03 [approved by voters on 11-4-03].

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|             |        |        |    |
|-------------|--------|--------|----|
| District 20 | Nashua | Ward 5 | 3  |
| District 21 | Nashua | Ward 6 | 4  |
| District 22 | Nashua | Ward 7 | 4  |
| District 23 | Nashua | Ward 8 | 3  |
| District 24 | Nashua | Ward 9 | 3” |

**Limitation of 1982 amendment**—Resolution R-82-106, eff. Jan. 1, 1983, provided: “Nothing in this resolution [establishing new ward lines and reapportioning representation in the general court] shall affect the representation of the City of Nashua in the General Court Election which will be on November 2, 1982. The ward lines in effect for that election shall remain in effect until the General Court is dissolved seven days before the first Wednesday of January 1985. Any elections to fill vacancies in that General Court shall be held on the basis of the ward lines as they existed for the election of November 2, 1982. Any representative in office on the effective date of this act [Jan. 1, 1983] does not lose his eligibility for that office because of the changes in ward boundaries made in this resolution.”

**Incumbents**—Resolution R-82-106, eff. Jan. 1, 1983, provided. “Notwithstanding any changes in the ward boundaries the elected City and Ward officers in office at the time of passage of this resolution [Jan. 1, 1983] shall continue in said offices until the end of the term for which they were elected.”

**Limitation of 1971 amendment**—1971, ch. 568:3, eff. Jan. 3, 1972, provided: “Nothing in this act [establishing new ward lines and reapportioning representation in the general court] affects the representation of the city of Nashua in the general court that assembled on January 6, 1971. The ward lines for membership in that general court remain in effect until the general court is dissolved seven days before the first Wednesday of January, 1973. Any elections to fill vacancies in that general court shall be held on the basis of the ward lines as they existed on January 6, 1971. Any representative in office on the effective date of this act [Jan. 3, 1972] does not lose his eligibility for that office because of the changes in ward boundaries made in this act.”

**Incumbents**—1971, ch. 568:4, eff. Jan. 3, 1972, provided: “Notwithstanding any changes in the ward boundaries the elected ward officers in office at the time of passage of this act [eff. Jan. 3, 1972] shall continue in said offices until the end of the term for which they were elected.”

**Apportionment**—1965, 496:2, 3, provided:

**“496:2 Apportionment of House of Representatives**—The apportionment of the members to the house of representatives from the city of Nashua is as follows:

- I. Ward 1 is entitled to two representatives.
- II. Wards 2, 3, 4, 5, 6, 7, 8 and 9 are each entitled to three representatives.

**“496:3 Apportionment of Senate**—The apportionment of the wards of the city of Nashua to the senatorial districts of the state is as follows:

- I. Wards 1 and 2 are in senatorial district 12.
- II. Wards 3 and 7 are in senatorial district 22.
- III. Wards 4, 5, 6, 8 and 9 are in senatorial district 12.”

**Saving provisions**—1965, 496:4 provided in part: “Nothing in this act [redefining Nashua ward boundaries and reapportioning Nashua representatives and senators in the general court] affects the representation of the city of Nashua in the general court that assembled on January 6, 1965.”

**Apportionment**—Laws of 1992, Ch. 130, amending RSA 662:5 and 662:3, provided:

**“662:5 Apportionment of House of Representatives**—The apportionment of the members to the house of representatives from the City of Nashua is as follows:

Art. VI. Hillsborough County:

|                 |        |    |
|-----------------|--------|----|
| District No. 26 | Nashua | 29 |
|-----------------|--------|----|

**“662:3 Apportionment of Senate**—The apportionment of the wards of the City of Nashua to the senatorial districts of the state is as follows:

- I. Senatorial district number 12 is constituted of wards 1, 2, 3 and 5.
- II. Senatorial district number 13 is constituted of wards 4, 6, 7, 8 and 9.

**Apportionment**—Laws of 1992, Ch. 183, amending RSA 662:5 provided:

**“662:5 Apportionment of state representative districts**—The apportionment of the wards of the City of Nashua is as follows:

|             |        |            |   |
|-------------|--------|------------|---|
| District 26 | Nashua | Ward 1     | 3 |
| District 27 | Nashua | Ward 2     | 3 |
| District 28 | Nashua | Ward 3     | 3 |
| District 29 | Nashua | Ward 4     | 3 |
| District 30 | Nashua | Ward 5     | 3 |
| District 31 | Nashua | Ward 6     | 3 |
| District 32 | Nashua | Ward 7     | 3 |
| District 33 | Nashua | Ward 8     | 3 |
| District 34 | Nashua | Ward 9     | 3 |
| District 35 | Nashua | Wards 1, 2 | 1 |

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|             |        |            |   |
|-------------|--------|------------|---|
|             |        | 3, 5       |   |
| District 36 | Nashua | Wards 4, 6 | 1 |
|             |        | 7, 8, 9    |   |

**Delegates to State Party Conventions**—Laws of 1992, Ch. 183:8, amending RSA 662:6 provided:

**“662:6 Delegates to state party conventions**—At every state primary election, the voters shall elect delegates to each state party convention as follows:

Nashua 29

**State law references**—Similar provisions, relating to senators, RSA 62:23, 24 and 33; relating to representatives, 66:3 VI.

**Limitation of 2002 Amendment**—Resolution 02-82, eff. Jan. 1, 2003. Notwithstanding any changes in the ward boundaries, the City and Ward officers serving in office, or elected to office, at the time of passage of this resolution shall continue in said offices until the end of the terms for which they were elected. Any elections to fill vacancies in the General Court shall be held on the basis of the ward lines as they existed for the election of November 5, 2002. Any representative or senator in office on the effective date of this act (January 1, 2003) does not lose his or her eligibility for that office because of the changes in ward boundaries made by this amendment.

**Representation in General Court**—Opinion of the Supreme Court of New Hampshire (No. 2002-0210) issued July 26, 2002. Representative Peter Burling and a. v. Gene Chandler, Speaker of the House & a. Argued June 11, 2002. Provided for the apportionment of districts 59 to 65, inclusive, as follows:

|             |        |        |   |
|-------------|--------|--------|---|
| District 59 | Nashua | Ward 2 | 3 |
| District 60 | Nashua | Ward 3 | 3 |
| District 61 | Nashua | Ward 1 | 3 |
| District 62 | Nashua | Ward 4 | 6 |
|             |        | and 6  |   |
| District 63 | Nashua | Ward 5 | 3 |
| District 64 | Nashua | Ward 9 | 3 |
| District 65 | Nashua | Ward 7 | 6 |
|             |        | and 8  |   |

**Limitations of 2001 Amendment**—Resolution 01-247, eff. June 1, 2002. Notwithstanding any changes in the ward boundaries, the City and Ward officers serving in office, or elected to office, at the time of passage of this resolution shall continue in said offices until the end of the terms for which they were elected. Any elections to fill vacancies in the General Court shall be held on the basis of the ward lines as they existed for the election of November 7, 2000. Any representative in office on the effective date of this act (June 1, 2002) does not lose his or her eligibility for that office because of the changes in ward boundaries made by this amendment.

## Mayor and Board of Aldermen

### § 4. Mayor and board of aldermen

The administration of the fiscal, prudential, municipal and other affairs of the city and the government thereof shall, except as herein otherwise provided, be vested in a principal officer to be called the mayor, and a board to be called the board of aldermen. The board of aldermen shall consist of fifteen aldermen, sitting and acting together as a single body. The mayor and six aldermen shall be chosen by the qualified voters of the city at large, voting in their respective wards, and the other nine aldermen shall be elected, one from each ward, by the qualified voters thereof. The board of aldermen shall be the final judge of the election and qualification of its members. The board of aldermen shall choose one of its own members, an alderman-at-large, as president, who shall be its presiding officer. A majority of said board shall constitute a quorum for the transaction of business. The city clerk shall act as clerk of said board.

### § 5. Municipal elections<sup>3</sup>

All the city and ward officers who are to be hereafter elected by the legal voters of the city, or of any ward therein, except moderators, ward clerks, selectmen and inspectors of the

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<sup>3</sup> **Editor’s note**—Under RSA 40:1, moderators are required to be elected in odd-numbered years. Inspectors of the checklists are no longer elected. See § of this charter.

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checklists, shall be chosen at elections hereinafter called municipal elections to be holden on the first Tuesday following the first Monday of November in the year 1933 and biennially thereafter on the first Tuesday following the first Monday in November.

**§ 5a. Mayoral primary<sup>4</sup>**

In the event three candidates or more file petitions of nomination for the office of mayor, as provided for under section 11, the city clerk shall declare that a primary for said office is necessary. Primaries shall be conducted by the regular election officers, to be held at the regular polling places in each ward on the second Tuesday of September in each odd numbered year, at which time the two candidates receiving the highest number of votes for the office of mayor shall be placed on the municipal general election ballot in November.

**§ 6. Method of election exclusive**

The mode of nomination and election of all elective officers of the city to be voted for at any municipal election shall be as provided in this act [charter] and not otherwise.

**§ 6a. Qualifications for office<sup>5</sup>**

No person shall be a candidate for the office of, or serve as, mayor or alderman-at-large who is not a duly qualified voter of the city. No person shall be a candidate for the office of, or serve as, ward alderman who is not a duly qualified voter in the ward in which he seeks election, or holds office.

**§ 7. Nomination by petition**

The name of the candidate shall be printed upon the ballot, when a petition of nomination shall have been filed in his behalf, in the manner and form and under the conditions hereinafter set forth.

**§ 8. Form of nomination papers<sup>6</sup>**

The petition of nomination for each candidate to be voted for at large shall be signed by not less than fifty qualified voters of the city, and, for each candidate to be voted for from a single ward, fifteen qualified voters of each ward, on individual certificates in form substantially as follows:

**PETITION OF NOMINATION**

Individual Certificate

State of New Hampshire  
County of Hillsborough, ss.

City of Nashua

I do hereby petition for the nomination of \_\_\_\_\_ whose residence is at No. \_\_\_\_\_ Street, Nashua, for the office of \_\_\_\_\_ to be voted for at the municipal election to be held in the city of Nashua, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; and I certify that I am qualified to vote for a candidate for said office, and after signing

<sup>4</sup> Res.-01-242-GR, effective 7-1-02.

<sup>5</sup> Referendum of Nov. 4, 1975, Referendum, Proposal No. 1.

<sup>6</sup> R-05-252. Approved by voters on November 8, 2005. Amendment allowed voters to sign as many petitions as there were openings for an office.

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this certificate, I will not have signed more nominating certificates than there are positions to be filled in the upcoming election for the above named office, nor more than one certificate per candidate; that my residence is at No. \_\_\_\_\_ Street, Nashua.

(Signed)

Witness:

(Signed)

Residence of witness:

No. \_\_\_\_\_ Street; Nashua.

**§ 9. Blanks**

It shall be the duty of the city clerk to furnish, upon application, a reasonable number of forms of such certificates, and of acceptances of nomination.

**§ 10. Requirements of certificate**

Each certificate shall be a separate paper. All certificates shall be of uniform size as determined by the city clerk. Each certificate shall contain the name and signature of one signer thereof and no more. In case a voter has signed two or more conflicting petitions, only that one of his conflicting signatures which was included in the petitions first presented to the city clerk, as provided in the following section of this act [charter], shall be valid. Each witness may be any qualified voter of Nashua except the candidate named in the certificate.

**§ 11. Presenting petition, when<sup>7</sup>**

Petitions of nomination for mayoral candidates shall be presented to the city clerk during the ten (10) consecutive working days (excluding Saturday and Sunday) commencing on the second Monday in June in each odd numbered year, and for non-mayoral candidates not earlier than seventy (70) days nor later than sixty (60) days before the election. The city clerk shall endorse on each petition the date upon which it was presented to him and by whom it was presented. All papers constituting a petition of nomination shall be presented to the city clerk at one time, except as provided in the following section of this act [charter].

**§ 12. Defective petition amended**

When a petition of nomination is presented to the city clerk for filing, he shall forthwith examine the same and ascertain whether it conforms to the provisions of this act [charter]. If found not to conform thereto, he shall then and there in writing on said petition state the reason why such cannot be filed, and shall within three (3) days return the petition to the person named therein as the person to whom it shall be returned. The petition may then be amended and again, but not later than three (3) days after said petition shall have been returned, presented to the city clerk, as in the first instance. The city clerk shall forthwith proceed to examine the amended petition as hereinbefore provided.

**§ 13. Petition filed<sup>8</sup>**

If either the original, or the amended petition of nomination, be found sufficiently signed and witnessed as hereinbefore provided, the city clerk shall file the same forthwith: provided that no petition, amended, or otherwise, shall be presented later than 5 p.m. on the last day of the filing period.

<sup>7</sup> Res.-83-223, effective Jan. 1, 1984; Res. R-01-242-GR, effective July 1, 2002.

<sup>8</sup> Res.-83-223, effective Jan. 1, 1984; Res. R-01-242-GR, effective July 1, 2002.

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**§ 14. Acceptance filed<sup>9</sup>**

Any person nominated under this article [the foregoing provisions] shall file his acceptance, his signature thereto witnessed by a qualified voter of Nashua, with the city clerk not later than sixty (60) days before the day of the election, and in the absence of such acceptance, the name of the candidate shall not appear on the ballot.

**§ 15. Form of acceptance**

The acceptance mentioned in the preceding section shall be substantially in the following form:

State of New Hampshire, Hillsborough, ss. \_\_\_\_\_ City of Nashua.

I, \_\_\_\_\_ having heretofore been nominated for the office of \_\_\_\_\_ in the city of Nashua, to be voted for at the municipal election to be held in said city on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, do hereby accept the said nomination, and I hereby declare that I am a qualified voter of said city, that my residence is at No. \_\_\_\_\_ Street, Nashua, and that I have not become, and am not a candidate for any other office to be voted for at said election.

(Signed)

Witness:

(Signed)

Residence of Witness:

No. \_\_\_\_\_ Street, Nashua.

**§ 16. Petitions, etc., preserved**

The city clerk shall preserve in his office for a period of four (4) years from the time of the respective filing of the same, all petitions of nomination, and all certificates, acceptances, and memoranda belonging thereto, filed under this act [charter], but shall thereafter destroy the same.

**§ 17. Certifying candidates**

The city clerk shall, not later than the fifteenth day before every city election, certify the list of candidates, with their residences, whose names are entitled to appear on the ballot, as being the list of candidates nominated as required by this act [charter], together with the offices for which they are respectively candidates at such election, designating whether such election is for a full or for an unexpired term; and he shall file in his office said certified list of names and offices, and he shall cause to be published before such election, in two successive issues of at least one newspaper of general circulation published in the city of Nashua, or in any different or additional manner that may be provided by ordinance, an election notice which shall contain said certified list names of candidates and offices to be filled, and the time and the places of holding such election.

**§ 18. Official ballots prepared<sup>10</sup>**

The city clerk shall cause ballots for each general and special municipal election to be prepared, printed and authenticated as provided by the constitution and laws of the state, except as is otherwise required by this act [charter]. The ballots shall contain the full list and correct

<sup>9</sup> Res.-83-223, effective Jan. 1, 1984.

<sup>10</sup> **Editor's note**—"Section 39" referred to in text of this section has been repealed. By Resolution R-7-277, approved Oct. 28, 1971, the city adopted the provisions of RSA 656:40, relative to the use of voting machines.

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names of all the offices to be filled, and the names and residences of all the candidates nominated respectively therefore, except as provided in section 39.

§ 19. Form of ballots

Except that the crosses here shown shall be omitted, and that in place of the names, residences and offices here shown shall be substituted the names and residences of the actual candidates and the offices for which they are respectively nominated, the ballots shall be in substantially the following form:

General (or special) Municipal Election

City of Nashua

(Inserting date thereof).

Instructions—To vote for any person make a cross (x) in the square at the right of the name voted for.

If you wrongly mark, tear, or deface this ballot return and obtain another.

|                            |   |
|----------------------------|---|
| For Mayor vote for One (1) |   |
| RICHARD ROE, 2 A STREET    | X |
| JAMES HOE, 6 F STREET      |   |
| JOHN DOE, 24 G STREET      |   |
| LOUIS COE, 4 B STREET      |   |

|  |   |
|--|---|
| For Board of Education Vote for Four (4) |   |
| FRANK SMITH, 4 FIRST STREET              |   |
| HARRY JONES, 6 SECOND STREET             | X |
| FRED BROWN, 8 THIRD STREET               | X |
| HIRAM BLOCK, 10 FOURTH STREET            | X |
| ROBERT WHITE, 5 SIXTH STREET             | X |
| ALBERT GRAY, 7 EIGHTH STREET             |   |
| WILLIAM GREEN, 9 NINTH STREET            |   |
| SAMUEL HILL, 3 TENTH STREET              |   |
| ENOCH VALLEY, 2 ELEVENTH STREET          |   |
| JAMES DALE, 1 FIFTH STREET               |   |

§ 20. Blanks on ballots

As many blank spaces as there are persons to be elected shall be left below the printed names of the candidates for each office or kind of office to be voted for, wherein the voter may write the names and residences of the person or persons, respectively, for whom he may wish to vote.



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### **§ 21. Order of names, etc.**

The names and residence of candidates for the same office shall be printed on the ballot in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present thereat personally or by one representative. Nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate. No ballot shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party of political designation or mark, or anything indicating his views or opinions. There shall also appear on the ballot all questions required by law, or by this act [charter] to be submitted to a vote of the qualified voters of the city.

### **§ 22. Sample ballots**

The city clerk shall, at least ten (10) days before the election, cause to be printed a sufficient number of sample ballots, upon paper of different color but otherwise identical with the ballot to be used at the election, and shall distribute the same to qualified voters at his office.

### **§ 23. Ballots counted: returns<sup>11</sup>**

As soon as the polls are closed, the ward officers shall immediately open the ballot boxes or voting machines, tallying the votes in public view, and enter the total number thereof on the tally sheet provided therefore by the city clerk. They shall also carefully enter the number of votes for each candidate on said tally sheet and the ballots and tally sheets used at such municipal election shall be sealed up in the manner provided in the case of general biennial elections, and returned within one hour to the city clerk. A return of the result of the vote in each ward for all officers to be chosen at such election, certified by the moderator, shall be made to the city clerk within the same time on blanks provided by him for that purpose; and the city clerk shall immediately record all such returns and the same, together with his record thereof, shall be open to the inspection of any citizen. He shall submit his record of the returns of each municipal election to the board of aldermen, at a meeting to be holden at eight o'clock in the evening on the Tuesday next following such election, and the board of aldermen shall canvass the returns and declare the result. Such declaration shall be duly recorded by the city clerk, and, except as hereinafter provided, shall be conclusive as to the rights of the persons declared elected to hold the offices to which they are so declared elected. A plurality of votes shall elect, except in the case of a tie vote. The tie shall be determined by lot under the direction of the city clerk and the person so winning the ties shall be declared elected.

### **§ 24. Cost of special election<sup>12</sup>**

To cover the cost of special municipal elections provided for in this act [charter], the city council shall appropriate at the time of issuing the warrants for such elections such sums as are necessary, the same to be taken from any unexpended balances at the end of the fiscal year, or carried forward as a deficit to the next year and then cared for by a special appropriation.

### **§ 25. “Qualified voter” defined**

The term “qualified voter” wherever it occurs in this act [charter] means a voter qualified by law to vote for candidates for the office named in the petition of nomination or acceptance of nomination in which their names occur, except that witnesses may be residents of any part of the city.

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<sup>11</sup> Res.-01-242-GR, effective July 1, 2002.

<sup>12</sup> **Editor’s note**—“City council,” referred to in text, as meaning board of aldermen, see sections 48 and 111 of this charter.

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### **§ 26. Recount of votes<sup>13</sup>**

Any candidate who is dissatisfied with the return of the vote at any municipal election may have a recount of the vote cast at such election for the office for which he was a candidate, or may contest the election or nomination as to that office on the ground of fraud or misconduct in relation to such municipal election, by notifying the city clerk and all candidates for the same office who were returned as having received a larger number of votes than himself that he requests such recount or proposes to make such contest by notice in writing left at the office of the city clerk and delivered in hand to or left at the usual place of abode of each of such other candidates at least forty-eight hours before the meeting of said city council in 1914 or at least forty-eight hours before the meetings of the board of aldermen thereafter in subsequent years at which the returns are to be canvassed. The city council in 1914, and in subsequent years of said municipal elections the board of aldermen, at said meeting, or at an adjourned meeting or meetings specially held for that purpose within one week thereafter, shall thereupon recount the ballots in the presence of the interested parties, or their representatives, or shall proceed in the manner provided as to contested elections of mayor by Revised Laws, chapter 63 section 3, the provisions of that section being hereby made applicable to all contests of any such municipal election so far as consistent with this act [charter]. The said city council at the first election in 1914, and the board of aldermen thereafter in subsequent years of said elections, shall, not later than the second Tuesday after such election, declare the results of such recount or contest, which declaration shall be duly recorded by the city clerk and shall be final and conclusive. The city clerk shall retain all packages containing ballots returned to him unopened until the time for demanding a recount or contest has expired. In case of a recount or contest, they shall be produced by him unopened at the time and place of such recount or contest, and shall be opened by the mayor in the presence of the city council at the first election in 1914, and of the board of aldermen in subsequent years of said municipal elections.

