

CHARTER AND ACTS

Division 1

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[HISTORY: Adopted by Acts 1922, Chapter 275. Amendments noted where applicable.]

General Provisions

Sec. 1. Certain terms defined.

The following words as used in this chapter shall, unless the context otherwise requires, have the following meanings:

“Officer,” “officers” and “administrative officers,” when used without further qualification or description, any person or persons in charge of any department or division of the city. The said words when used in contrast with a board or members of a board, or with division heads, shall mean any of the persons in sole charge of a department of the city.

“Ordinance,” a vote or order of the city council entitled “ordinance” and designed for the permanent regulation of any matter within the jurisdiction of the city council as laid down in this chapter.

“Plan A,” a city government and legislative body composed of the mayor and a city council, the councillors being elected at large.

“Plan B,” a city government and legislative body composed of a mayor and city council, the councillors being elected partly at large and partly from districts or wards of the city.

“Plan C,” a city government and legislative body composed of mayor and commissioners as hereinafter specified.

“Plan D,” a city government and legislative body, to be known as the city council, composed of seven or nine members, one of whom shall be mayor and shall be the official head of the city, and an administrative officer, called the city manager.

“Plan E,” a city government and legislative body, to be known as the city council, composed of seven or nine members, one of whom shall be elected as mayor by and from such members and shall be the official head of the city, and an administrative officer, called the city manager; the members of the city council and the elective members of the school committee to be elected at large by proportional representation.

“Plan F,” a city government and legislative body composed of a mayor and a city council, the councillors being elected partly at large and partly from wards of the city, with the mayor and city councillors to be nominated in party primaries.

“Elected at large,” elected by and from all the voters of the city.

“Proportional representation,” any proportional representation method of election authorized by sections ninety-three to one hundred sixteen, inclusive.

“Regular municipal election,” the annual or biennial election of municipal officers for which provision is made in this chapter. (1915, 267, I, § 1; 1922, 237, § 1; 1938, 378, § 1; 1948, 459, § 1; 1959, 448, § 1, approved Aug. 10, 1959, effective 90 days thereafter.)

Sec. 2. Certain cities may adopt one of the plans of government provided.

Any city, except Boston, which shall adopt, in the manner hereinafter prescribed, one of the plans of government provided in this chapter shall thereafter be governed by the provisions thereof; and the inhabitants of such city shall continue to be a municipal corporation under the name existing at the time of such adoption, and shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all duties, liabilities and obligations provided for in this chapter, or otherwise pertaining to or incumbent upon said city as a municipal corporation. (1915, 267, I, § 2.)

Sec. 3. Legislative powers not abridged.

None of the legislative powers of a city shall be abridged or impaired by this chapter; but all such legislative powers shall be possessed and exercised by such body as shall be the legislative body of the city under this chapter. (1915, 267, I, § 3.)

Sec. 4. Ordinances, etc., in effect until repealed, etc.

Ordinances, resolutions, orders or other regulations of a city or of any authorized body or official thereof, existing at the time when such city adopts a plan of government set forth in this chapter, shall continue in full force and effect until repealed, modified or superseded. (1915, 267, I, § 4.)

Sec. 5. Existing organization to continue until superseded.

Until superseded under this chapter, the organization of the executive and administrative departments, and the powers and duties of the officers and employees of any city adopting any of the plans provided for in this chapter, and the fiscal year of such city shall remain as constituted at the time of the adoption of such plan; but the city council or other legislative body may at any time by ordinance, consistent with general laws, reorganize, consolidate or abolish departments, in whole or in part; transfer the duties, powers and appropriations of one department to another, in whole or in part; establish new departments; and increase, reduce, establish or abolish salaries of heads of departments or members of boards. This section shall not authorize any action in conflict with chapter thirty-one.

This section shall not authorize the city council in any city which adopts Plan D or E to take any action to accomplish any result not contemplated by the provisions of the said plans. (1915, 267, I, § 5; 1938, 378, § 2; 1948, 459, § 2.)

Sec. 6. Number of wards to continue until changed according to law.

The territory of a city adopting any of the plans of government provided for in this chapter shall continue to be divided into the same number of wards existing at the time of such adoption, which shall retain their boundaries until changed in accordance with general law. (1915, 267, I, § 6.)

Sec. 7. (Omitted.)

Sec. 8. (Omitted.)

Sec. 9. (Omitted.)

Sec. 9B. (Omitted.)

Sec. 10. (Omitted.)

Sec. 11. (Omitted.)

Sec. 12. (Omitted.)

Sec. 13. (Omitted.)

Sec. 14. Certain officials to carry out provisions, etc.

The mayor, the aldermen and the common council, the city council or other legislative body, and the city clerk in office when any plan set forth in this chapter has been adopted, or is proposed for adoption, shall comply with all requirements of this chapter relating to such proposed adoption and to the election of the officers specified in said plan, in order that all things necessary for the nomination and election of the officers first to be elected under the provisions of this chapter and of the plan so adopted may be done. (1915, 267, I, § 14.)

Sec. 15. (Omitted.)

Sec. 16. (Omitted.)

Sec. 16A. (Omitted.)**Sec. 17. Certain officials to be sworn, time, etc.**

On the first Monday in January following a regular municipal election, at ten o'clock in the forenoon, the mayor-elect if elected by the people, the councillors-elect, and the assessors-elect if elected by the people, shall meet and be sworn to the faithful discharge of their duties. The oath may be administered by the city clerk or by a justice of the peace, and a certificate thereof shall be entered in the journal of the city council. At any regular council meeting thereafter the oath may be administered in the presence of the city council to the mayor, or to any councillor absent from the meeting on the first Monday in January; provided, that under Plan E, the oath may be so administered to the mayor and vice chairman at the same meeting at which they are respectively elected. (1915, 267, I, § 17; 1916, 68, § 2; 1922, 237, § 4; 1938, 378, § 6.)

Sec. 17A. (Omitted.)**Sec. 17B. (Omitted.)****Sec. 17C. (Omitted.)****Sec. 17D. (Omitted.)****Sec. 18. Legislative powers, proceedings, city clerk, etc.**

Except as otherwise provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. Quorum, etc.—Every member of the council may vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.
2. Proceedings, etc.—The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. Except as otherwise authorized by section twenty-three A of chapter thirty-nine, all sessions of the council shall be open to the public and to the press, and every matter coming before the council for action shall be put to a vote, the result of which shall be duly recorded. A full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any registered voter of the city.
3. City Clerk, Election, etc.—The council shall, by a majority vote, elect a city clerk to hold office for three years and until his successor is qualified. He shall have such powers and

perform such duties as the council may prescribe, in addition to such duties as may be prescribed by law. He shall keep the records of the meetings of the council.

City Clerk to Hold Office Until Successor Is Qualified — The person holding the office of the city clerk at the time when any of the plans set forth in this chapter have been adopted by such city shall continue to hold office for the term for which he was elected and until his successor is qualified.

4. **City Auditor**—The council in any city adopting Plan D or E shall, by a majority vote, elect a city auditor to hold office for three years and until his successor is qualified. He shall keep and have charge of the accounts of the city and from time to time audit the books and accounts of all departments, commissions, boards and offices of the city, and shall have such other powers and perform such other duties as the council may prescribe, in addition to such duties as may be prescribed by law. (1915, 267, I, § 18; 1938, 378, § 7; 1949, 723, § 1; 1958, 626, § 5.)

Sec. 19. Information by mayor or city manager to city council, attendance at meetings, etc.

The city council at any time may request from the mayor, or, under Plan D or E, from the city manager, specific information on any municipal matter within its jurisdiction, and may request him to be present to answer written questions relating thereto at a meeting to be held not earlier than one week from the date of the receipt by the mayor, or, under Plan D or E, by the city manager, of said questions. The mayor, or, under Plan D or E, the city manager, shall personally, or through the head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The mayor, or, under Plan D or E, the city manager, may attend and address the city council in person or through the head of a department, or a member of a board, upon any subject. (1915, 267, I, § 19; 1938, 378, § 8; 1948, 459, § 6.)

Sec. 20. Ordinances, passage, etc.

No ordinance shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency measure unless the emergency is defined and declared in a preamble thereto separately voted on and receiving the affirmative vote of two-thirds of the members of the city council.

No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency measure, and except as provided in sections seventy seven-one of chapter one hundred sixty-four and in chapter one hundred and sixty-six, no such grant, renewal or extension shall be made otherwise than by ordinance. (1915, 267, I, § 20.)

Sec. 21. Amendments, etc.

No ordinance shall be amended or repealed except by an ordinance adopted in accordance with this chapter. (1915, 267, I, § 21.)

Sec. 22. Passage at one session.

Any ordinance, order or resolution may be passed through all its stages of legislation at one session, provided that no member of the council objects thereto; but if any member of the council objects, the measure shall be postponed for that meeting. (1915, 267, I, § 22.)

Sec. 23. Ordinances, etc., to be published.

Every proposed ordinance or loan order, except emergency measures as hereinbefore defined and revenue loan orders, shall be published once in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance, at least ten days before its final passage. After such final passage, it shall, in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall be so published at the earliest practicable moment; provided, that if any ordinance or proposed ordinance, or codification of ordinances or proposed ordinances, shall exceed in length eight octavo pages of ordinary book print, then, in lieu of the advertising required by this section, the same may be published by the city council in a municipal bulletin or printed pamphlet, and if so published in full at least ten days before its final passage, and thereafter, as amended and completed, again published in such bulletin or pamphlet, said publications shall be deemed sufficient without the newspaper publication as herein required. (1915, 267, I, § 23; 1917, 162; 1935, 68, § 1.)

