

HOUSE No. 4440

Substituted by the House, on motion of Ms. Provost of Somerville, for a Bill relative to the charter of the city of Somerville (House, No. 4440). September 13, 2012.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to the charter of the city of Somerville.

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

- 1 SECTION 1. Chapter 182 of the acts of 1871 is hereby repealed.
- 2 SECTION 2. Chapter 454 of the acts of 1903 is hereby repealed.
- 3 SECTION 3. Chapter 49 of the acts of 1928 is hereby repealed.
- 4 SECTION 4. Chapter 308 of the acts of 1932 is hereby repealed.
- 5 SECTION 5. Chapter 183 of the acts of 1936 is hereby repealed.
- 6 SECTION 6. Chapter 173 of the acts of 1946 is hereby repealed.
- 7 SECTION 7. Chapter 116 of the acts of 1949 is hereby repealed.
- 8 SECTION 8. Chapter 234 of the acts of 1949 is hereby repealed.
- 9 SECTION 9. Chapter 474 of the acts of 1949 is hereby repealed.
- 10 SECTION 10. Chapter 537 of the acts of 1951 is hereby repealed.
- 11 SECTION 11. Chapter 434 of the acts of 1953 is hereby repealed.

12 SECTION 12. Chapter 225 of the acts of 1955 is hereby repealed.

13 SECTION 13. Chapter 561 of the acts of 1960 is hereby repealed.

14 SECTION 14. Chapter 34 of the acts of 1964 is hereby repealed.

15 SECTION 15. Chapter 842 of the acts of 1970 is hereby repealed.

16 SECTION 16. Chapter 972 of the acts of 1971 is hereby repealed.

17 SECTION 17. Chapter 217 of the acts of 1980 is hereby repealed.

18 SECTION 18. Chapter 486 of the acts of 1985 is hereby repealed.

19 SECTION 19. Title I of chapter 240 of the acts of 1899 is hereby amended by adding the
20 following section:-

21 Section 4. Gender Neutrality.

22 Words importing either the masculine or feminine gender shall be gender neutral, unless
23 otherwise specifically set forth.

24 SECTION 20. The second sentence of section 7 of title II of said chapter 240 of the acts of 1899,
25 as inserted by chapter 167 of the acts of 1946, is hereby amended by inserting, after the word
26 “aldermen”, the following words:- from amongst its members.

27 SECTION 21. Said title II of said chapter 240 is hereby further amended by striking out section
28 9.

29 SECTION 22. Title III of said chapter 240 is hereby amended by striking out section 11, as
30 amended by section 1 of chapter 330 of the acts of 1936, and inserting in place thereof the
31 following section:-

32 Section 11. The board of aldermen shall from time to time make rules for its proceedings. A
33 majority of the members of the board shall constitute a quorum for the transaction of business.
34 The board of aldermen may, by a two-thirds vote of all its members taken by a call of the yeas
35 and nays, establish a salary for its members. Such salary may be reduced at any time by a similar
36 vote.

37 SECTION 23. Said title III of said chapter 240 is hereby further amended by striking out section
38 14.

39 SECTION 24. Clause 1 of section 17 of said title III of said chapter 240, as amended by chapter
40 171 of the acts of 1988, is hereby further amended by striking out the words “and of the mayor
41 and” .

42 SECTION 25. Clause 3 of said section 17, as amended, is hereby further amended by striking
43 out the word “town” in each instance it appears, and inserting in place thereof in each instance,
44 the following word:- public.

45 SECTION 26. Said clause 3 of said section 17 of said title III of said chapter 240 of the acts of
46 1899 is hereby further amended by striking out the last sentence.

47 SECTION 27. Section 18 of said title III of said chapter 240 is hereby amended by striking out
48 the last sentence.

49 SECTION 28. Said title III of said chapter 240 is hereby further amended by inserting, after
50 section 18, the following section:-

51 Section 18A. Disqualification from serving. Any elected official who has been finally convicted
52 of a state or federal felony shall be deemed to have vacated said office and shall be disqualified
53 from serving the remainder of his or her term.