### **§27. Vacancies prior to inauguration<sup>14</sup>**

In case any officer chosen at a municipal election shall decline the office, or die prior to the first Sunday following the first secular day of January next following his or her election, the incoming board of aldermen, public works, fire commissioners, or education as the case may be shall fill the resulting vacancy at its first meeting in the manner hereinafter provided as to a like vacancy occurring after its inauguration.

### **§ 28. Polling places, where**

The municipal elections shall be holden at the regular polling place in each ward, or if there be no such regular polling place, at a suitable place in the ward provided and equipped for that purpose by the selectmen of the ward at the expense of the city.

### **§ 28-a. [Absentee voting]**

Any legal voter of said city who, by reason of physical disability or absence from the city, is unable to vote in person on the day of meeting for the election of city and ward officers, may vote at said election by so-called absentee ballot. The provisions of chapter 60 of the Revised Statutes Annotated as amended, so far as applicable hereto and not inconsistent herewith, shall apply to such absent voting in said city, provided that the city clerk shall prepare the forms and ballots, for such voting and said clerk shall also prepare the instructions required in section 14 of said chapter 60.

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<sup>13</sup> **Editor's note**—"Revised Laws, chapter 63, section 3," referred to in text of section, is now classified to RSA 45:3.

<sup>14</sup> Amended by R-18-073 approved by the voters on November 5, 2019. Filling vacancies provision effective November 5, 2019

## CHARTER AND RELATED LAWS

### Board of Registrars

#### § 29. [Board of registrars—Appointment]

The mayor, subject to confirmation of the board of aldermen, shall appoint three voters of Nashua, who shall constitute a board of registrars of voters. No more than two members of the board shall be members of the same political party. On or before January first the mayor shall appoint one registrar for a term of three years beginning January 1, provided that for the first appointments hereunder one shall be appointed for a term of three years, one for a term of two years and one for a term of one year. Each of said registrars shall hold office until his successor is appointed and has qualified. The board of registrars shall annually elect one of its members as chairman and one as clerk.

#### § 29-a. [Same—Removal from office]

If upon written complaint to the mayor it shall appear, after notice and hearing, that a registrar of voters has ceased to be a member of the political party which he was appointed to represent, the mayor shall remove him from office and appoint another in his stead with the approval of the board of aldermen.

#### § 29-b. [Same—Compensation]

The registrars shall receive such compensation for their services as the board of aldermen may determine.

#### § 29-c. [Same—Incompatible offices]

No person shall be appointed a registrar or deputy registrar who holds any other political office, appointive or elective.

#### § 30. [Same—Appointment of deputy registrars]<sup>15</sup>

The board of registrars of the city of Nashua is hereby empowered to appoint up to two deputy employees, who may execute any instrument required by law to be signed by a member of the board of registrars, and in the absence or disability of a member of the board of registrars, shall perform all of his duties, including the registration of voters. The board of registrars are also empowered to appoint such temporary deputy registrars as they deem necessary. Such deputy registrars shall hold office during the pleasure of the board of registrars.

#### § 30-a. [Same—Sessions]

The said board of registrars or their deputies shall be in session at the city hall building, or at such other suitable place as they shall designate, for the purpose of registering voters and revising and correcting the checklist, during business hours of city hall and at such other times as they may designate.

#### § 30-b. [Same—Checklist closing]<sup>16</sup>

The registrars shall cause no additions or corrections to be made on the checklists after 5:00 P.M. then (10) days prior to election day.

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<sup>15</sup> **Judicial construction**—For construction of section by court, see Attorney General v. Caldwell (1942) 92 NH 216, 29A2d 124.

<sup>16</sup> **Editor's note**— Res.-83-223, effective Jan. 1, 1984.

The dates and times for the closing of the checklists are now set by RSA 654:28 and 659:12.

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### **§ 30-c. [Same—Checklist posting]<sup>17</sup>**

The registrars shall post two complete alphabetical checklists containing the names and addresses of legal voters of said ward in each ward in the city not later than thirty days prior to the date on which state or municipal, biennial or annual elections are held or any other election at which such checklists are to be used. A corrected checklist shall be posted in the same places the day before the election.

### **§ 30-d. [Same—List of qualified voters]<sup>18</sup>**

The registrars shall keep records of all persons qualified to vote in the city in sufficient detail to identify the voters and their rights to vote.

### **§ 30-e. [Personal application for voter registration]**

Every qualified person who wishes to become a registered voter must apply in person for registration and prove by satisfactory evidence that he or she is qualified to vote.

### **§ 30-f. [Fraudulent registration; penalty]**

Any person who attempts fraudulently to have his name entered on the general register shall be liable to a fine not exceeding fifty dollars for each such attempt.

### **§ 30-g. [Voters qualified by election day]**

If a person is not qualified to vote on or before the last day registration but who shall clearly be qualified to vote on election day the registrars shall enter his name on the checklist on or before the last day of registration.

### **§ 30-h. [Improper registration]**

If a registered voter complains to the registrars in writing under oath, fourteen days at least before an election, that the complainant believes that a person has been improperly registered, and sets forth the reasons for such belief, the registrars shall examine into such complaint. If satisfied there is sufficient ground for complaint, the registrars, after proper notice and opportunity for all persons concerned to be heard, shall rule on said complaint. The board shall have power to subpoena witnesses at public expense and to administer oaths. The person against whom such complaint is made shall have a right to a public hearing upon demand.

### **§ 30-i. [Records open to inspection]<sup>19</sup>**

All records of the board of registrars shall be open to public inspection, except to the extent that such records or the information contained therein are treated as confidential information and exempt from public disclosure under RSA 657 or other State statute.

### **§ 30-j. [Voting lists by wards]**

Registrars shall prepare voting lists by wards for use at elections and deliver them to the ward election officials before the opening of the polls on election day.

### **§ 30-k. [Certificate of registration]**

The registrars shall, on the day of an election, give to a voter whose name has been omitted from the voting list by error, or whose party designation has been incorrectly designated by error, a certificate of registration authorizing him to vote. On presentation thereof to the presiding election officer of the ward in which the voter was registered, he shall be allowed to

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<sup>17</sup> Res.-83-223, effective Jan. 1, 1984.

<sup>18</sup> Res.-83-223, effective Jan. 1, 1984.

<sup>19</sup> Res. No. R-030207, 8-15-03 [approved by voters on 11-4-03].

## CHARTER AND RELATED LAWS

vote, and his name shall be checked on the certificate, which shall be attached to and considered part of the voting list and returned and preserved therewith. For this purpose the registrars and/or their deputies shall be in session at city hall during the hours the polls are open.

### **§ 30-l. [Certification of registered voters]**

The registrars shall, after the last day for registration for a city or state election, certify to the city clerk the number of registered voters in the city and in each ward therein.

### **§ 30-m. [Applicability to board of registrars]**

Any provisions of the charter of the city of Nashua referring to inspectors of checklists, not inconsistent with the provisions of this act [charter], shall apply to the board of registrars hereby established.

### **§ 31. City elections, how conducted**

The municipal elections shall be conducted by the regular election officers of the wards, and all provisions of the Public Statutes and amendments thereto, penal or otherwise, relating to the warning and manner of conducting generally biennially elections, the sealing and return of ballots and tally-sheets, and the record and return of the result of the vote, shall apply to such municipal elections, except in so far as they are modified by the provisions of this act [charter]. And such municipal elections shall be deemed to be elections within the meaning of all penal statutes relating to offenses against the purity of elections. The polls shall be open at each municipal election from six o'clock in the forenoon to three o'clock in the afternoon in each ward.

### **§ 32. Checklists for city elections<sup>20</sup>**

The checklists used at every general biennial election next preceding the municipal elections to be held under this act [charter] shall be posted up in the manner in which checklists are by law required to be posted for use at such general biennial elections and the same number of days before said municipal elections. The said board of inspectors shall be in session at the city hall building, or at such other suitable place as they shall designate, for the purpose of revising and correcting the said list of voters, for six consecutive days beginning with the second Monday next preceding each municipal election, and they shall deliver an attested copy of the said lists of voters, so prepared and corrected, to the clerks of the respective wards before the time for opening of any such meeting of the voters; and the said ward clerks shall use the list of voters, prepared and corrected as aforesaid, and no others. In preparing the said list of voters said inspectors shall follow the foregoing provisions of this act [charter] with reference to general biennial elections in the matter of recording the first name of each voter in full, and in all other respects shall follow the provisions following that provision in section 29. And in matter of the hours of holding sessions and times, and in other matters, they shall proceed and act as provided in section 30 of this act [charter], beginning with the words following, namely: "They shall hold sessions on said days as follows."

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<sup>20</sup> **Editor's note**—The "board of inspectors" was replaced by the "board of registrars," and sections 29 and 30 of this charter were deleted and new sections 29 to 30-m added, by 1970, ch. 73. Former sections 29 and 30 related to a board of inspectors of checklist.

**Verification in 1971-72 ratified**—Acts 1973, 395:2 provided: "Notwithstanding the provisions of RSA 69:26-a, I and 1972, 33, the verification of the checklist of the city of Nashua which was done in 1971 and which verification was updated in 1972 following the redistricting of such city is hereby ratified and confirmed, and the city of Nashua shall not be required to verify their checklist until 1981 and every ten years thereafter, provided however that the city of Nashua shall comply with all other requirements of RSA 69:26a."

**State law references**—Meetings of supervisors of checklist in cities and towns, see Acts 1977, ch. 344, effective Aug. 20, 1977, amending RSA 55:8 and adding 55:8-a.

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### Board of Education

**Cross reference**—Board of Education, see §§ 74-76 of this charter.

§ 33. **Repealed.** November 4, 1975, Referendum, Proposal No. 1.

§§ 34-38. **Repealed.** 1919, ch. 3.

§ 39. **Repealed.** 1941, ch. 277.

### Mayor; Board of Aldermen

#### § 40. [Governing body; terms]

The terms of the members of the governing body shall be as follows:

- I. The mayor shall be elected for a term of four years at every other municipal election beginning in the year 1971.
- II. The nine ward aldermen shall be elected for a term of two years at every municipal election.
- III. The six at-large aldermen shall be elected for a term of four years, three to be elected at each municipal election.

#### § 41. Inauguration of aldermen<sup>21</sup>

The board of aldermen so chosen shall meet at ten o'clock in the forenoon on the first Sunday after the first secular day of January next following their election, in their capacity as the board of aldermen, for the purpose of taking their respective oaths of office, organizing, adopting rules for the transaction of business by such board, electing such officers as are by law or ordinance required to be elected and transacting any other business required by law or ordinance to be transacted at such meeting. The persons elected to the offices of mayor, board of education, board of public works, board of fire commissioners, ward moderators, clerks, selectmen, and all other offices who are required to take an oath of office shall meet in the convention with the board of aldermen at said time and take their respective oaths of office.

#### § 42. [City officers appointed; qualifications; compensation]

The mayor with consent of the board of aldermen shall appoint a city clerk, a welfare officer, three assessors, a treasurer and collector of taxes who shall be one and the same person, and a city solicitor, each of whom shall serve an indefinite term at the pleasure of the mayor; and such other officers as may be necessary to administer all departments which the board of aldermen shall establish. Said city officers shall receive such compensation as may be set by ordinance. Each assessor shall prior to his appointment have demonstrated knowledge of property appraisal or assessment and of the laws governing the assessment and collection of property taxes. It shall be the duty of the board of assessors to assess all taxable property in the city in accordance with general law and such administrative regulations as may be promulgated pursuant thereto, to maintain a standard system of assessment records, and to perform such other duties as the board of aldermen may prescribe by ordinance. The powers and duties of officers

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<sup>21</sup> **Editor's note**—The board of inspectors of checklist has been replaced by the board of registrars. See § 29 of this charter. 1975, ch 415:13, effective Nov. 4, 1975; Res. R-83-223, effective Jan. 1, 1984.

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and heads of departments appointed by the mayor shall be those prescribed by state law, by this charter or by ordinance.

### § 42-a. [Deputy city treasurer and deputy tax collector]<sup>22</sup>

The city treasurer and collector of taxes is authorized to appoint a deputy city treasurer and deputy tax collector, who shall be one and the same person, provided that said appointment shall be approved by a majority vote of the board of aldermen. In the absence of the city treasurer and collector of taxes the said deputy shall perform the same duties and exercise all the powers of the city treasurer and tax collector of said city. Said deputy city treasurer and deputy tax collector shall serve during the pleasure of the city treasurer and tax collector. The board of aldermen shall determine the compensation for said deputy treasurer and tax collector. Said deputy shall be appointed from the employees in the office of the city treasurer and collector of taxes.

### § 43. Vacancy in office of mayor<sup>23</sup>

- (1) *Temporary vacancy.* Whenever the office of mayor shall be temporarily vacant by reason of illness, absence from the city, or other cause, the mayor shall advise the president of the board of aldermen of the beginning and end of that temporary vacancy by a writing filed with the city clerk. The president of the board of aldermen shall during such vacancy have and exercise all powers and authorities which by this charter the mayor is vested with, except for appointment and removal powers. The president of the board of aldermen shall not hold office in the board of aldermen while exercising the office of mayor; however, his aldermanic position and office shall not be deemed vacant. The elected mayor shall continue to be compensated as provided by ordinance, and the president of the board of aldermen while exercising the office of mayor shall continue to receive compensation as a member of the board of aldermen in the same manner as would occur as had the president continued to attend meetings of the board of aldermen as a qualified member. When the temporary vacancy in the office of mayor ends, the president of the board of aldermen shall resume the office of that presidency and shall thereupon cease to exercise the office of mayor.
- (2) *Long-term disability or absence.* Whenever the office of mayor shall be vacant by reason of the disability of the mayor to exercise the office, or absence from the city, and that disability or absence lasts for a period in excess of thirty (30) consecutive calendar days, the mayor shall acknowledge that disability or absence by a writing to the city clerk, which writing shall state the date the mayor expects the disability or absence to end. In the event such vacancy occurs and the mayor fails to acknowledge that disability or absence, the board of aldermen may, by a vote of a majority of the members of the board then holding office, declare the office of mayor vacant by reason of disability or absence. In the event the mayor vetoes that vote in accordance with the provisions of this charter, the city's legal representative shall within three working days by petition to the superior court ask for a declaratory judgment that the office of mayor is vacant by reason of disability or absence. No reconsideration of the vote of declaration of vacancy by the board of aldermen is required as a condition precedent to the filing of the petition with the superior court.

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<sup>22</sup> 1959, ch. 388 approved May 14, 1959, effective May 14, 1959.

<sup>23</sup> **Editor's note**—Former section 43 was repealed and replaced by Res. R-82-08, Sept. 28, 1982, effective Jan. 1, 1983. Res.-82-08, Sept. 28, 1982, effective Jan. 1, 1983; amended Res. R-83-223, effective Jan. 1, 1984.

## CHARTER AND RELATED LAWS

If the office of mayor is declared vacant by the writing of the mayor, vote of the board of aldermen, or judgment of the court, the board of aldermen shall choose an alderman-at-large to serve as acting mayor during the period of the mayor's disability or absence. The acting mayor shall during the period of the mayor's disability or absence have and exercise all powers and authorities which by this charter the mayor is vested with. He may select an administrative assistant and personal secretary but shall have no other removal and appointment powers. The acting mayor shall not hold office in the board of aldermen; however, his aldermanic position shall not be deemed vacant during his tenure. The mayor elected by the voters and the acting mayor shall both draw the compensation of the mayor as provided by ordinance.

When the mayor elected by the voters determines that his disability or absence has ended, he shall file a letter stating that fact with the city clerk. In the event the acting mayor then fails to relinquish the office of mayor, the mayor elected by the voters may file a resolution with the board of aldermen asking that the vacancy in the office of mayor be declared ended. In the event that resolution is not passed by a majority of the members of the board of aldermen then holding office, the mayor may seek a determination in the superior court that the vacancy in the office of mayor has ended. Upon the relinquishment of office of mayor by the acting mayor, or upon passage of a resolution declaring the vacancy ended, or upon judgment of the court that the vacancy has ended, the acting mayor shall resume the office of alderman-at-large, and shall thereupon cease to exercise the office of mayor.

In the event that the term of office as alderman-at-large of the individual acting as mayor expires prior to the return to office of the elected mayor, the board of aldermen shall elect an acting mayor from among the seated aldermen-at-large in the same fashion as previously set forth.

- (3) *Permanent vacancy.* Whenever the office of mayor shall be permanently vacated by reason of death, resignation or other cause, the board of aldermen shall at their next regular meeting declare the vacancy and elect an alderman-at-large to serve as mayor. A simple majority of the members of the board then holding office shall elect the mayor. The mayor elected by the board of aldermen shall have to exercise all powers and authorities which by this charter the mayor is vested with. He may select an administrative assistant and personal secretary but shall have no other removal and appointment powers. The mayor elected by the board of aldermen shall not hold office in the board of aldermen; however, his aldermanic position shall not be deemed vacant during his tenure. The mayor elected by the board of aldermen shall receive the compensation of mayor as provided by ordinance.

If there is at least six (6) months and one (1) day remaining in the term of the mayor who has permanently vacated the office of mayor, there shall be held a special election to fill the unexpired term of the mayor not later than forty-five (45) days after such vacancy occurs or not later than forty-five (45) days after this section takes effect, whichever occurs later. However, if such a permanent vacancy occurs within six (6) months or less of the next regularly scheduled election, then said permanent vacancy shall be filled in that regularly scheduled election. The city clerk shall make all the necessary preparations for the conduct of such special election during the hours to be determined by the board of aldermen. All nominations for the office of mayor shall be handled in the same manner as nominations for mayor at a regularly



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scheduled election with the exception that petitions of nominations shall be presented to the city clerk not earlier than forty (40) days nor later than thirty (30) days before the election. In all cases, the mayor elected by the board of aldermen shall serve only until the results of the election to fill the office of mayor are declared.

**§ 43-a. Repealed.** R-82-08, Sept. 28, 1982.<sup>24</sup>

**§ 44. Vacancy in office of aldermen**<sup>25</sup>

Vacancies occurring in the office of alderman [aldermen] from any cause shall be filled until the next municipal election by the election of some qualified person (see Charter §6a) by the recorded votes of at least a majority of all members of the board of aldermen at the next regular meeting or at a special meeting called for the express purpose of filling the vacancy within sixty (60) days following the creation of the vacancy. If the unexpired term is to conclude at the inauguration following said municipal election the election shall be conducted in the usual fashion. If the individual elected by the board of aldermen is elected at the municipal election, that individual shall continue in such office. If the individual elected by the board of aldermen is not elected at the municipal election, then the candidate receiving the greatest number of votes for that office who is not an incumbent shall complete the remainder of the unexpired term beginning at the next regular meeting of the board of aldermen. If the unexpired term continues for an additional period following the next inauguration then the municipal election shall include an election to that office for the remainder of the unexpired term and the candidate receiving the greatest number of votes shall complete the remainder of the term beginning with the next regular meeting of the board of aldermen unless said candidate is an incumbent member of the board in which case the person elected by the board of aldermen shall continue in office until the inauguration.

**§ 45. [Mayor, general duties; administrative assistant, compensation]**

The mayor shall be the chief administrative officer and the head of the administrative branch of the city government. He shall supervise the administrative affairs of the city and shall carry out the policies enacted by the board of aldermen. He shall enforce the ordinances of the city, this charter, and all general laws applicable to the city. He shall keep the board of aldermen informed of the condition and needs of the city and shall make such reports and recommendations as he may deem advisable, and perform such other duties as may be prescribed by this charter or required of him by ordinance or resolution of the board of aldermen, not inconsistent with this charter. He shall have and perform such other powers and duties not inconsistent with the provisions of this charter as now are or hereafter may be conferred or imposed upon him by municipal ordinance or upon mayors of cities by general law. The mayor shall nominate and the aldermen confirm an administrative assistant to the mayor who shall serve for an indefinite term and perform such duties and functions as the mayor shall designate. Said administrative assistant shall be chosen for his executive and administrative qualifications and need not be a resident of this state. He shall receive such compensation as may be set by ordinance.

**§ 45-a. [Mayor and aldermen; compensation]**

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<sup>24</sup> The subject matter of repealed section 43-a is now covered in section 43 of this charter.

<sup>25</sup> Amended by R-04-126 approved by the voters on November 8, 2005. Filling-vacancies provision effective January 1, 2006. Amended by R-11-139 approved by the voters on November 8, 2011. Filling vacancies provision effective November 8, 2011. Amended by R-18-073 approved by the voters on November 5, 2019. Filling vacancies provision effective November 5, 2019.

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The mayor shall devote his full time to his duties and shall not be employed by any other employer during his term of office. He shall receive such salary as may be designated by ordinance. The aldermen shall be compensated per meeting based upon attendance not to exceed an aggregate sum which shall be set by ordinance.