Sec. 24. Obligations, actions, legal acts, etc., to continue.

All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the city before its adoption of a plan provided by this chapter, and all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by this chapter; and no legal act done by or in favor of the city shall be rendered invalid by its adoption of a plan provided by this chapter. (1915, 267, I, § 24.)

Sec. 25. Civil service laws not to apply to certain employees.

The civil service laws shall not apply to the appointment of the mayor's secretaries or of the stenographers, clerks, telephone operators and messengers connected with his office, and the mayor may remove such appointees without a hearing and without making a statement of the cause of their removal. (1915, 267, I, § 25.)

Sec. 26. Certain vacancies, how filled; acting mayor.

Except as otherwise provided in sections fifty A, fifty-nine A, eighty-six, one hundred two and one hundred twenty-one, if a vacancy occurs in the office of the mayor or city council before the last six months of the term of office, the city council shall order an election for a mayor or a member of the council to serve for the unexpired term; and if such vacancy occurs in the office of mayor in the last six months of the term, the president of the city council shall succeed to said office for the unexpired term. If the mayor is absent or unable from any cause temporarily to perform his duties they shall be performed by the president of the city council. The person upon whom such duties shall devolve shall be called "acting mayor," and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

Whenever, under Plan C, any councillor shall be temporarily unable for any cause to perform the duties of his office, the council may appoint one of its members to exercise his powers and perform his duties during such disability. Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the council or the mayor, having the power of original appointment, may make a temporary appointment of some person to act until such official resumes his duties. (1915, 267, I, § 26; 1937, 224, § 1; 1938, 378, § 9; 1959, 448, § 9.)

Sec. 27. Officials and employees prohibited from making or sharing in contracts; penalty.

No mayor or member of the city council or school committee and no officer or employee of the city shall directly or indirectly make a contract with the city, or receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person making or performing such contract, unless the mayor, such member, officer or employee, immediately upon learning of the existence of such contract, or that such contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of his interest in such contract, and shall abstain from doing any official act on behalf of the city in reference thereto. In case of such interest on the part of an officer whose duty it is to sign such contract on behalf of the city, the contract may be signed by any other officer of the city duly authorized thereto by the mayor, or if the mayor has such interest, by the city clerk; provided, that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued shall not be considered as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.

A violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or both. (1915, 267, I, § 27.)

Sec. 28. Proposals to be asked for certain contracts.

No contract for construction work or for the purchase of equipment, supplies or materials, whether for repairs or original construction, the estimated cost of which amounts to two thousand dollars or more, except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same have been invited by advertisements in at least one newspaper published in the city once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements, and shall reserve to the city the right to reject any or all of such proposals. All such proposals shall be opened in public. No bill or contract shall be split or divided for the purpose of evading any provisions of this chapter.

The name and address of every person whose contract or contracts with the city involve a cumulative cost in excess of two thousand dollars during the fiscal year of said city shall be posted in the office of the city clerk by the auditor of said city.

Whoever violates any provision of this section shall be punished by a fine of not more than ten thousand dollars or by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one-half years, or by both said fine and imprisonment; and in the event of final conviction, said person shall be incapable of holding any office of honor, trust or profit under the commonwealth or under any county, district or municipal agency. (1915, 267, I, § 28; 1928, 300, § 1; 1951, 25, § 1; 1967, 79, § 3; 1972, 61, § 2; 1972, 320, § 2.)

Sec. 29. Mayor or city manager to approve certain contracts; surety bond, etc.

All contracts made by any department, board or commission where the amount involved is two thousand dollars or more shall be in writing, and no such contract shall be deemed to have been made or executed until the approval of the mayor under Plan A, B, C or F, or of the city manager under Plan D or E, and also of the officer or the head of the department or of the chairman of the board, as the case may be, making the contract is affixed thereto. Any contract made as aforesaid may be required to be accompanied by a bond with sureties satisfactory to the board or official having the matter in charge, or by a deposit of money, certified check or other security for the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has been carried out in all respects; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his bond, if any, and the officer, department or board, as the case may be, making the contract, with the approval of the mayor under Plan A, B, C, D or F, or of the city manager under Plan E, affixed thereto. (1915, 267, I, § 29; 1928, 300, § 2; 1938, 378, § 10; 1949, 723, § 2; 1951, 25, § 2; 1959, 448, § 10; 1967, 79 § 4.)

Sec. 30. Purchase or taking of land for municipal purposes.

At the request of any department, and with the approval of the mayor and city council under Plan A, B, C or F, or with the approval of the city manager and the city council under Plan D or E, the city council may, in the name of the city, purchase, or take by eminent domain, under chapter seventy-nine, any land within its limits for any municipal purpose, and, without the request of any department, but with like approval, the city council may, in the name of the city, purchase or take by eminent domain, under chapter seventy-nine, any land within its limits for the purpose of conveying the same, with or without consideration, to the commonwealth for the use of a regional community college. Whenever the price proposed to be paid for land for any municipal purpose is more than twenty-five per cent higher than its average assessed valuation during the previous three years the land shall not be purchased, but shall be taken as aforesaid. No land shall be taken or purchased until an appropriation by loan or otherwise for the general purpose for which land is needed has been made by the city council, by a two-thirds vote of all its members; nor shall a price be paid in excess of the appropriation, unless a larger sum is awarded by a court of competent jurisdiction. All proceedings in the taking of land shall be under the advice of the law department, and a record thereof shall be kept by said department. (1915, 267, I, § 30; 1938, 378, § 11; 1948, 459, § 7; 1959, 448, § 11; 1967, 59, § 2.)

Sec. 31. School committee, number, term, etc.

The school committee shall consist of the mayor, who shall be the chairman, and six members elected at large. At the first regular municipal election held in any city after its adoption of one of the plans provided in this chapter, there shall be elected, except as provided in this section, two members to serve for one year, two for two years and two for three years, and annually thereafter there shall be elected two members to serve for three years. If the plan adopted provides for elections to be held biennially, there shall, except under Plan E or F, be elected at the first regular municipal election held under the provisions of such plan, three members to serve for two years and three members to serve for four years, and biennially thereafter three members to serve for four years. After the adoption of Plan E by a city, the six members other than the mayor shall be elected at large for terms of two years each by proportional representation as hereinafter provided. (1915, 267, I, § 31; 1922, 237, § 5; 1938, 378, § 12; 1959, 448, § 12.)

Sec. 32. To appoint superintendent, etc.; committee members may hold certain other municipal offices and positions.

The school committee shall elect a superintendent of schools annually, except as provided in section forty-one of chapter seventy-one, and may, under chapter thirty-one, appoint, suspend or remove at pleasure such subordinate officers or assistants, including janitors of school buildings, as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee shall, while a member thereof, hold any other office or position in the school department the salary or compensation for which is payable out of the city treasury. The committee shall organize annually on the first Monday in January, and shall elect one of its members as vice chairman, who shall preside at all meetings of the committee at

which the mayor is not present. (1915, 267, I, § 32; 1918, 257, § 157; 1919, 5; 1920, 2; 1949, 318; 1970, 24.)

Sec. 33. Powers and duties.

Except as otherwise provided in this chapter and subject to any laws which limit the amount of money that may be appropriated in any city for school purposes, the school committee, in addition to the powers and duties conferred and imposed by law on school committees, may provide, when necessary, temporary accommodations for school purposes, may make all repairs, the expenditures for which are made from the regular appropriation for the school department, shall have control of all school buildings and grounds connected therewith and shall make all reasonable rules and regulations, consistent with law, for the management of the public schools of the city and for conducting the business of the committee. (1915, 267, I, §§ 33, 35.)

Sec. 34. Sites, plans, etc., for school buildings.

No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first obtained. No plans for the construction of or alterations in a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless with the approval of the school committee and the mayor under Plan A, B, C or F or with the approval of the school committee and the city manager under Plan D or E. The mayor or, in a city under Plan D or E, the city manager shall notify the school committee in writing prior to or at the time of each change in plans after work is begun. This section shall not require such approval for the making of ordinary repairs. (1915, 267, I, § 34; 1964, 407).

Sec. 35. Meetings to be public; yea and nay vote.

All meetings of the school committee shall be open to the press and to the public, except as otherwise authorized by section twenty-three A of chapter thirty-nine. The vote on any particular measure shall be by yeas and nays, when requested by two members. (1915, 267, I, § 36; 1958, 626, § 6.)

Sec. 36. May fill vacancy in their own body.

Except as provided in this section, if a vacancy occurs in the school committee by failure to elect, or otherwise, the city council and the remaining members of the school committee shall meet in joint convention and elect a suitable person to fill the vacancy until the first Monday in January following the next regular municipal election; and, if there would be a vacancy on said first Monday, it shall be filled at such regular municipal election for the balance of the unexpired term. The mayor, if present, shall preside at the convention.

Whenever under Plan E a vacancy occurs in the school committee by failure to elect, or otherwise, such vacancy shall be filled as provided in section one hundred two. (1915, 267, I, § 37; 1922, 237, § 6; 1938, 378, § 13.)

