

1 ARTICLE X

2 **EXECUTIVE BRANCH**

3 **SECTION X-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE;**  
4 **COMPENSATION; PROHIBITIONS**

5 *(a) Mayor, Qualifications* - The chief executive officer of the city shall be a  
6 mayor, elected by and from the voters of the city at large. Any voter shall be  
7 eligible to hold the office of mayor.

8 *(b) Term of Office* - The term of office of the mayor shall be X years  
9 beginning on the first Monday in the January succeeding his election, except  
10 when said first Monday falls on a legal holiday, in which event on the  
11 following day and until his successor has been qualified.

12 *(c) Compensation* - The city council shall, by ordinance, establish an annual  
13 salary for the mayor. No ordinance increasing or reducing the salary of the  
14 mayor shall be effective unless it shall have been adopted by a 2/3 vote of  
15 the full city council. No increase or reduction in such salary shall take effect  
16 during the year in which such increase or reduction is voted, and no change  
17 in such ordinance shall be made between the election of a new council and  
18 the qualification of the new council. Subject to appropriation, the mayor  
19 shall be entitled to reimbursement of his actual and necessary expenses  
20 incurred in the performance of his duties.

1 *(d) Prohibitions* - The mayor shall hold no other city office or city  
2 employment for which a salary or other emolument is payable from the city  
3 treasury. No former mayor shall hold any compensated appointed city office  
4 or city employment until 1 year following the date on which the former  
5 mayor's city service has terminated. This provision shall not prevent a city  
6 officer or other city employee who has vacated a position in order to serve  
7 as mayor from returning to the same office or other position of city  
8 employment held at the time the position was vacated, if such position  
9 exists, but no such person shall be eligible for any other municipal position  
10 until at least 1 year after the termination of service as mayor. This  
11 prohibition shall not apply to persons covered under the leave of absence  
12 provisions under the civil service law.

13 *(e) Felony Conviction* - Any mayor who has been finally convicted of a  
14 criminal offense involving misconduct in any elective or appointive public  
15 office, trust or employment at any time held by him shall have deemed to  
16 have vacated office and shall not be eligible to serve in any other elective  
17 and appointive office or position under the city.

18 **SECTION X-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES**

19 The executive powers of the city shall be vested solely in the mayor and may  
20 be exercised by the mayor either personally or through the several city  
21 agencies under the general supervision and control of the office of the

1 mayor. The mayor shall cause the charter, the ordinances and other orders  
2 for the government of the city to be enforced, and shall cause a record of all  
3 official acts of the executive branch of the city government to be kept. The  
4 mayor shall exercise general supervision and direction over all city agencies,  
5 unless otherwise provided by law or by this charter. Each city agency shall  
6 furnish to the mayor, immediately upon request, any information, materials  
7 or otherwise as the mayor may request and as the needs of the office of  
8 mayor and the interest of the city may require. The mayor shall supervise,  
9 direct and be responsible for the efficient administration of all city activities  
10 and functions placed under the control of the mayor by law or by this  
11 charter. The mayor shall be responsible for the efficient and effective  
12 coordination of the activities of all agencies of the city and for this purpose  
13 shall have authority, consistent with law, to call together for consultation,  
14 conference and discussion at reasonable times all persons serving the city,  
15 whether elected directly by the voters, chosen by persons elected directly by  
16 the voters, or otherwise. The mayor shall be, by virtue of the office, a  
17 member of every appointed multiple member body of the city. The mayor  
18 shall have a right, as an ex officio member, to attend any meeting of any  
19 appointed multiple member body of the city, at any time, including executive  
20 sessions, to participate in the discussions, to make motions and to exercise

1 every other right of a regular member of such body, but not including the  
2 right to vote.

3 **SECTION X-3: APPOINTMENTS BY THE MAYOR**

4 The mayor shall appoint, subject to the review of such appointments by the  
5 city council under section X-10, all city officers and department heads and  
6 the members of multiple-member bodies for whom no other method of  
7 appointment or selection is provided by law or this charter, excepting only  
8 persons serving under the school committee, and persons serving under the  
9 city council. All appointments to multiple-member bodies shall be for terms  
10 established under section X-1. Upon the expiration of the term of any  
11 member of a multiple member body, a successor shall be appointed in like  
12 manner. The mayor shall fill any vacancy for the remainder of the unexpired  
13 term of any member of a multiple member body. All persons classified as  
14 department heads shall, subject to the consent of the mayor, appoint,  
15 promote and discipline all assistants, subordinates and other employees of  
16 the agency for which that person is responsible. All appointments and  
17 promotions made by the mayor shall be made on the basis of merit and  
18 fitness demonstrated by examination, past performance or by other  
19 evidence of competence and suitability.