### **§ 45-b [Appointive power of mayor]**

The mayor shall have the power to appoint and remove all officers and employees in the administrative services of the city, subject to the provisions of this charter, and he may authorize and empower the head of a department or officer responsible to him to appoint and remove subordinates in such department or office. All such appointments shall be without definite term unless made for a provisional, temporary or emergency service not to exceed the maximum limits which may be prescribed by the merit plan.

### **§ 46. Mayor: powers in board of Public Works**

The mayor shall be chairman ex-officio and a member of the board of public works for all purposes, including voting and counting of a quorum. He shall have no negative on the action of such board, but may in his discretion suspend the operation or execution of any vote or decision adopted by it until the same shall be approved by the full board of aldermen, by causing an order to that effect to be entered on the records of the board of public works, and communicated to each member of the latter board and any other persons affected, within seven days after the adoption of such vote or decision and before any obligations have been incurred thereunder. The matter shall then be laid before the board of aldermen at its next regular meeting or at a special meeting called for that purpose and the action of said board confirming, annulling or reversing the vote or decision of the board of public works shall, subject to the negative given the mayor by the next following section, be final and conclusive.

### **§ 47. Mayor; initiative and veto power**

The mayor shall, at all times, have the right to introduce bills and initiate other measures in the board of aldermen. He shall have a negative upon all ordinances, resolutions and votes passed by it except such as relates (1) to the time, manner or order of its session or procedure, (2) to the filling of vacancies in its own membership, the office of incumbents of other municipal offices or the filling of vacancies therein, and the conformation or nonconformation of persons appointed thereto by himself or to the determination of the qualifications and election of candidates for office nominated and voted for at the municipal elections, (3) to the fitness of applicants for licenses, the removal of municipal officers for cause, assessment of land damages or other matters of judicial nature. He shall exercise such negative in all cases, by written declaration filed with the city clerk within seven days thereafter, stating the grounds of his disapproval; and no ordinance, and no such resolution or vote shall take effect until the expiration of such seven days unless first signed by him. In case of an ordinance or a resolution contemplating district appropriations or other severable provisions he may veto one or more of such appropriations or provisions and approve the remainder of the bill, plainly specifying above his signature thereto the items disapproved, whereupon the bill shall take effect in accordance with its terms except as to such items. No ordinance, resolution or vote or part thereof by him vetoed conformable to this section shall take effect unless on reconsideration the same be passed over this veto by affirmative of at least ten aldermen on roll call.

### **§ 47-a. [Aldermanic interference prohibited]**

It is the intention of this charter that the board of aldermen shall act in all matters as a body, and it is contrary to the spirit of this charter for any of its members to seek individually to influence the official acts of the mayor, or any other officer, or to direct or request, except in writing, the appointment of any person to, or his removal from, office; or to interfere in any way

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with the performance by such officers of their duties. The board of aldermen and its members shall deal with the administrative service solely through the mayor and shall not give orders to any subordinate of the mayor either publicly or privately, but they may make suggestions and recommendations. Nothing herein contained shall prevent the board of aldermen from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality, and delegating to such committees such powers of inquiry as the board of aldermen may deem necessary

### **§ 48. General powers and duties of aldermen**

Except as herein otherwise provided, the board of aldermen hereby established shall have all the powers and discharge all the duties conferred or imposed upon city councils in convention, city councils voting concurrently, or board of mayor and aldermen acting separately, by chapters 44 to 48 inclusive, of the RSA or other general law now in force or hereinafter enacted, or upon the existing city councils or board of mayor and aldermen of the city of Nashua by special laws not hereby repealed. The board of aldermen shall have the powers of selectmen of towns so far as consistent with this charter. All provisions of such laws pertaining to the powers or duties of any or all such bodies shall be construed to apply to the board of aldermen hereby established unless a contrary intent or provision herein appears.

#### **§ 48-a. [Ordinances]**

Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be “The City of Nashua ordains,” and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the city clerk, and each ordinance so recorded shall be authenticated by the signature of the mayor and the city clerk. Ordinances shall be published, compiled and revised in such manner and at such times as the board of aldermen shall determine.

#### **§ 48-b. [Appointments requiring confirmation]**

The following appointments made by the mayor shall require confirmation by the board of aldermen:

- I. Members of the Nashua housing authority notwithstanding the provisions of RSA 203:5;
- II. Members of the city planning board notwithstanding the provisions of RSA 36:4.

### **§ 49. Board of aldermen; standing committees; appropriations**

The members of the standing committees of the board of aldermen shall be appointed by the president of the board of aldermen subject to the approval of the board. No ordinance, and no resolutions containing an appropriation or contemplating an expenditure of money shall be laid before the board of aldermen for action except as otherwise herein provided until the signature of the mayor, president of the board, or alderman introducing the same, or, if introduced by a committee by its chairman, is indorsed thereon. Upon the final passage of every resolution or ordinance containing an appropriation or contemplating an expenditure of one hundred dollars or more the vote shall be viva voce and major vote on roll call.

#### **§ 49-a. [Department of administration]**

The city shall have a department of administration headed by the mayor, and such other departments, divisions, and bureaus as the board of aldermen may establish by ordinance. It shall be the duty of the first mayor elected under the provisions of this section to draft and submit to the board of aldermen within six months after assuming office, an ordinance providing the division of the administrative service of the city into departments, divisions and bureaus, and

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defining the functions and duties of each. Subsequent to the adoption of such ordinance, upon recommendation of the mayor, the board of aldermen by ordinance may create, consolidate or abolish departments, divisions and bureaus and define the functions and duties of each. The compilation of such ordinances shall be known as the “Administrative Code.” Each officer shall have supervision and control of his department and of the employees therein and shall have power to prescribe rules and regulations, not inconsistent with general law, this charter, the administrative code, and the provisions of the merit plan. Prior to adoption of the administrative code, the mayor shall have the power to establish temporary rules and regulations to insure economy and efficiency in the several divisions of the city government.

### **§ 50. Finance committee<sup>26</sup>**

The finances and accounts of the city shall be under the supervision of a finance committee composed of the mayor and three aldermen-at-large and three ward aldermen, the three ward aldermen and three aldermen-at-large to be appointed by the president of the board aldermen with the mayor acting as chairman. The city comptroller shall be responsible for establishing and maintaining a system of accounts in accordance with generally accepted accounting principles as they apply to municipalities, which will show at all times the financial condition and financial operations of the city in all its departments.

### **§ 50-a. [Fiscal and budget year]<sup>27</sup>**

The fiscal and budget year of the city shall begin on the first day of July and end on the last day of June, provided, however, that the first budget under this section shall be for the period of January 1, 1972 to June 30, 1973.

### **§ 50-b. [Financial control through city comptroller]<sup>28</sup>**

Control of finances shall be under a director known as a “city comptroller” who shall be chosen solely on the basis of his executive and administrative qualification, his actual knowledge of accepted practice in respect to the duties of municipal fiscal management. Such city comptroller need not be a resident of the city of state at the time of his appointment but during tenure of office, he may reside outside the state only with approval of the board of aldermen. The control function shall include provisions for an encumbrance system of budget operation, for expenditure only upon written requisition, for the pre-audit of all claims and demands against the city prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

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<sup>26</sup> Res. R-83-223, effective Jan. 1, 1984.

<sup>27</sup> **Debt time limitation for discharge not applicable**—1971, ch. 447:1, eff. Aug. 29, 1971, provided: “Notwithstanding the provisions of FSA 31:94-d, the city of Nashua may exceed the nine year time limitation for the discharge of any debt incurred pursuant to the transition period resulting from the change of dates of its fiscal year.”

**Implementation of fiscal year change**—1969, ch. 627:29, eff. Jan. 1, 1972, provided:

“I. Accounting Period. The city of Nashua and departments thereof are hereby authorized to budget their receipts and expenditures, to raise and appropriate revenues and to assess taxes for the eighteen month accounting period between January 1, 1972 and June 30, 1973, as provided in Laws of 1913, 427: part 1, Sect. 50-a, as inserted by section 14 of this act [this section of this charter].”

“II. Debt Authorized. The city of Nashua may incur debt under the provisions of RSA 33 in an amount not exceed one third of the taxes assessed by said city on April 1, 1972, excluding payment due on outstanding debts. Debt incurred pursuant to this paragraph shall be discharged within nine years after it is incurred. The amount of the debt incurred pursuant to this paragraph shall not be included in the debt limit of the city of Nashua, and shall be incurred only for the purpose of defraying costs that result from the eighteen month transitional accounting period provided for in Laws of 1913, 427: part 1, Sect. 50-a, as inserted by section 14 of this act [this section of this charter].”

<sup>28</sup> Res.-83-223, effective Jan. 1, 1984.

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### **§ 50-c. [Real estate tax payments]<sup>29</sup>**

The board of aldermen may provide that taxes upon real estate shall be collected in the following manner. A partial payment of the taxes assessed on April 1 in any tax year computed by taking the prior year assessed valuation times  $\frac{1}{2}$  of the previous year tax rate; provided, however, that whenever it shall appear to the assessors that certain individual properties have physically changed in valuation they may use the current year appraisal times  $\frac{1}{2}$  the previous year's tax rate to compute the partial payment. Partial payment of taxes assessed under this section shall be due and payable on July 1 of the present tax year. A payment of the remainder of the taxes assessed on April 1, minus the payment due on July 1 of that year shall be due and payable December 1. Interest charged on all taxes shall be in the amount as prescribed in RSA 76:13.

### **§ 51. [Centralized purchasing and contract system]**

The administrative code shall establish a centralized purchasing and contract system, including the combination of purchasing of similar articles for different departments, and purchasing by competitive bids whenever practical. The mayor shall be charged with the administration of the system so established.

### **§ 52. Deposit of city funds<sup>30</sup>**

The board of aldermen may designate the depository or depositories of city funds, and may provide for the daily deposit of all city monies. The board of aldermen may provide for such security for city deposits as it may deem necessary, except that personal surety bonds may not be deemed proper security. In the absence of such action by the board of aldermen, the city treasurer shall exercise sound discretion in the deposit of city funds.

### **§ 53. [Expenditure of city funds; transfers]**

After the budget has been adopted, no money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to a budget appropriation unless there shall be a specific appropriation therefore specifying the source from which the funds shall come. Except as otherwise provided in this charter, the board of aldermen may transfer any unencumbered appropriation balance or any portion thereof from one department, fund, or agency, to another.

### **§ 54. Annual audit of city account<sup>31</sup>**

An independent audit shall be made of all accounts of the city government at least annually and more frequently if deemed necessary by the board of aldermen. Such audit shall be made by certified public accountants experienced in municipal accounting. An abstract of the results shall be made public.

### **§ 54-a [Borrowing money; issuance of bonds, etc.]**

Subject to the applicable provisions of state law and the rules and regulations provided by ordinance in the administrative code, the board of aldermen, by resolution may authorize the

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<sup>29</sup> **Senior citizens exemption**—By referenda of Nov. 6, 1979, the voters of Nashua approved the following question: "Shall we adopt the provisions of RSA 72:43-b and 43c for expanded exemptions on real estate which provide for a resident of 65 years of age up to 75, a \$5,000 exemption; a resident 75 years of age up to 80 to \$10,000 exemption; a resident of 80 years of age or older, a \$20,000 exemption, provided that the resident owns real estate individually or jointly with another or his spouse with whom he has been living with for 5 years as man and wife; said resident had a net income of less than \$7,000 or combined income with spouse of less than \$9,000; and owns assets of any kind tangible or intangible less bona fide encumbrances, not in excess of \$50,000?" (Res. R-83-223, effective Jan. 1, 1984)

<sup>30</sup> Res. 83-223, effective Jan. 1, 1984.

<sup>31</sup> Res.-83-223, effective Jan. 1, 1984.

## CHARTER AND RELATED LAWS

borrowing of money for any purpose within the scope of the powers vested in the city and the issuance of bonds of the city or other evidence of indebtedness therefore, and may pledge the full faith, credit, and resources of the city for the payment of the obligation created thereby. Borrowing for a term exceeding one year shall be authorized by the board only after a duly advertised public hearing.

**§ 55. Repealed.** Res. R-83-223, effective Jan. 1, 1984.

### **§ 56. Annual budget and estimates**

The municipal budget shall be prepared by the mayor with the assistance of the officer exercising the control function provided for in section 50-b. At such time as may be requested by the mayor or specified by the administrative code, each officer or director of a department shall submit and itemized estimate of the expenditures for the next fiscal year for the department or activities under his control. The mayor shall submit the proposed budget to the board of aldermen at least one month before the start of the fiscal year of the budget.

#### **§ 56-a. [Budget hearing]**<sup>32</sup>

A public hearing on the budget shall be held before its adoption by the board of aldermen, at such time and place as the board of aldermen shall direct, and notice of such public hearing shall be published at least one week in advance of the hearing by the city clerk. Copies of the proposed budget shall be available for public inspection in the city clerk's office at least one week prior to said hearing.

#### **§ 56-b. [Changes in budget items]**

The board of aldermen may reduce any item or items in the mayor's budget by a vote of a majority of the board, but an increase in or addition of any item or items therein shall become effective only upon an affirmative vote of two thirds of the members of the board of aldermen. The budget shall be finally adopted not later than the first day of the second month of the fiscal year.

#### **§ 56-c. Limitation on budget increases**<sup>33</sup>

Recognizing that final tax rates for the City of Nashua are set by the New Hampshire Department of Revenue Administration pursuant to RSA 21-J:35(1), the mayor, the board of aldermen, and all departments in the City of Nashua including the mayor's office, aldermanic office, legal department, administrative services division, community services division, community development division, school department, public works division, fire department, police department, public libraries, parking garages and cemeteries shall prepare their annual budget proposals and the Board of Aldermen shall act upon such proposals in accordance with the mandates in this paragraph.

In establishing a combined annual municipal budget for the next fiscal year, the mayor and the board of aldermen shall consider total expenditures not to exceed an amount equal to the combined annual budget of the current fiscal year, increased by a factor equal to the average of the changes in the Gross Domestic Product Implicit Price Deflator (IPD) for State and Local Government Consumption Expenditures and Gross Investment of the three (3) calendar years immediately preceding budget adoption as published by the Bureau of Economic Analysis.<sup>34</sup>

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<sup>32</sup> Res.-83-223, effective Jan. 1, 1984.

<sup>33</sup> Res. of 11-2-93.

<sup>34</sup> Res.-13-147, effective Jan. 1, 2015.

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This provision shall not prevent the mayor and the board of aldermen from establishing a combined annual municipal budget below this limit.

This provision shall not prevent the mayor and the board of aldermen from appropriately funding any programs or accounts mandated to be paid from municipal funds by state and federal law.

### **§ 56-d. Exception to budget limitation<sup>35</sup>**

The total or any part of principal and interest payments of any municipal bond, whether established for school or municipal purposes, may be exempted from the limitation defined in paragraph 56-c upon an affirmative vote of at least ten (10) aldermen. This decision shall be made annually.

In addition, capital expenditures deemed necessary by the mayor and the board of aldermen, subject to recommendation by the capital improvements committee (ref. Paragraph 77-a of the City Charter) may similarly be exempted from this limitation upon an affirmative vote of at least ten (10) aldermen.

### **§ 56-e. Reserve fund<sup>36</sup>**

In the event actual property tax collections and/or revenues exceed the budget allocation prescribed in paragraph 56-c, plus additional expenditure authorized pursuant to paragraph 56-d, such excess funds shall be deposited in a reserve account specifically established for the purpose.

These funds shall be drawn upon as a contingent revenue source in succeeding fiscal years, to offset a part of the budget estimated otherwise having to be funded by property taxes, or for any other municipal budget purposes, or to meet federal and state mandates, or for unanticipated emergency expenses, or as a property tax credit, upon an affirmative vote of two-thirds of the members of the board of aldermen.

### **§ 56-f. Deficit budget control<sup>37</sup>**

The actual annual municipal budget shall not incur a deficit, wherein total spending exceeds total income during the fiscal year. If the total actual and projected income from all sources, including property taxes, municipal, county, state, and federal revenues, and funds transferred from the reserve fund established pursuant to paragraph 56-e during a fiscal year fails to meet actual and projected expenditures for the remaining part of that fiscal year, an automatic, equal and immediate across-the-board percentile cut shall be instituted in the annual budget of every city department cited in paragraph 56-c. The city comptroller (ref. Paragraph 50-b of the City Charter) shall determine the status of actual and projected income vs. expenditures for this purpose, in coordination with the city treasurer (ref. Paragraph 42 of the City Charter) and determine the requisite numeric percentile cut. The board of aldermen, upon notification by the city comptroller and the city treasurer, shall then order the cut.

This cut may be exempted or adjusted upon an affirmative vote of three-fourths of the members of the Board of Aldermen.

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<sup>35</sup> R-04-121 approved by voters on November 8 2005. Amended section to read “at least ten aldermen” in lieu of “two-thirds of the members of the board.” Res. of 11-2-93.

<sup>36</sup> Res. of 11-2-93.

<sup>37</sup> Res. Of 11-2-93.

## CHARTER AND RELATED LAWS

This provision shall not prevent the mayor and the board of aldermen from appropriately funding any programs or accounts mandated to be paid from municipal funds by state and federal law.

### **§ 56-g. Approval of salaries and collective bargaining agreements of the Nashua School District<sup>38</sup>**

The mayor and board of aldermen shall approve the cost of all salaries and collective bargaining agreements approved by the Nashua Board of Education before the same shall become effective and binding upon the school district or the city.

### **§ 57. Removals from office**

The board of aldermen may, on specific charges and after due notice and hearing, at any time remove from office the mayor or one of its own members for prolonged absence from or other inattention to duty, mental or physical incapacity, incompetency, crime, immorality, or misconduct in office upon affirmative vote on roll call of at least two thirds of the aldermen. A vacancy occasioned by removal under this section shall be filled in the manner provided in section 44 of this charter.

### **§ 58. Incompatible offices**

No alderman shall, during his term as such, be eligible to hold any other municipal office except acting mayor, and volunteer member of the fire department; and no board or commission established in the city and empowered to select subordinates shall, except where expressly authorized by law or ordinance creating it, select one of its own members for any position to which a salary or other emolument is attached.

## **Board of Public Works**

### **§ 59. How chosen: tenure of office<sup>39</sup>**

The board of public works shall be composed of the mayor and four members to be chosen by the qualified voters of the city at large, voting in their respective wards. At the first general municipal election to be holden under this act [charter], there shall be elected four members of the board of public works: the two candidates receiving the two highest preferences shall serve for three years, and the two candidates receiving the next highest preferences shall serve for one year, and at each subsequent general municipal election there shall be elected two members for the full term of four years, and the members so chosen shall hold their respective offices from the first secular day of January next following their election for the terms above specified, and until their successors are chosen and qualified. Vacancies shall be filled until the next municipal election by the election of some qualified person (see Charter §59-a) by the recorded votes of at least a majority of all members of the board of public works at the next regular meeting or at a special meeting called for the express purpose of filling the vacancy within sixty (60) days following the creation of the vacancy. If the unexpired term is to conclude at the inauguration following said municipal election the election shall be conducted in the usual fashion. If the individual elected by the board of public works is elected at the municipal election, that individual shall continue in such office. If the individual elected by the board of public works is not elected at the municipal election, then the candidate receiving the greatest number of votes for that office who is not an

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<sup>38</sup> Rev. of 11-2-93.

<sup>39</sup> Amended by R-04-126 approved by the voters on November 8, 2005. Filling-vacancies provision effective January 1, 2006. Amended by R-11-139 approved by the voters on November 8, 2011. Filling vacancies provision effective November 8, 2011. Amended by R-18-073 approved by the voters on November 5, 2019. Filling vacancies provision effective November 5, 2019



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incumbent shall complete the remainder of the unexpired term beginning at the next regular meeting of the board of public works. If the unexpired term continues for an additional period following the next inauguration then the municipal election shall include an election to that office for the remainder of the unexpired term and the candidate receiving the greatest number of votes shall complete the remainder of the term beginning with the next regular meeting of the board of public works unless said candidate is an incumbent member of the board in which case the person elected by the board of public works shall continue in office until the inauguration.

### **§ 59-a. Board of Public Works: qualifications for office<sup>40</sup>**

No person shall be a candidate for the office of, or serve as, a member of the board of public works who is not a duly qualified voter of the city. No person shall hold any other city office during his tenure as an elected member of the board of public works.

