



**CHARTER
OF THE
CITY OF WOBURN
COMMONWEALTH OF MASSACHUSETTS**

With amendments through June 1, 2010

PREFACE

HISTORICAL NOTE

Woburn was incorporated as a City by virtue of special legislation (Chapter 374 of the Acts of 1888), accepted by the voters on June 12, 1888, and effective January 1, 1889. This Act, or first “Charter” of the City, established the positions of Mayor, City Council, and School Committee, and, of some note, provided for a two-branch or “bi-cameral” City Council, consisting of a Board of Alderman and a Common Council. Also of note, the first Charter provided a significant degree of power and control in the legislative branch, including the power to appoint the heads of most of the major departments. Within a few years, the feeling grew among many that the first Charter had significant flaws, with a cumbersome and sometimes inefficient process for the workings of local government. Out of those feelings grew a movement to streamline city government and to correct the perceived flaws occasioned by the provisions of the first Charter. The result was the Act herein set forth “To Revise the Charter of the City of Woburn”. This Act (Chapter 172 of the Acts of 1897), coupled with various amendments affecting particular sections thereof, remains in effect today.

In 1966, City Solicitor Joseph Gorrasi and Compiler Carl B. Everberg “undertook, according to an authorization given to him by a former administration, to compile the existing ordinances not repealed together with all ordinances enacted by the municipal government of the City of Woburn, subsequently to the 1934 revision.” The product of those efforts was a publication containing not only the ordinances then in effect, but also a complete recitation of the Charter of the City of Woburn. In their preface to the work was the following statement:

“The Revised Charter of the City of Woburn, enacted by the Legislature in 1897 (Chapter 172 of the Acts of that year) has been set forth verbatim as an introduction to the ordinances, but with the amendments throughout the following years, showing the many changes in the Charter, set forth in appropriate places. Furthermore, the Charter has been annotated throughout with brief digests of cases decided by the Supreme Judicial Court on questions arising out of the Charter.”

The 1966 compilation was the last comprehensive publication of the Charter of the City of Woburn and has served as the base document for this compilation. Special Acts of the Legislature adopted since 1966 have been incorporated in this document. Whenever possible, references were added in the comments to general legislation that impacts sections of the Charter.

The intent of this document is to, in the broadest manner possible, circulate among the residents of Woburn the fundamental authority for the operation of the city's municipal government. To that end, this is also the first version of the Charter converted to an electronic format that will be posted to the website of the City of Woburn. This resource, not available at the time of the 1966 compilation, will in a larger manner make this important document available to residents, businesses, government officials and students of municipal theory and practice.

William C. Campbell
Woburn City Clerk

John D. McElhiney
Woburn City Solicitor

Woburn, Massachusetts
June 1, 2010

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Appendix

Commonwealth of Massachusetts

Charter of the City of Woburn

**Chapter 172 of the Acts of 1897
of the Massachusetts Great and General Court
with amendments, statutory modifications and annotations**

An Act

To Revise the Charter of the City of Woburn

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

Comment: The Charter, as originally enacted is set forth in the twelve point type. Amendments and pertinent statutes are inserted, with Comments and annotations reflecting Massachusetts Supreme Court decisions interpreting portions of the Charter, in smaller type or by indentations.

TITLE I - MUNICIPAL GOVERNMENT

Sect. 1 Name, Rights, Power, Duties, etc.

The inhabitants of the City of Woburn shall continue to be a body politic and corporate, under the name of the City of Woburn, 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 City as a municipal corporation.

Sect. 2 Executive Department; Mayor; Legislative Department; City Council; Aldermen.

The administration of all the fiscal, prudential and municipal affairs of said City, with the government thereof, shall, except as is herein otherwise provided, be vested in an Executive Department, which shall consist of one officer, to be called the Mayor, and in a Legislative Department, which shall consist of a single body, to be called the City Council, the members whereof shall be called Aldermen. The Executive Department shall never exercise any legislative power, and legislative department shall never exercise any executive power, except as is herein otherwise provided.

Sect 3 Wards, Number and Boundaries.

The territory of said City shall continue to be divided into seven wards, which shall retain their present boundaries until the same shall be changed under the General Law relating thereto. The number and boundaries of wards may, in any year fixed by the law for a new division of wards in cities, be changed by vote of the City Council, with the approval of the Mayor, at or prior to making such divisions; but the number of wards shall never be less than seven.

TITLE II - ELECTIONS AND MEETINGS

Sect. 4. Municipal Election and Year.

The municipal election shall take place annually on the second Tuesday of December, and the municipal year shall begin on the first Monday of January following.

Comment: The above section has been amended three times as follows:

Ch. 194 of the Acts of 1928, Sec. 1, changed municipal elections from an annual to a biennial basis (effective as of the election on the second Tuesday of December, 1931).

The section was changed again by Ch. 61 of the Acts of 1932, by making Election Day the second Tuesday in November, biennially, beginning with the year 1933.

Again the section was finally changed by Ch. 22 of the Acts of 1948, by making election day the first Tuesday after the first Monday of November, biennially, beginning with the year 1949. See said Act following.

Chapter 22 of the Acts of 1948

An Act Changing the Date for the Holding of Biennial Municipal Elections of the City of Woburn

Be it enacted, etc., as follows:

Sect. 1. Chapter 194 of the acts of 1928 is hereby amended by striking out section 1, as amended by section 1 of chapter 61 of the acts of 1932, and inserting in place thereof the following:

Section 1. Beginning with the first Tuesday after the first Monday of November in the year nineteen hundred and forty-nine, municipal elections in the City of Woburn for the choice of Mayor, members of the City Council and members of the School Committee shall be held biennially on the first Tuesday after the first Monday of November in every odd-numbered year.

Sect. 2. This Act shall take effect upon its acceptance during the current year by vote of the City Council of said City, subject to the provisions of its Charter, but not otherwise.

Approved February 2, 1948

Sect. 5. Certain Officers to be Elected by Ballot; Vacancy in Office of Mayor; Vacancy in City Council.

At such municipal election the qualified voters shall give in their vote by ballot in the several wards for Mayor, Aldermen, and members of the School Committee and members of the Board of Public Works** then to be elected, and the 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, up to the number required to be chosen, receiving the highest number of votes shall be deemed and declared to be elected. 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 more than three months*** previous to the expiration of the municipal year, the City Council shall forthwith cause a new election to be held, and the same proceeding shall be had in all respects as are

hereinbefore provided for the election of Mayor, and shall be repeated until the election of a Mayor is effected. If the full number of members of the City Council has not been elected, or if a vacancy in the office of Alderman shall occur more than six months previous to the expiration of the municipal year, the City Council shall forthwith cause a new election to be held to fill the vacancy or vacancies.

** The elective office of the Board of Public Works was abolished by Ch. 372 of the Acts of 1914. See under Sec. 33 of the Charter.

*** Changed to six months by Sec. 2 of Ch. 194 of the Acts of 1928, set forth below. This section governs the length of the terms of office for the mayor and members of the city council, also the date of inauguration meetings.

Chapter 194 of the Acts of 1928

Sect. 2. Beginning with the biennial municipal election to be held in the year nineteen hundred and thirty-one, the mayor and members of the city council of said city shall be elected for terms of two years and shall serve until their successors are qualified. The inauguration meeting of the city government shall be held on the first Monday of January following each biennial municipal election. After the first Monday of January, nineteen hundred and thirty-one, any vacancy in the office of the Mayor, if occurring prior to the last six months of his term, shall be filled by election in the manner now provided by law, for the balance of the unexpired term. Any vacancy in the school committee shall be filled for the unexpired term at the next succeeding municipal election held more than sixty days after such vacancy occurs.

Comment: The filling of a vacancy in the school committee has been changed subsequently. See after Title V, School Department. The method of filling a vacancy in the City Council was prescribed by Ch. 224 of the Acts of 1900 and is set forth as follows:

Chapter 224 of the Acts of 1900

VACANCIES IN THE CITY COUNCIL

Sect. 1. Any vacancy hereafter occurring in the City Council of the City of Woburn shall be filled for the unexpired term by election by the City Council. Only legal voters of the same political party, and in case the vacancy is that of ward alderman of the same ward as the late occupant of the vacant office, shall be eligible to fill the vacancy. Every such election by the City Council shall be by ballot, after notice of at least one week, printed in at least one of the newspapers published in the City, and a vote of the majority of the members of the City Council shall be necessary for a choice.

Sect. 2. So much of section five of chapter one hundred and seventy-two of the

acts of the year eighteen hundred and ninety-seven as conflicts with this Act is hereby repealed.

Sect. 3. This Act shall take effect upon its passage.

Comment: City election, non-partisan, (Ch. 139 of the Acts of 1946). See Appendix for full text.

Ch. 91 of the Acts of 1934 eliminated the party caucus system of selecting candidates and provided for nominations in municipal primaries. Ch. 139 of the Acts of 1946 provides for non-partisan elections, see Appendix for full text. Ch. 139 of the Acts of 1946 was amended by Chapter 53 of the Acts of 2007 regarding the date of the preliminary election, see Appendix for full text.

Sec. 6 Meetings for Election of National, State, County and Municipal Officers; How Held.

All meetings for the election of national, state, county, district and municipal officers, and for any other municipal purposes, shall be called according to the provisions of the General Laws of the Commonwealth.

Sect. 7 Ward Meetings May be Held in Adjacent Ward.

When no convenient wardroom for holding the meetings of the citizens of any ward can be had within the territorial limits of such ward, the City Council may appoint and direct in the notice for calling any meeting of the citizens 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 purpose the place so assigned shall be deemed and taken to be a part of the ward for which the election is held.

Sect. 8 General Meeting of Citizens; How Held and Called.

General meetings of the citizens qualified to vote may from time to time be held according to the right secured to the people by the Constitution of the Commonwealth, and such meetings may, and upon the request in writing of fifty qualified voters, setting forth the purpose thereof, shall be duly called by the City Council.

TITLE III - THE LEGISLATIVE DEPARTMENT

Sect. 9. City Council, Election, Term, etc.

The City Council shall consist of fifteen Aldermen, who shall be elected as follows: --- At each annual municipal election held under this Act eight Aldermen at Large shall be elected by the qualified voters of the entire City, to serve for the term of one year beginning with the first Monday in January then next ensuing and until a majority of their successors as Aldermen at Large are elected and have qualified; and one Alderman from

each ward shall be annually elected by the qualified voters in each ward, to serve for the term of one year beginning with the first Monday in January then next ensuing and until his successor is elected and has qualified. Aldermen shall receive no compensation for their services.

Comment: The above section was amended by Ch. 229 of the Acts of 1946 approved on April 23, 1946, the relevant sections of which are below:

Chapter 229 of the Acts of 1946

AN ACT AUTHORIZING THE CITY OF WOBURN TO DECREASE THE MEMBERSHIP OF ITS CITY COUNCIL AND TO COMPENSATE THE MEMBERS OF SAID COUNCIL

Be it enacted, etc. as follows:

Sect. 1. Notwithstanding the provisions of section nine of the chapter one hundred and seventy-two of the acts of eighteen hundred and ninety-seven, the City Council of the City of Woburn shall consist of nine Aldermen, of whom one shall be elected from each ward, by and from the qualified voters of the ward, and two members shall be elected by and from the qualified voters of the City.