Sec. 37. Initiative petition.

A petition conforming to the requirements hereinafter provided and requesting the city council to pass a measure, except, an order granting under section seventy or seventy-one of chapter one hundred sixty-four or chapter one hundred sixty-six, or requesting the school committee to pass a measure, therein set forth or designated, shall be termed an initiative petition, and shall be acted upon as hereinafter provided. In this and the eight following sections, "measure" shall mean an ordinance, resolution, order or vote passed by a city council, or a resolution, order or vote passed by a school committee, as the case may be. (1915, 267, I, § 38.)

Sec. 38. Signatures to initiative petitions; certification; transmission; objections.

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

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

The city clerk shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, according as the petition is addressed, and at the same time shall send a copy of said certificate to one or more of the persons designated on the petition as filing the same.

When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made thereto by a registered voter of the city within forty-eight hours after such certification by filing such objections with the city council or the school committee, and a copy thereof with the registrars of voters or the board or commission having similar duties. A copy of the objections so filed shall forthwith be transmitted to the state ballot law commission which shall hold a public hearing on said objections, shall render a decision on the matter referred to it within fourteen days after the objections were filed and transmit a copy of its decision to the city council or the school committee. (1915, 267, I, 39; 1967, 406, § 1.)

Sec. 39. Action by city council or school committee if initiative petition is fully signed; referendum.

If any initiative petition is signed by registered voters equal in number to at least fifteen percent of the whole number of registered voters, the city council or the school committee shall, within twenty days after the date of the certificate of the registrars to that effect:

1. Pass said measure without alteration, subject to the referendum vote provided by this chapter; or
2. The city council shall call a special 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 certificate hereinbefore mentioned and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; provided, that if any city election is otherwise to occur within ninety days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election. (1915, 267, I, § 40; 1972, 38.)

Sec. 40. Proceedings if petition not fully signed.

If an initiative petition is signed by registered voters equal in number to at least eight percent but less than fifteen percent of the total number of registered voters, and said measure be not passed without alteration within twenty days by the city council or the school committee, as provided in the preceding section, such proposed measure, without alteration, shall be submitted by the city council to a vote of the registered voters of the city at the next regular municipal election. A proposed measure under this section or section thirty-nine shall become effective if it shall be approved by registered voters of the city equal in number to one-third of the whole number thereof and also by a majority of the voters voting on such measure, but not otherwise. (1915, 267, I, § 41; 1922, 237, § 7; 1931, 426, § 158; 1972, 38.)

Sec. 41. Ballots to state nature of measure.

The ballots used when voting upon a proposed measure under section thirty-nine or forty, or a measure or part thereof protested against under the following section, shall state the nature of the measure in terms sufficient to show the substance thereof. (1915, 267, I, § 46; 1931, 426, § 159.)

Sec. 42. Referendum petition.

If, within twenty days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by registered voters of the city, equal in number to at least twelve per cent of the total number of registered voters, and addressed to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school

committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city council shall submit the same, by the method herein provided, to a vote of the registered voters of the city, either at the next regular city election, or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the registered voters voting on the same at such election vote in favor thereof.

Procedure, etc. — The petition described in this section shall be termed a referendum petition and section thirty-eight, with the exception of the last paragraph, shall apply to the procedure in respect thereto, except that the words “measure or part thereof protested against” shall for this purpose be understood to replace “measure” in said section wherever it may occur, and “referendum” shall be understood to replace the word “initiative” in said section. (1915, 267, I, § 42; 1935, 68, § 2; 1961, 550; 1967; 406, § 2.)

Sec. 43. City council may submit questions to voters.

The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the registered voters of the city for adoption or rejection at a general or special city election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition. (1915, 267, I, § 44.)

Sec. 44. Measures with conflicting provisions.

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect. (1915, 267, I, § 45.)

Sec. 44A. Preliminary elections; nominations.

In every city, governed on September first, nineteen hundred and twenty-two, by any plan provided by this chapter, which accepts sections forty-four A to forty-four G, inclusive, in the manner provided by section forty-four H, and in every city, except Boston, which, after said date adopts any such plan, except Plan E or F, in the manner provided in this chapter, the provisions of section forty-four A to forty-four G, inclusive, shall apply. In such a city which accepts section one hundred and three A of chapter fifty-four, on the fourth Tuesday, and in any other such city, on the third Tuesday, preceding every regular city election, and, in all such cities, on the third Tuesday preceding any special election, at which any office mentioned in this chapter is to be filled, there shall be held, except as otherwise provided in section forty-four G, a preliminary election for the purpose of nominating candidates therefor, and section sixteen shall not apply.

Notices or warrants for regular, preliminary and special elections shall specify by name all the offices to be voted for and state, in the form in which it will appear upon the ballot, any

question submitted to the voters. They shall specify the time when the polls will be opened and when the polls will be closed. The polls at such elections shall be open during such hours as the city council may prescribe; provided, that they shall be opened not earlier than fifteen minutes before six o'clock in the forenoon nor later than ten o'clock in the forenoon and shall be kept open at least six hours, but in no event later than eight o'clock in the evening. The ballots to be used at such elections shall be governed by the provisions of section forty-nine. (1922, 282, § 1; 1933, 313, § 8; 1934, 30; 1938, 378, § 14; 1941, 640, § 4; 1959, 448, § 13, approved Aug. 10, 1959; effective 90 days thereafter.)

Sec. 44B. Prerequisites for inclusion of name on official ballot.

Except as otherwise provided in section forty-four G, there shall not be printed on the official ballot to be used at any regular or special election the name of any person as a candidate for any office unless such person has been nominated as such at a preliminary election for nomination, held as provided in sections forty-four A to forty-four G, inclusive. There shall not be printed on the official ballot for use at such preliminary election the name of any candidate for nomination at such election, unless he shall have filed, within the time limited by section forty-four C, the statement and petition therein described. (1922, 282, § 1.)

Sec. 44C. Candidates for nomination, persons eligible; statement and petition.

Any person who is qualified to vote for a candidate for any elective municipal office, and who is a candidate for nomination thereto, shall be entitled to have his name as such candidate printed on the official ballot to be used at a preliminary election; provided that within the time prescribed by section ten of chapter fifty-three in the case of preliminary elections in cities he shall file with the city clerk a statement in writing of his candidacy, and with it the petition of at least fifty voters qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE

Form of statement. — I (_____), on oath, declare that I reside at (number, if any) on (name of street) in the city of _____; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for the office of (name of office) for (state the term) to be voted for at the preliminary election to be held on Tuesday, the ____ day of _____, nineteen hundred and _____, and I request that my name be printed as such candidate on the official ballot for use at said preliminary election.

(Signed) _____

Commonwealth of Massachusetts,

Subscribed and sworn to on this ____ day of _____, nineteen hundred and _____ before me,

(Signed) _____
Justice of the Peace
or (Notary Public.)

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Form of petition. — Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we, the undersigned, voters of the city of _____, duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the ____ Tuesday of _____, nineteen hundred and _____.

We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by the candidate for nomination named in the said petition shall be necessary to its validity or its filing, and the petition, which may be on one or more papers, need not be sworn to (1922, 282, § 1; 1937, 147; 1943, 229, § 1.)

Sec. 44D. List of candidates; official ballots.

On the first day, other than Sunday or a legal holiday, following the expiration of the time for filing the above described statement and petition, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly qualified as candidates for nomination, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots which shall contain said names, in their order as drawn by the clerk, and no others, with a designation of residence, and of the office and term of service, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election. In drawing for position on the ballot the candidates shall have an opportunity to be present in person or by one representative each. Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on such ballots such directions as will aid the voter, as, for example: "vote for one," "vote for two," and the like, and the ballots shall be headed as follows:

OFFICIAL PRELIMINARY BALLOT

Candidates for nomination for the offices of (_____) in the city of _____ at a preliminary election to be held on the _____ day of _____ in the year of nineteen hundred and _____.

(The heading shall be varied in accordance with the offices for which nominations are to be made.) (1922, 282, § 1.)

Sec. 44E. Counting, etc., of votes; duties of election officers and clerk.

The election officers shall, immediately upon the closing of the polls at preliminary elections, count the ballots and ascertain the number of votes cast in the several voting places for each candidate, and forthwith make return thereof upon blanks to be furnished, as in regular elections, to the city clerk who shall canvass said returns and shall forthwith determine the result thereof, insert the same in one or more newspapers published in the city, and post the same in a conspicuous place in the city hall. (1922, 282, § 1.)

Sec. 44F. Candidates for election, how determined.

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall, except as otherwise provided by section forty-four G, be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular or special election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

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

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates to a number exceeding twice the number to be elected. (1922, 282, § 1.)

Sec. 44G. Candidates for nomination, when deemed nominated; preliminary election, when unnecessary.

If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election not more than twice as many such statements have been filed with the city clerk for an office as are to be elected to such office, the candidates whose statements have thus

been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards. (1922, 282, § 1.)

Sec. 44H. Acceptance of sections 44A to 44G, submission to voters, when.