### **§ 60. General powers and duties**

The said board shall have cognizance, direction and full control (a) of the construction, alteration, cleaning, watering and repair of streets, highways, bridges and sidewalks; (b) of the location, construction, extension, care and maintenance of public sewers and drains; (c) of the planting and care of the shade and ornamental trees standing in the streets and public ways; (d) of the location and supervision of electric power, electric light, telephone, telegraph, and trolley wires; of electric light, telephone, trolley and telegraph poles, and of any gas and water pipes and other conduits, and erection, placing and removing thereof; (e) they shall have all the powers and authority now vested in the committee on highways and bridges and the committee on sewers and drains, as well as full power and authority to contract for and purchase all material and supplies used in the department created by this act [charter]; (f) they shall have the purchasing as well as the care and control of all teams and other property used in the department of public works established as aforesaid. And all powers and duties by law vested in surveyors of highways shall apply to said board of public works when inconsistent herewith. The board of public works shall also have sole power to select and purchase land for the purpose of the public works department; and when the said board has secured by vote of the board of aldermen an adequate appropriation for the purchase of a specified lot at a specified price, then said board may purchase the same. The said board and the land and buildings committee of the board of aldermen, jointly shall direct the construction of all buildings erected, altered, remodeled or changed, for the use of the public works department; and no building shall be erected, altered, remodeled or changed, unless the plans thereof have previously been submitted to the board of public works and approved by it. Upon completion of such building or after the selection and purchase of land, the board of public works shall have full and complete care and control of the same; and whenever such land or buildings shall no longer be used for the purposes of the public works department the care and control thereof shall revert to the city.

**Sidewalks.** The board of public works for the city of Nashua, whenever in their judgment the public good requires, shall lay out and construct sidewalks, or repair sidewalks already constructed, about any city square in the thickly settled part of the city of Nashua. Such sidewalks shall be of uniform width on the same street, and, as far as possible, of uniform material. The cost of such construction or repair may be assessed upon the abutters on such sidewalks in just proportions, not exceeding one half of the same, and all assessments so made shall constitute a lien upon the abutting premises and be collected in the same manner as taxes on real estate; and such sidewalks shall afterwards be maintained at the expense of the city. After such sidewalks are so constructed or repaired, they shall be maintained by the city under the

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<sup>40</sup> Nov. 4, 1975, Referendum, Proposal No. 1.

## CHARTER AND RELATED LAWS

supervision of the board of public works, who may give such instructions to the city engineer as they deem necessary for this purpose.

**Meaning of Terms.** A “city square” for the purposes of this act [charter] shall be of at least one acre in extent and bounded on at least three sides by public ways. “Thickly settled part of the city” shall mean the territory contiguous to any way which is built up with structures devoted to business, or where the dwelling-houses are situated at such distances as will average less than one hundred feet between such dwelling-houses for a distance of a quarter of a mile or more upon one side of a street.

### **§ 61. Expends appropriations**

The board of public works shall have the expenditure of all appropriations made by the board of aldermen for any purpose specified in the preceding section. The said board shall elect and employ a city engineer, and such other agents and employees as it may deem necessary for the purpose of the execution of the details of the work under its charge, and prescribe their duties; and such city engineer and other subordinates shall act in all respects in accordance with its plans and directions, and may be removed by it at pleasure. Said city engineer shall perform such other duties in aid of the assessors or other departments of the city as the ordinances of the city may now or hereafter prescribe, and, in the absence of special ordinances, such other duties as have customarily been performed by the city engineer of the city. It shall have charge of all horses, vehicles, machinery, tools, material and equipment owned by the city for the purposes of such work; may from time to time purchase all new equipment required for such purposes; and sell any discarded equipment; may make such regulations for its own government and for the government of its subordinates and of the property under its charge as it may deem expedient. And, may, in its discretion, procure the performance of any work under their charge by contract, and for that purpose, call for proposals and make and execute in the name and on the behalf of the city, a suitable contract therefore with the lowest responsible bidder, taking from him sufficient security for the performance of such contract, but no such contract shall call for the expenditure of a sum exceeding the amount appropriated or available in such a case.

### **§ 62. Appropriations, etc., how made**

The board of aldermen shall make no appropriation for any purpose other than fixed charges and general maintenance and repairs, unless an appropriation for that purpose has first been requested by the board of public works; and the latter board shall undertake no highway or sewer work in the nature of new construction and permanent improvement unless an appropriation therefore has first been granted by the board of aldermen, nor undertake work of any kind, except in the case of emergency, the anticipated cost whereof will exceed the appropriation available for that purpose. At the close of every year the board of public works shall make a detailed report to the board of aldermen of its doings for that year, which report shall be published with the report of the other municipal departments.

### **§ 63. Permits and licenses, etc.**

The board of public works shall also have exclusive jurisdiction, subject to the laws of the state, and to such laws and regulations in the premises, as the board of aldermen may from time to time ordain for its guidance and for the public protection and convenience, to grant, deny and revoke permits and licenses, for making excavations in, moving buildings along, or placing and maintaining poles, wires, pipes or other structure, in, over, or under the streets, highways, or sidewalks of the city; to fix the terms of such permits and licenses, to prescribe and change the location and compel the repair or removal of such structures; and to exercise within the city all powers conferred by law and ordinance on municipal officers relative to the location and manner of street railway structures. Authority to grant permits for excavations and other temporary

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obstructions, and to designate the particular portion of the streets in which structures shall be located, may be delegated by it to the superintendent of streets, or to adjust such limits as it may prescribe. Whenever any street, highway or sidewalk in the city is obstructed or occupied in any manner mentioned, without statutory authority or a permit or a license, or in violation of the conditions of such permit or license, or of its lawful orders, the said board or its authorized agent may abate the offending obstruction or structure as a public nuisance.

### **Board of Assessors**

**§ 64. Repealed.** 1969, ch. 627:30, II, eff. Jan. 1, 1972

**Editor's note**—1969, ch. 627:27, eff. Jan. 1, 1972, provided: “The elected board of assessors is hereby abolished and the terms of office of the members of said board in office as of January 1, 1970 shall hereby expire.”

**§ 65. Repealed.** 1969, ch. 627:30, II, eff. Jan. 1, 1972

**§ 66. Repealed.** 1969, ch. 627:30, IV, eff. Jan. 1, 1972

**§ 67. Repealed.** 1969, ch. 627:30, V, eff. Jan. 1, 1972

**§ 68. Repealed.** 1969, ch. 627:30, VI, eff. Jan. 1, 1972

### **§ 69. Clerk of board: duties**

The clerk of the board of assessors, with the assistance of the other members and such clerical assistance as may be furnished by the vote of the board of aldermen shall keep all the books, records and accounts of the board's condition, correspondence, and financial accounts as its executive officer, subject to the direction of the majority of the board as to the methods of performing such duties.

### **§ 70. Assistant assessors: clerks**

The board of aldermen may by ordinance employ assistant assessors to aid in making the list of ratable polls, such assistants to be employed for such time and for such compensation as shall be fixed by the board of aldermen. It may also by ordinance authorize the employment of such clerical assistance as may be required by the board of assessors, and fix the amount to be expended for such assistance.

### **§ 71. Records open to inspection**

The books and records of the assessors shall be the property of the city, and at all times be open to public inspection during office hours.

**§ 72. Repealed.** 1969, ch. 627:30, VII, eff. Jan. 1, 1972

### **§ 72-a. [Special assessments]**

The board of aldermen shall have power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property especially benefited and shall so declare by resolution. Such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessments, and what part, if any, shall be a general obligation of the city, the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

### **§ 72-b. [Special assessment—Procedure; collection]**

The board of aldermen shall prescribe by general ordinance complete special assessment procedure concerning plans and specifications, estimate of costs, notice and hearing, the making

## CHARTER AND RELATED LAWS

of the assessment roll and correction of errors, the collection of special assessments, and any other matters concerning the making of improvements by the special assessment method.

### Fire Commissioners

#### § 73. Fire commissioners, how chosen

The Board of Fire Commissioners shall continue to be composed of three members, one of whom shall be chosen at large at each general municipal election to hold office from the inauguration day in January next following his election; provided, however, that effective with inauguration day in 1978, the board shall be composed of five members to be chosen by the qualified voters of the city at large, voting in their respective wards. At the general municipal election to be held in 1977, there shall be elected three members of the fire commission; the candidate receiving the highest preference shall serve for four years; and the two candidates receiving the next highest preference shall each serve for two years. At the general municipal election to be held in 1979 there shall be elected three members for the fire commission; the three candidates receiving the highest preference shall each serve for four years. At the general municipal election to be held in 1981 there shall be elected two members of the fire commission; the two candidates receiving the highest preference shall each serve for four years. At each subsequent general municipal election three or two members of the fire commission shall alternatively be elected for a full four-year term, in order to maintain a board of five members. The members so chosen shall hold their respective offices from the inauguration day in January next following their election for the terms above specified, and until their successors are chosen and qualified. The board shall exercise all the powers and perform all the duties that the laws and ordinances now prescribe, or that may hereafter be prescribed by law and the City Ordinances.<sup>41</sup> Vacancies shall be filled until the next municipal election by the election of some person, qualified to vote in the City of Nashua, by the recorded votes of at least a majority of all members of the board of fire commissioners at the next regular meeting or at a special meeting called for the express purpose of filling the vacancy within sixty (60) days following the creation of the vacancy. If the unexpired term is to conclude at the inauguration following said municipal election the election shall be conducted in the usual fashion. If the individual elected by the board of fire commissioners is elected at the municipal election, that individual shall continue in such office. If the individual elected by the board of fire commissioners is not elected at the municipal election, then the candidate receiving the greatest number of votes for that office who is not an incumbent shall complete the remainder of the unexpired term beginning at the next regular meeting of the board of fire commissioners. If the unexpired term continues for an additional period following the next inauguration then the municipal election shall include an election to that office for the remainder of the unexpired term and the candidate receiving the greatest number of votes shall complete the remainder of the term beginning with the next regular meeting of the board of fire commissioners unless said candidate is an incumbent member of the board in which case the person elected by the board of fire commissioners shall continue in office until the inauguration.<sup>42</sup>

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<sup>41</sup> Nov. 4, 1975, Referendum, Proposal No. 5.

<sup>42</sup> Amended by R-04-126 approved by the voters on November 8, 2005. Filling-vacancies provision effective January 1, 2006. Amended by R-11-139 approved by the voters on November 8, 2011. Filling vacancies provision effective November 8, 2011. Amended by R-18-073 approved by the voters on November 5, 2019. Filling vacancies provision effective November 5, 2019.

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### Board of Education

#### § 74. Board of education; duties

The City of Nashua shall continue to constitute one school district, and the school committee of said City shall be styled the Board of Education. It shall perform all such duties as the School Committee in towns is required by law to perform, and shall have the power to protect the health of children attending the public schools of the city when exposed to danger from any cause connected with the schools, whether the cause be unsanitary conditions, exposure to contagious disease, association with those who are afflicted with sickness such as is commonly communicable to others, or other causes. General appropriations for the maintenance of the schools of the city shall be deemed available to meet any expenses incurred by the Board of Education under this provision for the protection of the health of the children attending the public schools.

#### § 75. Board of education: How chosen

Any person, qualified to vote in the affairs of the City of Nashua, may vote at all elections for the choice of a board of education of said city, and be a candidate for and be chosen to such membership upon receiving the necessary votes required for election upon the board, provided that no person shall serve as a member of the board of education who is not a duly qualified voter of the city. Any duly qualified voter may also sign an initiative petition such as provided for in this charter in case of any measure pertaining to the affairs under the board's administration, which it, after this charter takes effect, may lawfully pass, and vote upon its submission to a vote of the qualified voters of the city for adoption or rejection at a general or special municipal election when the measure is by this charter to be voted upon.

The board of education shall continue to be composed of twelve members, four of whom shall be elected at large at each general municipal election to hold office from the following January first; provided, however, that effective with the terms of those members which commence January 1, 1972, the term of office of members shall be four years and, provided further, that effective with the election in November 1975, five candidates shall be elected to the board and the membership of the board shall be reduced to nine effective January 1, 1976. Subsequently, four or five candidates shall be elected to the board at each general municipal election in order to maintain a board of nine members.<sup>43</sup> Vacancies shall be filled until the next municipal election by the election of some qualified person (see above in this section) by the recorded votes of at least a majority of all members of the board of education at the next regular meeting or at a special meeting called for the express purpose of filling the vacancy within sixty (60) days following the creation of the vacancy. If the unexpired term is to conclude at the inauguration following said municipal election the election shall be conducted in the usual fashion. If the individual elected by the board of education is elected at the municipal election, that individual shall continue in such office. If the individual elected by the board of education is not elected at the municipal election, then the candidate receiving the greatest number of votes for that office who is not an incumbent shall complete the remainder of the unexpired term beginning at the next regular meeting of the board of education unless said candidate is an incumbent member of the board in which case the person elected by the board of education shall continue in office until the inauguration. If the unexpired term continues for an additional period following the next inauguration then the municipal election shall include an election to that office for the remainder of the unexpired term and the candidate receiving the greatest number of votes shall complete the remainder of the term beginning with the next regular meeting of the board of

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<sup>43</sup> Nov. 4, 1975, Referendum, Proposal No. 1.

## CHARTER AND RELATED LAWS

education unless said candidate is an incumbent member of the board in which case the person elected by the board of education shall continue in office until the inauguration.<sup>44</sup>

### **§ 76. Board of Education; officers; compensation; incompatible offices<sup>45</sup>**

The Board of Education shall choose a president and clerk from its own members. Each member of the board shall be compensated in such amounts as the mayor and board of aldermen from time to time appropriate in the budget of the city. No person shall hold any other city office during his tenure as a member of the Board of Education.

### **§ 77. Planning Board<sup>46</sup>**

- (a) *Membership.* There shall be in the city a Planning Board whose membership shall consist of nine members; the mayor or his appointed representative, the city engineer, a member of the board of aldermen who shall be appointed by it, and six citizen members who shall be appointed by the mayor, said appointments to be confirmed by the board of aldermen.
- (b) *Qualifications, terms and removal of members.* The qualifications and terms of members, and removal of members shall be as specified by RSA Chapter 36, as amended.
- (c) *Vacancies in membership.* Vacancies in the membership of the board occurring otherwise than through the expiration of term may be filled for the duration of the unexpired term by the mayor, in the case of members appointed by him. Such appointments by the mayor are to be confirmed by the board of aldermen. The board of aldermen may make appointments in the case of the aldermanic members.
- (d) *Organizations: meetings and rules.*
  - (1) The board shall elect a chairman from the appointed members and create and fill such other offices as it may deem necessary for its work. The term of the chairman shall be one year, with eligibility for re-election.
  - (2) The board shall hold at least one regular meeting each month, shall adopt rules for the transaction of business and shall keep a public record of its resolutions, transactions, findings and determinations, and shall forward a copy of the minutes of its meetings to the city clerk for distribution to each member of the board of aldermen.
- (e) *Staff and finances.* Subject to the limitations hereinafter provided, the Planning Board may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the city. The board of aldermen may provide such funds, equipment and accommodations as they may deem necessary or advisable for the Planning Board's work. All expenditures of

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<sup>44</sup> Amended by R-04-126 approved by the voters on November 8, 2005. Filling-vacancies provision effective January 1, 2006. Amended by R-11-139 approved by the voters on November 8, 2011. Filling vacancies provision effective November 8, 2011. Amended by R-18-073 approved by the voters on November 5, 2019. Filling vacancies provision effective November 5, 2019

<sup>45</sup> Nov. 4, 1975, Referendum, Proposal No. 4.

<sup>46</sup> **Editor's note**—A prior § 77 was repealed by P.S. ch. 114 § 11.

## CHARTER AND RELATED LAWS

the Planning Board, exclusive of gifts, shall be within the funds appropriated for the purpose by the board of aldermen.

- (f) *Powers and duties.* The Planning Board shall promote public interest in, and understanding of, the master plan and of the official map of the city as hereinafter provided and it shall do all things necessary and incidental to the promotion and execution of said plan and map. It shall also have all the powers conferred by statute on municipal planning boards. The board shall, however, be limited in the exercise of the foregoing duties and powers to the funds appropriated by the board of aldermen for such purposes.

The Planning Board shall review and make recommendations to the mayor and board of aldermen on all locations for proposed municipal buildings and facilities, including educational, on the purchase and sale of any land by the city and on existing or dedicated streets to be discontinued or vacated.

- (g) *Master plan.* The Planning Board shall formulate a master plan of the city, carry out the statutory powers of a zoning commission, prepare an official map of the city, formulate regulations for the subdivision of land, the location of buildings within the bed of mapped streets, and have all other such powers as are conferred by statute upon municipal planning boards. All proposed plans, maps, regulations and zoning changes must be submitted to the board of aldermen for enactment into law, either by resolution or ordinance, as the case may be.
- (h) *Limitations.* The Planning Board shall not do any act or acts pursuant to its power and duties which contemplate or necessitate the expenditure of municipal funds by resolution, inclusion in the municipal budget, appropriations or supplementary appropriations, or otherwise without authorization by the board of aldermen. (Nov. 4, 1975, Referendum, Proposal No. 2; Res. R-83-223, effective Jan. 1, 1984)

### **§ 77-a. Capital Improvements Committee<sup>47</sup>**

- (a) *Establishment and purpose.* There is hereby established, as a sub-committee of the City Planning Board, a capital improvements committee with the responsibility of preparing a six-year capital improvement program and a one-year capital improvement budget for the consideration of the mayor and board of aldermen. It is also the responsibility of the committee to annually review the progress of approved capital improvement projects and annually update and revise its six-year program and one-year budget.
- (b) *Requests for capital improvement projects.* All requests for capital improvement projects, as defined by the committee, shall be referred to the committee for a recommendation prior to any formal commitment by the city to proceed. All departments shall supply the necessary information required by the committee to properly conduct their review.
- (c) *Membership and term of office.*
  - (1) The committee shall consist of four citizen members appointed by the City Planning Board, the City Treasurer, the City Comptroller, the City Planning Director and a member of the board of aldermen appointed by it.

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<sup>47</sup> Nov. 4, 1975, Referendum, Proposal No. 2; amended Res. R-83-223, effective Jan. 1, 1984.

## CHARTER AND RELATED LAWS

- (2) Terms of office shall, for ex-officio members, coincide with their terms of office and, for citizen members, be for a two-year term with two of the four terms ending in alternate years.
- (d) *Responsibilities.* The committee shall have the following responsibilities:
- (1) To receive, evaluate and make recommendations on capital improvement projects requested by each municipal department. To the extent feasible, the review of each project shall be premised upon the master plan for the City of Nashua or parts thereof, as amended from time to time;
  - (2) The committee shall recommend to the City Planning Board those capital improvement projects which should be considered in the ensuing six-year period, and those which should be deferred beyond;
  - (3) The committee shall also recommend to the City Planning Board those capital improvement projects which should be considered in the coming year's fiscal budget for the city;
  - (4) The committee shall also include in its report to the City Planning Board the financial effects of the proposed capital improvements program;
  - (5) The committee shall also review the progress of all approved capital improvement projects and issue a status report semi-annually to the City Planning Board, mayor and board of aldermen;
  - (6) The committee, upon submission to it by the mayor and board of aldermen shall review and report on any capital improvement request received by the mayor and/or the board of aldermen for inclusion within the one-year capital improvements budget which has not previously been reviewed by the committee. The committee shall submit its report on the proposed capital improvement to the City Planning Board within 30 days of its referral to the committee from the mayor and/or board of aldermen. The City Planning Board shall submit the committee's report and any additional comments of the Planning Board to the mayor and board of aldermen within 30 days of receipt of the committee's report.

The City Planning Board, upon receiving the committee's recommended capital improvements program and budget, may amend the program and budget before its submission to the mayor and the board of aldermen, but such amendments shall be in the form of supplementary recommendation or comments attached to the submitted program and/or budget.

### **Board of Health**

#### **§ 78. Board of Health, how chosen**

The board of aldermen on the first secular day of January, 1915, shall elect a board of health, to be composed of three members, whose terms of office shall be for one year, and on the first secular day of January in 1916 and thereafter biennially on said first secular day of January following the regular municipal election they shall elect said board of health for the term of two years, to be composed of three members, two of who shall be physicians.



## CHARTER AND RELATED LAWS

### **§ 79. Board of Health: duties and powers**

Said board shall have control of and attend to all matters and perform all duties relating to public health, and shall perform such special duties as may be imposed upon them by ordinance or by the general statutes of the state.

### **§ 80. Health officer, duties and salary**

The board of health shall elect a health officer who shall hold the office at the pleasure of said board. The health officer shall devote his time to the performance of the duties imposed upon him by and by the board of health, including the inspection of milk.

### **§ 81. Board of Health, to make rules**

The board of health may make such rules and regulations relating to plumbing, sanitation and drainage of buildings and connection with public sewers, as in their judgment the health and safety of the occupants or the public may require. They may also make such rules and regulations relating to the public health as in their judgment the public health and safety may require. All such rules and regulations shall be subjected to the action of the board of aldermen approving the same.

## **City Treasurer-Tax Collector; City Clerk**

### **§ 82. City Treasurer-Tax Collector: duties**

The city treasurer, who shall also be collector of taxes, shall collect all moneys due to the city, except license fees or other moneys, the collection of which is otherwise provided for by law. He shall have the custody of, and pay out all moneys, and cause his accounts in both said capacities to be kept in proper books of account and in manner approved by the finance committee and shall perform such other duties as the ordinance prescribed; he shall perform all the duties and exercise all the powers assigned by law to city treasurers or collectors of taxes, or town treasurers and collectors of taxes, so far as such laws can apply to said city.