54 SECTION 29. Said title III of said chapter 240 is hereby further amended by striking out section
55 19.

56 SECTION 30. Title IV of said chapter 240 is hereby amended by striking out section 21, as
57 most recently amended by chapter 183 of the acts of 2006, and inserting in place thereof the
58 following section:-

59 Section 21. The mayor shall have power to appoint, subject to confirmation by the board of
60 aldermen the following officers and boards; provided, however, that pursuant to section 46B of
61 this charter, administrative orders may replace or modify such titles and departmental locations
62 of such functions to serve, except herein otherwise provided, for one year and until the
63 appointment and qualification of their successors: a city treasurer, who shall also be the collector

64 of taxes (in case of a vacancy, said office shall be filled for the unexpired term by the mayor
65 subject to like confirmation); a city auditor, for the term of three years from the date of his
66 appointment and until the qualification of his successor, (in case of a vacancy, said office shall
67 be filled for the unexpired term by the mayor, subject to like confirmation); a chief of police who
68 shall be appointed in the manner provided by ordinance and shall have an employment
69 agreement for a term of no more than 5 years, and all other officers and members of the police
70 department, a chief engineer and all other officers and members of the fire department; a city
71 attorney; a purchasing agent; a board of health; a board of trustees of the public library; a
72 commissioner of public works (for the term of the mayor); a city engineer, who may be the
73 commissioner of public works; a superintendent of streets; a superintendent of the division of
74 public buildings and grounds; a superintendent of inspectional services; a superintendent of
75 highways, electric lines and lights; a superintendent of water works; one poundkeeper of each
76 pound in the city; such number of constables as may be deemed advisable; a 311 director, special
77 police officers and all other officers and boards of the city whose election or appointment is not
78 otherwise provided for in this act. The officers and members of the police and fire departments
79 shall hold their respective offices during the pleasure of the mayor and board of aldermen and
80 until removed by them in the same manner in which they are appointed, or until their offices or
81 places are otherwise vacated. Nothing in this section shall be construed to conflict with the
82 provisions of chapter 197 of the acts of 1895 entitled "An Act to Provide for the Appointment of
83 a Reserve Police Force in the City of Somerville."

84 SECTION 31. Said title IV of said chapter 240 is hereby further amended by striking out section
85 27 and inserting in place thereof the following section:-

86 Section 27. In case of the inability of the mayor to perform the duties of his office, the president
87 of the board of aldermen shall, until such inability is removed, but in no case for a period of time
88 longer than ten days, exercise the powers and perform the duties of mayor, under the style of
89 acting mayor, except that he shall not, unless authorized thereto in a special instance by the board
90 of aldermen, and then only in case of exigency requiring an immediate appointment or removal,
91 make any permanent appointment or removal. In case of the inability of the mayor to perform the
92 duties of his office for a period of time exceeding ten days, but prior to a vacancy occurring as
93 provided in title 2, section 7 of the city charter, the acting mayor shall be elected by the board of

94 aldermen from amongst its membership by a majority vote of all its members. An acting mayor
95 chosen by majority vote of the board of aldermen shall have power to approve or disapprove any
96 ordinance, order, resolution or vote of the board of aldermen, and then only in case of exigency
97 requiring an immediate appointment or removal, make any permanent appointment or removal.
98 In case of such inability on the part of the president of the board of aldermen to serve as acting
99 mayor for the initial period of ten days, his powers and duties hereunder shall devolve upon the
100 vice-president of the board, and in case of such inability on the part of both the president and
101 vice-president such powers and duties shall devolve upon the president pro tempore of said
102 board.

103 SECTION 32. The first sentence of section 28 of title V of said chapter 240, as most recently
104 amended by section 2 of chapter 644 of the acts of 1977, is hereby further amended by striking
105 out the words “The management and control of public schools including school buildings shall
106 be vested in a school committee, which” and inserting in place thereof the following words:-
107 The school committee.