If, in a city governed on September first, nineteen hundred and twenty-two, by one of the plans provided by this chapter, there is filed with the city clerk, not later than one month before a regular city election, a petition conforming so far as possible to the provisions of sections eight and nine, requesting that such city accept the provisions of sections forty-four A to forty-four G, inclusive, and bearing the signatures of registered voters thereof, duly certified by the registrars of voters, to a number equal to at least ten per cent of the registered voters thereof at the biennial state election next preceding such filing, the following question shall be placed upon the official ballot to be used in such city at the next regular city election:- “Shall sections forty-four A to forty-four G, inclusive, of chapter forty-three of the General Laws, relative to the nomination by preliminary elections of candidates for elective municipal offices in cities governed under a standard form of city charter, be accepted by the city of _____?” If a majority of the voters voting thereon in such city vote in the affirmative, said sections shall take effect therein. (1922, 282, § 1; 1932, 180, § 7; 1941, 640, § 5.)

Sec. 45. Certain provisions to apply to any plan adopted.

Sections one to forty-four G, inclusive, shall, upon the adoption by any city of any of the plans hereinafter set forth, apply to the plan so adopted, except as is otherwise provided in such plan. (1915, 267, I, § 47; 1922, 282, § 2.)

Plan B – Government by Mayor and Council Elected by Districts at Large

Sec. 56. Plan B.

The method of city government provided for in the eight following sections shall be known as Plan B. (1915, 267, III, § 1; 1937, 224, § 2, approved, April 26, 1937. Declared an emergency measure.)

Sec. 57. When Plan takes effect.

Upon the adoption of a city of Plan B, it shall become operative as provided in sections one to forty-five, inclusive. (1915, 267, III, § 2.)

Sec. 58. Mayor, election, term, etc.

There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of the city. He shall hold office for the term of two years from the first Monday in January following his election and until his successor is qualified. (1915, 267, III, § 3.)

Sec. 59. City council, election, number, terms of office, etc.¹

The legislative powers of the city shall be vested in a city council. One of its members shall be elected by the council annually as its president. In cities having seven wards or less, the city council shall be composed of eleven members, of whom one shall be elected from each ward by and from the qualified voters of that ward, and the remaining members shall be elected by and from the qualified voters of the city.

If the plan adopted provides for elections to be held biennially, at the first regular municipal election held under the provisions of such plan and at each biennial election thereafter, all the councillors whether elected at large or by wards shall be elected to serve for two years from the first day of January following their election, and until their successors are qualified. (1915, 267, III, § 4; 1922, 237, § 9.)

Sec. 59A. Filling vacancies in office of mayor and in council.

If a vacancy occurs in the office of the mayor by death, removal or resignation at any time during the first year of the term ending December thirty-first, the city clerk shall forthwith order an election to fill such vacancy for the remainder of the unexpired term.

If a vacancy occurs during the second year of the term beginning January first, a meeting of the city council shall be called by the city clerk and the city council shall elect by majority vote one of its members as mayor for the remainder of the unexpired term. If the city council fails so to elect at said meeting or within thirty days thereafter, the president of the city council shall become acting mayor, shall exercise all the rights and powers of mayor and shall be sworn to the faithful discharge of his duties.

If a vacancy occurs at any time in the office of a councillor elected by and from the qualified voters of the city, such vacancy shall be filled forthwith by a majority vote of all the remaining members of the city council for the remainder of the unexpired term.

If a vacancy occurs, before the last six months of the term, in the office of a councillor elected by and from the voters of a ward, the city council shall forthwith order an election to fill such vacancy for the remainder of the unexpired term. (1937, 224, § 3; 1955, 222.)

¹ Editor's Note: See §§ 2 and 3, Division II, Charters and Related Laws of this volume.

Sec. 60. Appointments by mayor subject to confirmation.

Upon the adoption of Plan B, all heads of departments and members of municipal boards, except the school committee, officials appointed by the governor, and assessors if elected by the people, as their terms of office expire, shall be appointed by the mayor, subject to confirmation of the city council; but the city solicitor shall be appointed, and may be removed, by the mayor, without confirmation by the city council. This section shall apply to the city solicitor in office when Plan B becomes operative. (1915, 267, III, § 5; 1916, 99, § 2.)

Sec. 61. Removals, etc.

The mayor may, with the approval of a majority of the members of the city council, remove the head of a department or member of a board before the expiration of his term of office, except members of the school committee, officials appointed by the governor, and assessors if elected by the people. The person so removed, shall receive a copy of the reasons for his removal, and he may, if he desires, contest the same before the city council. He may be represented by counsel at the hearing. (1915, 267, III, § 6.)

Sec. 62. (Omitted.)²**Sec. 63. Approval by mayor of orders, etc.**

Section fifty-five shall apply to cities which adopt Plan B. (1915, 267, III, § 8.)

Sec. 55. Approval and veto by mayor of orders, etc.

Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for his approval. If he approves it he shall sign it; if he disapproves it he shall return it, with his written objections, to the city council, which shall enter the objections at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two-thirds vote of all its members, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution and vote shall be in force if not returned by the mayor within ten days after it has been presented to him. This section shall not apply to budgets submitted under section thirty-two of chapter forty-four or to appropriations by a city council under section thirty-three of said chapter. (1915, 267, II, § 10.)

² Editor's Note: This section has been omitted due to repeal 1952, 259, § 3.

Division 2**ACTS OF 1922, CHAPTER 275¹
(Modified Plan B)**

- § 1. **Adoption of Plan B.**
- § 2. **Municipal elections—To be biennial.**
- § 3. **Same—Terms of elective officers.**
- § 4. **Same—Preliminary elections—Nominations of candidates.**
- § 5. **Same—Same—Qualifications of candidates; statement and petition of candidate.**
- § 6. **Same—Same—Form, etc., generally of ballots.**
- § 7. **Same—Same—Party or political designation, etc., on ballot prohibited.**
- § 8. **Same—Same—Counting of ballots and return of votes, etc.**
- § 9. **Same—Same—Determination of candidates for regular or special election.**
- § 10. **Same—Same—Nomination of candidate without participation in preliminary election.**
- § 11. **Salary of mayor and councilmen.**
- § 12. **Appointment and term of office of chief engineer, etc., of fire department.**
- § 13. **Acceptance of Act.**

[HISTORY: Approved by the voters of the City of Marlborough 4-11-1922. Amendments noted where applicable.]

Sec. 1. Adoption of Plan B.

Except as otherwise provided herein, the city of Marlborough shall conduct its city government under the form provided in sections fifty-six to sixty-three, inclusive, of chapter forty-three of the General Laws, known as Plan B, and said sections fifty-six to sixty-three, inclusive, and sections one to forty-five, inclusive, of said chapter, shall, except as otherwise provided herein, apply to the said government to the same extent as if said plan were adopted by said city in the manner provided in said chapter. (Acts 1922, ch. 275, § 1.)

¹ Editor's Note: This Act adopted Plan B, General Laws, chapter 43, sections 1 to 45, inclusive, and 55 to 63, inclusive, with certain modifications. Thus, while this Act has been classified separately for indexing purposes, it is an integral part of Plan B and should be so considered.

Sec. 2. Municipal elections—To be biennial.

Beginning with the first Tuesday in November, in the year nineteen hundred and thirty-three, municipal elections in the City of Marlborough for the choice of mayor, members of the city council and other elective city officers shall be held biennially on the first Tuesday in November in every odd-numbered year. (Acts 1922, ch. 275, § 2; Acts 1932, ch. 37, § 1.)

Sec. 3. Same—Terms of elective officers.

At the biennial municipal election in nineteen hundred and twenty-three and at each biennial municipal election thereafter, the mayor, members of the city council and other elective city officers, except members of the school committee, shall be elected for terms of two years from the first Monday in January following, and until their successors shall be elected and qualified. At the biennial municipal election in nineteen hundred and twenty-three, the six members of the school committee shall be elected, three to serve for terms of two years and three for terms of four years, and at each biennial municipal election thereafter members of the school committee shall be elected for terms of four years. (Acts 1922, ch. 275, § 3.)

Sec. 4. Same—Preliminary elections—Nominations of candidates.²

On the third Tuesday preceding every regular and special municipal election at which any officer mentioned in this act is to be elected, there shall be held a preliminary election for the purpose of nominating candidates for such offices as, under the provisions of this act, are to be filled at such election. Voters qualified to vote at a regular election shall be qualified to vote at a preliminary election. No special election for mayor or any other officer shall be held until after the expiration of forty days from the calling of the preliminary election. At every preliminary election, the polls shall open at twelve o'clock noon and close not earlier than eight p.m. (Acts 1922, ch. 275, § 4.)

Sec. 5. Same—Same—Qualifications of candidates; statement and petition of candidate.

Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have his name as such candidate printed on the official ballot to be used at a preliminary election; provided, that, at least ten days³ prior to the preliminary election, he shall file with the city clerk a statement in writing of his candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for said office. Said statement and petition shall be in substantially the following form:

² Editor's Note: See MGL c. 53, § 28.

³ Editor's Note: See MGL. c. 53, § 10.

STATEMENT OF CANDIDATE

I, _____, on oath declare that I reside at (number if any) on (name of street) in the city of Marlborough; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for nomination for the office of (state the office) for (state the term) to be voted for at the preliminary election for nominations to be held on Tuesday the ____ day of _____ nineteen hundred and _____ and I request that my name be printed as such candidate on the official ballots to be used at said preliminary election.

Signed _____

Subscribed and sworn to this ____ day of _____, nineteen hundred and _____.

Before me _____
Justice of the Peace or

Notary Public.