### **§ 83. City Treasurer-Tax Collector's books open to inspection**

All books and records of the city treasurer and collector of taxes shall be the property of the city and shall be at all times open to public inspection during the office hours of said officer.

### **§ 84. Reports of City Treasurer-Tax Collector to Mayor or Aldermen**

The board of aldermen or the mayor may call for such reports as to the uncollected taxes, and as to the moneys on hand, and as to the finances of the city, as they may deem needful for their information.

### **§ 85. [Bonding of city officers]**

Any city officer elected or appointed by authority of this charter may be required by the board of aldermen to give a bond to be approved by the city solicitor for the faithful performance of the duties of his office, but all officers receiving or disbursing city funds shall be so bonded. All official bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the city. Such bonds shall be filed with the city clerk.

### **§ 86. [City clerk, general duties]**

The city clerk shall perform all the duties and exercise all the powers that the existing or future ordinances prescribe as to the functions of city clerk; he shall also perform all the duties and exercise all the powers assigned by law to such officers or officer in towns and cities as far as such law apply to said city.

## **Personnel Administration**

## CHARTER AND RELATED LAWS

### **§ 86-a. [Merit system for personnel administration; exceptions]**

Appointments and promotions to all positions in the service of the city shall be made solely on the basis of merit and only after examination of the applicant's fitness. The first mayor elected under the provisions of this charter shall draft and submit to the board of aldermen within six months after assuming office an ordinance providing for the establishment of merit system for personnel administration. Such ordinance shall include provisions with regard to classification, compensation, selection, training, promotion, discipline, vacations, retirement and any other matters necessary to the maintenance of efficient service and the improvement of working conditions. Officials elected by the people shall be exempt from the provisions of such ordinance. With reasonable dispatch thereafter the board of aldermen shall enact, amend or revise the ordinance so submitted, but in any event the board of aldermen shall enact a merit plan which embodies the provisions herein required. It shall be the duty of the mayor to administer the merit plan so enacted. He may submit revisions of the merit plan to the board of aldermen from time to time as changes in conditions and circumstances in the city service justify.

### **§ 86-b. [Personnel advisory board]**

There is hereby established a personnel advisory board of three citizens holding no other public office and appointed by the mayor, subject to the approval of a majority of the board of aldermen. The term of each member shall be for three years and until his successor is appointed and qualified. However, in the case of first appointments, one member shall be appointed for one year, one for two years, and one for three years. Vacancies shall be filled for the remainder of any term in the same manner as the original appointment. It shall be the duty of the personnel advisory board to study the broad problems of personnel policy and administration, to advise the board of aldermen concerning the personnel policies of the city and the mayor regarding the administration of the merit plan, and to hear appeals from any employee aggrieved as to the status or condition of his employment. The board shall issue written reports containing findings of fact and recommendations to the mayor upon such appeals. But the board shall have no power to reinstate an employee unless it finds after investigation, that disciplinary action was taken against the employee for religious, racial or political reasons.

### **§ 86-c. [Retirement system for city employees]<sup>48</sup>**

The merit plan may contain provisions for a system for the retirement of any city employee who shall have attained an age or condition of health which warrants retirement from further service. Any such plan shall provide payments to retired employees only as additional compensation for services rendered after the inauguration of such a plan and before a retirement.

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<sup>48</sup> **Cross reference**—General retirement system, Subpart B, § A-481 et seq.

**Other Boards; Recall; Initiative Petition**

**§ 87. Sundry board and officers continued<sup>49</sup>**

The board of police commissioners and police force, the boards of trustees of cemeteries, public library, hospital, and Hunt legacy, and all other bodies or officers not specially abolished or superseded herein, as at present constituted, are hereby continued; provided, however, that the board of aldermen shall, in all cases, determine the members of any board of commissioners or trustees required heretofore to be named or elected by the aldermen or city councils, and name or elect the member to fill any vacancy in said board, in convention with such other board.

**§ 88 (Repealed. P.S. ch. 323)**

**§ 89. Elective officers subject to recall<sup>50</sup>**

Any holder of an office elected at large may be recalled and removed therefrom by the qualified voters of the city as herein provided.

**§ 90. Procedure for recall**

Any qualified voter of the city may make and file with the city clerk an affidavit containing the name of the officer sought to be removed and a statement of the grounds of removal. The city clerk shall thereupon deliver to the voter making such affidavit a sufficient number of copies of petition blanks for such recall and removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the city clerk with his signature and official seal thereto attached; they shall be dated and addressed to the board of aldermen, shall contain the name of the person to whom issued, the number of blanks so issued, the name of the person sought to be removed, the office from which such removal is sought, the grounds of removal as stated in said affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk. Said recall petition shall be returned and filed with said city clerk within thirty days after the filing of the affidavit. Said petition, before being returned and filed, shall be signed by qualified voters equal in number to at least twenty-five percent of the ballots cast for first choice for all the candidates for the office from which it is sought to recall the incumbent at the next preceding election when said office was filled, and to every such signature shall be added the place of residence of the signer, giving the street and number. Such signatures need not all be on one paper. One of the signers of every such paper shall make an affidavit thereto that the statements therein contained are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such papers for the recall of any one officer shall be fastened together and shall be filed as one instrument, with the endorsements thereon the names and addresses of three persons designated as filing the same.

**§ 91. Petition for recall certified; defective petition amended**

Within ten days after the filing said petition, the city clerk shall ascertain by examination thereof and of the election returns and checklists used when said office was filled whether the petition is signed by the requisite number of qualified voters, and shall attach thereto his certificate showing the result of such examination. He shall, if necessary, be allowed extra help by the board of aldermen. If his certificate shows the petition to be insufficient, he shall within said ten days so notify in writing one or more of the persons designated on the petition as filing

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<sup>49</sup> **Cross references**—Board of police commissioners, Subpart B, Chapter 1; board of trustees of cemetery, Subpart B, Chapter 3; board of trustees of public library, Subpart B, Chapter 11.

<sup>50</sup> *Streeter v. McGrath, et al./05-E-427*, Superior Court, found the recall provisions in the City Charter, Sections 89 through 96, invalid.

## CHARTER AND RELATED LAWS

the same and the petition may be amended by the addition of signatures at any time within ten days after the giving of said notice by the city clerk. The city clerk shall, within ten days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then insufficient, or if no amendment was made, he shall return the petition to one of the persons designated thereon as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

### **§ 92. Recall election, when held**

If the petition or amended petition shall be found and certified by the city clerk to be sufficient, he shall submit the same with his certificate to the board of aldermen without delay, and the board of aldermen shall, if the officer sought to be removed does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by it, not less than thirty nor more than forty-five days after the date of the city clerk's certificate that a sufficient petition is filed; provided, however, that if any other municipal election is to occur within sixty days after the date of said certificate, the board of aldermen may, in its discretion, postpone the holding of the removal election to the date of such other municipal election. If a vacancy occurs in said office after a removal election has so been ordered, the election shall nevertheless proceed as in this section provided.

### **§ 93. Nominations for recall election how made**

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 official ballot without nomination. The nomination of other candidates, the publication of the warrants for such removal election, and the conduct of the same, shall all be in accord with the provisions of this act [charter], relating to elections.

### **§ 94. Incumbent's duties, pending recall**

The incumbent shall continue to perform the duties of his office until the removal 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 section 95 of this act [charter]. If not re-elected in the removal 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 ten days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

### **§ 95. Restriction on right of recall**

No recall petition shall be filed against any officer within three months after his election, nor, in the case of an officer re-elected in a removal election, until three months after that election.

### **§ 96. Disqualification by recall**

No person who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any city office within two years after such removal by recall or such resignation.

### **§ 97. "Qualified voter" defined**

The term "qualified voter," whenever it occurs in sections 89 to 96, both inclusive, of this act [charter], means a voter qualified by law and by section 33 of this act [charter] to vote for candidates for the office from which a removal is sought.

### **§ 98. Initiative petition to include what**

## CHARTER AND RELATED LAWS

A petition, meeting the requirements hereinafter provided and requesting the board of aldermen to pass an ordinance, resolution, order or vote, or requesting the board of education to pass a resolution, order or vote, all of these four terms being hereinafter designated or included in the term “measure,” shall be termed an initiative petition, and shall be acted upon as hereinafter provided.

### **§ 99. Initiative petition, how signed, and filed; procedure for submission<sup>51</sup>**

Signatures in initiative petitions need not all be on one paper, but one of the signers of every such paper shall make an affidavit thereto that the statements therein contained are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. 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 endorsements thereon of the names and addresses of three persons designated as filing the same. With each signature to said petition shall be stated the place of residence of the signer, giving the street and number. Within ten days after the filing of said petition the city clerk shall ascertain by examination thereof and of the checklists and election returns, by what number of qualified voters the petition is signed and what percentage that number is of the last preceding vote cast in the city for all candidates for governor of the state, except as is provided in section 109 of this act [charter], and shall attach thereto his certificate showing the result of such examination. He shall forthwith transmit the measure with the said certificate to the board of aldermen or to the board of education, accordingly as the petition is addressed, and at the same time shall send a copy of said certificate to one or more of the persons designated on the petition as filing the same.

### **§ 100. Procedure, if initiative petition signed by 25% of last vote<sup>52</sup>**

If an initiative petition be signed by qualified voters equal in number to at least twenty-five percent of the last preceding vote cast in the city for all candidates for governor of the state, the board of aldermen or the board of education to whom such measure is transmitted, provided that said measure be one which the respective board, after this act [charter] takes effect, have a legal right to pass, shall within twenty days after the date of the city clerk’s certificate, either—(a) pass said measure without alteration, subject to the referendum vote provided by this act [charter]; or (b) the board of aldermen shall call a special meeting of the voters to be held on a Tuesday fixed by it not less than thirty nor more than forty-five days after the date of the city clerk’s certificate that a sufficient petition has been filed, and shall submit the proposed measure without alteration to a vote of the qualified voters of the city at that meeting; provided, however, that if any municipal election is otherwise to occur within ninety days after the date of said certificate, the board of aldermen may at its discretion omit the special meeting and submit the proposed measure to the voters at such other pending election.

### **§ 101. Procedure, if initiative petition signed by at least 5% of last vote<sup>53</sup>**

If an initiative petition be signed by qualified voters equal in number, except as provided in section 109 of this act [charter], to at least five percent, but less than twenty-five, of the past preceding vote cast in the city for all candidates for governor of the state, as shown in the manner hereinbefore provided, and said proposed measure be not passed without alteration by the board of aldermen or the board of education within twenty days, as provided in section 100 of this act [charter], then such proposed measure, without alteration, shall be submitted by the board of aldermen to a vote of the qualified voters of the city at the next municipal election.

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<sup>51</sup> **Editor’s note**—Section 109, referred to in this section, has been repealed.

<sup>52</sup> **Editor’s note**—Section 109, referred to in this section, has been repealed.

<sup>53</sup> **Cross reference**—Section 109, referred to in this section, has been repealed.

## CHARTER AND RELATED LAWS

### **§ 102. Referendum measure from board of education submitted to popular vote, when**

The board of aldermen may, of its own motion, and shall, upon request of the board of education in case of a measure originating with said board of education and pertaining to the affairs under its administration, submit to a vote of the qualified voters of the city for adoption or rejection, at a general or special municipal election, any proposed measure, or a proposition for the repeal or amendment of any measure, which the respective board may, after this act [charter] takes effect, have a legal right to pass, in the same manner and with the same force and effect as are herein provided for submission on petition.

### **§ 103. When measures conflict**

If two or more proposed measures passed at the same election are in conflict in respect of any of their provisions, they shall go into effect in respect of such of their provisions as are not in conflict. In each case of conflicting provisions in such measures, that one of the provisions in conflict shall take effect which was contained in that one of such measures which received the greatest number of affirmative votes, and all others of such conflicting provisions shall be void.

### **§ 104. Form of enacting clauses of initiative and referendum**

The enacting clause of any measure adopted by the qualified voters, upon proposal by initiative petition, shall be,--“Be it ordained by the people of the City of Nashua:” and of any measure referred to the people by the board of aldermen of its own motion, or upon request of the board of education, as provided in section 102 of this act [charter], shall be,--“Be it ordained by the people of the City of Nashua upon referendum of the board of aldermen thereof: provided,” that for the word “ordained” shall be substituted the word “resolved” or the word “ordered” respectively, if the measure is a resolution or order; and for the words “Be it ordained” shall be substituted the word “Voted” if the measure is a vote.

### **§ 105. Sample ballots**

The city clerk shall print and distribute at his office to qualified voters sample ballots together with the text of every measure to be submitted to a vote of the qualified voters of the city.

### **§ 106. Form of official ballots; majority vote required**

The ballots used when voting upon such proposed measure shall state the nature of the measure in terms sufficient to show the substance thereof. If a majority of the qualified voters voting on any proposed measure, which has been duly submitted to them as herein provided and which falls within the lawful rights and powers of the city, shall vote in favor thereof, the same shall thereupon go into effect.

### **§ 107. Further provisions as to ballots**

Provisions shall be made on each ballot for voting upon all proposed measures submitted at that election.

### **§ 108. Information and arguments**

Provisions not in conflict herewith shall be made by ordinance for supplying the voters with the information and arguments pro and con upon measures submitted to a vote by the qualified voters of the city and for carrying out the purposes of sections 1 to 11 of this chapter [sections 98-108 for this charter].

### **§ 109. Repealed.** 1919, ch. 3.

## CHARTER AND RELATED LAWS

### **§ 110. “Qualified voter” defined**

The term “qualified voter” whenever it occurs in sections 1 to 11, both inclusive, of this act [sections 98-108 of this charter], means a voter qualified to vote for the elective officers within whose rights and powers the proposed measure would fall under this act [charter].

### **§ 111. Prior or special acts repealed or saved, when: act takes effect when**

So much of the original charter of said city, and of the special acts, since passed in amendment or supplement thereof as is now in force relative to police court, police commissioners, police force, fire department and other departments and officers as is referred to in section 87 is hereby continued in force, with the exception of such provisions as are inconsistent with this act [charter]: but all special legislation relative to the government of said city inconsistent with provisions of this act [charter] is hereby repealed. All General Laws relative to the government of cities shall remain in force in said city so far as the same can be applied consistently with the intents and purposes of this act [charter], but shall be deemed superseded as to said city by this act [charter] so far as inconsistent herewith. The Board of Aldermen hereby established shall cause the city ordinances to be thoroughly revised conformably with this act [charter] as soon as practicable; pending such revision all existing ordinances and other municipal regulations shall remain in force so far as the same can be applied consistently with the intents and purposes of this act [charter], but are hereby annulled so far as inconsistent herewith. In all existing laws, ordinances and regulations hereby saved, references to the city councils, board of mayor and aldermen, street commissioner or other bodies or officers hereby abolished or superseded, or to bodies or officers whose constitution or functions are hereby altered, shall be taken to mean the body or officer upon whom jurisdiction of the matter in question is conferred by this act [charter].

### **§ 111-a. Charter commission**

A charter commission may be created by vote of the mayor and aldermen. Said commission shall consist of the mayor, three members of the board of aldermen of the City of Nashua, two to be appointed by the president of the board, and one to be chosen by the board of aldermen, three members of the Nashua delegation to the General Court to be appointed by the chairman of the delegation, and three residents of the City of Nashua, one of whom shall be appointed by the mayor, one by the president of the board of aldermen, and one by the chairman of the Nashua delegation to the General Court.

Each charter commission is hereby authorized to review and revise the charter of the city of Nashua and to submit its recommendations to the Nashua delegation to the General Court during the first legislative week of the regular session of the General Court next following the creation of the charter commission.

Each charter commission shall be discharged of its rights, responsibilities and functions at the same time that the General Court to which it submits its recommendations is prorogued.

All city departments and officials are hereby authorized and directed to cooperate with and assist each charter commission, said cooperation and assistance to include but not be limited to the production and use of documents and records related to their respective offices and departments.

The sum of five thousand dollars shall be appropriated from the general fund of the City of Nashua each time for use by each charter commission in its review and revision of the charter.

## CHARTER AND RELATED LAWS

Any and all funds not expended or marked for expenditure by a charter commission shall lapse and return to the general fund of the City of Nashua.

No member of a charter commission shall receive any compensation for his services on said commission.

### SUBPART B. RELATED LAWS

#### CHAPTER 1. BOARD OF POLICE COMMISSIONERS

##### SUBCHAPTER 1. POLICE COMMISSION APPOINTED BY GOVERNOR

###### **§ A-101. Appointment of commissioners<sup>54</sup>**

On or before September 1, 1913, the governor shall, with the advice and approval of the council, appoint and commission (for Nashua) a police commission consisting of three persons; one of whom shall hold office for one year, one for two years and one for three years from September 1, 1923, or until their successors are duly appointed and qualified. Said commissioners shall have been residents of the city or town where appointed at least five years immediately preceding the date of their appointment. But not more than two of each of said commissioners shall be of the same political party. The governor shall, annually, on or before the first day of August thereafter, with the advice and approval of the council, appoint and commission one commissioner, who shall succeed the one whose term expires and who shall serve for three years from September first unless sooner removed as (hereinafter) provided, and any vacancy in said board shall be filled in the same manner.

###### **§ A-102. Removal of commissioners<sup>55</sup>**

The governor, with the advice and [approval] of the council shall have full power to remove any commissioner at any time.

###### **§ A-103. Duties; appointing and removing officers<sup>56</sup>**

It shall be the duties of said police commissioners, to appoint such police officers, constables and superior officers as they may in their judgment deem necessary, and fix their compensation, who shall devote their whole time to their said duties and who shall not be engaged or engage in any other business or occupation, or hold any other state, county or municipal office; all of who shall be appointed by the police commissioners, and who shall serve during good behavior and while competent to discharge the duties of the office. The police commissioners shall have authority to remove any officer at any time for just cause and after due hearing, which cause shall be specified in the order of removal. The members of the regular and reserve police force of the City of Nashua shall be relieved of police duties, without loss of pay two days in each seven days, for a period of not less than forty-eight consecutive hours, except for the time required to answer at roll-call immediately before the beginning or immediately after the end of a tour of duty. The time and manner of such relief shall be determined in each instance by the police commissioners of the city or under authority by their chief of police or other superior officer or officers. A member so relieved shall be exempt for the time from actual service and from presence for duty, but otherwise shall be subject during such relief to all laws, rules, orders and regulations for the government of the force which may be in effect from time to

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<sup>54</sup> **Source:** 1891, ch. 208; 1913, ch. 148.

<sup>55</sup> **Source:** 1891, ch. 208; 1913, ch. 148:3.

<sup>56</sup> **Source:** 1891, ch. 208; 1913, ch. 148:4, 6; 1917, ch. 340; 1945, ch. 260; 1951, ch. 304:1.



## CHARTER AND RELATED LAWS

time. Should the exigencies of the service, in the judgment of the commissioners, or of the superintendent or other superior officer authorized thereto by the commissioners, require at any time that a member of the force should be deprived of his period of relief or that it should be curtailed, the time so lost shall be made up to him as soon thereafter as may be practicable.

### **§ A-104. Rules; control over buildings<sup>57</sup>**

The police commissioners shall have full power to make all rules for the government of the police force and to enforce said rules. The said commissioners shall have full and complete care and control of all lands and buildings thereon, used and erected for the use of the police department; and whenever the same shall cease to be used for said purpose, they shall revert to the care and control of the city. All buildings erected, altered, remodeled, or changed, for the use of the police department shall be constructed and made under the joint direction of the commissioners and the land and buildings committee of the board of aldermen; and no building shall be erected, altered, remodeled, or changed, unless the plans thereof have been previously submitted to the board of police commissioners and approved by it, and upon completion thereof they shall be and continue in the sole control and care of the commissioners.

### **§ A-105. Chairman and clerk<sup>58</sup>**

The said board shall elect one of their number who shall act as chairman, and one who shall act as clerk and keep a record of all proceedings, issue all notices, and attest all such papers and orders, as said board shall desire.

### **§ A-106. Records and reports<sup>59</sup>**

The said board shall make a detailed report of their doings quarterly to the mayor and aldermen of said city and annually to the governor in the month of December. The records of said board shall at all times be open to the inspection of the governor and the citizens of said city. The said board of police commissioners shall annually submit as early as practicable in each year and not later than February first to the mayor and the board of aldermen, one copy to each, a detailed estimate in writing of the appropriations required for that year.

### **§ A-107. Compensation; appropriations<sup>60</sup>**

The compensation of the police commissioners shall be fixed by the city councils and the total amount expended for the maintenance of said police force shall at no time exceed the amount appropriated for that purpose by the city councils.