108 SECTION 33. Said title V of said chapter 240 is hereby further amended by striking out section
109 30 and inserting in place thereof the following section:-

110 Section 30. The school committee shall from time to time make rules for its proceedings. A
111 majority of all the members of the committee shall constitute a quorum for the transaction of
112 business. It shall annually appoint a superintendent of schools, who shall also be its secretary
113 but who shall not be one of its members.

114 SECTION 34. The first sentence of section 32 of title VI of said chapter 240 is hereby amended
115 by striking out the words “, except license fees and other monies the collection of which is
116 provided by law”.

117 SECTION 35. Section 34 of said title VI of said chapter 240 is hereby amended by striking out
118 the word “solicitor” and inserting in place thereof the following word:- attorney .

119 SECTION 36. Said title VI of said chapter 240 of the acts of 1899 is hereby further amended by
120 striking out section 35.

121 SECTION 37. The first sentence of subsection (c) of said section 36 of said title VI of said
122 chapter 240, as most recently amended by said section 1 of said chapter 23, is hereby further
123 amended by striking out the words “shall have all the powers and perform all the duties
124 imposed upon them” and inserting in place thereof the following words:- shall exercise the
125 powers conferred and discharge the duties imposed upon them by law.

126 SECTION 38. The first sentence of subsection (g) of said section 36 of said title VI of said
127 chapter 240, as most recently amended by said section 1 of said chapter 23 of the acts of 1985,
128 is hereby further amended by inserting, after the word “rule” the following words:- or
129 otherwise required by law.

130 SECTION 39. The second sentence of said subsection (g) of said section 36 of said title VI of
131 said chapter 240, as most recently amended by said section 1 of said chapter 23, is hereby
132 further amended by striking out the words “, at least forty eight hours in advance of the time set
133 for such meeting” and inserting in place thereof the following words:- and posted as required
134 by law.

135 SECTION 40. Said subsection (g) of said section 36 of said title VI of said chapter 240, as
136 most recently amended by said section 1 of said chapter 23, is hereby further amended by
137 striking out the last sentence.

138 SECTION 41. Said title VI of said chapter 240, is hereby further amended by striking out
139 section 37, as established by chapter 26 of the acts of 1923.

140 SECTION 42. Section 38 of said title VI of said chapter 240 is hereby amended by striking out
141 the fourth sentence.

142 SECTION 43. Said title VI of said chapter 240 is hereby further amended by striking out section
143 40A.1 as inserted by section 4 of chapter 644 of the acts of 1977.

144 SECTION 44. Said title VI of said chapter 240 is hereby further amended by striking out section
145 40A.2 as inserted by section 5 of said chapter 644.

146 SECTION 45. Said title VI of said chapter 240 is hereby further amended by striking out
147 section 43 and inserting in place thereof the following section:-

148 Section 43. Purchasing Agent to Make All Purchases.

149 The purchasing agent shall, subject to section 46A of the charter and the General Laws, make
150 all purchases for the respective departments.

151 SECTION 46. The first sentence of section 44 of said title VI of said chapter 240 is hereby
152 amended by striking out the words “several administrative boards and officers named in this
153 title having charge of departments shall, subject to the approval of the mayor” and inserting in
154 place thereof the following words:-mayor shall .

155 SECTION 47. Title VII of said chapter 240, as amended by chapter 201 of the acts of 1993, is
156 hereby further amended by inserting after section 46A, the following section:-

157 Section 46BB. Organization of City Agencies.

158 The organization of the city into operating agencies for the provision of services

159 and the administration of the government as described in various provisions of this charter or as
160 approved by several acts of the General Court may be accomplished only through an
161 administrative order filed with the board of aldermen by the mayor. No administrative order may
162 originate with the board of aldermen. The mayor may, subject only to express prohibitions in a
163 general law or this charter, propose to reorganize, consolidate or abolish any city agency, in
164 whole or in part, or to establish such new city agencies as is deemed necessary, but no function
165 assigned by this charter to a particular city agency may be discontinued, but may be assigned to
166 any other city agency by administrative order.