20 **SECTION X-4: REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS**

1 *(a) City Officers and Department Heads* - The mayor may, in writing, remove  
2 or suspend any city officer, or the head of any city department appointed by  
3 the mayor by filing a written statement, with the city clerk, setting forth in  
4 precise detail the specific reasons for the removal or suspension. A copy of  
5 the written statement shall be delivered in hand, or mailed by certified mail,  
6 postage prepaid, to the last known address of the city officer or department  
7 head. The city officer or department head may make a written reply by filing  
8 such a reply statement, with the city clerk, within 10 days after the date the  
9 statement of the mayor has been filed; but, this reply shall have no effect  
10 upon the removal or suspension unless the mayor shall so determine. The  
11 decision of the mayor in suspending or removing a city officer or a  
12 department head shall be final, it being the intention of this provision to vest  
13 all authority and to fix all responsibility for such suspension or removal  
14 solely in the mayor.

15 *(b) Other City Employees* - Unless some other procedure is specified in a  
16 collective bargaining agreement or by civil service law, a department head  
17 may suspend or remove any assistant, subordinate or other employee of the  
18 agency for which that person is responsible. The decision of the department  
19 head to suspend or remove any assistant, subordinate or other employee  
20 shall be subject to review by the mayor. A person for whom a department  
21 head has determined a suspension or removal is appropriate may seek

1 review of this determination by the mayor by filing a petition for review, in  
2 the office of the mayor, in writing, within 10 days following receipt of notice  
3 of this determination. The decision of the mayor shall be final, it being the  
4 intention of this provision to vest all authority and to fix all responsibility for  
5 suspension or removal solely in the mayor. Nothing in this section shall be  
6 construed to be a bar to any other review as may be provided by law.

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9 **SECTION X-5: TEMPORARY APPOINTMENTS TO CITY OFFICES**

10 Whenever a vacancy, either temporary or permanent, occurs in a city office  
11 and the needs of the city require that the office be filled, the mayor may  
12 designate the head of another city agency or a city officer or city employee  
13 or some other person to perform the duties of the office on a temporary  
14 basis until the position can be filled as otherwise provided by law or by this  
15 charter. The mayor shall file a certificate in substantially the following form,  
16 with the city clerk, whenever a person is designated under this section:

17 I designate (*name of person*) to perform the duties of the office of  
18 (*designate office in which vacancy exists*) on a temporary basis until the  
19 office can be filled by (*here set out the regular procedure for filling the*  
20 *vacancy, or when the regular officer shall return*). I certify that said person

1 is qualified to perform the duties which will be required and that I make this  
2 designation solely in the interests of the city of Newburyport.

3 (signed)

4 Mayor

5 Persons serving as temporary officers under this section shall have only  
6 those powers of the office essential to the performance of the duties of the  
7 office during the period of the temporary appointment. Notwithstanding any  
8 general or special law to the contrary, no temporary appointment shall be  
9 for more than 90 days, but not more than 2 30-day extensions of a  
10 temporary appointment may be made when a permanent vacancy exists in  
11 the office.

12 **SECTION X-6: COMMUNICATIONS; SPECIAL MEETINGS**

13 *(a) Communications to the City Council* - The mayor shall, from time to  
14 time, by written communications, recommend to the city council for its  
15 consideration such measures as, in the judgment of the mayor, the needs of  
16 the city require. The mayor shall, from time to time, by written  
17 communication, keep the city council fully informed of the financial and  
18 administrative condition of the city and shall specifically indicate in such  
19 reports any fiscal, financial or administrative problems of the city.

20 *(b) Special Meetings of the City Council* - The mayor may at any time call a  
21 special meeting of the city council, for any purpose, by causing a notice of

1 the meeting to be delivered in hand or to the place of business or residence  
2 of each member of the city council. This notice shall, except in an  
3 emergency of which the mayor shall be the sole judge, be delivered at least  
4 48 weekday hours in advance of the time set and shall specify the purpose  
5 or purposes for which the meeting is to be held. A copy of each such notice  
6 shall immediately be posted in accordance with applicable laws.