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we the undersigned, voters of the city of Marlborough duly qualified to vote for a candidate for said office, do hereby request that the name of said (name the candidate) as a candidate for nomination for said office be printed on the official ballots to be used at the preliminary election to be held on the ____ Tuesday of _____, nineteen hundred and _____. We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by the candidate for nomination named in the said petition shall be necessary for its validity or for its filing, and the petition need not be sworn to. The petition may be on one or more papers. (Acts 1922, ch. 275, § 5.)

Sec. 6. Same—Same—Form, etc., generally of ballots.

On the first day, not being Sunday or a legal holiday, following the expiration of the time for filing the above-described statements and petitions, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly qualified as such as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots which shall contain said names, in their order as drawn by the clerk, and no others, with a designation of residence, and of the office and term of service, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election. In drawings for position on the ballot the candidates shall have an opportunity to be present in person or by one representative each.

Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as, for example, "vote for one," "vote for two," and the like, and the ballots shall be headed as follows:

OFFICIAL PRELIMINARY BALLOT

Candidates for nomination for the offices of _____ in the city of Marlborough at a preliminary election to be held on the _____ day of _____ in the year nineteen hundred and _____.

(The heading shall be varied in accordance with the office for which nominations are to be made.) (Acts 1922, ch. 275, § 6.)

Sec. 7. Same—Same—Party or political designation, etc., on ballot prohibited.

No ballot used at any preliminary, special or regular election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing how he was nominated, or indicating his views or opinions. (Acts 1922, ch. 275, § 7.)

Sec. 8. Same—Same—Counting of ballots and return of votes, etc.

The election officers shall, immediately upon the closing of the polls at the preliminary elections, count the ballots and ascertain the number of votes cast in the several voting places for each candidate, and forthwith make return thereof upon blanks to be furnished as in regular city elections to the city clerk who shall canvass said returns and shall forthwith determine the result thereof, insert the same in one or more newspapers published in the city, and post the same in a conspicuous place in the city hall. (Acts 1922, ch. 275, § 8.)

Sec. 9. Same—Same—Determination of candidates for regular or special election.

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall, except as otherwise provided by section ten, be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular or special election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

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

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates to a number exceeding twice the number to be elected. (Acts 1922, ch. 275, § 9.)

Sec. 10. Same—Same—Nomination of candidate without participation in preliminary election.

If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election not more than twice as many such statements have been filed with the city clerk for an office, as are to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on at the succeeding regular or special election, as the case may be, and the city clerk shall not print said names upon the ballot to be used at said preliminary election, and no other nomination to said office shall be made. If, in consequence, it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards or the city, no preliminary election shall be held in any such ward or wards. (Acts 1922, ch. 275, § 10.)

Sec. 11. Salary of mayor and councilmen.

The salary of each member of the city shall not exceed two hundred dollars a year. Nothing in this act shall be deemed to affect the salary of the mayor as at present established by section nine of chapter three hundred and twenty of the acts of eighteen hundred ninety, as amended by chapter one hundred eighty-seven of the acts of nineteen hundred twenty. (Acts 1922, ch. 275, § 11.)

Sec. 12. Appointment and term of office of chief engineer, etc., of fire department.

Beginning with the year nineteen hundred twenty-four, the chief engineer of the fire department and the first and second assistant engineers shall be appointed by the mayor, subject to confirmation by the city council, for terms of three, two and one years, respectively, from January first in the year of their appointment, and thereafter such officers shall be so appointed for terms of three years from January first in the year of their appointment, and until the appointment and qualification of their successors. (Acts 1922, ch. 275, § 12.)

Sec. 13. Acceptance of Act.

This act shall be submitted to the voters of the city of Marlborough at the next state election in the form of the following question to be placed upon the official ballot:

“Shall an act passed by the General Court in the year nineteen hundred and twenty-two, entitled ‘An Act amending the charter of the city of Marlborough,’ be accepted?” Yes No

If a majority of the voters voting thereon vote in the affirmative, the provisions of this act, relative to preliminary elections and elections of the officers provided for by Plan B of chapter forty-three of the General Laws, shall take effect from and after September first, nineteen hundred twenty-three, and the remaining provisions thereof upon the qualification of the officers elected at the municipal election in nineteen hundred twenty-three. (Acts 1922, ch. 275, § 13.)

Division 3**CHARTER OF 1890
(Chapter 320, as amended)**

Sec. 1. The inhabitants of the town of Marlborough shall, in case of the acceptance of this act by the voters of said town as hereinafter provided, continue to be a body politic and corporate under the name of the city of Marlborough, and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations now pertaining to and incumbent upon the said town as a municipal corporation. (Acts 1890, ch. 320, § 1.)

Sec. 2. The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, shall be vested in one officer to be called the mayor, one council to be called the board of aldermen, and one council to be called the common council; which councils in their joint capacity shall be denominated the city council. The general management and control of the public schools of said city, and of the buildings and property pertaining thereto, shall be vested in a school committee. (Acts 1890, ch. 320, § 2.)

Sec. 3. The territory of said city shall be divided into seven wards, as hereinafter provided. (Acts 1890, ch. 320, § 3.)

Sec. 4. The municipal election shall take place annually on the first Tuesday of December, and the municipal year shall begin on the first Monday of January following. All meetings of the citizens for municipal purposes shall be called warrants issued by order of the mayor and aldermen, which shall be in such form and be served and returned in such manner and at such times as the city council may by ordinance direct. (Acts 1890, ch. 320, § 4.)

Sec. 5. At such municipal election the qualified voters shall give in their votes by ballot for mayor, aldermen, common councilmen and school committee in accordance with the provisions of this act and the laws of this Commonwealth. Any person receiving the highest number of votes for any office shall be deemed and declared to be elected to such office; and whenever two or more persons are to be elected to the same office, the several persons, to the number required to be chosen, receiving the highest number of votes shall be deemed and declared to be elected. Each person so elected shall be notified of his election in writing by the city clerk. If it shall appear that there is no choice of mayor, or if the person elected mayor shall refuse to accept the office, or shall die before qualifying, or if a vacancy in said office shall occur subsequently, the board of aldermen shall cause warrants to be issued for a new election, and the same proceedings shall be had in all respects as are hereinbefore provided for the election of mayor, and repeated until the election of mayor is completed. If the full number of members of either branch of the city council shall fail to be elected, or a vacancy shall occur in either branch, such branch shall declare a vacancy or vacancies to exist; and thereupon the board of aldermen shall order a new election to be held to fill the same. The person thus elected to fill a vacancy shall hold the office for the remainder of the term. The office of tax collector and city treasurer may be held and filled by one and the same person. (Acts 1890, ch. 320, § 5; Acts 1916, ch. 263.)

Sec. 6. All meetings for the election of national, state, county and district officers shall be called by the mayor and board of aldermen in the same manner as meetings for municipal elections are called. (Acts 1890, ch. 320, § 7; Acts 1890, ch. 434, § 1.)

Sec. 7. The board of aldermen may, when no convenient ward room for holding the meeting of the citizens of any ward can be had within the territorial limits of such ward, appoint and direct in the warrant for calling the meeting of such ward that the meeting be held in some convenient place within the limits of an adjacent ward of the city; and for such purposes the place so assigned shall be deemed and taken to be a part of the ward in which the election is held. (Acts 1890, ch. 320, § 7.)

Sec. 8. General meetings of the citizens qualified to vote may from time to time be held according to the rights secured to the people by the constitution of this Commonwealth; and such meetings may, and upon request in writing of fifty qualified voters setting forth the purposes thereof shall, be duly called by the mayor and board of aldermen. (Acts 1890, ch. 320, § 8.)

Sec. 9. The mayor shall be elected by the qualified voters of the entire city, and shall hold office for the municipal year beginning with the first Monday of January next succeeding the election and until his successor is elected and qualified. The mayor shall be the chief executive officer of the city, and it shall be his duty to be active and vigilant in causing the laws, ordinances and regulations of the city to be enforced, and to keep a general supervision over the conduct of all subordinate officers. He shall have the power of veto provided by general law. He may suspend any officer, and may suspend any work or payment, whether on contract or otherwise, for a period not exceeding seven days; but in such case he shall report his action with his reasons therefor to the city council, which shall take immediate action thereon. He may call special meetings of the city council or of either branch thereof, when in his opinion the interests of the city require it, by causing notice to be left at the usual place of residence of each member of the board or boards to be convened. He shall from time to time communicate to the city council or either branch thereof such information and recommend such measures as the business of the city may in his opinion require. He shall, when present, preside in the board of aldermen and in convention of the two boards, but shall have no vote except in case of an equal division. He shall receive an annual salary, not exceeding eighteen hundred dollars, to be fixed by concurrent vote of the city council from year to year. (Acts 1890, ch. 320, § 9; Acts 1920, ch. 187, § 1.)

Sec. 10. The mayor shall appoint, subject to the confirmation or rejection of the board of aldermen, a city marshal or chief of police, and such number of other police officers and constables as the city council shall determine. The chief of police shall be appointed annually, but all other police officers shall hold office during good behavior and until removed by the mayor with the concurrence of the board of aldermen, after hearing, for cause in their opinion sufficient. The board of aldermen may require any person who may be appointed a chief of police or constable to give a bond, with such security and to such an amount as they may deem reasonable and proper, for the faithful discharge of the duties of the office; upon which bonds like proceedings and remedies may be had as by law provided in case of constable, bonds taken by the selectmen of towns. The compensation of the police and other subordinate officers shall be fixed by concurrent vote of the city council. (Acts 1890, ch. 320, § 10.)