Sect. 2. Notwithstanding the provisions of section nine of said chapter one hundred and seventy-two, the Aldermen of said City shall receive in full compensation for their services an annual salary of two hundred and fifty dollars each.

Comment: Notwithstanding Section 2 above, Mass. G.L. Ch. 39, Sec 6A authorizes changes in compensation of members of City Council by adoption of a general ordinance.

Sect. 10. Oath of Office of Mayor and Aldermen; How Administered.

The Mayor Elect and the Alderman Elect shall annually on the first Monday in January at three o'clock in the afternoon, meet and be sworn to the faithful discharge of their duties. The oath shall be administered by the City Clerk or, in case of his absence by any Justice of the Peace, and shall be duly certified on the journal of the City Council. In case of the absence of the Mayor Elect on the first Monday in January, or if a Mayor shall not then have been elected, the oath of office may at any time thereafter be administered to him in the presence of the City Council; and at any time thereafter in like manner the oath of office may be administered to any member of the City Council who has been previously absent or has been subsequently elected, and every such oath shall be duly certified as aforesaid.

Comment: The above section was amended by Ch 21 of the Special Acts and Resolves of 1918 as follows:

Chapter 21, Special Acts, 1918

AN ACT TO CHANGE THE TIME OF THE INAUGURATION OF THE MAYOR AND ALDERMEN OF THE CITY OF WOBURN

Be it enacted, etc., as follows:

The first sentence of section ten of chapter one hundred and seventy-two of the acts of eighteen hundred and ninety-seven, is hereby amended by striking out the words "at three o'clock in the afternoon", in the second and third lines, and substituting the words: at eight o'clock in the evening, so as to read as follows: --- The Mayor Elect and the Aldermen Elect shall annually on the first Monday in January, at eight o'clock in the evening, meet and be sworn to the faithful discharge of their duties.

Approved February 14, 1918

Comments: However see Ch. 194, Acts of 1928, (supra under Title II, Sect. 5) changing inauguration meeting to biennial basis.

Sect. 11. City Council Organization; President, Clerk, Journal.

After the oath has been administered to the Aldermen present the City Council shall be called to order by the City Clerk or in case of his absence by the oldest senior member present. The City council shall then proceed to the election of a President, who shall be elected by a majority ballot of all the members of said City Council, from their own number. If no quorum is present an adjournment shall be taken to a later hour, or to the next day; and thereafter the same proceedings shall be had from day to day until a quorum is present. If on the first day on which a quorum is present no person receives the votes of such majority the ballot shall be repeated until some person receives the votes of such majority, or an adjournment to the succeeding day is taken; and on such succeeding day a plurality of those voting shall be sufficient for an election. No other business shall be in order until a president is chosen. The President shall be sworn by the City Clerk or in case of the absence of the Clerk by any Justice of the Peace. The City Council shall then proceed to the choice of Clerk who shall not be a member of that body, in the same manner as is above-provided for in the choice of President, and no other business shall be in order until a Clerk is chosen. The President and the Clerk, or either of them, may be removed from office by a two-thirds vote taken by roll call, of all the members of the City Council. The President of the City Council shall have the same right to vote as any other member thereof. The Clerk of the City Council shall keep a journal containing a record of the proceedings of the City Council and a record of all votes taken by a roll call; he shall engross, sign and attest all Ordinances and Resolutions passed by the City Council, and shall present to the Mayor, within three days after final passage, every Ordinance, Order, Resolution or Vote passed by the City Council which by the provisions

of this Act or By-Law or Ordinance requires the Mayor's approval, or must be submitted to the Mayor before it can be in force.

Comment: As to the office of Clerk of the City Council, the following Act (Ch. 181 of the Special Acts of 1917) amended the above section:

Chapter 181 of the Special Acts of 1917

AN ACT TO CONSOLIDATE THE OFFICES OF THE CITY CLERK AND CLERK OF THE CITY COUNCIL IN THE CITY OF WOBURN

Be it enacted, etc., as follows:

Sect. 1. The City Clerk of the City of Woburn shall act as the Clerk of the City Council of the City, and shall receive as compensation for his services as such City Clerk the salaries established by Ordinance for both said offices.

Sect. 2. So much of section eleven of chapter one hundred and seventy-two of the acts of the year eighteen hundred and ninety-seven as is inconsistent herewith is hereby repealed.

Sect. 3. This Act shall take effect upon its acceptance by the City Council of said City, with the approval of the Mayor.

Approved March 13, 1917

Comment: The charter was amended by Ch 114 of the Acts of 1900, to establish the office of the Clerk of Committees of the City Council, as follows:

Chapter 114 of the Acts of 1900

ELECTION OF CLERK OF COMMITTEES

Sect. 1. The City Council of the City of Woburn shall annually elect a Clerk of Committees in the manner now provided by law for the election of a City Clerk.

Sect. 2. This Act shall take effect upon its passage.

Approved March 1, 1900

Comment: Further amended by Ch. 61 of the Acts of 1926, providing that a majority of all the members of the City Council shall elect such Clerk for a term of 3 years from the first Monday in February.

Sect. 12. Special Meetings of the City Council; How Called.

The Mayor may at any time call a special meeting of the City Council by causing a

written notification thereof to be delivered in hand or left at the residence of each Alderman at least eight hours before the time appointed for such meeting.

Sect. 13. Rules; Judge of Election of Members; President and Clerk Pro tempore; Roll Call; Quorum; Powers.

The City Council shall determine the rules of its own proceedings and shall be the judge of the elections and qualifications of its own members. In case of the absence of the President or Clerk the City Council shall choose a President or Clerk pro tempore, as the case may be, and a plurality of votes cast shall be sufficient for a choice. The journal of the proceedings of the City Council shall be open to public inspection. The vote of the City Council upon any question shall be taken by roll call when the same requested by three members. A majority of the members of the City Council shall be required to constitute a quorum, but a smaller number may adjourn from day to day. The City Council shall, except so far as herein otherwise provided, have and exercise all the legislative powers of towns, and have all the powers and be subject to all the liabilities of Boards of Aldermen and of City Councils, and of either branch thereof, under the General Laws of the Commonwealth, and it may by Ordinance prescribe the manner in which such powers shall be exercised.

Comment: The express authority to call a special meeting provided to the Mayor in Section 12 does not preclude the City Council from adopting a Rule which allows the President to call a special meeting, Scalley v. Board of Registrars of Woburn, 358 Mass. 815 (1971).

Sect. 14. Treasurer; Collector of Taxes; City Clerk; Auditor; Election Term, etc.; Removal; Vacancies; Duties.

The City Council shall annually in the Month of January elect by a majority vote of all its members a Treasurer, a Collector of Taxes, who may be the Treasurer, a City Clerk, and an Auditor, who shall hold office from the first Monday of the following February and until their successors are chosen and qualified; and before assuming such office the person elected shall take and subscribe before the Mayor or City Clerk, or a Justice of the Peace, an oath or affirmation faithfully to perform the duties of his office, which oath or affirmation, or certified copy thereof, shall be filed in the office of the City Clerk. The officers named in this section may be removed at any time by said City Council for any cause deemed sufficient by the City Council, by a two-thirds vote of all its members. Vacancies in said offices shall be filled by election by the City Council, and the person elected to fill the vacancy shall hold his office for the remainder of the term during which his predecessor would have been entitled to hold the same. The Treasurer, Collector of Taxes, City Clerk and Auditor, shall perform such duties and exercise such powers as may be prescribed by Ordinance, and as are incumbent by law upon them.

Comment: The terms of the positions referenced in this section were extended to three years by various special legislation. The positions have subsequently been placed under Civil Service by various votes of the electorate.

Sec. 15. Majority Vote of all Members Necessary for Passage of Certain Ordinances, etc.; Readings.

In case any Ordinance, Order, Resolution or Vote involves the appropriation or expenditure of money to an amount which may exceed two hundred dollars, the laying of an assessment, or the granting to a person or corporation of any right in, over or under any street or other public ground of said City, the votes of a majority of all the members of the City Council shall be necessary for its passage. Every such Ordinance, Order, Resolution or Vote shall be read twice, with an interval of at least seven days between the two readings, before being finally passed, and the vote upon its final passage shall be taken by roll call: *provided, however*, that upon and after the written recommendation of the Mayor the City Council may pass such Ordinance, Order, Resolution or Vote at a special meeting called by the Mayor for the purpose of considering the same, and held not less than forty-eight hours after the meeting at which such Ordinance, Order, Resolution or Vote was given its first reading, a two-thirds affirmative vote, on a roll call of the entire City Council, being necessary in such cases to its passage.

Sec. 16. Members of City Council Not to Take Part in Employment of Labor, Making of Contracts, etc.; Aid to Disabled Soldiers and Sailors.

Neither the City Council nor any member or committee thereof shall directly or indirectly take part in the employment of labor, the making of contracts, the purchasing of materials or supplies, the construction, alteration or repair of any public works, building, or other property, or the care, custody or management of the same; or in the conduct of any of the executive or administrative business of the City, or in the expenditure of public money, except as is herein otherwise provided, and except such as may be necessary for the contingent and incidental expenses of the City Council, nor in the appointment or removal of any officers, except as is herein otherwise provided. But nothing in this section contained shall affect the powers or duties of the board in relation to City aid to disabled soldiers and sailors and to the families of those killed in the Civil War.

Sec. 17. Member of City Council Not to Hold Other City Office, etc.

No member of the City Council shall during the term for which he is elected hold any other office in or under the City Government, have the expenditures of any money appropriated by the City Council, or act as counsel in any matter before the City Council or any committee thereof; and no person shall be eligible for appointment to any municipal office established by the City Council during any municipal year within which he is Alderman, until the expiration of the succeeding municipal year.

Sec. 18. May Establish Ordinances and Affix Penalties; Complaints for Breach; When and by Whom Made.

The City Council shall have power within said City to make and establish Ordinances and

By-Laws 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 Laws, Ordinances and Regulations not inconsistent herewith, now in force in the City of Woburn, shall remain in force until they shall expire by their own limitation, or shall be revised or repealed by the City Council. Complaint for the breach of any Ordinance or By-Law may be made by the Mayor or by any head of a department or by any resident of the City.

Comment: The Woburn charter supersedes any statutory requirement to obtain the approval of the attorney general of any ordinance and to publish (as is the case in some municipalities). Forbes v Woburn, 306 Mass. 67 (1940). Callahan v Woburn, 306 Mass. 265 (1940). The charter (especially Secs. 18, 20, 21, 27, 32, 33) vests, in the City Council, independent power over many matters in the administration of the city's affairs. Forbes v Kane, 316 Mass. 207 (1944).

With respect to traffic ordinances or regulations, the above was amended by Chapter 103 of the Acts of 2005 as follows:

Chapter 103 of the Acts of 2005

An Act Establishing a Traffic Commission in the City of Woburn.

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

SECTION 1. There shall be in the city of Woburn, a traffic commission to consist of 9 commissioners, 1 of whom shall be the chief of police or his designee, 1 of whom shall be the superintendent of public works or his designee, 1 of whom shall be the fire chief or his designee, 1 of whom shall be the city engineer or his designee, 1 of whom shall be the planning director or his designee, 2 of whom shall be aldermen selected by the city council president, 1 of whom shall be a resident member to be appointed by the city council, and 1 of whom shall be a member of the business community to be appointed by the city council. The city clerk or his designee shall serve as administrative clerk of the traffic commission. The members of the commission shall serve without compensation.