167 (b) The mayor may from time to time prepare and submit to the board of aldermen
168 administrative orders that establish operating divisions for the orderly, efficient or convenient
169 conduct of the business of the city. All ordinances addressing the organization and operation of
170 town departments, agencies, boards, commissions, and offices may be modified, revised,
171 repealed, or otherwise addressed in such administrative orders. Orders may provide for the
172 combination, separation, creation, or dissolution of any departments, provided that all essential
173 city functions are assigned to a department, board, commission or office, however constituted.

174 Such administrative orders shall be accompanied by a message of the mayor which explains
175 the benefits expected to ensue and advises the board of aldermen if any provision of an

176 administrative order shall require amendments, insertions, revisions, repeal or otherwise of
177 existing ordinances.

178 Whenever the mayor proposes an administrative order, the board of aldermen shall hold one
179 or more public hearings on the proposal giving notice by publication in a local newspaper, which
180 notice shall describe the scope of the proposal and the time and place at which the public hearing
181 will be held, not less than 7 nor more than 14 days following said publication. An organization or
182 reorganization plan shall become effective upon a two-thirds vote of the board of aldermen to
183 approve the plan. The board of aldermen may vote only to approve or to disapprove the plan and
184 may not vote to amend or to alter it.

185 SECTION 48. The third sentence of said section 46C of said title VII of said chapter 240, is
186 hereby amended by striking out the word “therefor” and inserting in place thereof the following
187 word:- therefore .

188 SECTION 49. Said title VII of said chapter 240 is hereby further amended by striking out
189 section 49.

190 SECTION 50. Said title VII of said chapter 240 is hereby further amended by striking out
191 section 52 and inserting in place thereof the following section:-

192 Section 52. Nothing herein shall affect the enforcement of the state’s civil service laws.

193 SECTION 51. Section 53 of said title VII of said chapter 240 is hereby amended by striking out
194 the second sentence.

195 SECTION 52. Said title VII of said chapter 240 is hereby further amended by striking out
196 section 55.

197 SECTION 53. Article I of the city of Somerville charter appendix is hereby amended by
198 striking out section 1 and inserting in place thereof the following section:-

199 Section 1. There shall be a board of appeals with all the powers and duties accorded to it by
200 chapter 40A of the General Laws.

201 SECTION 54. Said article I of the city of Somerville charter appendix is hereby further
202 amended by striking out section 2.

203 SECTION 55. The first sentence of section 1 of article II of the charter appendix is hereby
204 amended by striking out the words “the provisions of Section twenty seven of Chapter forty of
205 the General Laws, as affected by Chapter forty-nine of the Acts of nineteen hundred and
206 twenty-eight” and inserting in place thereof the following words:- chapter 40A of the General
207 Laws.

208 SECTION 56. Article IV of the city of Somerville charter appendix is hereby amended by
209 striking out section 1, as inserted by section 1 of chapter 82 of the acts of 1928.

210 SECTION 57. Section 2 of said article IV of the charter appendix, as established by chapter 82
211 of the acts of 1928, is hereby amended by inserting before the first sentence the following
212 sentence:- There shall be a board of election commissioners.

213 SECTION 58. Section 3 of said article IV of the charter appendix, as most recently amended by
214 chapter 178 of the acts of 1929, is hereby amended by striking out the first sentence and
215 inserting in place thereof the following sentence:- The members of the board of election
216 commissioners shall serve until the expiration of their respective terms and until their
217 successors are qualified.

218 SECTION 59. Section 5 of said article IV of the charter appendix, as most recently amended by
219 chapter 82 of the acts of 1928, is hereby amended by striking out the text and inserting in place
220 thereof the following text:- The board of election commissioners shall oversee the conduct of
221 elections pursuant to state law and regulation, and the provisions of this charter, as applicable,
222 except for the power and duty of fixing the days and hours and places for holding municipal
223 elections.