Sec. 11. Whenever there shall be a vacancy in the office of mayor, or whenever by reason of sickness, absence from the city, or other cause, the mayor shall be disabled from attending to the duties of his office, the president of the board of aldermen shall act as mayor, and possess all the rights and powers of mayor during such vacancy or disability. (Acts 1890, ch. 320, § 11.)

Sec. 12. One alderman shall be elected by and from the qualified voters of each ward; two common councilmen shall be elected by and from the qualified voters of each ward. No person shall be eligible for election as alderman or common councilman who is not at the time of his election a resident of the ward from which he is chosen, but a removal subsequently to another ward of said city shall not disqualify any such officer from discharging the duties of his office during the remainder of the term. The aldermen and common councilmen shall hold office for the municipal year beginning with the first Monday in January next succeeding their election, and respectively until a majority of the succeeding board shall be elected and qualified. They shall be sworn to the faithful discharge of their duties, and they shall receive no compensation for their services. A majority of each board shall constitute a quorum for the transaction of business. (Acts 1890, ch. 320, § 12.)

Sec. 13. On the first Monday of January of each year, the mayor, aldermen and common councilmen elect shall meet in joint convention, when they shall be sworn to the faithful discharge of the duties of their respective offices. The oath may be administered by the city clerk, or by any justice of the peace, and a certificate of such oath having been taken shall be entered on the journals of the board of aldermen and of the common council by their respective clerks. After the oath has been administered as aforesaid the two boards shall separate. The common council shall be organized by the choice of one of its own members as president and also by the choice of a clerk not one of its own members, to hold their offices respectively during the municipal year. The clerk shall be sworn to the faithful discharge of his duties, and his compensation shall be fixed by concurrent vote of the city council. The board of aldermen shall choose a president, who, in the absence of the mayor, shall preside at the meetings of the board of aldermen and of the two councils in joint convention. In case of the absence of the mayor elect on the first Monday of January, or if the mayor shall not have been then elected, the city council shall organize itself in the manner hereinbefore provided, and may proceed to business in the same manner as if the mayor were present, and the oath of office may at any time thereafter be administered to the mayor and to any member of the city council who has been previously absent or has been subsequently elected; and every oath shall be duly certified as aforesaid. Each board shall keep a record of its proceedings, and be the judge of the election of its own members. (Acts 1890, ch. 320, § 13; Acts 1920, ch. 148.)

Sec. 14. The city clerk shall have charge of all the journals, records, papers and documents of the city, sign all warrants issued by the mayor and aldermen, and do such other acts in his said capacity as the city council may require of him. He shall be the clerk of the board of aldermen and of the city council in convention, and shall keep a journal of all votes and proceedings. He shall engross all the ordinances passed by the city council in a book provided for that purpose, and shall add proper indexes, which book shall be deemed a public record of such ordinances. He shall perform such other duties as are required by law or shall be prescribed by the board of aldermen. In case of the temporary absence of the city clerk, the mayor, with the consent of the aldermen, may appoint a clerk pro tempore who shall be duly qualified. (Acts 1890, ch. 320, § 14.)

Sec. 15. The executive power of said city generally, with all the powers heretofore vested by special statute in the selectmen of the town of Marlborough and in the selectmen of towns generally by the laws of the Commonwealth, shall be vested in and exercised by the mayor and aldermen as fully as if the same were herein specially enumerated, except as herein otherwise provided. (Acts 1890, ch. 320, § 15.)

Sec. 16. The city council shall appropriate annually the amount necessary to meet the expenditures of the city for the current municipal year; and no further appropriations shall thereafter be made except by a vote of two-thirds of each board voting by yeas and nays. It shall take care that no money is paid from the treasury unless granted or appropriated, and shall secure a just and proper accountability by requiring bonds, with sufficient penalties and sureties, from all persons entrusted with the receipt, custody or disbursement of money. It shall as often as once in each year cause to be published for the use of the inhabitants a particular account of the receipts and expenditures of said city and a schedule of all city property and of the city debt. It shall have the care and superintendence of the city buildings and the custody, management and disposal of all city property except that of the public schools as hereinbefore provided. The city council shall not authorize the erection of a schoolhouse or any addition thereto nor pass any appropriation for such purpose until plans of the same have been approved by vote of the school committee,³ and until such approval has been certified in writing to the council by the chairman of said committee. It shall also have the sole care, superintendence and management of the public grounds and cemeteries belonging to said city, and of all the shade and ornamental trees standing and growing thereon, and also of all the shade and ornamental trees standing and growing in or upon any of the public streets and highways of said city. (Acts 1890, ch. 320, § 16.)

Sec. 17. In all cases in which appointments are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, which nomination shall be subject, however, to confirmation or rejection by the board of aldermen. If a person so nominated be rejected, the mayor shall make another nomination within ten days from the time of such rejection. No person shall be eligible by appointment or election by the mayor and aldermen, or city council, to any office of emolument the salary of which is payable out of the city treasury, who at the time of such election or appointment is a member of the city council. All sittings of the mayor and aldermen, of the common council and of the city council shall be public, except the sittings of the mayor and aldermen when they are engaged in executive business. (Acts 1890, ch. 320, § 17.)

Sec. 18. The city council shall have power within said city to make and establish ordinances and bylaws, and to affix thereto penalties as herein and by general law provided, without the sanction of any court or justice thereof; provided, however, that all the laws and regulations now in force in the town of Marlborough shall, until they expire by their own limitations or be revised or repealed by the city council, remain in force; all fines and forfeitures for the breach of any bylaw or ordinance shall be paid into the city treasury. Complaint for the breach of any ordinance or bylaw may be made by the mayor or any head of a department or by any resident of the city. (Acts 1890, ch. 320, § 18.)

³ **Editor's Note:** In the case of *Simpson v. City of Marlborough*, 127 N. E. 887, it was held that the authority conveyed by this section to the school committee to approve plans before the erection of a schoolhouse did not empower the school committee to bind the city to pay an architect for services in preparing such plans.

Sec. 19. The city council shall have authority and power to order the laying out, locating anew, discontinuing of or making specific repairs in all streets, ways and highways within the limits of said city and to assess all damage sustained thereby; but all questions relating to the subject of laying out, altering or repairing or discontinuing any street, way or highway shall first be enacted on by the board of aldermen. Any person aggrieved by any proceeding of the city council under this section shall have all the rights and privileges now allowed by law in such cases, in appeals from the decisions of the selectmen of towns. Nothing in this section shall be construed to exclude the jurisdiction of the county commissioners in relation to said streets, ways and highways. (Acts 1890, ch. 326, § 19; Acts 1906, ch. 260, § 2.)

Sec. 20. Neither the mayor, members of the city council, members of city boards or any officer of the city shall directly or indirectly contract with or purchase from himself or any firm with which he is connected supplies, materials or labor on account of or for the use of the city. (Acts 1890, ch. 320, § 20.)

Sec. 21. The city council shall annually, as soon after their organization as may be convenient, elect by concurrent vote a city treasurer, a collector of taxes and a city clerk, who shall hold their offices for the current municipal year following their election and until their respective successors shall be elected and qualified; and said city council, by concurrent vote, may elect a city physician, a city solicitor and city auditor, who shall be legal voters and shall hold their offices for the term of one year from the first Monday in February then next ensuing and until others shall be elected and qualified in their stead; provided, however, that either of the officers named in this section may be removed at any time by the city council for sufficient cause. Vacancies occurring in the above named offices may be filled at any time in the same manner for the unexpired term. The compensation of the officers mentioned in this section shall be fixed by concurrent vote of the city council. (Acts 1890, ch. 320, § 21.)

Sec. 22. The city council may establish a fire department for said city, to consist of a chief engineer and of as many assistant engineers, enginemen, hosemen, hook-and-ladder men, and assistants, as the city council by ordinance shall from time to time prescribe; and said council shall have authority to fix the time of their appointment and the term of their service, to define their office and duties and in general to make such regulations concerning the pay, conduct and government of such department, the management of fires and the conduct of persons attending fires, as they may deem expedient, and may fix such penalties for any violation of such regulations or any of them as are provided for the breach of the ordinances of said city. The appointment of all officers and members of such department shall be vested in the mayor and aldermen, exclusively, who shall also have authority to remove from office any officer or member for cause sufficient in their discretion. The engineers so appointed shall be the firewards of the city, but the mayor and aldermen may appoint additional firewards. The compensation of the department shall be fixed by concurrent vote of the city council. (Acts 1890, ch. 320, § 22.)

Sec. 23. The city council shall have power to establish fire limits within the city and from time to time change or enlarge the same; and by ordinance they may regulate the construction of all buildings erected within said fire limits, stipulating their location, size and the material of which they shall be constructed, together with such other rules and regulations as shall tend to prevent damage by fire; provided, that such rules and regulations shall not be inconsistent with the laws of this Commonwealth. (Acts 1890, ch. 320, § 23.)