SECTION 2. All expenses incurred for the purposes of this act shall be paid by the city. All statutes and ordinances applicable generally to the departments of the city shall apply to the commission.

SECTION 3. When the traffic commission is first constituted, the term of the resident member shall be for 1 year; the term of the business member shall be 2 years. Any subsequent appointments shall be for a term of 2 years, except that an appointment to fill a vacancy shall be for the unexpired term of the member who is being replaced. The 2 aldermen shall be selected by the city council president as soon after organization of the city council as possible.

SECTION 4. The traffic commission shall have exclusive authority, except as otherwise provided in this act, to adopt, amend, alter and repeal rules and regulations by a majority vote, not inconsistent with the General Laws or this act, relative to its own proceedings, vehicular street traffic, pedestrian traffic, and parking in the city and to the movement, stopping or standing of vehicles on, and their exclusion from, all or any streets, ways, highways, roads or parkways, under control of the city, including rules and regulations designating any way or part thereof under the control of the city as a through way under section 9 of chapter 89 of the General Laws, and may prescribe penalties, not exceeding the maximum established by the General Laws, for the violation of any rule or regulation adopted under this act. No such rule or regulation, except such special rules and regulations as are declared by vote of the commission to be urgently required by considerations of public safety or convenience or such as are of a temporary nature and are to be effective for a period of not more than 30 days, shall take effect until published for 2 successive weeks in 1 or more newspapers of general circulation in the city. The commission shall have power to erect, make and maintain or cause to be erected, made or maintained, traffic and parking signs, signals, markings and other devices for the control of such traffic, pedestrian movement, and parking in the city and for informing and warning the public as to rules and regulations adopted under this act, subject, however to sections 2 of chapter 85 and to sections 8 and 9 of chapter 89 of the General Laws. Nothing in this act shall authorize the commission to adopt any rule or regulation that would exclude the Massachusetts Bay Transportation Authority from any way or party thereof in which it has a route or modify or limit any power or authority of the department of conservation and recreation, the state department of public works, or the state department of telecommunications and energy or modify or limit any power now vested in the mayor, city council or heads of departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

SECTION 5. All existing ordinances and regulations relating to the control of vehicular traffic and parking shall remain in full force and effect until superseded by rules and regulations adopted by the traffic commission under this act, and the adoption of these rules and regulations by the commission shall not affect any act done or right accrued or penalty incurred or any suit, prosecution or proceeding pending, at the time of said adoption.

SECTION 6. All rules and regulations of the traffic commission will be established by the traffic commission, subject to approval, change, or amendment by the city council.

Approved September 29, 2005.

Sect. 19. Power to Lay Out Streets, etc.; Assessment of Damage and Betterments, Appeals.

The City Council shall, with the approval of the Mayor, have exclusive authority and power to order the laying out, locating anew or discontinuing of all streets and ways and all highways with in the limits of said City, and to assess damages or betterments sustained by any person thereby, and further, except as is herein otherwise provided, to act in all matters relating to such laying out, locating anew or discontinuing. Any person aggrieved by the assessment of his damages, or by other action of the City Council under this section, shall have all the rights and privileges now allowed by Law in such cases in appeals from decisions of the Selectmen of towns.

Sect. 20. Salaries, Establishment; Change.

The City Council shall establish by Ordinance the salaries or remuneration of the offices created by this Act in case the same are not fixed herein, and of such other offices as may hereafter be created; and no Ordinance of the City Council changing any such salary or remuneration shall take effect until the municipal year succeeding that in which the Ordinance is passed. Such salaries shall be in full for all services rendered in the City by the incumbents of the respective offices in the discharge of the duties thereof.

Comment: The above section was amended by Ch. 182 of the Special Acts of 1917, which was further amended by Ch. 158 of the Acts of 1933 as follows:

Chapter 158 of the Acts of 1933

AN ACT AUTHORIZING THE IMMEDIATE REDUCTION OF SALARIES OR REMUNERATION ATTACHED TO CERTAIN OFFICES IN THE CITY OF WOBURN

Be it enacted, etc., as follows:

Sect. 1. Section twenty of Chapter one hundred and seventy-two of the Acts of eighteen hundred and ninety-seven, as amended by Chapter one hundred and eighty-two of the Special Acts of nineteen hundred and seventeen, is hereby further amended by striking out the word "changing" and inserting in place thereof the word: --- "increasing," --- so as to read as follows: --- *Section 20.* The City Council shall establish by Ordinance the salaries or remuneration of the offices created by this Act, in case the same are not fixed herein, and of such other offices as may hereafter be created; and no Ordinance of the City Council increasing any such salaries or remuneration shall receive its final passage by the City Council after the last day of September, and no such Ordinance shall take effect until the municipal year succeeding that in which the Ordinance is passed. Every such proposed Ordinance 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. Such salaries shall be in full

for all services rendered the City by the incumbents of the respective offices in the discharge of the duties thereof.

Sect. 2. This Act shall take effect upon its acceptance by the City Council of said City, with the approval of the Mayor.

Approved May 3, 1933

Comment: The following Sec. 33A of Chap. 44 of the General Laws has precedence, nevertheless, over the previous sections of the charter bearing on salaries of officers and employees of the city.

Chapter 44, Sec. 33A

Section 33A. The annual budget shall include sums sufficient to pay the salaries of officers and employees fixed by law or by ordinance. Notwithstanding any contrary provision of any city charter, no ordinance providing for an increase in the salaries or wages of municipal officers or employees shall be enacted except by a two thirds vote of the city council, nor unless it is to be operative for more than three months during the calendar year in which it is passed. No new position shall be created or increase in rate made by ordinance, vote or appointment during the financial year subsequent to the submission of the annual budget unless provision therefor has been made by means of a supplemental appropriation. No ordinance, vote or appointment creating a new position in any year in which a municipal election is held shall be valid and effective unless said ordinance, vote or appointment is operative for more than three months during said municipal election year.

Comment: See Doherty v City of Woburn, 345 Mass. 523 (1963). Held, the action of the City Council of Woburn increasing wages and salaries of city employees in off-election year by two-thirds vote, valid.

Sect. 21. Appropriation; Bonds; Publication of Annual Account

The City Council shall appropriate annually on or before the first day of March the amount necessary to meet the expenditures of the City for the current municipal year. It shall, by Ordinance or otherwise, 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 on or before the first day of April 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.

Comment: The above section is nevertheless affected and superseded by G.L. Ch. 44, §32, which established a comprehensive budget process, see Appendix A.

TITLE IV - EXECUTIVE DEPARTMENT

Sect. 22. Mayor; Executive Power; Term of Office.

The executive powers of the City shall be vested solely in the Mayor, and may be exercised by him either personally or through the several officers and boards of the City in their department, under his general supervision and control. In case of a vacancy in any office to which appointment may be made by the Mayor he may personally perform the duties thereof, but he shall not be entitled to receive any salary or pay attached thereof. The Mayor shall hold office for the municipal year beginning with the first Monday in January following his election, and until his successor is elected and qualified.

Sect. 23. Appointment and Removal of Municipal Officers by Mayor.

The Mayor shall have sole power of appointment to all the municipal officers established by or under this Act, unless herein otherwise provided; and he may remove from office by written order any officer so appointed hereunder, for any cause which he shall in his official discretion deem sufficient, which cause he shall assign in his order of removal. Such office shall become and be vacant upon the filing with the City Clerk of such order of removal and the service of a copy thereof upon the officer so removed, either personally or by leaving the same at his last or usual place of residence. The City Clerk shall keep such order of removal on file, where it shall be open to public inspection. He may suspend any officer, and may suspend any work or payment, whether under contract or otherwise, for a period not exceeding ten days, except as is herein otherwise provided.

Comment: The mayor's powers of appointment to municipal offices are those **not** vested in the city council. See Sec. 32 for power vested in the mayor in the matter of appointments. With the abolition of the Board of Public Works (Ch. 372, Acts of 1914) the City Council was vested with power to appoint an Inspector of Wires and Engineers and other assistants in this office, but the mayor was given the power to appoint a Superintendent of Public Works. See said Ch. 372 Acts of 1914 following Sec. 35. See, also, Forbes v Kane, 316 Mass, 207, 212 (1944). Civil Service controls, however, where applicable.

Sect. 24. Salary of Mayor.

The salary of the Mayor shall be one thousand dollars per annum, and such additional sum as the City Council may establish by Ordinance passed by vote of two-thirds of all its member, such Ordinance not to take effect, however, until the year succeeding that in which it is passed.

Comment: The above section was amended by Ch. 163 of the Acts of 1946, increasing the salary of the mayor to three thousand dollars. Notwithstanding the foregoing section, Mass. G.L. Ch. 39, §6A authorizes changes in compensation of the Mayor by adopting a general ordinance.

Sect. 25. Certain Ordinances, etc., to be Presented to the Mayor for Approval; Veto.

Every Ordinance, Order or Resolution of the City Council, except such as relates to the election of the officers to be chosen by the Board under the provisions of this Act or of Law, or such as relates to the declaration of a vacancy in the office of Mayor, and every vote of the Board other than votes incidental to the transaction of business under parliamentary rules, shall be presented to the Mayor, as hereinbefore provided. If he approves thereof he shall signify his approval by signing the same, but if not he shall return the same with his objection to the City Council, who shall enter the objection of the Mayor at length upon their records and proceed to reconsider said Ordinance, Order, Resolution or Vote, and if after such reconsideration two-thirds of the City Council, notwithstanding such objections, vote to pass it, it shall be in force. In all cases the vote shall be by yeas and nays, and it shall be taken at the meeting at which the Mayor's message is received, or at the meeting next following. If such Ordinance, Order, Resolution or Vote shall not be returned within ten days after it shall have been so presented to the Mayor the same shall have the same effect as if approved. He may except from his approval of any such Ordinance, Order, Resolution or Vote, any portion involving a distinct item of expenditure; and in such case instead of returning the original he shall transmit a copy of such portion not approved, which portion shall be reconsidered in the manner and with the effect herein provided. The veto power of the Mayor shall not extend to elections.

Comment: It is to be noted that the Commonwealth, in the Woburn charter, furnishes a veto power to the mayor which is modified by the power of the council to pass an ordinance by a two-thirds vote over a mayor's veto. This is a provision quite common to the charters of some other cities in the Commonwealth.

See discussion in Forbes v Woburn, 306 Mass. 67, 70 (1940). See also Scalley v. Board of Registrars of Voters, 358 Mass. 815 (1971).

Sect. 26. President of City Council to be Acting Mayor in Case of Disability of Mayor, Etc.; Declaration of Vacancy

Whenever by reason of sickness or absence from the city or other cause the Mayor shall be disabled from performing the duties of his office, and whenever there shall be a vacancy in the office of Mayor, the President of the City Council shall become Acting Mayor. He shall, as Acting Mayor, in case of such disability and during its continuance, of such vacancy, have all the rights and powers of Mayor, except that he shall not when so acting have the power of removal, unless thereto in any instance authorized by a vote of the City Council; nor any power of appointment unless such disability of the Mayor or such vacancy in the office of Mayor has continued for a period of thirty days; nor the power to approve or disapprove any Ordinance, Order, Resolution or Vote, until within twenty-four hours of the time when it would take effect without the approval of the Mayor. In case such disability of the Mayor continues for a period exceeding sixty days

the City Council may at any time after the expiration of that period declare a vacancy to exist in the office of Mayor.