224 SECTION 60. Section 6 of said article IV of the charter appendix, as most recently amended
225 by said chapter 82 of the acts of 1928, is hereby amended by striking out the text and inserting
226 in place thereof the following text:- The mayor may appoint such assistant commissioners and
227 such other assistants as the mayor deems necessary, who shall at all times equally represent the
228 2 leading political parties as defined as aforesaid.

229 SECTION 61. Said article IV of the charter appendix is hereby further amended by striking out
230 section 7, as inserted by section 7 of said chapter 82 of the acts of 1928.

231 SECTION 62. Article V of the charter appendix is hereby amended by striking out sections 1 to
232 11, inclusive, as established by chapter 394 of the acts of 1938.

233 SECTION 63. Said article V of the charter appendix, as amended by said chapter 394, is hereby
234 further amended by striking out the words “Section 12” and inserting in place thereof the
235 following words:- Section 1.

236 SECTION 64. Said article V of the charter appendix is hereby further amended by striking out
237 section 13, as inserted by section 8 of said chapter 394 of the acts of 1938.

238 SECTION 65. Section 2 of article VI of the charter appendix, as established by chapter 281 of
239 the acts of 1932, is hereby amended by striking out the words “in said section ten (section 14 of
240 this article)”.

241 SECTION 66. Said section 2 of said article VI of the charter appendix, as established by said
242 chapter 281, is hereby further amended by striking out the words “ , held as provided by section
243 three (sections 3 through 6 of this article) [and] the nomination paper therein described” .

244 SECTION 67. Section 15 of said article VI of the charter appendix, as inserted by section 11 of
245 said chapter 281, is hereby amended by striking out the word “Act” and inserting in place
246 thereof the following word:- section .

247 SECTION 68. Said article VI of the charter appendix is hereby further amended by striking out
248 section 17, as inserted by section 13 of said chapter 281.

249 SECTION 69. Article VII of the charter appendix is hereby amended by striking out section 5,
250 as inserted by section 2 of chapter 397 of the acts of 1978, and inserting in place thereof the
251 following section:-

252 Section 5. Traffic Department Staff; qualifications; removal.

253 A member of the traffic department staff shall be a traffic engineer, possessing the qualifications
254 required for associate or full membership in the Institute of Traffic Engineers and the position of

255 traffic engineer shall not be subject to chapter 31 of the General Laws. The traffic director shall
256 be appointed and may be removed in the same manner set forth for the suspension and removal
257 of officers confirmed by the board of aldermen.

258 SECTION 70. Subsection (a) of section 8 of said article VII, as most recently amended by
259 chapter 285 of the acts of 2002, is hereby further amended by adding the following sentence:- A
260 copy of the public notice shall be provided to the members of the Board of Aldermen at the time
261 of publication thereof.

262 SECTION 71. Said article VII of the charter appendix is hereby further amended by striking out
263 section 11, as inserted by section 6 of chapter 397 of the acts of 1978.

264 SECTION 72. Said article VII of the charter appendix is hereby further amended by striking out
265 section 12, as inserted by section 7 of said chapter 397.

266 SECTION 73. All general or special laws pertaining to the city of Somerville that are in force
267 on the effective date of this act, and not repealed by this act, shall continue in full force and
268 effect until amended or repealed or until expiration, by their own limitation. Where provisions
269 of the Somerville Charter conflict with any city ordinances, rules, regulations, orders, or special
270 acts or acceptances of laws, the charter provisions shall govern. All provisions of city
271 ordinances, rules, regulations, orders and special acts not superseded by this act amending the
272 charter of the city of Somerville shall remain in force.

273 All agencies of the city of Somerville shall continue to perform their duties until re-
274 elected, reappointed or until successors to their respective positions are duly appointed or
275 elected, or until their duties have been transferred and assumed by another city agency.

276 SECTION 74. This act shall take effect upon its passage.