7 **SECTION X-7: APPROVAL OF MAYOR, EXCEPTION (VETO)**

8 Every order, ordinance or vote adopted or passed by the city council relative  
9 to the affairs of the city, except resolutions, the selection of city officers by  
10 the city council and any matters relating to the internal affairs of the city  
11 council, shall be presented to the mayor for approval. If the mayor approves  
12 of the measure, the mayor shall sign it; if the mayor disapproves of the  
13 measure, the mayor shall return the measure, with the specific reason or  
14 reasons for such disapproval attached to it, in writing, to the city council.

15 The city council shall enter the objections of the mayor on its records, and  
16 not sooner than 10 days, nor later than 30 days from the date of its return  
17 to the city council, shall again consider the same measure. If the city  
18 council, notwithstanding the disapproval by the mayor, shall again pass the  
19 order, ordinance, resolution or vote by a 2/3 vote of the full council, it shall  
20 then be deemed in force, notwithstanding the failure of the mayor to  
21 approve it. If the mayor has neither signed a measure nor returned it to the

1 city council within 10 days following the date it was presented to the mayor,  
2 the measure shall be deemed approved and in force.

3 **SECTION X-8: TEMPORARY ABSENCE OF THE MAYOR**

4 *(a) Acting Mayor* - Whenever, by reason of sickness, absence from the city  
5 or other cause, the mayor shall be unable to perform the duties of the office,  
6 the president of the city council shall be the acting mayor.

7 *(b) Powers of Acting Mayor* - The acting mayor shall have only those powers  
8 of the mayor that are essential to the conduct of the business of the city in  
9 an orderly and efficient manner and on which action may not be delayed.

10 The acting mayor shall have no authority to make any permanent  
11 appointment or removal from city service unless the disability of the mayor  
12 shall extend beyond 60 days, nor shall an acting mayor approve or  
13 disapprove of any measure adopted by the city council unless the time  
14 within which the mayor must act would expire before the return of the  
15 mayor. During any period in which any member of the city council is serving  
16 as acting mayor, that councilor shall not vote as a member of the city  
17 council.

18 **SECTION X-9: DELEGATION OF AUTHORITY BY MAYOR**

19 The mayor may authorize any subordinate officer or employee of the city to  
20 exercise any power or perform any function or any duty which is assigned by  
21 this charter, or otherwise, to the mayor, and the mayor may rescind or

1 revoke any such authorizations previously made, but all acts performed  
2 under any such delegation of authority during a period of authorization shall  
3 be and remain the acts of the mayor. Nothing in this section shall be  
4 construed to authorize a mayor to delegate his power of appointment to city  
5 office or employment or to sign or return measures approved by the city  
6 council.

7 **SECTION X-10: VACANCY IN OFFICE OF MAYOR**

8 *(a) Special Election* - If a vacancy in the office of mayor occurs during the  
9 first X months of the term for which the mayor is elected, whether by reason  
10 of death, resignation, removal from office, incapacity, or otherwise, the city  
11 council shall immediately, in the manner provided in section X-1, order a  
12 special election to be held within 90 days following the date the vacancy is  
13 created, to fill the vacancy for the balance of the then unexpired term. If a  
14 regular city election is to be held within 120 days following the date the  
15 vacancy is created a special election need not be held and the position shall  
16 be filled by vote at such regular election.

17 *(b) President of City Council To Serve As Mayor* - If a vacancy in the office of  
18 mayor occurs in the last X months of the term for which the mayor is  
19 elected, whether by reason of death, resignation, removal from office, or  
20 otherwise, the president of the city council shall become the mayor. Upon  
21 the qualification of the president of the city council as the mayor, under this

1 section, a vacancy shall exist in that seat on the city council which shall be  
2 filled in the manner provided in section X-11. A president serving as mayor  
3 under this subsection, who subsequently stands for office as mayor shall not  
4 be entitled to have the words "candidate for re-election" printed against their  
5 name on the election ballot.

6 *(c) Powers, Term of Office* - The mayor elected under Section X-10(a) or (b)  
7 shall have all the powers of the mayor. A person elected under subsection  
8 (a), shall serve for the balance of the term unexpired at the time of election  
9 to the office. A person chosen under subsection (b), shall serve until the  
10 time of the next regular election at which time the person elected to fill the  
11 office for the ensuing term of office shall serve, in addition, for the balance  
12 of the then unexpired term.