Sect. 27. Estimates of Expenses.

The Mayor shall, prior to the first day of February in each year, cause to be made to him by the heads of departments and by all other officers and boards having authority to expend money, detailed estimates of the amounts deemed by them to be necessary for their respective departments for the financial year, which shall begin on the first day of January, and he shall, not later than the fifteenth day of February, transmit such estimates to the City Council, recommending such appropriation for each department or purpose as he shall deem necessary therefore.

Comment: The foregoing section is, nevertheless, now subject to G.L. Ch 44, Sec. 31A. See Appendix for full text. See also M.G.L. Chapter 59, Section 21C “Limitations on total taxes assessed; determination by voters” (commonly referred to as Proposition 2 ½).

TITLE V - SCHOOL DEPARTMENT

Sect. 28. School Committee Election, Terms, etc.

The management and control of the public schools of said City shall be vested in a School Committee, consisting of nine persons chosen by the city at large, three to be chosen at each municipal election and to hold office for the term of three years from the first Monday in January then next ensuing. The present School Committee shall continue to hold office until the expiration of the term for which they were elected. The School Committee shall serve without pay, and shall exercise the powers and discharge the duties imposed by Law upon School Committees.

Comment: Various amendments (Ch. 194 of the Acts of 1928 (see supra Section 5 of Charter), Ch. 589 of the Acts of 1952 (see Appendix), Ch. 128 of the Acts of 1953 (see Appendix), Ch. 636 of the Acts of 1954 (see Appendix)), having sought to establish the structure of the school committee on some permanent basis, are not set forth because of the most recent one (Ch. 174 of the Acts of 1960), establishing the number and terms of the office of the members of the school committee. It is set forth following:

Chapter 174 of the Acts of 1960

Sect. 1. Chapter 172 of the acts of 1897 is hereby amended by striking out section 28, as most recently amended by chapter 128 of the acts of 1953, and inserting in place thereof the following section: ---Section 28. The management and control of the public schools of said city of Woburn shall be vested in a school committee, consisting of seven members, to be elected at large by and from qualified voters of said city.

Sect. 2. At the biennial municipal election of the city of Woburn in the year nineteen hundred and sixty-three, of the candidates for school committee the two candidates receiving the highest number of votes shall be elected for terms of four years, and the five candidates receiving the next highest number of votes shall be elected for terms of two years, beginning with the first Monday in January next following their election.

Sect. 3. At each biennial election in said City after the municipal election in nineteen hundred and sixty-three, the two candidates receiving the highest number of votes shall be elected for terms of four years, and the three candidates receiving the next highest number of votes shall be elected for terms of two years, beginning with the first Monday of January next following their election.

Sect. 4. This act shall be submitted to the registered voters of the city of Woburn at the state election of nineteen hundred and sixty in the form of the following question, which shall be placed upon the official ballot to be used at said election: ---“Shall an act passed by the General Court in the year nineteen hundred and sixty entitled ‘An Act relative to the number, the term of office and the election at large of members of the school committee of the city of Woburn’, be accepted?” If a majority of the votes cast on said question is in the affirmative, this act shall take effect on January first, nineteen hundred and sixty-three but not otherwise.

Approved by voters in 1960 election

Comment: The school committee has exclusive control over the affairs of the public schools. The power to contract with teachers and to fix their salaries is vested in the school committee as it is with reference to that of the superintendent of schools. Callahan v. Woburn, 306 Mass. 265, 268 (1940). The fiscal autonomy of the school committee has been limited by budget authority provided to the mayor and the city Council. See G.L. Chapter 44, §32 in the Appendix. Vacancies in school committee are filled by vote of the remaining members of the school committee for the remainder of the term, see Ch. 636 of the Acts of 1954 set forth in the Appendix.

Sect. 29. Organization of School Committee; Mayor May Preside; Quorum.

The School Committee shall meet on the first Monday in January in each year, and shall at such meeting, or as soon thereafter as may be, choose by ballot a Chairman from among its members, and the votes of majority of all the members of the School Committee shall be required in order to elect. The Mayor may be present at all sessions of the School Committee, and when present he may participate in the discussions and may preside but shall have no right to vote. The Committee shall be the judge of the election and qualification of its members and shall determine the rules of its proceedings. A majority of all the members shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

Comment: The right of the mayor to preside over meetings, if present, cannot be superseded by any rule adopted by the school committee conferring that right upon any other person. Except for this one occasion

the chairman of the committee may always preside. Kane v School Committee of Woburn, 317 Mass. 436 (1944). This section was also affected by G.L. Ch. 150E, §1 which provides the mayor the right to vote on collective bargaining agreements.

Sect 30. Election of Superintendent of Schools; Secretary; Appointment of Janitors; Terms and Compensation.

The School Committee shall elect a Superintendent of Schools, but not from among its own members, who shall also be its secretary, and said committee may appoint janitors of all school buildings and such subordinate officers and assistants as it may deem necessary for the proper discharge of its duties and the conduct of its business, shall define their terms of service and fix their compensation, and may remove and discharge them at pleasure.

Sect 31. School Committee to be Judge of Necessity of Additional Accommodations, etc.

The School Committee shall be the original judges of the expediency and necessity of having additional or improved accommodations for any public school within the limits of the City, and whenever in their opinion a schoolhouse is required they shall send a communication to the City Council, stating the locality and the nature of the further provisions for schools which are needed. The City Council shall have the right to purchase lands for school purposes, but no lot of land shall be purchased by the City Council until the same has been approved by a vote of the School Committee, and no contract shall be made for the erection of a school building or for the furnishing thereof until the plans for said new building or furnishings shall have been so approved. The care, alteration and repair of all school buildings shall be under the control of the School Committee.

Comment: This section was further amended by Chapter 116 of the Acts of 2000. It is set forth following:

Chapter 116 of the Acts of 2000

Section 1. Section 31 of chapter 172 of the acts of 1897 is hereby amended by adding the following sentence: --No public school in the city of Woburn shall be closed unless the school committee votes to build a new school on the same lot, or unless the closing of such public school is approved by a two-thirds vote of the school committee and by a two-thirds vote of the city council.

Section 2. This act shall take effect upon its passage.

Approved June 29, 2000

TITLE VI - ADMINISTRATIVE OFFICERS

Sect. 32. Administrative Officers; Appointment, Duties, etc.; Oath of Office; Vacancies.

There shall be the following administrative officers, who shall be appointed by the Mayor, except as is herein otherwise provided, and they shall perform the duties imposed upon them respectively by Law and by this Act, and such further duties not inconsistent with the nature of their respective offices as the City Council may prescribe: ---

First. A Board of Public Works consisting of the Mayor and four other persons.

Comment: The board of public works was abolished by Ch. 372 of the Acts of 1914 (See said amendment at the end of Section 35.)

Second. A City Solicitor

Third. A City Physician

Fourth. Three Principal Assessors, who together shall constitute the Board of Assessors, one of who shall be annually designated by the Mayor as Chairman and one as Secretary.

Fifth. Three overseers of the poor, who together shall constitute the Board of Overseers of the Poor, one of whom shall be annually designated by the Mayor as Chairman and one as Secretary.

Comment: The Overseers of the Poor was abolished by Ch. 87 of the Special Acts of 1918, see the full text at the end of this section.

Sixth. A Chief of Police and such subordinate officers as may be prescribed by Ordinance.

Seventh. A Board of Health, under the provisions of Chapter eighty of the Public Statutes and Acts in amendment thereof.

Comment: This provision has been amended by Ch. 87 of the Special Acts of 1918. See the full text at the end of this section.

Eighth. A Chief Engineer and an Assistant Engineer of the Fire Department.

Comment: The method of appointing the Chief Engineer was changed and the position of Assistant Engineer was abolished by Ch. 171 of the Special Acts of 1915. See full text at the end of this section.

Ninth. Three Sinking Fund Commissioners.

Tenth. A Board of five Cemetery Commissioners, with the powers and duties prescribed by Chapter one hundred and nine of the Acts of the year eighteen hundred and eighty-four and Acts in amendment thereof, which Act shall be deemed to apply to the City of Woburn.

Comment: The board of cemetery commissioners is a municipal department. Thus, it cannot incur indebtedness, generally, unless it secures an appropriation therefore by the mayor and city council. If it obtains the appropriation it can enter into contracts pertaining to the care and management of the land maintained for cemetery purposes. The members are accountable to the mayor for the faithful discharge of their duties. Commissioners of Woburn Cemetery v Treasurer of Woburn, 319 Mass, 86 (1946). Proceeds received by the city of Woburn from the sale of lots are not to be deposited in a general bank account in which all city revenues are deposited, but must be kept in a separate account. Ibid.

The Woburn Public Library shall continue a body corporate within said City, under the provisions of Chapter two hundred and seventy-three of the Acts of the year eighteen hundred and eighty-five and Acts in amendment thereof, which Act shall be deemed to apply to the City of Woburn. The members of the Board of Assessors, Overseers of the Poor, and Sinking Fund commissioners, shall hold office for the term of three years each and until their several successors are chosen and qualified; the members of said Boards and the Board of Health and the Cemetery Commissioners and the Trustees of the Public Library as constituted when this Act goes into effect, shall continue to hold office until the expiration of their respective terms of service; and for the further continuance of said boards there shall be appointed under this Act, in the month of January annually, to serve for the term of three years from the first Monday in February then next ensuing, one Principal Assessor and one Overseer of the Poor, in place of the incumbents whose terms then expire; and in the month of February of each year one Sinking Fund Commissioner for a like term, beginning on the first Monday in March then next ensuing, in place of the incumbent whose term then expires. And in the month of February annually there shall be appointed by the Mayor, subject to confirmation by the City Council, one person as a member of the Board of Commissioners for the care and management of the Woburn Cemetery and Public Burial Ground, who shall hold his office for the term of five years, beginning on the first Monday in April then next ensuing, and until his successor is chosen and qualified, also one person as Trustee of said Public Library who shall hold his office for the term of three years, beginning on the first Monday in April then next ensuing, and until his successor is chosen and qualified. Any vacancy occurring at any time in the Corporation and Board of Trustees of the Woburn Public Library shall be filled by appointment by the Mayor, subject to the confirmation by the City Council. The other administrative officers and members of boards mentioned in this section, unless otherwise provided by this Act or by Law, shall be appointed annually in the month of January, and shall hold office for the term of one year from the first Monday in February next following. All of said officers, including members of said Boards, shall be sworn to the faithful discharge of their duties and shall hold office until their respective successors are appointed and qualified, unless sooner removed. Vacancies for unexpired terms may be filled in the manner provided for filling the office for a full term. The City Council may by Ordinance establish additional administrative offices, and define the duties of the incumbents thereof, and such officers shall be subject to the provisions of this Act. The

Fire Department shall consist of a Chief Engineer and an assistant engineer, whose terms of service shall be two years each, one of which shall expire each year; and of such other officers and members as the City Council by Ordinance shall from time to time prescribe. The incumbent of the offices of Chief Engineer and assistant engineer at the time this Act goes into effect shall continue in office during the remainder of the terms for which they were elected, and the City Council shall annually in March elect a Chief Engineer or assistant engineer, as may be required, for the term beginning on the first Monday of April next ensuing; and any vacancy in the office of Chief Engineer or assistant engineer may be filled from time to time by the City Council for the unexpired term.