## **SUBCHAPTER 2. POLICE COMMISSIONERS APPOINTED BY MAYOR AND BOARD OF ALDERMEN**

### **§ A-141. Police commissions<sup>61</sup>**

At any regular municipal election in any of the following cities: Manchester, Nashua, Portsmouth, Laconia, Somersworth or Berlin, if a majority of the governing body of such city so votes, or if ten percent of the registered voters file a petition so requesting, the following special question shall be presented to the voters at said election:

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<sup>57</sup> **Source:** 1891, ch. 208; 1913, ch. 148:7; 1917, ch. 323:1.

<sup>58</sup> **Source:** 1891; ch. 208.

<sup>59</sup> **Source:** 1891; ch. 208; 1913, ch. 429:56.

<sup>60</sup> **Source:** 1891; ch. 208; 1913, ch. 148.4, 5.

<sup>61</sup> **Source:** 1963, ch. 275:3.

## CHARTER AND RELATED LAWS

“Shall the city of \_\_\_\_\_ authorize the mayor and city council (or the mayor and board of aldermen, as the case may be) to appoint a police commission instead of having the governor and governor’s council appoint the commission?”

Yes  No

If a majority of those voting on the question vote in the affirmative, the provisions of Laws 1913, chapter 148 relating to such city shall, effective January one next succeeding the date on which said vote was taken, be of no further force and effect with respect to said city except as provided in section 7 of this chapter [A-145], and the provisions of sections 4 through 7, inclusive, of this chapter [A-142 to A-145] shall thereafter apply in such city.

### **§ A-142. Appointment of commissioners<sup>62</sup>**

The mayor and city council of the respective cities shall appoint for the respective city a police commission consisting of three members. The term of office of each such commissioner shall be for three years and until his successor is duly appointed and qualified. Said commissioners shall have been residents of the city where appointed and qualified. Said commissioners shall have been residents of the city where appointed at least five years immediately preceding the date of their appointment. Not more than two of each of said commissioners for a respective city shall be of the same political party. Any vacancy in said board shall be filled for the unexpired term. The mayor and council of the respective city shall have full power to remove any commissioner at any time.

### **§ A-143. Duties; powers<sup>63</sup>**

It shall be the duty of said police commissioners to appoint such police officers, constables and superior officers, as they may in their judgment deem necessary; and to fix their compensation. The police commissioners shall have authority to remove any officer at any time for just cause and after due hearing, which cause shall be specified in the order of removal. Said commissioners shall have full authority to make and enforce all rules and regulations for the government of the police force.

### **§ A-144. Compensation<sup>64</sup>**

The compensation of the police commissioners shall be fixed by the respective city councils.

### **§ A-145. Present incumbents<sup>65</sup>**

Notwithstanding the provisions of section 4 [A-142 of this chapter] any person holding office as a commissioner under appointment of the governor and council under the authority of Laws 1913, chapter 148, at the date of the passage of this act [chapter] shall continue in office as such commissioner until the expiration of his said term of office.

### **§ A-146. Police commissions<sup>66</sup>**

Laws 1913, chapter 148, relative to appointment of police commissions in certain cities by the governor and council, will be of no further force and effect with respect to any city named in section 3 [A-141 of this chapter] if a referendum in said city is adopted.

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<sup>62</sup> Source: 1963, ch. 275.4.

<sup>63</sup> Source: 1963, ch. 275.5.

<sup>64</sup> Source: 1963, ch. 275.6.

<sup>65</sup> Source: 1963, ch. 275.7.

<sup>66</sup> Source: 1963, ch. 275.8.

# CHARTER AND RELATED LAWS

## CHAPTER 3. CEMETERIES

### SUBCHAPTER 1. EDGEWOOD CEMETERY

#### **§ A-251. Trustees; meetings; vacancies<sup>67</sup>**

Joseph W. Howard, Harry S. Norwell, William H. D. Cochrane, Ira F. Harris, William T. Spear, Henry H. Davis, John D. Chandler, Charles W. Hoitt, Elmer W. Eaton, Charles E. Cummings are hereby appointed and constituted a board of trustees, who shall have the sole care, superintendence, and management of the property, expenditures, business, prudential affairs, and sale of lots in the cemetery located between Amherst, Cushing, and Forest streets in the city of Nashua, together with any and all additions thereto, two members of which board shall retire from office each year, and two members shall be elected by ballot, annually, in the month of March, by the board of mayor and aldermen of said city, in convention with said board of trustees, by major vote, to hold their office for five ears, retiring trustees having no vote therein, the first of which elections shall take place in March, 1894; and the term for which the members herein appointed shall hold their office shall be determined by lot, two to hold their office for five years, two for four years, two for three years, two for two years, and two for one year. The mayor of said city shall be ex-officio a member of said board. Said trustees shall receive no compensation for their services as such. No person shall be eligible as such trustee who is not a resident and taxpayer in said city and a lot owner in said cemetery. Said board shall meet annually on the first Monday in April for organization, and shall elect a chairman and secretary from their own number and six members shall constitute a quorum for the exercise of the powers and the performance of the duties of said board. Any vacancy occurring in said board, by death, removal, resignation, or otherwise, shall be filled by said board of mayor and aldermen in convention with said board of trustees for the remainder of the term.

#### **§A-252. Powers and duties<sup>68</sup>**

The said board of trustees shall set apart and lay out a portion of said cemetery, not exceeding one tenth of its area, as a public burial-place for the use of the inhabitants of said Nashua, free of any charge therefore, and they shall lay out the balance of said cemetery in suitable lots or other subdivisions for family or other burying-places, with all the necessary paths, avenues and drives, and may plant and embellish the same with trees, shrubs, flowers, and other ornaments, and may enclose the same with proper and suitable fences or hedges, and erect or annex thereto such suitable edifices, appendages, and conveniences as they from time to time deem expedient; and said board shall have the same power and authority as cities and towns now or hereafter may have in such premises, to acquire, by purchase or otherwise, land adjoining said cemetery, to be used in connection therewith for the same purposes; and said board may make all necessary by-laws, rules, and regulations in the execution of their trust, not inconsistent with this act [charter] or the laws of this state, as they shall deem expedient; and said board of trustees shall hold said property and estate for the same uses and purposes, and charged with the same duties and liabilities for and subject to which the same are now held by the city councils of the said City of Nashua; and all rights of ownership of lots which any person or persons have acquired in said cemetery shall remain to the same extent as if this act [charter] had not been passed.

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<sup>67</sup> Source: 1893, ch. 243.

<sup>68</sup> Source: 1893, ch. 243.

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### **§ A-253. Authority to convey rights and privileges<sup>69</sup>**

The said board of trustees shall have authority to grant and convey to any person or persons, by deeds duly executed, the sole and exclusive right of burial, and of erecting tombs, cenotaphs, tablets, and other monuments, in any of the designated lots or subdivisions of said cemetery, upon such terms and conditions as they by their rules and regulations shall prescribe.

### **§ A-254 Money how disposed<sup>70</sup>**

The proceeds of sales of lots or rights of burial, appropriations by the city councils, or other moneys, except as hereinafter provided, received for said cemetery, shall be paid into the city treasury to be kept separate from any other funds of the city and subject to the order of said trustees, and shall be devoted to the care, improvement, embellishment, and enlargement of said cemetery under the direction of said trustees.

### **§ A-255. May receive bequests, etc.<sup>71</sup>**

The said board of trustees are authorized to take and hold any grant, donation, or bequest of property, upon trust, to apply the same, or the income thereof, for the improvement or embellishment of said cemetery, or for the erection, repair, preservation, or renewal of any monument or other erection, or for the planting and cultivation of trees, shrubs, or plants in or around any lot, or for improving the said premises in any other manner or form consistent with the purposes for which said cemetery is established, according to the terms of such grant, donation, or bequest; and whenever any such grant, donation, or bequest, or any deposit, shall be made by the owner of any lot in said cemetery, for the annual repair, preservation, or embellishment of such lot and the erection thereon, the said trustees may give to such owner, or his or her representative, an agreement or obligation, in such form and upon such terms and conditions as they may establish, binding themselves and their successors to preserve and keep in repair said lot forever, or for such period as may be agreed on; and any legacy, bequest, donation, grant, or deposit heretofore made to said city for like purposes in said cemetery, and now in force, shall be placed under the control of said board of trustees. The board of trustees, as constituted under said act [chapter], are hereby authorized and empowered to establish and create a perpetual care fund additional to that authorized by the original act, by setting aside such sum or sums as said board may deem best and to take, receive and place therein any donation, legacy or bequest specifically made therefore and which shall be known as the fund for the perpetual care of the paths, walks, drives and avenues of said cemetery, as well as for the fences enclosing the grounds thereof; that such fund created as aforesaid shall be invested, treated, considered, and held and the liability of the City of Nashua shall be the same as other perpetual care funds, as set forth in the original act; that the interest or income only of such fund shall be used and applied by said board of trustees for the construction, care and maintenance of such paths, walks, drives, avenues and fences of such cemetery.

### **§ A-256. Disposal of gifts, etc.<sup>72</sup>**

Any sums of money so received by said trustees shall be invested by the city treasurer of Nashua, under the direction of said trustees, in savings banks, or in any securities in which savings banks are authorized to invest, and all such property received under the provisions of the foregoing section, unless other provision is made by the terms of any such grant, donation, or bequest, shall be invested under the charge of said city treasurer, but shall always remain separate from and independent of any other moneys or property belonging to said city of Nashua and free

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<sup>69</sup> Source: 1893, ch. 243.

<sup>70</sup> Source: 1893, ch. 243.

<sup>71</sup> Source: 1893, ch. 243.

<sup>72</sup> Source: 1893, ch. 243.

## CHARTER AND RELATED LAWS

from all control of the city council; and the income of such fund or funds shall be received by said treasurer, subject to the order of said trustees, and shall be appropriated by them in such manner as shall in their opinion best promote the purposes for which said grants, donations, bequests, or deposits are made.

### **§ A-257. City responsible for trustees<sup>73</sup>**

The City of Nashua shall be responsible for the good faith of said trustees and the treasurer of said city in the execution of any trust which they may assume pursuant to the foregoing provisions; but said trustees shall not be liable to make any renewal or reconstruction of any monument or other erection, on any lot in said cemetery, unless such liability shall be expressed in the agreement given them as aforesaid, or in the terms and conditions under which they accept any grant, donation, or bequest.

### **§ A-258. Trustees to report<sup>74</sup>**

Said board of trustees shall annually, in the month of December, make a detailed report in writing to the city councils of their acts and proceedings and of the condition of the cemetery, and an account of the receipts and expenditures for the same, and funds subject to their order.

### **§ A-259. Name<sup>75</sup>**

The said cemetery shall hereafter be called and known as The Edgewood Cemetery.

## SUBCHAPTER 2. WOODLAWN CEMETERY

### **§ A-291. Trustees; meetings; vacancies<sup>76</sup>**

Albert Shedd, Charles H. Burke, George F. Hammond, George Phelps, Charles S. Collins, Fred C. Anderson, Frank C. Kellogg, Daniel F. Funnell, Henry P. Whitney, and Charles W. Stevens are hereby appointed and constituted a board of trustees, who shall have the sole care, superintendence, and management of the property, expenditures, business, prudential affairs, and sale of lots in the cemetery located between Hollis and Kinsley streets in the city of Nashua, together with any and all additions thereto, two members of which board shall retire from office each year, and two members shall be elected by ballot, annually in the month of March, by the board of mayor and aldermen, of said city, in convention with said board of trustees, by major vote, to hold their office for five years, retiring trustees having no vote therein, the first of which elections shall take place in March, 1896; and the term for which the members herein appointed shall hold their office shall be determined by lot, two to hold their office for five years, two for four years, two for three years, two for two years, and two for one year. The mayor of said city shall be ex-officio a member of said board. Said trustees shall receive no compensation for their services as such; no person shall be eligible as such trustee who is not a resident and taxpayer in said city and a lot owner in said cemetery. Said board shall meet annually on the first Monday of April, for organization, and shall elect a chairman and secretary from their own number, and six members shall constitute a quorum for the exercise of the powers and the performance of the duties of said board. Any vacancy occurring in said board, by death, removal, resignation, or otherwise, shall be filled by the board of mayor and aldermen in convention with said board of trustees, for the remainder of the term.

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<sup>73</sup> **Source:** 1893, ch. 243.

<sup>74</sup> **Source:** 1893, ch. 243.

<sup>75</sup> **Source:** 1893, ch. 243.

<sup>76</sup> **Source:** 1895, ch. 223.

## CHARTER AND RELATED LAWS

### **§ A-292. Powers and duties<sup>77</sup>**

The said board of trustees shall set apart and lay out a portion of said cemetery, not exceeding one tenth of its area, as a public burial-place for the free use of the inhabitants of said City of Nashua, free of any charge therefor; and they shall lay out the balance of said cemetery in suitable lots or other subdivisions, for family or other burying-places, with all necessary paths, avenues, and drives, and may plant and embellish the same with trees, shrubs, flowers and other rural ornaments, and may enclose the same with proper and suitable fences or hedges, and erect or annex thereto such suitable edifices, appendages, and conveniences as they from time to time deem expedient; and said board shall have the same power and authority as cities and towns now or hereafter may have in such premises, to acquire, by purchase, or otherwise, land adjoining said cemetery to be used in connection therewith for the same purposes; and said board may make all necessary by-laws, rules, and regulations in the execution of their trusts not inconsistent with this act [chapter] or the laws of this state, as they shall deem expedient; and said board of trustees shall hold said property and estate for the same purposes and charged with the same duties and liabilities for and subject to which the same are now held by the city councils of said Nashua; and all rights of ownership of lots which any person or persons have acquired in said cemetery shall remain to the same extent as if this act [chapter] had not been passed; provided, however, if any person or persons shall fail or neglect for one year after a written notice to make improvements upon their lot, said lot shall be forfeited to this corporation.

### **§ A-293. Authority to convey rights and privileges<sup>78</sup>**

The said board shall have the authority to grant and convey to person or persons, by deeds duly executed, the sole and exclusive right of burial, and of erecting tombs, cenotaphs, tablets, and other monuments, in any of the designated lots or subdivisions of said cemetery, upon such terms and conditions as they by their rules and regulations shall prescribe.

### **§ A-294. Money how disposed<sup>79</sup>**

The proceeds of sale of lots or rights of burial, appropriations by the city councils, or other moneys, except as hereinafter provided, received for said cemetery, shall be paid into the city treasury, to be kept separate from any other funds of the city and subject to the order of said trustees, and shall be devoted to the care, improvement, embellishment and enlargement of said cemetery, under the direction of said trustees.

### **§ A-295. May receive bequests for cemetery improvements<sup>80</sup>**

The said board of trustees are authorized to take and hold any grant, donation, or bequest of property, upon trust; to apply the same, or income thereof, for the improvement or embellishment of said cemetery, or for the erection, repair, preservation, or renewal of any monument or other erection, or for the planting and cultivation of trees, shrubs or plants in or around any lot, or for improving the said premises in any other manner or form consistent with the purposes for which said cemetery is established, according to the terms of such grant, donation, or bequest; and whenever any such grant, donation, or bequest, or any deposit, shall be made by the owner of any lot in said cemetery, for the annual repair, preservation, or embellishment of such lot and the erection thereon, the said trustees may give to such owner, or his or her representatives, an agreement or obligation, in such form and upon such terms and conditions as they may establish, binding themselves and their successors to preserve and keep in repair said lot forever, or for such period as may be agreed on; and any legacy, bequest, donation,

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<sup>77</sup> Source: 1895, ch. 223.

<sup>78</sup> Source: 1895, ch. 223.

<sup>79</sup> Source: 1895, ch. 223.

<sup>80</sup> Source: 1895, ch. 223.

## CHARTER AND RELATED LAWS

grant, or deposit heretofore made to said city for like purposes in said cemetery, and now in force, shall be placed under the control of said board of trustees.

### **§ A-296. Disposal of gifts, etc<sup>81</sup>**

Any sums of money so received by said trustees shall be invested by the city treasurer of Nashua under the direction of said trustees in savings banks, or in any securities in which the savings banks are authorized to invest; and all such property received under the provisions of the foregoing section, unless other provision is made by the terms of any such grant, donation or bequest, shall be invested under the charge of said city treasurer, but shall always remain separate from and independent of any other moneys or property belonging to the said city of Nashua and free from all control of the city councils; and the income of such fund or funds shall be received by said treasurer, subject to the order of said trustees, and shall be appropriated by them in such manner as shall, in their opinion, best promote the purpose for which said grants, donations, bequests, or deposits are made.

### **§ A-297. City responsible for trustees<sup>82</sup>**

The City of Nashua shall be responsible for the good faith of said trustees and the treasurer of said city in the execution of any trust that they may assume pursuant to the foregoing provisions; but said trustees shall not be liable to make any renewal of or reconstruct any monument or other erection on any lot in said cemetery, unless such liability shall be expressed in the agreement given them as aforesaid, or in terms and conditions under which they accept any grant, donation, or bequest.

### **§ A-298. Trustees to report<sup>83</sup>**

Said board of trustees shall annually, in the month of December, make a detailed report in writing to the city councils of their acts and proceedings, and of the condition of the cemetery, and on account of the receipts and expenditures of the same and funds subject to their order.

### **§ A-299. Name<sup>84</sup>**

The said cemetery shall hereafter be called and known as Woodlawn Cemetery.

## SUBCHAPTER 3. SUBURBAN CEMETERIES

### **§ A-331. Trustees; meetings; vacancies<sup>85</sup>**

That Samuel P. Wilson, Willard C. Tolles, Levi W. Goodrich, Charles H. Lund and Benjamin F. Cotton are hereby appointed and constituted a board of trustees, who shall have the sole care, superintendence and management of the property, expenditures, business, prudential affairs, and sale of lots in the cemeteries hereinafter described in the city of Nashua, together with any and all additions thereto. One member of each (such) board shall be elected by ballot annually in the month of March by the board of mayor and aldermen of said city, in convention with said board of trustees by major vote, to hold the office for five years, the retiring trustee having no vote therein, the first of which elections to take place in March, 1898; and the term for which the members herein appointed shall hold their office shall be determined by lot; one to hold his office for five years, one for four years, one for three years, one for two years, and one for one

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<sup>81</sup> **Source:** 1895, ch. 223.

<sup>82</sup> **Source:** 1895, ch. 223.

<sup>83</sup> **Source:** 1895, ch. 223.

<sup>84</sup> **Source:** 1895, ch. 223.

<sup>85</sup> **Source:** 1897, ch. 194.

## CHARTER AND RELATED LAWS

year. The mayor of said city shall be, ex-officio, a member of said board. Said trustees shall receive no compensation for their services as such. No person shall be eligible as such trustee who is not a resident and taxpayer in said city. Said board shall meet annually on the first Monday in April for organization, and shall elect a chairman and secretary from their own number, and three members shall constitute a quorum for the exercise of the powers and the performance of the duties of said board. Any vacancy occurring in said board by death, removal, resignation, or otherwise, shall be filled by the board of mayor and aldermen in convention with said board of trustees, for the remainder of the term.

### **§ A-332. Lots, etc.; conveyed; forfeited<sup>86</sup>**

The said board shall have the authority to grant and convey to person or persons, by deeds duly executed, the sole and exclusive right of burial and of erecting tombs, cenotaphs, tablets and other monuments in any of the designated lots or subdivisions of said cemeteries upon such terms and conditions as they, by their rules and regulations, shall prescribe; and said board may make all necessary by-laws, rules, and regulations in the execution of their trust, not inconsistent with this act [chapter] or repugnant to the laws of this state, as they shall deem expedient; and said board shall hold said property and estate for the same purposes, and charged with the same duties and liabilities for and subject to which the same are now held by the city councils of said Nashua, and all rights of ownership of lots which any person or persons have acquired in said cemetery shall remain to the same extent as if this act [chapter] had not been passed. Provided, however, if any person or persons shall fail or neglect for one year after a written notice to make improvements upon their lot, said lot shall be forfeited to this corporation.

### **§ A-333. Disposition of funds<sup>87</sup>**

The proceeds of sale of lots or rights of burial, appropriations by the city councils, or other moneys, except as hereinafter provided, received for said cemeteries, shall be paid into the city treasury, to be kept separate from any other funds of the city, and subject to the order of said trustees, and shall be devoted to the care, improvement, embellishment, and enlargement of said cemeteries under the direction of said trustees. Said board of trustees shall have the same power and authority as cities and towns now or hereafter may have in such premises, to acquire, by purchase or otherwise land adjoining said cemeteries, to be used in connection therewith for the same purposes.

### **§ A-334. May receive bequests, etc.<sup>88</sup>**

The said board of trustees are authorized to take and hold any grant, donation or bequest of property upon trust to apply the same, or the income thereof, for the improvement or embellishment of said cemeteries, or for the erection, repair, preservation, or renewal of any monument or other erection, or for the planting and cultivation of trees, shrubs, or plants in or around any lot, or for improving the said premises in any other manner or form consistent with the purposes for which said cemeteries are established, according to the terms of such grant, donation, or bequest; and whenever any such grant, donation, or bequest, or any deposit, shall be made by an owner of a lot in said cemeteries for the annual repair, preservation or embellishment of such lot and the erection thereupon, the said trustees may give to such owner or his or her representatives, an agreement or obligation in such form and upon such terms and conditions as they may establish, binding themselves and their successors to preserve and keep in repair said lot forever, or for such period as may be agreed on; and any legacy, bequest, donation, grant or

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<sup>86</sup> **Source:** 1897, ch. 194.