Sec. 24. The city council first elected after the acceptance of this act shall in the month of January choose by concurrent vote by ballot three persons to be assessors of taxes to serve, one for the term of three years, one for the term of two years and one for the term of one year, beginning with the first Monday of February then next ensuing, and until their respective successors are chosen and qualified; and thereafter the city council shall annually in the month of January choose in the same manner one person as assessor, who shall hold office for the term of three years, beginning with the first Monday of February then next ensuing and until another is chosen and qualified in his stead. The city council shall annually in the month of January choose by concurrent vote for one person from each ward to be an assistant assessor for one year, beginning with the first Monday in February then next ensuing and until his successor is elected and qualified; and it shall be the duty of the persons so elected to furnish the assessors with all necessary information relative to persons and property taxable in their respective wards. Any vacancy occurring in the office of assessor or assistant assessor may be filled by concurrent ballot of the city council for the unexpired term. The compensation of assessors and assistant assessors shall be fixed by the concurrent vote of the city council. (Acts 1890, ch. 320, § 24.)

Sec. 25. The city council first elected under this act shall, as soon after its organization as may be convenient, elect by concurrent vote three persons, legal voters of said city, to constitute a board of overseers of the poor in said city, one to serve for the term of three years, one for two years and one for one year from the first Monday of February then next ensuing, and until their respective successors are elected and qualified; and thereafter the city council shall annually, in the month of January, elect in the same manner one person, a legal voter of said city, to serve for the term of three years from the first Monday of February then next ensuing, and until his successor shall be elected. Said board of overseers shall organize annually by the choice of a chairman, and they may annually elect, but not one of their own number, an almoner, who shall serve as clerk of the board, and who may be removed by the board; the compensation of the almoner shall be fixed by the concurrent vote of the city council; the members of the board shall serve without compensation. (Acts 1890, ch. 320, § 25.)

Sec. 26. The mayor shall appoint⁴ annually, in the month of January, subject to the confirmation or rejection of the board of aldermen, a superintendent of streets, who shall hold office for one year from the first Monday of February in the year in which he shall be appointed, and until his successor is appointed and qualified, unless sooner removed. He shall be removable by the mayor with the consent of the board of aldermen, and a vacancy may be filled at any time by the mayor and aldermen for the unexpired term.

Said superintendent shall receive such compensation for his services as the mayor and aldermen shall from time to time determine, and shall devote his whole time to the service of the city. And said superintendent may appoint one or more foremen to act under his control and direction, who shall receive such compensation as the mayor and aldermen may from time to time determine. It shall be the duty of the superintendent of streets, under the general care and direction of the mayor and aldermen, to superintend the general state of the streets, roads,

⁴ Editor's Note: In the case of *Bradley v. City of Marlborough*, 296 Mass. 255, 5 N. E. (2d) 439, the court held that the adoption of Plan B form of government by the city in 1922 did not repeal nor cancel the effects of the previous acceptance by the city of this section providing for the appointment and duties of the superintendent of streets.

sidewalks, sewers, drains, bridges, parks, public spaces and squares of the city, and to attend to the making and repair of the same. Said superintendent shall perform such further duties, not inconsistent with the nature of his office, as the mayor and aldermen may prescribe. All provisions of law applicable to the collection of city, county and state taxes, shall apply to the collection of assessments under this act. Said superintendent shall in general, except as otherwise herein provided, have exclusively the powers and be subject to the duties, liabilities and penalties which are by law given to or imposed upon road commissioners of towns. (Acts 1890, ch. 320, § 26; Acts 1893, ch. 322, § 1.)

Sec. 27. The city council first elected under this act shall, as soon as convenient after its organization, elect by concurrent vote three persons, legal voters of said city, to constitute a board of health, to serve, one for three years, one for two years and one for one year, from the first Monday in February the next ensuing and until their respective successors are elected; and thereafter the city council shall annually in the month of January elect in the same manner one person, a legal voter of said city, to serve as a member of said board of health for the term of three years from the first Monday of February then next ensuing and until his successors shall be elected. Elections shall be so made that one member at least of said board shall be a physician. The compensation of the board shall be fixed by concurrent vote of the city council. (Acts 1890, ch. 320, § 27.)

Sec. 28. The city council first elected under this act shall, as soon as may be convenient after its organization, elect by concurrent vote nine persons, legal voters of said city, to constitute a library committee, who shall have the supervision, management and care of the public library of said city. Said committee shall be elected to serve, three for three years, three for two years and three for one year from the first Monday of March then next ensuing and until their respective successors are elected and qualified; and thereafter the city council shall annually in the month of January elect in the same manner three persons, legal voters of said city, to serve for three years from the first Monday of February then next ensuing and until their successors are elected and qualified. Said committee shall annually appoint, but not from their own number, one or more librarians, to be under the direction and control of said committee, and may for sufficient cause remove such librarians. The compensation of such librarians shall be fixed by concurrent vote of the city council. Any vacancy occurring in said committee may be filled by concurrent vote of the city council at any time. The city council may at any time remove any member of said committee. The members of said library committee shall serve without compensation. (Acts 1890, ch. 320, § 28.)

Sec. 29. The city council first elected under this act shall, as soon after its organization as may be convenient, elect by concurrent vote, three persons, legal voters of said city, to constitute a board of water commissioners in said city, one to serve for the term of three years, one for two years and one for one year, from the first Monday of February then next ensuing, and until their respective successors are elected and qualified; and thereafter the city council shall annually in the month of January elect in the same manner one person, a legal voter of said city, to serve for the term of three years from the first Monday of February then next ensuing and until his successor shall be elected and qualified. Said board shall organize annually by the choice of a chairman, and they may annually elect, but not from their own number, a water registrar and superintendent of waterworks. The water commissioners shall fix the salaries of such superintendent and registrar and may remove them or either of them for sufficient cause. Said commissioners shall have charge of the waterworks of said city and shall have and exercise all

the rights, powers and authority granted to the water commissioners of said town by chapter one hundred and ninety-one of the acts of the year eighteen hundred and eighty, and all acts amendatory thereof or supplementary thereto. The compensation of such commissioners shall be fixed by concurrent vote of the city council. All the rights and obligations of the said town of Marlborough in relation to its water supply, and the special powers and authority heretofore conferred by law upon the inhabitants of said town to raise money for the construction and extension of its said water supply, shall be merged in the powers and obligations of the city. (Acts 1890, ch. 320, § 29.)

Sec. 30. The city of Marlborough shall have and exercise all the rights, powers and privileges granted to the town of Marlborough by chapter three hundred and twelve of the acts of the year eighteen hundred and eighty-eight and acts in amendment thereto, and shall be subject to all the duties, obligations and liabilities imposed upon said town by said chapter and amendments. The city council first elected under this act shall, as soon as may be convenient after its organization, elect by concurrent ballot four persons, legal voters of said city, neither of whom shall be the mayor or an alderman, who, with the mayor and board of aldermen, shall constitute a sewerage construction committee, in whom shall be vested all the powers and privileges given to the construction committee by the provisions of said chapter three hundred and twelve. The members of the construction committee elected by the town of Marlborough under the provisions of said chapter three hundred and twelve, and holding said office at the time of the organization of the city council, shall continue to hold such office until said four members shall have been elected by the city council as hereinbefore provided, and until such election shall have and exercise all the powers and authority pertaining to said office. The mayor and aldermen shall have charge of the sewers and system of sewage disposal authorized by said chapter three hundred and twelve and amendments thereto, when completed as therein provided, and shall thereafter exercise all the rights, powers and authority granted by said chapter and amendments thereto, and by all general laws relative to the duties appertaining thereto. So much of said chapter three hundred and twelve as is inconsistent with this act is hereby repealed. (Acts 1890, ch. 320, § 30.)

Sec. 31. All trust funds now held by the town of Marlborough shall be held, controlled and administered by the city council of the city of Marlborough subject to the same conditions and limitations that now exist. (Acts 1890, ch. 320, § 31.)

Sec. 32. Any vacancy occurring in any one of the boards established under the provisions of sections twenty-four, twenty-five, twenty-seven, twenty-eight and twenty-nine may be filled by the city council by concurrent vote at any time for the unexpired term; and any member of either of said boards may at any time be removed by the city council for sufficient cause. (Acts 1890, ch. 320, § 32.)

Sec. 33. The school committee shall consist of a board of eight persons, inhabitants of the city of Marlborough, of whom one shall be elected by ballot from each ward by the qualified voters in said ward, and one shall be the mayor. At the first election under this act there shall be so elected a member from each of wards one and two, to serve for the term of three years, beginning with the first Monday of January then next ensuing; from each of wards three and four a member to serve for the term of two years, beginning with the first Monday of January then next ensuing; and from each of wards five, six and seven, a member to serve for the term of one year beginning with the first Monday of January then next ensuing. And at each

subsequent election there shall be chosen members to hold their office for the term of three years as successors of and from the same wards as those whose term of office expires at the expiration of the then municipal year. Any vacancy occurring in said committee may be filled for the remainder of the municipal year by the joint ballot of the city council and school committee in convention; and for the unexpired term thereafter shall be filled at the first municipal election after such vacancy occurs. The members of the committee shall serve without compensation. Said committee shall annually elect one of their number chairman. Said committee shall annually appoint one of their own number to attend the meetings of the board of aldermen and common council for the purpose hereinafter mentioned. They shall annually appoint, but not one of their own number, a superintendent of schools who shall act as secretary of the board. The committee shall fix the salary of such superintendent, and may remove him for sufficient cause. All the rights and obligations of the said town of Marlborough in relation to schools and the grant and appropriations of money for the support of the schools, and the special powers and authority heretofore conferred by law upon the inhabitants of said town to raise money for the support of schools therein, shall be merged in the powers and obligations of the city. (Acts 1890, ch. 320, § 33.)