Comment: See Civil Service provisions G.L., Ch. 31 as affecting tenure in any particular office.

Chapter 87, Special Acts of 1918

AN ACT OF ESTABLISH THE BOARD OF HEALTH AND CHARITIES IN THE CITY OF WOBURN

Be it enacted, etc., as follows:

Sect. 1. The Board of Health and the offices of Overseers of the Poor of the city of Woburn are hereby abolished, and in place thereof and in succession thereto there is hereby established a board to be known as the Board of Health and Charities to consist of three members one of whom shall be a physician practicing in said city. The said Board shall be vested with all the powers and duties heretofore exercised and performed by the Board of Health and Overseers of the Poor, or hereafter given to or imposed upon Board of Health and Overseers of the Poor of Cities.

Sect. 2. The Mayor of the said City shall appoint, prior to the first Monday in June, in the year nineteen hundred and eighteen, three members of the Board hereby established to serve, for terms of one, two and three years, respectively, and thereafter one member of said Board shall be appointed annually by the Mayor in the month of May to serve for the term of three years from the first Monday in June next ensuing and until his successor is appointed and qualified. The Mayor shall annually designate one of the members of the said board as Chairman.

Sect. 3. The Mayor shall also appoint an agent of the said Board, who shall be its secretary and administrative officer and shall perform such duties and have such powers as shall be specified from time to time by its rules. The Board is hereby authorized to delegate to the agent from time to time any of its powers and duties, and the agent shall be subject to such instructions, rules and regulations as may be given or made by the Board. The agent shall be appointed under and shall be subject to the Civil Service Laws and Regulations.

Sect. 4. So much of section thirty-two of Chapter one hundred and seventy-two of the Acts of eighteen hundred and ninety-seven, entitled an Act to Revise the Charter of the City of Woburn as is inconsistent is hereby repealed.

Sect. 5. So much of this Act as provides for the appointment of the members of said Board shall take effect upon its acceptance by vote of the City Council of the City with the approval of the Mayor. The remainder of the Act shall take effect upon the appointment and qualification of the members of the Board hereby established.

Approved March 16, 1918

Chapter 171, Special Acts of 1915

AN ACT TO ABOLISH THE OFFICE OF ASSISTANT ENGINEER OF THE FIRE DEPARTMENT IN THE CITY OF WOBURN AND TO CHANGE THE METHOD OF APPOINTMENT OF THE CHIEF ENGINEER.

Sect. 1. Section thirty-two of Chapter one hundred and seventy-two of the Acts of the year eighteen hundred and ninety-seven is hereby amended by striking out the words "and an assistant engineer," in clause eight, in the twenty-fifth line, so that said clause will read as follows: Eighth: A Chief Engineer of the Fire Department.

Sect. 2. Said section thirty-two is further amended by striking out the last two sentences thereof, beginning with the words "The Fire Department," and inserting in place thereof the words: ---The Fire Department shall consist of a Chief Engineer and of such other offices and members as the City Council by Ordinance shall from time to time prescribe. The present Chief Engineer of the Fire Department shall continue to hold office during the remainder of the term for which he was elected, and in the month of March, in the year nineteen hundred and sixteen, there shall be appointed by the Mayor a Chief Engineer of the Fire Department to hold office during good behavior, unless incapacitated through physical or mental disability from performing the duties of his position, or unless removed by the Mayor, after written notice and a due hearing, for such cause as he shall deem sufficient and shall express in the order of removal; and the office shall become vacant upon the filing with the City Clerk of such order of removal and the service of a copy thereof upon said Engineer, either personally or by leaving the same at his last and usual place of residence. Any vacancy in the office of Chief Engineer may be filled from time to time by appointment by the Mayor.

Sect. 3. This Act shall take effect upon its passage.

Approved March 12, 1915

Sect. 33. Board of Public Works; Powers and Duties; Election; Terms; Mayor Ex-Officio a Member.

The Board of Public Works shall have cognizance, direction and control: --- (a) of the construction, alteration, repair, care and lighting of streets, ways, bridges, and sidewalks; --- (b) of the construction, alteration, repair and care of public buildings, except that the School Committee shall have the care of school buildings in the use and occupation of the public schools; --- (c) of the construction, extension, alteration, repair and maintenance of the public water works; --- (d) of the construction, extension, alteration, care and maintenance of public sewers and drains; --- (e) of the laying out and caring for public parks, and of all the work in and upon the same; --- (f) of the care, superintendence and management of the public grounds belonging to said City, except such as are under the control of the School Committee; --- (g) of the care and control of the shade and ornamental tress standing in the streets and public ways; --- (h) of the supervision of electric light, power, telephone, telegraph and trolley wires and electric light, telegraph and telephone poles and gas pipes, and the erection, placing and removal thereof. Said Board shall have the power to employ engineers, superintendents, clerks and such other assistants as they may deem necessary, and to fix the compensation of their appointees. They shall have and exercise the power and authority vested in the Water Commission of Woburn by Chapter three hundred and seven of the Acts of the year eighteen hundred and seventy-one and Acts in amendment thereof; and in the Board of Sewerage Commissioners by Chapter three hundred and eighty of the Acts of the year eighteen hundred and ninety-one and Acts in amendment thereof; and in the Board of Park Commissioners by Chapter one hundred and fifty-four of the Acts of the year eighteen hundred and eighty-two and Acts in Amendment thereof; and in the Surveyors of Highways of Towns under the General Laws of the Commonwealth and Acts in amendment thereof; and all power and duties by General Laws vested in or imposed upon Water Commissioners, Sewerage Commissioners, Park Commissioners, and Surveyors of Highways of Town; and all provisions of Law relating to Water Commissioners, Sewerage Commissioners, Park Commissioners, and Surveyors of Highways shall apply to the said Board of Public Works when not inconsistent herewith..

Comment: This Section and Sections 34 and 35, below, have been superseded by Ch. 372 of the Acts of 1914, which abolished the Board of Public Works and established the position of Superintendent of Public Works. The text of the Act is set out after Section 35.

Sect. 34. Vacancies; Removals; Suspension.

At the first municipal election held under this Act four members of the Board of Public Works shall be chosen by and from the qualified voters of the City as follows: --- One member for the term of one year, one member for the term of two years, one member for the term of three years and one member for the term of four years, beginning with the first Monday of January then next ensuing, and until their respective successors are chosen and qualified; and thereafter one member of said Board shall be elected at each annual municipal election in place of the member whose term then expires, to serve for

the term of four years, beginning with the first Monday of January next ensuing and until his successor is chosen and qualified. The Mayor shall be ex-officio a member of the Board and the President thereof. Any vacancy in the Board of Public Works shall be filled at the next ensuing annual municipal election, provided that such vacancy is known to exist at the time of issuing the notice for such election by an election for the unexpired term; and the person so elected shall enter upon his duties on the first Monday of January next ensuing, and until that time the vacancy may be filled by nomination of the Mayor, confirmed by the City Council. Any member of the board, except the Mayor, after due notice and hearing may be removed from office by a two-thirds vote of the City Council, for any cause by it deemed sufficient, and in case of removal the cause thereof shall be set forth in the order of removal. No member shall be removed except upon charges in writing, approved by the Mayor, nor without a notice and opportunity to be heard in his own defense. During the tendency of such charges, against any member of the Board the Mayor may suspend him from office.

Sect. 35 Four Administration Bureaus; Salary; Duties; Vacancies; Transfers.

The affairs of said Department of Public Works shall be divided by the Board between four administrative bureaus, as follows: ---

First. A Bureau of Sewers, the chief officer of which shall be known as the Commissioner of Sewers.

Second. A Bureau of Highways, the chief officer of which shall be known as the Commissioner of Streets.

Third. A Bureau of Water and Water Supply, the chief officer of which shall be known as the Commissioner of Water and Water Supply.

Fourth. A Bureau of Public Buildings and Grounds, the chief officer of which shall be known as the Commissioner of Public Buildings and Grounds.

The said four commissioners shall receive an annual salary of two hundred and fifty dollars each. The duties of the several bureaus shall be such as may be referred thereto from time to time by the Board of Public Works; the Mayor shall designate each member of said Board as commissioner of one of said Bureaus, who shall discharge the duties thereof under the direction of the Board and the supervision of the Mayor. In case of a vacancy in the office of the chief of any of said Bureaus, or of the absence or disability of any of them, the Mayor may assign the duties of such Bureau during such vacancy, absence or disability, to any other member of the Board, who shall thereupon assume the duties thereof. The Mayor may transfer any member of the Board from the administration of the duties of one Bureau to those of another.

Comment: In the following Act, the Board of Public Works was abolished and many of the powers of the Board were transferred to the City Council; many of the powers were transferred to the Superintendent of

Public Works who is to be an appointee of the Mayor. See Forbes v Kane, 316 Mass. 207 (1944) for a division of powers which followed the 1914 abolition of the Board of Public Works.

Chapter 372, Acts of 1914

AN ACT TO ABOLISH THE BOARD OF PUBLIC WORKS OF THE CITY OF WOBURN

Sect. 1. The office of the Board of Public Works of the City of Woburn established by Chapter one hundred and seventy-two of the Acts of the year eighteen hundred and ninety-seven is hereby abolished.

Sect. 2. The powers, duties and liabilities conferred or imposed by the said Chapter one hundred and seventy-two on the said Board of Public Works are hereby transferred to the City Council of the City of Woburn except that the powers, the duties, and liabilities of the said Board of Public Works in respect to,

- (a) The construction, alteration, repair, care and lighting of streets, ways, bridges and sidewalks;
- (b) The construction, alteration, repair and care of public buildings, except that the School Committee shall control and direct the alterations, repair and care of school buildings in the use and occupation of the schools;
- (c) The construction, extension, alteration, repair and maintenance of the public water works;
- (d) The construction, extension, alteration, care and maintenance of the public sewers and drains;
- (e) The laying out and care of public parks and work in and upon the same.

Comment: But, see Ch. 358 of the Acts of 1945, infra, pertaining to Recreation Commission.
- (f) The care, superintendence and management of public grounds, except such as are under the control of the School Committee;
- (g) The care and control of shade and ornamental trees standing in the streets or public ways;
- (h) The supervision of the electric lights, power, telegraph and telephone poles and gas pipes, and the erection, placing and removal thereof, are hereby transferred to the Superintendent of Public Works, hereinafter provided for, who shall have exclusively the power vested in the Water Commissioner of the City of Woburn by Chapter three hundred and seven

of the Acts of the year eighteen hundred and seventy-one and Acts in amendment thereof or in addition thereto; and vested in the Board of Sewerage Commissioners by chapter three hundred and eighty of the Acts of the year eighteen hundred and ninety-one, and Acts in amendment thereof or in addition thereto; and vested in the Board of Park Commissioners by Chapter one hundred and fifty-four of the Acts of the year eighteen hundred and eighty-two, and Acts in amendment thereof or in addition thereto; and vested in the surveyors of towns by the General Laws of the Commonwealth; and all powers and duties conferred or imposed by General Laws upon the water commissioners, sewerage commissioners, park commissioners and surveyor of highways of towns, and all provisions of Laws relating to water commissioners, sewer commissioners, park commissioners and surveyors of highways shall apply to the said Superintendent of Public Works, if not inconsistent herewith.