<sup>87</sup> **Source:** 1897, ch. 194; 1915, ch. 298

<sup>88</sup> **Source:** 1897, ch. 194.



## CHARTER AND RELATED LAWS

deposit heretofore made to said city for like purpose in said cemeteries, and now in force, shall be placed under the control of said board of trustees.

### **§ A-335. Investment of funds<sup>89</sup>**

Any sums of money so received by said trustees shall be invested by the city treasurer of Nashua, under the direction of said trustees, in savings banks, or in any securities in which savings bank are authorized to invest; and all such property received under the provisions of the foregoing section, unless other provision is made by the terms of any such grant, donation, or bequest, shall be invested under the charge of said city treasurer, but shall always remain separate from, and independent of, any other moneys or property belonging to said city of Nashua, and free from all control of the city councils; and the income of said fund or funds shall be received by said treasurer, subject to the order of said trustees, and shall be appropriated by them in such manner as shall, in their opinion, best promote the purposes for which said grants, donations, bequests, or deposits are made.

### **§ A-336. City responsible for trustees<sup>90</sup>**

The city of Nashua shall be responsible for the good faith of the said trustees and the treasurer of said city, in the execution of any trust which they may assure pursuant to the foregoing provisions; but said trustees shall not be liable to make any renewal of, or reconstruct any monument or other erection on any lot in said cemeteries, unless such liability shall be expressed in the agreement given by them as aforesaid, or in the terms and conditions under which they accept any grant, donation, or bequest.

### **§ A-337. Reports and accounts<sup>91</sup>**

Said board of trustees shall annually, in the month of December, make a detailed report in writing to the city councils of their acts and proceedings and of the conditions of the cemeteries, and an account of the receipts and expenditures of the same and funds subject to their order.

### **§ A-338. Cemeteries affected<sup>92</sup>**

Said board of trustees shall have charge of the cemetery situated on the west side of the Lowell road adjoining and northerly of the brick schoolhouse, and bounded on the west by land of Lund, on the north by land of Thompson, and commonly known as the “Old South Cemetery”; also the cemetery situated on the west side of the Lowell road, bounded on the south by land of Hiland A. Holt, on the west by land of Marshall, on the north by land formerly owned by Aaron F. Stevens, and known as the “Pratt Cemetery”; also the cemetery near the Stillman Swallow place, and known as the “Gilson’s Road Cemetery”; also the cemetery situated on the easterly side of Amherst Road, so called, bounded on the north by land of Roby, on the south by land of Roby and known as the “Roby Cemetery.” Said cemeteries are generally classed and known as Suburban Cemeteries, and shall thereafter be known and called as Suburban Cemeteries.

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<sup>89</sup> **Source:** 1897, ch. 194.

<sup>90</sup> **Source:** 1897, ch. 194.

<sup>91</sup> **Source:** 1897, ch. 194.

<sup>92</sup> **Source:** 1897, ch. 194.

CHARTER AND RELATED LAWS

CHAPTER 5. FINANCES

SUBCHAPTER 1. MUNICIPAL INDEBTEDNESS

**§ A-441. Amount of debt authorized<sup>93</sup>**

Notwithstanding the provisions of RSA 33:4-a, the city of Nashua shall not incur net indebtedness at any one time outstanding for school purposes to an amount exceeding in the aggregate 6 percent of its last assessed valuation as computed under RSA 33:4-b and for all other purposes, to an amount exceeding the aggregate of 2 percent of its last assessed valuation as computed under RSA 33:4-b, provided, however, that in ascertaining the amount of such debt so it be compared with said 6 percent and 2 percent, indebtedness lawfully incurred outside of said debt limit shall not be considered.

**§ A-442. City to be single corporation; school district<sup>94</sup>**

Said city shall constitute a single municipal corporation with powers for municipal and school purposes, including all the powers of a school district. All provisions of law or of the charter of said city affecting school districts or schools shall, so far as to inconsistent herewith, continue to apply to said city.

**§ A-442a. (Repealed. 1978, ch. 8:2, eff. June 13, 1978)**

See, now, § A-441 of this chapter.

**§ A-443. Advances to be reimbursed<sup>95</sup>**

All indebtedness of any governmental subdivision territorially coextensive with said city hitherto incurred for school purposes, in whatever form or however incurred, and all orders and votes authorizing the incurring of indebtedness or the issuance of bonds or notes or other obligations for school purposes by any such subdivision are hereby confirmed, ratified and validated. The city treasurer is hereby authorized to reimburse the city treasury for any sums advanced therefrom temporarily to pay any portion of such indebtedness pending the receipts of process of school bonds or notes which may be issued within said aggregate debt limit.

**§ A-444. Debt time limitation for discharge not applicable<sup>96</sup>**

Notwithstanding the provisions of RSA 31:94-d, the city of Nashua may exceed the nine-year time limitation for the discharge of any debt incurred pursuant to the transition period resulting from the change of dates of its fiscal year.

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<sup>93</sup> **Source:** 1923, ch. 227:1; 1978, ch. 8:1, eff. June 13, 1978.

<sup>94</sup> **Source:** 1923, ch. 227:2.

<sup>95</sup> **Source:** 1923, ch. 227.3.

<sup>96</sup> **Source:** 1971, ch. 447:1.

## CHARTER AND RELATED LAWS

### SUBCHAPTER 2. PENSIONS

#### **§ A-481. General retirement system**<sup>97</sup>

The city of Nashua is hereby empowered to create a general retirement system, which all employees of the city of Nashua, who are not under any other system of retirement, will be eligible to become members of and receive the benefits therefrom, by complying with the requirements of said retirement system.

#### **§ A-482. Trustees**<sup>98</sup>

The mayor and board of aldermen under the powers granted in section 1 [section A-481 of this chapter], may create a general retirement system, which shall have the powers, privileges and immunities of a municipal corporation and shall be given such appropriate title as the mayor and board of aldermen may designate. All of its business shall be transacted, all of its funds invested, and all of its cash, securities and other property held in trust, for the purposes for which received and in the name designated as the title for said retirement system. The mayor and board of aldermen shall elect a board of trustees, the number of and tenure of office to be determined by the mayor and board of aldermen, which board of trustees shall have the control of and the duty of administering the affairs of said general retirement system.

#### **§ A-483. Powers of the board of mayor and aldermen**<sup>99</sup>

For the purpose of this act [chapter], the city may raise and appropriate money; may accept money or other property to be held in trust and invested and reinvested under the direction of the board of trustees, and use the income thereof; may enter into contracts of insurance or annuity with insurance companies admitted to do business in New Hampshire to effectuate the purposes of this act [chapter] and pay the premiums of such contracts from moneys coming into its possession under the terms of this act [chapter].

#### **§ A-484. Amount of benefit**<sup>100</sup>

No retirement benefit shall be granted for a sum greater than one-half of the maximum annual salary which the employee received while in the service of the city.

#### **§ A-485 Interpretation**<sup>101</sup>

Said city in adopting a retirement system shall consider the same free from the discharge of any existing legal or contractual liability to said employees, and past services rendered by employees shall only be considered as a means of qualification for retirement benefits.

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<sup>97</sup> **Source:** 1943, ch. 292:1.

**Cross references**—Board of Public Works Retirement System, § 2-601 et seq.; city employees, retirement system, § 2-601 et seq.; teachers' retirement system, § 2-661 et seq.

**State law references**—Firemen's retirement system, RSA ch. 102; policemen's retirement system, RSA ch. 103, Acts 1973, Ch. 444:1, 2; state employees' retirement system, RSA ch. 100; teachers' retirement system, RSA ch. 100-A:35, 36; transfer of Nashua policemen to state retirement system, Acts 1977, Ch. 484; 2, 4 and 5, noted following § 2-216 of this Code.

<sup>98</sup> **Source:** 1943, ch. 292:2.

<sup>99</sup> **Source.** 1943, ch. 292:3.

<sup>100</sup> **Source.** 1943, ch. 292:4.

<sup>101</sup> **Source.** 1943, ch. 292:5.

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### **§ A-486. Exemption from attachment**<sup>102</sup>

The retirement benefits to be received by said employees as may hereunder be provided by said city shall be exempt from attachment and the operation of laws relating to insolvency or bankruptcy.

### **§ A-487. Separability**<sup>103</sup>

If any provisions hereof shall be declared unconstitutional, the remaining provisions hereof shall not be reason thereof be invalid.

### **§ A-488. City of Nashua, pension plan**<sup>104</sup>

The retirement system now in effect shall be integrated with the old age and survivors' insurance system so that for all employees or city officials eligible for pension and with less than twenty-five years' service, the social security benefits will be offset against the benefits payable under the city retirement system; that for all employees or city officials eligible for pension with twenty-five years or more service and less than thirty years' service, one-half of the social security benefits will be offset against the benefits payable under the city retirement system; that for all employees or city officials eligible for pension with thirty years' service or more, the social security benefits will not be offset against the benefits payable under the city retirement system. Provided that no city employee or official will be eligible for a retirement pension until said employee or official has reached the age of sixty or has completed thirty years of service for the city, except that the sixty-year age limitation or the thirty years of service limitation or the thirty years of service limitation will not apply to employees or officials who have completed twenty years of service with the city on or before July 1, 1963.

## CHAPTER 7. FIRE DEPARTMENT

### **§ A-591. Fire department**<sup>105</sup>

The fire department of the city of Nashua shall consist of a board of five fire commissioners, and such officers and other members as the board of fire commissioners appoint within the limits of the funds appropriated for that purpose by the mayor and board of aldermen.

### **§ A-592. Other offices prohibited**<sup>106</sup>

No member of said board shall hold any other municipal office.

### **§ A-593. Organization; duties; powers**<sup>107</sup>

The said board shall organize annually in the month of January by the choice of one of their members as chairman. They shall also choose a clerk, who may be clerk of the board of engineers, and they shall make such rules and regulations for their own government and for the government of all other officers and members of the fire department, also all buildings and apparatus and horses now used for the transportation of apparatus in case of fire (and the said horses so used are hereby transferred to the fire department) as they may deem expedient. The board of fire commissioners shall also have the sole power to select and purchase land for the

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<sup>102</sup> **Source.** 1943, ch. 292:6.

<sup>103</sup> **Source.** 1943, ch. 292:7.

<sup>104</sup> **Source.** 1933, ch. 437:1.

<sup>105</sup> **Source.** 1891, ch. 153; 1917, ch. 353.

**Cross reference**—Fire commissioners, charter § 73.  
Nov. 4, 1975, Referendum, Proposal No. 5.

<sup>106</sup> **Source.** 1891, ch. 153; 1913, ch. 427:73, 87, 89.

<sup>107</sup> **Source.** 1891, ch. 153; 1917, ch. 342.

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purpose of the fire department; and when said board has secured by vote of the board of aldermen an adequate appropriation for the purchase of a specified lot at a specified price, then said board may purchase the same. The said board and the land and buildings committee of the board of aldermen, jointly, shall direct the construction of all buildings erected, altered, remodeled or changed, for the use of the fire department; and no building shall be erected, altered, remodeled or changed, unless the plans thereof have been previously submitted to the board of fire commissioners and approved by it. Upon the completion of any such building or after the selection and purchase of land, the board of fire commissioners shall have full and complete care and control of the same; and whenever such land and buildings shall no longer be used for the purposes of the department, the care and control thereof shall revert to the city. For their services the fire commissioners shall receive such compensation as the city councils may from time to time determine.

### **§ A-594. Tenure of appointments**<sup>108</sup>

The board of engineers, the janitor, and all permanent men shall be appointed by said board to serve during good behavior, and so long as they are competent to discharge the duties of their respective positions.

### **§ A-595. Salaries**<sup>109</sup>

Are to be determined by the board of aldermen upon recommendation of the department.

### **§ A-596. Powers of engineers**<sup>110</sup>

The board of engineers shall have all powers possessed by fire-wards in the extinguishment of fires.

## CHAPTER 9. ORGANIZATIONS AND INSTITUTIONS

### SUBCHAPTER 1. GRAND ARMY HALL

#### **§ A-701. Purposes**<sup>111</sup>

The city of Nashua is authorized and empowered to acquire by deed of gift, with such conditions as to when the same shall take effect as may be mutually agreed upon between the grantor and grantee, for the John G. Foster Post 7, G. A.R., the building and estate known as the Grand Army Hall, located in Nashua, with such photographs, pictures or other persona property as may be therein and belonging to the grantor and to hold the same in trust, upon the death of all but one member of said John G. Foster Post 7, for the purpose of maintaining said Grand Army Hall as a community building for the use of patriotic organizations located in Nashua; and to make appropriations therefore from time to time; the entire control and management thereof to be then vested in a board of trustees comprising the mayor of the city, one alderman elected annually, and one member from each of the following organizations: J.Q.A. Warren, No. 18, Sons of Veterans, Woman's Relief Corps, Daughters of Veterans, Spanish War Veterans, Veterans of Foreign Wars, and the American Legion; with such other stipulations in said deed as may be mutually satisfactory to grantor and grantee, in addition to or varying the foregoing, if not contrary to law.

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<sup>108</sup> **Source.** 1891, ch. 153

<sup>109</sup> **Source.** 1941, ch. 278

<sup>110</sup> **Source.** 1891, ch. 153.

<sup>111</sup> **Source.** 1927, ch. 219.

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### SUBCHAPTER 2. JOHN F. STARK SOMESTEAD

#### **§ A-731. To take title; appropriations<sup>112</sup>**

Whereas, the Stark Improvement Corporation has acquired ownership of the homestead of the late John F. Stark of Nashua, New Hampshire, a great grandson of General John Stark, consisting of a large tract of land with the buildings thereon situated at the junction of Concord and Manchester streets in said Nashua, and whereas said corporation voted January 15, 1927, to offer and later offered to said city of Nashua, a gift of said real estate in fee simple to said city as soon as the title can be conveniently made clear and free, with the purpose and upon the condition that the city accept and receive title to this property and devote it to historical, educational and charitable purposes; and whereas said city, by its board of aldermen on February 8, 1927, voted to accept said gift for the foregoing purposes; now therefore, the city of Nashua is authorized and empowered to acquire by deed of gift as aforesaid from the Stark Improvement Corporation the land and buildings known as the John F. Stark homestead, located in said Nashua, and to hold, maintain and care for the same for historical, educational and charitable purposes and to make appropriations therefore from time to time.

#### **§ A-732. Board of trustees<sup>113</sup>**

The control and management thereof shall be vested in a board of seven trustees, comprising the mayor of the city and five citizens and one alderman to be appointed by the mayor with the consent of the board of aldermen; the mayor and the president of the board of aldermen and their successors to hold office during their municipal terms, and the other five trustees to hold their offices as follows: two for six years, two for four years, and one for two years respectively, from the date of their appointment. Upon the passage of this act [chapter] the board of aldermen, upon nominations submitted by the mayor, shall choose five trustees for the terms and purposes aforesaid; and thereafter, upon the expiration of each of said terms, the mayor with the consent of the board of aldermen shall appoint a trustee or trustees, according to the vacancies to be filled, each for the term of six years next ensuing and until his successor shall have been chosen and qualified. Any vacancy in the office of an appointed trustee, arising from any caused other than his expiration of office, shall be filled by appointment of the mayor with the consent of the board of aldermen, but only for the unexpired term of the trustee whose place is thus filled.

#### **§ A-733. Compensation<sup>114</sup>**

The said trustees shall receive no compensation for their services.

### SUBCHAPTER 3. NASHUA HISTORICAL SOCIETY

#### **§ A-741. Exemption from taxation<sup>115</sup>**

All property, real and personal, of the Nashua Historical Society shall be exempted from taxation so far as same is and shall be devoted to and used and occupied for educational, entertainment and historical purposes of said association and not for profit or gain.

#### **§ A-742. Repeal limitation of property<sup>116</sup>**

Laws of 1885, 180, 2 limiting the amount of real and personal property that may be held by the Nashua Historical Society is hereby repealed.

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<sup>112</sup> **Source.** 1924, ch. 227.

<sup>113</sup> **Source:** 1924, ch. 227.

<sup>114</sup> **Source:** 1924, ch. 227.

<sup>115</sup> **Source:** 1972, ch. 40:1.

<sup>116</sup> **Source:** 1972, ch. 40:2.

**CHAPTER 11. PUBLIC LIBRARY**

**§ A-831. Board created<sup>117</sup>**

A board of trustees of the public library of Nashua, to consist of nine persons, is hereby established, which shall have full control of the public library department.

**§ A-832. Personnel of board; vacancies<sup>118</sup>**

The mayor of said city shall be president, ex-officio, of said board of trustees and the president of the board of aldermen shall be one, and Elbert Wheeler, Thomas A. McCarthy, Henry A. Cutter, Oliver P. Hussey, William H. Beason, Ira F. Harris, and Frank A. Dearborn, are hereby appointed and constituted the remaining members of said board, to hold their offices, one, two, three, four, five, six and seven years, respectively, from the first day of May last; and hereafter at the commencement of each municipal year of the board of aldermen of said city in convention with said board of trustees by joint ballot, shall elect one person to be a trustee of the public library for the term of seven years from May 1<sup>st</sup>, next ensuing, and until his successor shall have been chosen and qualified in his stead. Whenever a vacancy occurs in said board by the expiration of any of said terms, or by the expiration of the term of any trustee hereafter elected, it shall be filled on the joint ballot of the said board of trustees and the board of aldermen, and shall be for the term of seven years. Any vacancy from any other cause shall be filled in the same manner, but only for the unexpired term of the trustee whose place is thus filled.

**§ A-833. Powers and duties<sup>119</sup>**

Said board of trustees shall have the sole care, superintendence, and management of the property, expenditures, business and prudential affairs of said public library department and of all property of the city relating thereto; and may employ librarians and such assistants as they shall deem necessary and establish their compensation. Said board shall also have the same power and authority as cities and towns now or hereafter may have, to acquire by purchase, lease or otherwise, for and in the name of the city, land and buildings or rooms, to be used in connection with and for the purpose of the public library department, whenever the funds at their disposal will so allow. Said board may also sell and dispose of for the benefit of said public library department, all grants, gifts, devises and bequests, as may be made to it or to the city for the purpose of increasing or improving the public library department.

**§ A-834. Authority to hold property<sup>120</sup>**

Said board of trustees are authorized to take and hold any grant, gift, bequest or devise, of property upon trust, to apply the principal or the income thereof for the establishment or improvement of the public library department, or for the erection of buildings or repair of the same, or for the embellishment or improvement of the premises in connection therewith. The application or expenditure of said moneys and grants, and the establishment, improvement, erection, repair and embellishment, of said buildings and premises shall be made under the sole supervision, direction and control of said board, who shall make all necessary contracts in connection with the same, for and in the name of the city, in accordance with their best judgment and in any manner or form that will promote the purposes for which the public library department is established: all, however, in any event, to be in accordance with the terms of such grant, gift,

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<sup>117</sup> **Source:** 1917, ch. 306.

<sup>118</sup> **Source:** 1917, ch. 306; 1965, ch. 440.

<sup>119</sup> **Source:** 1917, ch. 306.

<sup>120</sup> **Source:** 1917, ch. 306.

## CHARTER AND RELATED LAWS

bequest or devise. Also all moneys or property that the said city may receive by gift from any source or by grant, bequest or devise, in behalf of said public library department, and any gift, grant, bequest or devise, heretofore made to said city for the benefit of the library or library department and now in force, shall be placed in the care and control of said board of trustees, to be expended or retained by them for and in behalf of the city for the support and maintenance of said public library and the public library department in accordance with the conditions of each or any gift, grant, bequest or devise, accepted by the city; and if there are no conditions attaching to such gift, grant, bequest or devise, then the same is to be retained or expended as in the judgment of the trustees will most effectively promote the purposes of the public library department. Said board of trustees shall hold all of said property and estate for the same uses and purposes and charged with the same duties and liabilities for and subject to which the same may now be held by the board of aldermen of said city of Nashua.

### **§ A-835. Investment of funds**<sup>121</sup>

Any sums of money so received by said trustees, so long as the same remain unexpended, shall be invested by the city treasurer, under the direction of said trustees, in savings banks, or in any securities in which savings banks are authorized by law to invest, unless other provision is made by the terms of any such gift, grant, bequest or devise, and shall be under the charge of the city treasurer but shall always remain separate from and independent of any other moneys or property belonging to said city of Nashua and free from all control of the board of aldermen. The income of such fund or funds shall be received by said treasurer, subject to the order of said trustees, and shall be appropriated and expended by them in accordance with the terms of said grant, gift, bequest or devise; and in the absence of such terms, then in such manner as shall in their opinion best promote the purposes for which the same are given, granted, bequeathed or devised. In like manner, any appropriation made by said city shall be received by said trustees and held by the city treasurer subject to the order of said trustees.