Sec. 34. The chairman of the board of overseers of the poor and the chairman of the board of water commissioners and the member of the school committee appointed for that purpose shall be respectively entitled to seats with the board of aldermen and common council and shall have the right to discuss all matters relating to their respective departments of city affairs, but without the right to vote. They shall be notified in like manner with members of the two boards of all special meetings of said boards. Every officer of the city, except the mayor, shall, at the request of the board of aldermen or common council, appear before them and give such information as they may require, and answer such questions as may be asked in relation to any matter, act or thing connected with his office or the discharge of the duties thereof. (Acts 1890, ch. 320, § 34.)

Sec. 35. All general laws in force in the town of Marlborough when this act shall be accepted, as herein provided, and all special laws heretofore passed with reference to the said town of Marlborough, and which shall then have been duly accepted by said town, and which shall be then in force therein, shall, until altered, amended or repealed, continue in force in the city of Marlborough, so far as the same are not inconsistent herewith. (Acts 1890, ch. 320, § 35.)

Sec. 36. The passage of this act shall not affect any rights accruing or accrued, or any suit, prosecution or other legal proceedings pending at the time when this act shall go into operation, and no penalty or forfeiture previously incurred shall be affected hereby. All persons holding office in said town at the time this act shall take effect shall continue to hold the same, notwithstanding the passage hereof, until the organization of the city government hereby authorized shall be effected, and until the successors of such officers shall be respectively elected and qualified. (Acts 1890, ch. 320, § 36.)

Sec. 37. Upon the acceptance of this act, as herein provided, the selectmen of said town shall forthwith divide the territory into seven wards, so that they shall contain, as nearly as may be consistent with well-defined limits to each, an equal number of voters in each ward; and they shall designate the wards by numbers. They shall for the purpose of the first municipal election to be held hereunder, which shall take place on the first Tuesday of the December next succeeding such acceptance, provide suitable polling places in the several wards, and give

notice thereof; and shall at least ten days previous to the said first Tuesday in December, appoint all proper election officers therefor; and they shall in general have the powers and perform the duties of the mayor and the board of aldermen of cities under chapter two hundred and ninety-nine of the acts of the year eighteen hundred and eighty-four, and chapter four hundred and thirteen of the acts of the year eighteen hundred and eighty-nine, the provisions of which shall, so far as applicable, apply to said election; and the town clerk shall perform the duties therein assigned to city clerks. The registrars of voters shall cause to be prepared and published lists of the qualified voters in each of the wards established by the selectmen. (Acts 1890, ch. 320, § 37.)

Sec. 38. The selectmen shall notify the persons elected mayor, aldermen and common councilmen severally of their election, and shall appoint a place for the first meeting of aldermen and common council on the first Monday of January next ensuing; and by written notices left at their respective residences at least twenty-four hours prior to such meeting shall notify thereof the mayor elect, aldermen elect and common councilmen elect, who shall immediately proceed to organize and carry into effect the provisions of this act, which shall then have full force and effect. The selectmen shall in like manner provide and appoint a place and time for the first meeting of the school committee, and notify the members elect thereof. Nothing herein shall affect the annual meeting in said town for the election of the national, state, district and county officers which may be held after the acceptance hereof. (Acts 1890, ch. 320, § 38.)

Sec. 39. A meeting may be called for the purpose of submitting the question of the acceptance of this act to the legal voters of said town at any time after the passage hereof, except in the months of November and December. At such meetings the polls shall be open not less than eight hours, and the vote be taken by ballot, in accordance with the provisions of chapter two hundred and ninety-nine of the acts of the year eighteen hundred and eighty-four, so far as the same shall be applicable, in answer to the question, "Shall an act passed by the general court in the year eighteen hundred and ninety entitled 'An act to incorporate the city of Marlborough,' be accepted" and the affirmative votes of the majority of the voters present and voting thereon shall be required for its acceptance. If at the meeting so called this act shall fail to be thus accepted, it may, at the expiration of one year from any such previous meeting, be again thus submitted for acceptance, but not after the period of three years from the passage hereof. (Acts 1890, ch. 320, § 39.)

Sec. 40. So much of this act as authorizes the submission of the question of its acceptance to the legal voters of said town shall take effect upon its passage, but it shall not take further effect unless accepted by the legal voters of said town as herein prescribed.

House of Representatives, June 16, 1890.
Passed to be enacted.

WILLIAM E. BARRETT, Speaker.

In Senate, June 19, 1890.
Passed to be enacted.

HENRY H. SPRAGUE, President

June 21, 1890.
Approved.

JOHN Q. A. BRACKETT.

Secretary's Department, Boston, January 1, 1891.
A true copy.

CHARTER AND ACTS

Division 4

RELATED LAWS⁵

ARTICLE I

**An Act Relative to the Duties of the
Superintendent of Schools of the City of Marlborough**

§ 1. Acting as secretary of school board.

§ 2. Effective date.

ARTICLE II

**An Act to Establish a Board of Water and
Sewage Commissioners in the City of Marlborough**

§ 3. Official title; duties.

§ 4. Title of superintendent; duties.

ARTICLE III

**An Act Relative to Call Men in the Fire Department
of the City of Marlborough**

§ 5. Qualifications of certain members.

§ 6. Effective date.

ARTICLE IV

**An Act Relative to the Members of the Fire Department
of the City of Marlborough**

§ 7. Term of office; change of status.

§ 8. Application of Acts of 1904, chapter 314, section 2.

§ 9. Effective date.

[HISTORY: Approved: Art. I, 5-9-1892; Art. II, 4-3-1912; Art. III, 4-6-1912; Art. IV, 4-22-1913. Amendments noted where applicable.]

⁵ Editor's Note: The related laws consist of certain Special Acts relating to the city, in addition to the Charter, which were considered of sufficient importance to set out in full in this volume. Each is carried as an article in this Division, with unofficial section numbers, for convenience in indexing. The official citation for each section is given in parentheses. For a listing of other Special Acts, see Appendix B of this volume.

ARTICLE I
**An Act Relative to the Duties of the
Superintendent of Schools of the City of Marlborough
[Approved 5-9-1892]**

Sec. 1. Acting as secretary of school board.

The superintendent of schools of the City of Marlborough shall not act as secretary of the school board of said city unless so directed by said board. (Acts 1892, ch. 285, § 1.)

Sec. 2. Effective date.

This act shall take effect upon its passage. (Acts 1892, ch. 285, § 2.)

ARTICLE II
**An Act to Establish a Board of Water and
Sewage Commissioners in the City of Marlborough
[Approved 4-3-1912]**

Sec. 3. Official title; duties.

The official title of the board of water commissioners of the City of Marlborough shall hereafter be the board of water and sewage commissioners, and in addition to the powers and duties now conferred and imposed by law on the said board, the board shall have all the powers and duties conferred or imposed by law on the mayor and aldermen of the city relative to the sewers and the system of sewage disposal; but no contracts, rights or liabilities shall be affected thereby. (Acts 1912, ch. 393, § 1.)

Sec. 4. Title of superintendent; duties.

The official title of the superintendent of waterworks of the City of Marlborough is hereby changed to superintendent of waterworks and sewage works, and the said superintendent shall hereafter perform all the duties formerly performed by the superintendent of waterworks and by the superintendent of streets in relation to the sewers and sewage disposal system of the city. (Acts 1912, ch. 393, § 2.)

ARTICLE III
**An Act Relative to Call Men in the Fire Department
of the City of Marlborough
[Approved 4-6-1912]**

Sec. 5. Qualifications of certain members.

Call men in the fire department of the City of Marlborough, not over forty-five years of age, may be promoted and become permanent members of the department without civil service examination, provided that they shall pass such physical examination as may be prescribed by the board of fire commissioners of the city. But this act shall apply only to call men now in the said department, and it shall cease to be operative five years after its passage. (Acts 1912, ch. 414, § 1.)

Sec. 6. Effective date.

This act shall take effect upon its passage. (Acts 1912, ch. 414, § 2.)

ARTICLE IV
**An Act Relative to the Members of the Fire Department
of the City of Marlborough
[Approved 4-22-1913]**

Sec. 7. Term of office; change of status.

Every regular, permanent or call member of the fire department of the City of Marlborough now holding or hereafter appointed to a position in said department classified under the civil service rules of the Commonwealth, and whether appointed for a definite or stated term or otherwise, shall hold such position continuously during good behavior, and shall not be removed therefrom, lowered in rank or compensation, or suspended, or, without his consent, transferred from such position or employment to any other, except for just cause and for reasons specifically given in writing by the removing officer or board. (Acts 1913, ch. 528, § 1.)

Sec. 8. Application of Acts of 1904, chapter 314, section 2.

The provisions of section two of chapter three hundred and fourteen of the acts of the year nineteen hundred and four, and of acts in amendment thereof, shall apply to the members of said fire department designated in section one hereof. (Acts 1913, ch. 528, § 2.)

Sec. 9. Effective date.

This act shall take effect upon its passage. (Acts 1913, ch. 528, § 3.)