Comment: But see Ch. 358 of Acts of 1945, *infra*, as to Recreation Commission's power over public parks.

Sect. 3. Upon the passage of this Act, the Mayor of the City of Woburn shall appoint a Superintendent of Public Works for a term of two years, who shall be a person specially fitted by education, training and experience to perform the work devolving upon him. In making this appointment the Mayor shall sign a certificate in the following form: ---

I hereby appoint (name of appointee) to the position of Superintendent of Public Works of the City of Woburn, and certify that, in my opinion, he is a person specially fitted by education, training and experience to perform the duties of that office.

(Signature of Mayor)

Comment: See Ch. 257 of the Acts of 1953, authorizing placing office of superintendent under Civil Service.

Sect. 4. The Certificate of Appointment shall be filed with the City Clerk, who shall thereupon forward a certified copy to the Service Commissioners. The said Commissioners shall immediately make a careful inquiry into the qualifications of the nominee under such rules as they may, with the consent of the Governor and Council establish, and, if they conclude that he is a competent person with the requisite qualifications, they shall file with the City Clerk of the City of Woburn, a Certificate, signed by at least a majority of the said Commission, that they have made a careful inquiry into the qualifications of the appointee, and that, in their opinion, he is qualified for the office by education, training and experience, as the case may be and that they approve the appointment. Upon the filing of said Certificate the appointment shall become operative subject, however, to all

provisions of Law or Ordinance in regard to the acceptance of office, oath of office, and filing bonds. If the Commission does not within thirty days after the receipt of said notice, file said Certificate with the City Clerk of the City of Woburn, the appointment shall be void.

Sect. 5. The Superintendent of Public Works shall hold office for a term of two years from the date when his appointment becomes operative by the filing of said Certificate by the Civil Service Commissioners, and until his successor is chosen and qualified. Thereafter, there shall be appointed every two years by the Mayor in the manner provided in sections three, four and five of the Act, a Superintendent of Public Works who shall hold office for the same period and shall possess the qualifications and be subject to the provisions specified in the said section except however, that if the person holding the office is reappointed, the approval of the Civil Service Commissioners shall not be required.

Comment: See Ch. 257 of the Acts of 1953 for Civil Service (unlimited tenure) of Office of Superintendent.

Sect. 6. The Superintendent of Public Works shall be sworn to the faithful performance of his duties by the Mayor, or by the City Clerk, or by the Justice of the Peace, and shall receive such compensation as the City Council, with the approval of the Mayor, shall determine, and shall be subject to such instructions, rules and regulations as the City Council by its vote may impose.

Comment: Section 6, above, was amended by Ch. 71 of the Special Acts of 1915. See Appendix for full text of Special Act. After the amendment, Section 6 reads as follows:

Sect. 6. The Superintendent of Public Works shall be sworn to the faithful performance of his duties by the Mayor, or by the City Clerk, or by the Justice of the Peace, and shall receive such compensation as the City Council, with the approval of the Mayor, shall determine, and shall be subject to such rules and regulations not in conflict with section sixteen and seventeen of chapter one hundred and seventy-two of the Acts of the year eighteen hundred and ninety-seven as the City Council, with the approval of the Mayor, by its vote may impose.

Sect. 7. The Mayor may remove the Superintendent of Public Works by filing with the City Clerk a written statement setting forth in detail the specific reason for his removal, a copy of which shall be delivered to the said Superintendent of Public Works; provided, however, that, if the Superintendent of Public Works so requests, a hearing shall be given him on said charges before the City Council, at which time the charges shall be read and all persons heard. If a Majority of the City Council, after the hearing vote to sustain the Mayor, the order of removal shall be final. If a majority of the City Council votes not to sustain the Mayor, the said order shall become void and the Superintendent of Public Works shall be reinstated.

Sect. 8. Any vacancy occurring in the office of Superintendent of Public Works shall be filled in the same manner provided in sections three, four, and five of this Act, for the remainder of the term. Pending such appointment and confirmation, the Mayor may designate a person to perform the duties of the office temporarily.

Sect. 9. The provisions of section thirty-eight of Chapter one hundred and seventy-two of the Acts of the year eighteen hundred and ninety-seven shall not apply to the said Superintendent of Public Works, nor to any persons that he may employ.

Sect. 10. This Act shall be submitted to the voters of said City at the next state election, and if a majority of the registered voters voting at said election shall declare in the affirmative, this Act shall take effect on the first Monday in January, nineteen hundred and fifteen.

Adopted at the State election, November 3, 1914

Comment: The following Ch. 358 of the Acts of 1945 established a recreation commission. It primarily affected clauses (e) and (f) of Sec. 2 of Ch. 372 of the Acts of 1914 supra.

Chapter 358, Acts 1945

AN ACT ESTABLISHING A RECREATION COMMISSION IN THE CITY OF WOBURN

Sect. 1. A Recreation Commission, hereinafter referred to as the Commission, is hereby established in the City of Woburn. The Commission shall consist of five persons who shall serve without compensation. Two members shall be appointed by the Mayor of said city, two by the City Council thereof and one by the School Committee thereof. Of the members originally appointed by the Mayor one shall serve for a term of five years and one shall serve for a term of four years, and of the members originally appointed by the City Council one shall serve for a term of three years and one shall serve for a term of two years, and the member originally appointed by the School Committee shall serve for a term of one year. Upon the expiration of the term of any member, his successor shall be appointed for a term of five years in the manner provided for the appointment of the member whose term expires. All members shall serve until the qualification of the respective successors. Any vacancy occurring in the Commission shall be filled for the remainder of the term by the Mayor, by the City Council or by the School Committee, according as the original appointment was made.

Sect. 2. Immediately after their appointment, and annually thereafter, the members of the Commission shall meet and organize by electing one of the members president and by electing such other officers as may be necessary. The Commission may adopt rules and regulations for the proper conduct of public recreation for the City.

Sect. 3. The powers, duties and liabilities conferred or imposed by Chapter one hundred and seventy-two of the Acts of eighteen hundred and ninety-seven, as amended by Chapter three hundred and seventy-two of the Acts of nineteen hundred and fourteen, on the Superintendent of Public Works of said City in respect to the laying out and care of public parks and work in an upon the same, and the care, superintendence and management of public grounds, except such as are under the control of the School Committee, are hereby transferred to the Commission. The Commission shall have the sole care, control, superintendence and management of the public parks and management of playgrounds in said City, and shall provide, conduct and supervise playgrounds, athletic fields, recreation centers and other recreational facilities on such public parks and public grounds therein, and on privately owned properties therein the owners of which in writing so authorize. The Commission shall not incur debts or liabilities for purposes other than those above referred to nor to an amount exceeding the funds subject to their order.

Sect. 3A. The Treasurer of said City is hereby authorized to receive and hold any appropriation granted to the Commission for the purpose of this Act and any gifts or bequests of money or donations or other personal property as provided in section five, and all such appropriations and property so received shall always be kept separate from any other moneys or property in the hands of the Treasurer, shall be subject to the order of said Commissioners, and shall be expended by them in such manner as shall in their opinion best promote the purposes for which such appropriation, gift, bequest or donation was or is made. The bond of said Treasurer shall apply to and include duties performed under this Act.

Sect. 4. The Commission may appoint as superintendent a person who is trained and properly qualified for the work, and may appoint such other personnel as it deems proper.

Sect. 5. The Commission may solicit or receive any gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or other recreational purposes under its control.

Sect. 6. The Commission shall annually make and render to the Mayor and City Council of said City a report in writing of their acts and doings and of the conditions of the parks, playgrounds, and other public property under their control and shall render such other reports from time to time as shall be requested of them by said Mayor and City Council, or either.

Sect. 7. This Act shall be submitted to the registered voters of the City of Woburn at its biennial municipal election in the current year in the form of the following questions which shall be placed upon the official ballot to be used at said election:

“Shall an Act passed by the General Court in the year nineteen hundred and forty-five, entitled ‘An Act establishing a recreation commission in the City of Woburn’ be accepted?” If a majority of the voters voting thereon vote in the affirmative in answer to said question, then this Act shall thereupon take full effect in said City, but not otherwise.

Approved May 29, 1945
Accepted by Voters, November 13, 1945

Sect. 36. Police; Appointment; Removal.

The Police Department shall consist of a Chief of Police and such subordinate officers and regular police officers as may be prescribed by Ordinance from time to time. The power to appoint said Chief and other officers shall be vested in the Mayor exclusively. He may remove any member of the regular police force after a due hearing, for such time as he shall deem sufficient and express in the order of removal, subject, however to the provisions of chapter three hundred and twenty of the Acts of the year eighteen hundred and eighty-four, entitled, “An Act to improve the Civil Service of the Commonwealth and cities thereof,” and Acts in Amendment thereof. The order of removal shall be filed in the office of the City Clerk. All the members of the present police force and such members as may hereafter be appointed shall hold office during good behavior and be subject to removal in the manner above provided. The Mayor shall have the power to remove the Chief of Police at any time.

Comment: Ch. 468 of the Acts of 1911 (accepted Nov. 7, 1911) extending provisions of Civil Service to Chiefs of Police. For some time Civil Service was applied to the members of the police department but not to the chief.

Sect. 37. Administrative Officers May Appoint or Remove Clerks, etc.; Term; May Make Certain Contracts; Records.

The administrative officers and boards above-named in this title, and all administrative officers and boards hereafter established by the City Council and not coming within the department of any officer or board so above named, shall have the power, except as herein otherwise provided, to appoint or employ and to remove or discharge all officers, clerks and employees in their respective departments. Such appointments shall not be for any specified term but shall hold good until removal, resignation or discharge. Orders of removal shall state the grounds thereof, and shall be entered upon the records of the officer or board making the same, and removal shall take effect upon the filing of a copy of such order with the City Clerk, who shall record the same in a book provided for the purpose, which book shall be open to public inspection. The above-named administrative officers and boards shall in their respective departments, make all necessary contracts for work and for the furnishing of materials and supplies for the City, and for the construction, alteration, repair and care of all public works, institutions, buildings and other property, subject to the approval of the Mayor in writing.† They shall be at all times

accountable to the Mayor as chief executive officer for the proper discharge of their duties. Every board, and every officer above-named, not a member of a board, shall keep a record of all official transactions, and such record shall be open to public inspection.

Comment: The power to remove employees has been greatly affected by Civil Service Laws and collective bargaining agreements. This section should also be read in connection with Sec. 42 as to validity of certain contracts.

TITLE VII - GENERAL PROVISIONS

Sect. 38. Certain Persons Not Eligible for Election or Appointment.

No person shall be eligible for election or appointment to any office established by this Act unless at the time of such election or appointment he has been a citizen of the United States for a least one year, nor to any such office unless at the time of such election or appointment he has been a resident of the City for at least one year last preceding.

Sect. 39. Offices to Become Vacant Under Certain Conditions.

Any office established by or under this Act, shall, except as otherwise provided, become vacant if the incumbent thereof ceases to be a resident of the City. The conviction of the incumbent of such office of a crime punishable by imprisonment shall operate to create a vacancy in the office held by him.

Comment: The above section was amended by Ch. 146 of the Acts of 1939, by eliminating the second sentence.

Sect 40. Appropriations, Expenditures, etc.