### **§ A-836. City responsible for trustees**<sup>122</sup>

The city of Nashua shall be responsible for the good faith of said trustees and the treasurer of said city in the execution of any trust which they may assume pursuant to the foregoing provisions; and the city treasurer's bond shall be such as to cover among other things the faithful performance of his duty in connection herewith.

### **§ A-837. May make rules and regulations**<sup>123</sup>

The said board of trustees shall make and execute all such rules and regulations for its government, the preservation of property under its charge, and the use and management thereof, as they may from time to time deem necessary or expedient.

### **§ A-838. Annual appropriations; budget**<sup>124</sup>

There shall be annually appropriated by the city and made subject to the order of the trustees of the library a sum of money sufficient to maintain the library for one year, including salaries, heating, lighting and ordinary maintenance and repairs. There shall also be made an annual appropriation for the purchase and repair of books, and subscriptions for newspapers and periodicals and, as occasion demands, such additional appropriations may be made as, in the judgment of the board of aldermen shall be desirable for procuring suitable additions and conveniences and the establishment of reading rooms or branch libraries and other utilities

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<sup>121</sup> **Source:** 1917, ch. 306.

<sup>122</sup> **Source:** 1917, ch. 306.

<sup>123</sup> **Source:** 1917, ch. 306.

<sup>124</sup> **Source:** 1917, ch. 306.



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pertaining to library work. Said trustees shall have the sole expenditure of all moneys so raised and appropriated. For the purpose of the appropriations aforesaid the trustees shall annually, not later than February 1<sup>st</sup>, submit to the mayor and to the board of aldermen, one copy to each, a detailed estimate in writing of the appropriations required for that year under the heads above designated.

### **§ A-839. Records; reports**<sup>125</sup>

The said trustees shall organize annually by the choice of a secretary from their own number and shall keep a record of their proceedings. They shall make report annually to the board of aldermen of all their receipts and expenditures, and of all the property of the city in their care and control, including a statement of any unexpended balance of money they may have, and of grants, gifts, bequests or devises they may have received and are holding in behalf of the city, with such recommendations in reference to the same as they may deem necessary for the board of aldermen to consider.

### **§ A-840. Extension authorized**<sup>126</sup>

Said trustees are authorized to establish and maintain in connection with said library department, reference and circulating libraries, reading-rooms, collections of arts and antiquities, and museums, whenever in their judgment the funds at their disposal shall make the same practicable.

### **§ A-841. Compensation**<sup>127</sup>

The said trustees other than the secretary shall receive no compensation for their service; the pay of the secretary to be fixed by the board of trustees.

## CHAPTER 13. LAND

### SUBCHAPTER 1. PRIVATE LAND DEVELOPMENT

### **§ A-941. Approval of plans**<sup>128</sup>

Any person, firm or corporation proposing to cut up into lots any tract of land in the city of Nashua for the purpose of selling the same, either publicly or privately, shall before such sale prepare and submit a plan of said tract of land to the city engineer of the city of Nashua. Such plan shall plainly show the number, size, and location of lots, the location and width of all proposed highways, and the location of the tract of land with reference to an existing public highway, and such plan shall also show present and proposed elevations at fifty-foot stations along the center lines of all proposed highways. The location of said tract of land shall also be plainly marked on the ground by suitable stakes. If the plan shall meet with the approval of the said city engineer, it shall be his duty to plainly mark the plan “Approved,” so that intending purchasers shall have knowledge of the said approval. In case the city engineer shall disapprove of the proposed plan, he shall mark said plan “Disapproved” and file a statement of the reasons of such disapproval with the city clerk for the use of the board of aldermen of the said city, and shall transmit a like statement to the owner of the land. In such case the owner shall submit a new plan in accordance with the requirements of the city engineer, as thus set forth, which he shall marked “Approved” as hereinbefore provided.

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<sup>125</sup> **Source:** 1917, ch. 306.

<sup>126</sup> **Source:** 1917, ch. 306.

<sup>127</sup> **Source:** 1917, ch. 306.

<sup>128</sup> **Source:** 1921, ch. 227:1.

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### § A-942. Proposed highway lay-out<sup>129</sup>

No such highway shall be laid out by the board of aldermen of the said city of Nashua until such plan has been submitted to said city engineer and approved by him as provided in section 12 [A-941 of this chapter]; but it shall not be obligatory upon said board of aldermen to lay out any proposed highway because of the approval of any such plan by the said city engineer.

### § A-943. Appeal from refusal to lay-out<sup>130</sup>

In case the board of aldermen refuse to accept and lay out any such highway, appeal may be taken to the superior court in the same manner as is now provided by law in the laying out of highways.

## SUBCHAPTER 2. SUBDIVISION OF LAND

### § A-971. City of Nashua; subdivision of land<sup>131</sup>

Before exercising the powers provided by RSA 36:19 the planning board of the city of Nashua shall adopt regulations governing the subdivisions of land within its jurisdiction as set forth in RSA 36:21 provided, however, that no such regulations shall be adopted until after public hearing thereon and said regulations shall not become effective until they have been approved by the mayor and aldermen of said city. Said regulations may be amended by the planning board but only after a public hearing and approval thereof by the mayor and aldermen.

## SUBCHAPTER 3. LAND ACQUISITION

### § A-1001. Early land acquisition<sup>132</sup>

Notwithstanding any contrary provision of [RSA] chapter 205, as amended, the Nashua Housing Authority may, with the consent of the city of Nashua, acting by the mayor with the authorization of the board of aldermen, and after a temporary loan contract for the purpose has been executed under the federal housing act of 1949, as amended, take, by eminent domain as set forth in RSA chapter 203:12, or acquire by purchase, lease, gift, bequest or grant, and hold, clear, repair, operate, and after having taken or acquired the same, dispose of, land constituting the whole or any part or parts of any area which, after a public hearing of which at least twenty days' notice has been given by publication in a local or area newspaper having a general circulation in the city of Nashua, it has determined to be an area necessary for its purposes under RSA 205, as amended, and for which it is preparing a redevelopment plan or an urban renewal plan, and for such purposes may borrow money from the federal government or use any available funds, or both; provided, however, that no such taking or acquisition shall be effected unless and until the expiration of thirty days after the Nashua Housing Authority has caused a notice of such determination to be published in a local or area newspaper having a general circulation in the city of Nashua. Within thirty days after publication of the notice of such determination, any person aggrieved by such determination may file a petition in the superior court for a writ of certiorari against the Nashua Housing Authority to correct errors of law in such determination, which shall be the exclusive remedy for such purpose.

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<sup>129</sup> **Source:** 1921, ch. 227:2.

<sup>130</sup> **Source:** 1921, ch. 227:3.

**Revision**—The 1950 revision of Nashua ordinances, in the chapter relating to public works, set forth Laws 1921, 227:1—3, which provided that the plans for lots and highways proposed to be laid out from undivided lands first be approved by the city engineer and board of aldermen, with right of owner to appeal adverse decision to superior court. That act is not included in this Subpart, as Ordinance approved July 12, 1965, excluded sections one and two thereof, and section 3, relating to appeals, would have no foundation. The subject matter of the said 1921 act is now covered by Laws 1965, ch. 454, which is set forth in this Subpart.

<sup>131</sup> **Source:** 1965, ch. 454:1.

<sup>132</sup> **Source:** 1963, ch. 450:1.

## CHARTER AND RELATED LAWS

### **§ A-1002. Guarantee by city in early land acquisition**<sup>133</sup>

If the Nashua Housing Authority proposes to take, acquire or clear land constituting the whole or part or parts of an area which the authority has determined to be an area necessary for its purposes under RSA 205, as amended, and for which the authority is preparing a redevelopment plan, or an urban renewal plan, the city of Nashua may enter into an agreement with the Nashua Housing Authority to bear any loss that may arise as the result of such taking, acquisition, or clearance in the event that such land is not used for redevelopment or urban renewal.

### **§ A-1003. Early land acquisition in urban renewal area for low income housing**<sup>134</sup>

Notwithstanding any contrary provision herein contained, the Nashua Housing Authority may acquire by eminent domain under RSA 203:12 or by purchase or otherwise under RSA 203:8 any lands within a redevelopment area or an urban renewal area which the Nashua Housing Authority requires for a housing project for persons of low income, upon approval of the redevelopment plan or urban renewal plan as required by section 1 and section 2 of this act [A-1001 and A-1002 of this chapter]. The area of the housing project for persons of low income is to be considered part of the redevelopment area or urban renewal area as the case may be, which plan shall provide for the reimbursement of the Nashua Housing Authority for any excess in its use value as provided under RSA 205:5 without any conditions. The Nashua Housing Authority and the city of Nashua are authorized to make guarantees as required by the Public Housing Administration.

## CHAPTER 15. AIRPORTS AND AVIATION

### **§ A-1201. Declaration of need and purposes**<sup>135</sup>

It is declared that there is a need for the development of air navigation facilities for the betterment and improvement of air transportation services required in the public interest. It is the purpose of this act [chapter] to create an instrumentality empowered to acquire, own, maintain and operate airports and other air navigation facilities, to broaden the base upon which to support the operation of existing and future facilities and the financing of extensive and costly improvements and developments required to keep pace with the demand for fast, reliable and economical air transportation services. It is further declared that the purposes of this act [chapter] are public and that the airport authority, created hereunder, shall be regarded as performing a governmental function in the carrying out of the provisions of this act [chapter].

### **§ A-1202. Definitions**<sup>136</sup>

As used in this act [chapter] the following words and terms shall have the following meanings:

- I. The word “authority” shall mean the Nashua Airport Authority.
- II. The word “board” shall mean the board of directors of said authority.
- III. The work “project” shall be deemed to include all property, rights, easements, and franchises relating thereto and deemed necessary or convenient for its operation, and shall embrace all means of accomplishing the purposes set forth in section 1 [A-1201 of this chapter] including the development of non-aviation revenue.

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<sup>133</sup> **Source:** 1963, ch. 450:2.

<sup>134</sup> **Source:** 1963, ch. 450:3.

<sup>135</sup> **Source:** 1961, ch. 343:1.

<sup>136</sup> **Source:** 1961, ch. 343:2.

## CHARTER AND RELATED LAWS

- IV. The words “cost of project” shall embrace the cost of construction, development, improvement, the cost of all lands, property, rights, easements, and franchises acquired, which are deemed necessary for such construction, development and improvement, the cost of all machinery and equipment, financing charges, interest prior to and during construction, development and improvement, cost of engineering and legal expense, plans, specifications, surveys, estimates of costs, and other expenses necessary or incident to determining the feasibility or practicability of any project, the proportionate administrative expense properly allocable to such project as determined by the board, together with such other expenses as may be necessary or incident to the financing herein authorized and the construction, development and improvement of the project and the placing of the same in operation. Airport and air navigation facility shall have the meaning of the work and term as defined in RSA 422:3.

### **§ A-1203. Authority created**<sup>137</sup>

There is hereby created the Nashua Airport Authority which shall be a body corporate and politic having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by the legislature.

### **§ A-1204. Management**<sup>138</sup>

The management of said corporation shall be vested in a board of five directors, to be appointed by the mayor and confirmed by the board of aldermen, one of whom shall be designated as chairman. Not more than three of such members shall be of the same political party. One member shall be appointed originally for five years, a second for four years, a third for three years, a fourth for two years and a fifth for one year. Thereafter each appointment shall be for five years and a member shall serve until his successor shall have been appointed. All members shall serve without salary but they may be reimbursed for expenses incurred in the performance of their duties. The mayor and board of aldermen may at any time remove a director for inefficiency, neglect of duty or malfeasance in office; but no director shall be removed without a hearing, after notice in writing of the charges against him.

### **§ A-1205. General powers**<sup>139</sup>

The Nashua airport authority shall be a corporation in the state of New Hampshire and shall have the power:

- 1) To sue and be sued;
- 2) To have a seal and alter the same at pleasure;
- 3) To adopt from time to time and amend bylaws covering its procedure, rules and regulations governing use of non-federal air navigation facilities and any other services made available in connection therewith, to publish the same, if such publication is necessary or advisable and to cause records of its proceedings to be kept;
- 4) To own, construct, maintain, reconstruct, develop and operate airports or other air navigation facilities and may do so jointly with the United States, State of New Hampshire, other states or with cities and towns of the state;
- 5) To extend, enlarge, improve, rehabilitate, lease as lessor or as lessee, maintain, repair, and operate all projects under its control;
- 6) To acquire, hold and dispose of personal property for its purposes;

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<sup>137</sup> Source: 1961, ch. 343:3.

<sup>138</sup> Source: 1961, ch. 343:4.

<sup>139</sup> Source: 1961, ch. 343:5; 1963, ch. 434.

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- 7) To acquire in the name of the authority by purchase, condemnation lease or otherwise, any real property and rights or easements therein, deemed by it necessary or desirable for its purposes, and to use such property as it may deem necessary;
- 8) To acquire real property by the exercise of the powers of condemnation in the manner provided by law by which towns and cities, or the governor and council are authorized to acquire real property for public purposes;
- 9) To sell or lease plots of land and to charge and collect fees for services made available in connection with a non-federal air navigation facility or in the development of non-aviation revenue;
- 10) To make contracts with the United States, the state of New Hampshire, public and private corporations and individuals;
- 11) To accept grants and the co-operation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of airports and other air navigation facilities and to do any and all things necessary in order to avail itself of such aid and cooperation;
- 12) To employ such assistants, agents and servants as it shall deem necessary desirable for its purposes;
- 13) To borrow money, make and issue negotiable notes, bonds, and other evidences of indebtedness or obligations of the authority to secure payment of such obligations or any part thereof by pledge of any part of the, or the entire, revenue of the authority;
- 14) To do all other lawful things necessary and incidental to the foregoing powers;
- 15) To certify annually to the mayor and board of aldermen the amount of tax recommended to be levied for airport purposes, not to exceed one mill on the dollar upon the assessed valuation of the taxable property in the city and the mayor and board of aldermen may levy and collect the taxes so certified at the same time and in the same manner as other city taxes are levied and collected and the proceeds of such taxes when and as collected shall be set aside and deposited in the aeronautical fund authorized in the following paragraph;
- 16) To establish an aeronautical fund in accordance with the provisions of RSA 423:6, 7 and 8.

All property of the authority shall be exempt from levy and sale by virtue of any execution and no execution or other judicial process shall be a lien upon its property held pursuant to the provisions thereof.

### **§ A-1206. Project reports; hearing and order<sup>140</sup>**

Said Nashua airport authority before commencing any project shall submit to the mayor and board of aldermen a report, including a detailed description and plan of the project, and a detailed estimate of the total cost thereof. The mayor and board of aldermen, upon receiving such report shall determine whether the proposed project will be of public use and benefit and within the authority conferred upon said corporation. They shall cause a public hearing to be held thereon and if it shall appear that the project would be of public use and benefit and within the powers conferred upon said authority, they may, by written order, direct said authority to proceed with such project. The mayor and board of aldermen shall order notice of the public hearing upon such report to be given in such manner as they shall deem fit.

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<sup>140</sup> **Source:** 1961, ch. 343:6.

## CHARTER AND RELATED LAWS

### § A-1207. Bonds authorized<sup>141</sup>

The authority is hereby authorized to provide by resolution from time to time for the issuance of bonds for the purpose of paying the costs of developing an airport or airports and other air navigation facilities. The bonds of the authority shall not be a debt of the city, except as provided in section 12 [A-1212 of this chapter], but shall be payable solely from the revenue of the airports and other air navigation facilities under the management of the authority and the proceeds of taxes levied in accordance with the provisions of paragraph (15) of section 5 [A-1205 of this chapter]. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this act [chapter] shall be fully negotiable. In case any of the members of the authority whose signatures appear on the bonds or coupons shall cease to be such members before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such members had remained in office until such delivery. The authority may in the resolution authorizing prospective issues provide as to such bonds:

- 1) The manner of executing the bonds and coupons;
- 2) The form and denomination thereof;
- 3) The maturity dates thereof;
- 4) The interest rates thereon;
- 5) For redemption prior to maturity and the premium payable therefor;
- 6) The place or places for the payment of interest and principal;
- 7) For registration if the authority deems such to be desirable;
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- 9) For the replacement of lost, destroyed or mutilated bonds;
- 10) For the setting aside of reserve and sinking funds and the regulation and disposition thereof;
- 11) For limitation on the issuance of additional bonds;
- 12) For the procedure, if any, by which the contract with the bondholder may be abrogated or amended;
- 13) For the manner of sale and purchase thereof;
- 14) For covenants against pledging of any of the revenue of the project;
- 15) For covenants fixing and establishing such prices, rates and charges for the use of airports and other air navigation facilities and services made available therewith, so as to provide, at all times, funds which will be sufficient:
  - a. To pay all costs of operation and maintenance of airports and other air navigation facilities together with necessary repairs thereto;
  - b. To meet and pay the principal and interest of all such bonds as they severally become due and payable;
  - c. For the creating of such revenues for the principal and interest of all such bonds and for the meeting of contingencies and the operation and maintenance of such airports and other air navigation facilities as the authority shall determine;
- 16) For such other covenants as to such prices, rates and charges as the authority shall determine;
- 17) For covenants as to the rights, liabilities, powers and duties arising upon the breach by the authority of any covenant, condition or obligation;
- 18) For covenants as to the bonds to be issued and as to the issuance of said bonds in escrow and otherwise and as to the use and disposition of the proceeds thereof;
- 19) For covenants as to the use of its property and the maintenance and replacement thereof and the insurance to be carried thereon and the use and disposition of the insurance money;

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<sup>141</sup> **Source:** 1961, ch. 343:7.

**Editor's note**—No paragraph (8) was enacted.

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- 20) For limitations upon the exercise of the powers conveyed upon the authority by this act [chapter];
- 21) For the issuance of such bonds in series thereof, and
- 22) The performance by the authority of any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or in the absolute discretion of the authority as will tend to make the bonds more marketable, notwithstanding that such acts or things may not be enumerated herein, provided, however, that such acts or things shall not contravene or be inconsistent with any of the provisions of this act [chapter].

### **§ A-1208. Interim certificates**<sup>142</sup>

Prior to the issuance of the bonds hereunder the authority may issue interim certificates in such manner and with such conditions as the authority may determine to be exchanged for such bonds when issued.

### **§ A-1209. Issuance of notes and purchase by the city treasurer**<sup>143</sup>

The authority may issue to the city treasurer its notes, subject to the limitation as provided in this act [chapter], in an amount outstanding at any one time sufficient to enable the authority to carry out its functions under the act [chapter] or any other provision of law, such notes to mature not more than three years from their respective dates of issue, to be redeemable at option of the authority before maturity in such manner as may be stipulated in such obligation. Each such obligation shall bear interest at a rate determined by the city treasurer, taking into consideration the current average rate on outstanding marketable obligations of the city as to the last day of the month preceding the issuance of the obligation of the authority. Notwithstanding the provisions of any other law, the city treasurer is authorized to purchase the notes of the authority to be issued hereunder and any funds over which the city has exclusive control may be used for this purpose.

### **§ A-1210. Debt limitations**<sup>144</sup>

The issued or outstanding notes or bonds of the authority as provided by this act [chapter] shall at no time exceed two hundred thousand dollars in amount.

### **§ A-1211. Tax exemption and payment for services in lieu of taxes**<sup>145</sup>

The property of the authority is declared to be public property and shall be exempt from all taxes and special assessments of the state or any political subdivision thereof; provided that in lieu of such taxes the authority may agree to make payments to the municipality in which an airport or other air navigation facility is located for highway maintenance, fire protection or other services.

### **§ A-1212. Bonds guaranteed**<sup>146</sup>

The mayor and board of aldermen are hereby authorized in the name of the city to guarantee, in such manner as may be determined, the payment of the whole or any part of the principal and interest of any bonds to be issued by the authority. The full faith and credit of the city shall be pledged to performance of such guarantee of the city. In the event that the authority shall default in payment of interest or principal upon any of the bonds guaranteed by the city, the

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<sup>142</sup> **Source:** 1961, ch. 343:8.

<sup>143</sup> **Source:** 1961, ch. 343:9.

<sup>144</sup> **Source:** 1961, ch. 343:10.

<sup>145</sup> **Source:** 1961, ch. 343:11.

<sup>146</sup> **Source:** 1961, ch. 343:12.

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mayor may draw his warrant upon the treasury out of any money not otherwise appropriated for the payment of such guarantee, and the sums so paid shall be recoverable from this authority.

### **§ A-1213. Biennial report**<sup>147</sup>

The authority shall make a biennial report to the mayor and board of aldermen setting forth in detail the operations and transactions conducted by it pursuant to this act [chapter].

### **§ A-1214. Separability clause**<sup>148</sup>

If any provision of this act [chapter] or the application thereof to any person or circumstance is held invalid, the remainder of this act [chapter] and the application of such provision to other persons or circumstances shall not be affected thereby.

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<sup>147</sup> **Source:** 1961, ch. 343:13.

<sup>148</sup> **Source:** 1961, ch. 343:14.