No sum appropriated for a specific purpose shall be expended for any other purpose, and no expenditure shall be made nor liability incurred by or in behalf of the City until an appropriation has been duly voted by the City Council sufficient to meet such expenditure or liability, together with all prior unpaid liabilities which are payable out of such appropriations: --- *provided, however*, that after the expiration of the financial year and until the passage of the regular annual appropriation liabilities payable out of a regular appropriation to be contained therein may be incurred to an amount not exceeding one fourth of the total of such appropriation for the preceding year.

Comment: See G.L. Ch. 44, Sect. 31 regarding liabilities incurred in excess of appropriations. See Appendix.

Sect. 41. Civil Service.

Nothing herein contained shall affect the enforcement of the provision of Chapter three

hundred and twenty of the Acts of the year eighteen hundred and eighty-four, entitled, “An Act to improve the Civil Service of the Commonwealth and the cities thereof,” or of any Acts in amendment thereof or in addition thereto, or of the rules made by the commissioners appointed thereunder; and the City Council shall make sufficient and proper appropriations for the carrying out and enforcement of said Act and such rules in said City.

Sect. 42. Certain Contracts to be Approved by Mayor.

All contracts made by any department of the City shall, when the amount involved is five hundred dollars or more, be in writing, and no such contract shall be deemed to have been made or executed until the approval of the Mayor is affixed thereto. All such contracts shall be accompanied by a bond with sureties satisfactory to the board or committee having the matter in charge, or by deposit of money or by other security for the faithful performance of such contracts, and such bonds or other security shall be deposited with the City Auditor 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, and the officer or board making the contract, with the approval of the Mayor affixed thereto.

Comment: This Section provides that contracts made by any department where the amount involved is \$500 or more must be in writing, and “no such contract shall be deemed to have been made or executed until the approval of the mayor is affixed thereto.” Commissioners of Woburn Cemetery v Treasurer of Woburn, 319 Mass. 86, 88 (1946).

Note: By Ch. 263 of the Acts of 1946, accepted by the voters on November 8, 1949, the charter was amended by providing for the initiative and referendum as follows:

Sects. 42A-42H. Initiative and Referendum

Section 42A. A petition conforming to the requirements hereinafter provided and requesting the City Council to pass a measure, except a revenue loan order, 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 seven 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.

Section 42B. 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.

Section 42C. If any initiative petition is signed by the registered voters equal in number to at least twenty per cent of the whole number of registered voters, the City Council or the School Committee, as the case may be, 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 sections forty-two A to forty-two H, inclusive, 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.

Section 42D. If an initiative petition is signed by registered voters equal in number to at least eight per cent but less than twenty per cent 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 section forty-two C, 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 measure proposed under this section or section forty-two C 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.

Section 42E. The ballots used when voting upon a proposed measure under section forty-two C or section forty-two D, or a measure or part thereof protested against under section forty-two F, shall state the nature of the measure in terms sufficient to show the substance thereof.

Section 42F. 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 a least twelve per cent of the total number of registered voters, is presented to the City Council or to the School Committee as the case may be, protesting against such measure, or any part thereof, taking effect, 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 hereinbefore 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.

The petition described in this section shall be termed a referendum petition and section forty-two B 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 wherever it may occur.

Section 42G. 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 provided in said sections forty-two A to forty-two H, inclusive, for submission on petition.

Section 42H. 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.

Sect. 43. Authority Given by Special Acts Not Affected.

Nothing contained therein shall be construed to affect the authority, power, privileges, rights and obligations created and given by any Special Act of the General Court, and now vested in and exercised by the City of Woburn, unless specially mentioned in this Act.

Sect. 44. Repeal.

All Acts and parts of Acts inconsistent with this Act are hereby repealed: *provided, however,* that the repeal of the said Acts shall not affect any act done or any right accruing or accrued or established, or any suit or proceeding had or commenced in any civil case before the time when such repeal shall take effect; and that no offence committed and no penalty or forfeiture incurred under the Acts hereby repealed and

before the time when such repeal shall take effect shall be affected by the repeal; and that no suit or prosecution pending at the time of the said repeal for any offence committed or for the recovery of any penalty or forfeiture incurred under the Acts hereby repealed, shall be affected by such repeal; and, *provided, also*, that all persons who at the time when the said repeal shall take effect shall hold office under the said Acts shall continue to hold the same according to the tenure thereof, subject to the provision of this Acts, and *provided, also*, that all the By-Laws and Ordinances of the City of Woburn which shall be in force at the time when the said repeal shall take effect, and which are not inconsistent with the provisions of this Act, shall continue in force until the same are repealed by the City Council, and all officers elected under such By-Laws and Ordinances shall continue in office according to the tenure thereof, subject to the provisions of this Act.

Sect. 45. Acts Repealed Not Revived.

No Act which has been heretofore repealed shall be revived by the repeal of the Acts mentioned in the preceding section.

Sect. 46. Submission of Questions Acceptance.

This Act shall be submitted to the qualified voters of the City of Woburn for acceptance at a special election to be held within sixty days from its passage; and the City Clerk shall, not less than one week before said election transmit by mail or otherwise to every registered voter in said City a copy of this Act. The vote shall be taken by ballot in answer to the following question: "Shall an Act passed by the General Court in the year eighteen hundred and ninety-seven, entitled, 'An Act to revise the Charter of the City of Woburn' be accepted?" YES or NO

In case this Act is not accepted by the voters of said City at its first submission under this section it shall be submitted a second time to voters at the annual state Election in the year eighteen hundred and ninety-seven, and the vote shall be taken by ballot in answer to the question above-stated.

Sect. 47. When to Take Effect.

So much of this Act as authorizes and directs the submission of the question of its acceptance to the qualified voters of said City shall take effect upon its passage; so much thereof as relates to elections thereunder shall apply to the annual municipal election to be held on the second Tuesday of December in the year eighteen hundred and ninety-seven, if the larger number of votes upon the question of its acceptance is in the affirmative; and if so accepted this Act shall take full effect on the first Monday of January next ensuing.

Approved March 19, 1897
Accepted by Voters May 12, 1897

APPENDIX

The following are the full text of special acts and general laws of the Commonwealth referenced in the Charter.

Chapter 71 of the Special Acts of 1915

An Act Relative to the Superintendent of Public Works for the City of Woburn.

Section. 1 Section six of chapter three hundred and seventy-two of the acts of the year nineteen hundred and fourteen is hereby amended by striking out the word “instructions”, in the sixth line; by inserting after word “regulations”, in the same line, the words: -- not in conflict with sections sixteen and seventeen of chapter one hundred and seventy-two of the acts of the year eighteen hundred and ninety-seven; and by inserting after the words “city council”, in the sixth line, the words: -- with the approval of the mayor, -- so as to read as follows: -- Section 6. The superintendent of public works shall be sworn to the faithful performance of his duties by the mayor, or by the city clerk, or by a justice of the peace, and shall receive such compensation as the city council, with the approval of the mayor, shall determine, and shall be subject to such rules and regulations not in conflict with sections sixteen and seventeen of chapter one hundred and seventy-two of the acts of the year eighteen hundred and ninety-seven as the city council, with the approval of the mayor, by its vote may impose.

Section 2. This act shall take effect upon its passage.

Approved February 17, 1915

Chapter 182 of the Special Acts of 1917

An Act Relative to the Passage of Ordinances Affecting the Salaries of Certain Officers in the City of Woburn.

The City Council shall establish by Ordinance the salaries or remuneration of the offices created by this Act, in case the same are not fixed herein, and of such other offices as may hereafter be created; and no Ordinance of the City Council changing any such salary or remuneration shall receive its final passage by the City Council after the last day of September, and no such Ordinance shall take effect until the municipal year succeeding that in which the Ordinance is passed. Every such proposed Ordinance 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. Such salaries shall be in full for all services rendered the City by the incumbents of the respective offices in the

discharge of the duties thereof. This Act shall take effect upon its acceptance by the City Council of said City, with the Approval of the Mayor.

Approved March 13, 1917

Chapter 139 of the Acts of 1946

An Act Providing for Non-Partisan Preliminary, Regular and Special Elections in the City of Woburn.

Be it enacted, etc., as follows:

Section 1. Except as otherwise provided herein, on the third Tuesday preceding every regular or special city election in the city of Woburn at which any elective municipal office is to be filled, there shall be held a preliminary election for the purpose of nominating candidates therefor; provided, that such preliminary election shall be held on the fourth Tuesday preceding every regular city election in said city so long as the provisions of section one hundred and three A of chapter fifty-four of the General Laws are operative therein. At every such preliminary election the polls shall be kept open during such hours as shall be fixed by the board of aldermen.

Section 2. Except as otherwise provided in section seven there shall not be printed on the official ballot to be used at any regular or special election in said city 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 this act. 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 three, the statement and petition therein described.

Section 3. Any person who is qualified to vote for a candidate for any elective municipal office in said city 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 at least twenty-one days prior to such preliminary election he shall file with the city clerk a statement in writing of his candidacy, and with it a petition signed in person by at least ten, or in case of a candidate for the office of mayor by at least one hundred, or in case of a candidate for the office of alderman-at-large or school committee by 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

I (), on oath declare that I reside at (number if any) on (name of street) in the city of Woburn; 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,

ss.

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

(Signed)

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 Woburn, 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.

Section 4. 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 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 therefore, 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 Woburn 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 offices for which nominations are to be made.)

No ballot used at a preliminary election shall have printed thereon any party or political designation or any statement indicating the views or opinions of any candidate.

Section 5. 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.

Section 6. The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall, except as provided by section seven, 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 person 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 seven, 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.

Section 7. 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 such ward or wards.

Section 8. Preliminary elections in said city shall be subject to all general laws relative to elections, so far as the same are applicable thereto, except as otherwise expressly provided in this act.

Section 9. This act shall be submitted for acceptance to the registered voters of the city of Woburn at the biennial state election in the current year in the form of the following question, which shall be printed on the official ballot to be used in said city at said election: ---“Shall an act passed by the general court in the current year, entitled ‘An Act Providing for Non-Partisan Preliminary, Regular and Special Elections in the City of Woburn’, be accepted?” If a majority of the votes in answer to said question is in the affirmative, then this act shall thereupon take full effect for the regular municipal election to be held in said city in the year nineteen hundred and forty-seven, and for all municipal elections in said city thereafter, but not otherwise.

Approved March 14, 1946

Chapter 589 of the Acts of 1952

An Act Reducing the Membership of the Woburn School Committee from Nine to Five Members.

Sect. 1. Chapter 172 of the acts of 1897 is hereby amended by striking out section 28 and inserting in place thereof the following: -- Section 28. The management and control of the public schools of said city shall be vested in a school committee consisting of five person chosen by the city at large, two members to be chosen at the municipal election in the year nineteen hundred and fifty-three for a term of two years and five members to be chosen thereafter at succeeding municipal elections for terms of two years. The present school committee shall continue to hold office until the expiration of the term for which they were elected. The school committee shall serve without pay, and shall exercise the powers and discharge the duties imposed by law upon school committees.

Sect. 1A. Section 3 of chapter 194 of the acts of 1928 is hereby repealed.

Sect. 2. This act shall be submitted to the registered voters of the city of Woburn at the

biennial state election in the current year in the form of the following question, which shall be placed upon the official ballot to be used at said election: --“Shall an act passed by the general court in the year nineteen and fifty-two, entitled ‘An Act reducing the membership of the Woburn school committee from nine to five members’, be accepted?” If a majority of the votes cast on said question is in the affirmative, this act shall take full effect on January first, nineteen hundred and fifty-three, but not otherwise.

Approved July 4, 1952

Chapter 128 of the Acts of 1953

An Act Relative to the Number and Terms of Office of Members of the School Committee of the City of Woburn.

Sect. 1. Chapter 172 of the acts of 1897 is hereby amended by striking out section 28, as amended by section 1 of chapter 589 of the acts of 1952, and inserting in place thereof the following section: -- Section 28. The management and control of the public schools of said city of Woburn shall be vested in a school committee, consisting of seven members, of whom one shall be elected from each ward by and from the qualified voters of that ward, to serve for a term of four years beginning with the first Monday of January next following their election. The school committee shall serve without pay, and shall exercise the powers and discharge the duties imposed by law upon school committees.

Sect. 2. At the biennial municipal election in the year nineteen hundred and fifty-five, and in every fourth year thereafter, there shall be elected seven members of the school committee to serve for four years from the first Monday of January next following their election and until their successors are qualified.

Sect. 3. All members of the school committee elected at the biennial municipal election in the year nineteen hundred and fifty-three shall cease to hold office upon the qualification of the members elected at the biennial municipal election in the year nineteen hundred and fifty-five.

Sect. 4. This act shall be submitted to the registered voters of the city of Woburn at the biennial municipal election in the current year in the form of the following question, which shall be placed upon the official ballot to be used at said election: -- “Shall an act passed by the general court in the year nineteen hundred and fifty-three, entitled ‘An Act relative to the number and terms of office of members of the school committee of the city of Woburn’, be accepted?” If a majority of the votes cast on said question is in the affirmative, this act shall take full effect, but not otherwise.

Approved March 4, 1953

Chapter 636 of the Acts of 1954

An Act Relative to the Filling of Vacancies in the School Committee of the City of Woburn.

Sect. 1. Notwithstanding the provisions of section two of chapter one hundred and ninety-four of the acts of nineteen hundred and twenty-eight, any vacancy in the school committee of the city of Woburn due to death, resignation, or any other cause shall be filled forthwith by election by the remaining members of said committee, and any person so elected shall serve until the qualification of a successor, who shall be elected at the next regular municipal election for the balance of the unexpired term, if any.

Sect. 2. After the biennial municipal election in the year nineteen hundred and fifty-five, and for such time thereafter as the provisions of chapter one hundred and twenty-eight of the acts of nineteen hundred and fifty-three remain in effect, any vacancy in the school committee of the city of Woburn due to death, resignation, or any other cause shall be filled forthwith by election by the remaining members of said committee; but such vacancy shall be filled only by election of a qualified voter of the ward in which such vacancy occurs. The person so elected shall serve only until a successor is qualified at the next municipal election, at which next municipal election, the residents of the ward in which such vacancy has occurred shall vote to fill the vacancy for the remaining unexpired balance of the term, as provided by the provisions of chapter one hundred and twenty-eight of the acts of nineteen hundred and fifty-three.

Sect. 3. This act shall take effect upon its passage.

Approved June 10, 1954

Chapter 53 of the Acts of 2007

An Act Regulating Preliminary Elections in the City of Woburn.

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

Section 1 of chapter 139 of the acts of 1946 is hereby amended by striking out the first sentence and inserting in place thereof the following 4 sentences:- Except as otherwise provided herein, for every regular or special city election in the city of Woburn at which any elective municipal office is to be filled, there shall be held a preliminary election for the purpose of nominating candidates therefore. The board of aldermen shall fix the day of holding preliminary elections. The date fixed shall be no later than the sixth Tuesday preceding the regular or special election. The action of the board of aldermen in fixing

the date of the preliminary election shall be taken not later than the sixtieth day before the date so fixed.

Approved June 25, 2007

G.L. Chapter 44: Section 31. Liabilities in excess of appropriations forbidden; exceptions

Section 31. No department financed by municipal revenue, or in whole or in part by taxation, of any city or town, except Boston, shall incur a liability in excess of the appropriation made for the use of such department, each item recommended by the mayor and voted by the council in cities, and each item voted by the town meeting in towns, being considered as a separate appropriation, except in cases of major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an immediate threat to the health or safety of persons or property, and then only by a vote in a city of two-thirds of the members of the city council, and in a town by a majority vote of all the selectmen. Payments of liabilities incurred under authority of this section may be made, with the written approval of the director, from any available funds in the treasury, and the amounts of such liabilities incurred shall be reported by the auditor or accountant or other officer having similar duties, or by the treasurer if there be no such officer, to the assessors who shall include the amounts so reported in the aggregate appropriations assessed in the determination of the next subsequent annual tax rate, unless the city or town has appropriated amounts specified to be for such liabilities; provided, that, if proceedings are brought in accordance with provisions of section fifty-three of chapter forty, no payments shall be made and no amounts shall be certified to the assessors until the termination of such proceedings. Payments of final judgments and awards or orders of payment approved by the industrial accident board rendered after the fixing of the tax rate for the current fiscal year may, with the approval of the director of accounts if the amount of the judgment or award is over ten thousand dollars, be made from any available funds in the treasury, and the payments so made shall be reported by the auditor or accountant or other officer having similar duties, or by the treasurer if there be no such officer, to the assessors, who shall include the amount so reported in the aggregate appropriations assessed in the determination of the next subsequent annual tax rate, unless the city or town has otherwise made provision therefor.

The provisions of this section, so far as apt, shall apply to districts, and the prudential committee, if any, otherwise the commissioners, shall act in place of the members of the city council or selectmen.

G.L. Chapter 44: Section 31A. Report of estimated expenses; period covered; contents

Section 31A. Every officer of any city except Boston having charge of, or jurisdiction over, any office, department or undertaking, requesting an appropriation shall, between November first and December first of each year, furnish the mayor and the city auditor, or officer having similar duties, on forms provided by the city auditor or officer having similar duties, and approved by the bureau of accounts in the department of corporations and taxation, detailed estimates of the full amounts deemed necessary for the next fiscal year for the ordinary maintenance of the office, department or undertaking under his charge or jurisdiction, and for expenditures other than the ordinary maintenance, with the amounts, if any, expended for similar purposes during the preceding fiscal year and during the first four months of the then current fiscal year, and an estimate of the amounts required to be expended for such purposes during the last eight months of the then current fiscal year, giving explanatory statements of any differences between the amount of any estimate for the next fiscal year and the amount expended or estimated to be required as aforesaid.

The information hereby required to be furnished shall set forth the number of permanent or temporary employees, or both, requested in each classification or rating in the next fiscal year and the number of permanent or temporary employees, or both, employed on October thirty-first of the then fiscal year, or the nearest week-end thereto, except laborers and persons performing the duties of laborers, with the annual, monthly, weekly or hourly compensation of such employees, and shall state whether such compensation is fixed by ordinance or otherwise and whether or not such employees are subject to chapter thirty-one.

The foregoing shall not prevent any city, upon recommendation of the mayor, from so setting forth the number of permanent or temporary laborers and persons performing the duties of laborers, or both such permanent and temporary laborers and persons, with the annual, monthly, weekly or hourly compensation of such employees.

The city auditor, or officer having similar duties, shall forthwith at the close of each calendar year furnish the mayor with a written report of the money received from estimated receipts applicable to the payment of expenditures of the first six months of the then current fiscal year, with an estimate of such receipts for the last six months of such year and for the next fiscal year.

G.L. Chapter 44: Section 32. Submission to city council; procedure for approval, rejection or alteration

Section 32. Within one hundred and seventy days after the annual organization of the city government in any city other than Boston, the mayor shall submit to the city council the

annual budget which shall be a statement of the amounts recommended by him for proposed expenditures of the city for the next fiscal year. The annual budget shall be classified and designated so as to show separately with respect to each officer, department or undertaking for which an appropriation is recommended:—

(1) Ordinary maintenance, which shall also include debt and interest charges matured and maturing during the next fiscal year, and shall be subdivided as follows:—

- (a) Salaries and wages of officers, officials and employees other than laborers or persons performing the duties of laborers; and
- (b) Ordinary maintenance not included under (a); and

(2) Proposed expenditures for other than ordinary maintenance, including additional equipment the estimated cost of which exceeds one thousand dollars.

The foregoing shall not prevent any city, upon recommendation of the mayor and with the approval of the council, from adopting additional classifications and designations.

The city council may by majority vote make appropriations for the purposes recommended and may reduce or reject any amount recommended in the annual budget. It shall not increase any amount in or the total of the annual budget nor add thereto any amount for a purpose not included therein except on recommendation of the mayor, and except as provided in section thirty-three; provided, however, that in the case of the school budget or in the case of a regional school district assessment, the city council, on the recommendation of the school committee or on recommendation of a regional district school committee, may by a two-thirds vote increase the total amount appropriated for the support of the schools or for the regional district schools over that requested by the mayor; and provided, further, that no such increase shall be voted if it would render the total annual budget in excess of the property tax limitations set forth in section twenty-one C of chapter fifty-nine. Except as otherwise permitted by law, all amounts appropriated by the city council, as provided in this section, shall be for the purposes specified. In setting up an appropriation order or orders based on the annual budget, the council shall use, so far as possible, the same classifications required for the annual budget. If the council fails to take action with respect to any amount recommended in the annual budget, either by approving, reducing or rejecting the same, within forty-five days after the receipt of the budget, such amount shall without any action by the council become a part of the appropriations for the year, and be available for the purposes specified.

If, upon the expiration of one hundred and seventy days after the annual organization of the city government, the mayor shall not have submitted to the city council the annual budget for said year, the city council shall, upon its own initiative, prepare such annual budget by June thirtieth of such year, and such budget preparation shall be, where applicable, subject to the provisions governing the annual budget of the mayor.

Within fifteen days after such preparation of the annual budget, the city council shall proceed to act by voting thereon and all amounts so voted shall thereupon be valid appropriations for the purposes stated therein to the same extent as though based upon a mayor's annual budget, but subject, however, to such requirements, if any, as may be imposed by law.

If the council fails to take action with respect to any amount recommended in the budget, either by approving, reducing or rejecting the same, within fifteen days after such preparation, such amount shall, without further action by the council, become a part of the appropriations for the year, and be available for the purposes specified.

Notwithstanding any provisions of this section to the contrary, the mayor may submit to the city council a continuing appropriation budget for said city on a month by month basis for a period not to exceed three months if said city has not approved an operating budget for the fiscal year because of circumstances beyond its control.

Nothing in this section shall prevent the city council, acting upon the written recommendation of the mayor, from voting appropriations, not in excess of the amount so recommended, either prior or subsequent to the passage of the annual budget.

The provisions of this section shall apply, in any city adopting the Plan E form of government under chapter forty-three, only to the extent provided by section one hundred and four of said chapter.

Neither the annual budget nor appropriation orders based thereon shall be in such detail as to fix specific salaries of employees under the direction of boards elected by the people, other than the city council.

The city council may, and upon written request of at least ten registered voters shall, give notice of a public hearing to be held on the annual budget, prior to final action thereon, but not less than seven days after publication of such notice, in a newspaper having general circulation in the city. At the time and place so advertised, or at any time or place to which such public hearing may from time to time be adjourned, the city council shall hold a public hearing on the annual budget as submitted by the mayor, at which all interested persons shall be given an opportunity to be heard for or against the proposed expenditures or any item thereof.

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