

Division 1 – SOMERVILLE CITY CHARTER¹¹

Footnotes:

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Editor's note— The Charter of the City of Somerville is printed in this part and is Chapter 240, Acts of 1899, as amended. All amendments to Chapter 240 have been inserted in their proper places, and the repealed or amended provisions removed. The official citations of all amendments are enclosed in parentheses following each amended section, in chronological order. The absence of such a citation indicates that the provision remains as originally adopted. The numbers of the sections of the Charter are the official numbers. Catchlines have been added to the sections of the Charter to facilitate usage and are enclosed by brackets. Other material in brackets has been added where necessary for purposes of clarity.

State Law reference— City Charters, M.G.L.A. c. 43.

LETTER OF INTRODUCTION

To the Honorable Mayor and City Council:

On April 14, 1871 the Governor of the state approved Chapter 182 of the Acts of the Legislature for 1871. This act, adopted by the voters of the town April 27, 1871, established the City of Somerville and outlined the basic laws and regulations of the new city government.

This Charter of the City of Somerville remained in force until 1899 when at a special election held September 26th, the voters of the city accepted a revised Charter which the State Legislature authorized by Chapter 240 of the Acts of 1899.

The Revised Charter of 1899 is still the basic law for the city. However, since that time, the State Legislature has authorized and the city has accepted several amendments to the Revised Charter.

The accompanying copy of the Revised Charter has incorporated all authorized changes through the publication of this most recent Supplement. No changes can be made in these laws without specific authority from the State Legislature.

An Appendix has been included which cites several additional acts of the State Legislature, as amended which, although not direct amendments to the Charter, lay down basic requirements for our city government. These acts are included here to give a more comprehensive picture of the city's basic laws as well as facilitate research and reference.

Yours truly,

John J. Long
City Clerk

TITLE 1. - MUNICIPAL GOVERNMENT

Sec. 1. - Incorporation.

The inhabitants of the City of Somerville shall continue to be a municipal corporation, under the name of the City of Somerville, and as such shall be subject to all general laws relating to such corporations not inconsistent with the provisions of this Act.

Sec. 2. - Form of government.

The administration of the fiscal, prudential and municipal affairs of said city shall be vested in an executive department, to consist of the mayor, and a legislative department, to consist of a single body, to be called the city council. The executive department shall never exercise any legislative power, and the legislative department shall never exercise any executive power.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 3. - Seven wards established.

It shall be the duty of the city council in joint convention, as soon as may be after the acceptance of this Act, to divide said city into seven wards, containing as nearly as possible and as may be consistent with well-defined limits to each ward an equal number of ~~male~~ voters. In order that the new wards may conform to the present representative districts, the present ward one shall constitute one ward, and the present wards two, three and four shall each be divided into two wards. Immediately after such new division of the city into wards, the city council shall divide such new wards into voting precincts, none of which shall contain more than one thousand registered ~~male~~ voters, and the mayor shall thereupon appoint, with the approval of the city council, election officers to serve therein. Action under this section shall not apply to the state election to be held the present year.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

TITLE 2. - ELECTIONS AND MEETINGS

Sec. 4. - Elections generally.

Except as herein otherwise provided, all elections for national, state, county, district and municipal officers, and for any other municipal purposes, shall be called and conducted according to the provisions of the General Laws of the Commonwealth; provided, however, that municipal elections shall be held in the City of Somerville, according to Chapter 281, Acts of 1932, as amended.

(Acts 1932, Chapter 281, accepted by voters Nov. 8, 1932.)

Sec. 5. - Date of municipal elections.

The biennial municipal election shall take place on the Tuesday next after the first Monday of November in the year nineteen hundred and twenty-five and every second year thereafter. The municipal year shall begin on the first Monday of January in each year.

(Special Acts 1919, Chapter 98, accepted by voters Nov. 4, 1919; Acts 1924, Chapter 123, accepted by the Board of Aldermen and approved by Mayor June 13, 1924.)

Sec. 6. - Certain officers to be elected by ballots.

At such municipal election the qualified voters shall give in their votes by ballot for a mayor and members of the city council and of the school committee, or for such of them as are to be elected. 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 and including the number required to be chosen, receiving the highest number of votes shall be deemed and declared to be elected.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 7. - Filling of vacancies.

If 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 the office shall occur five months or more prior to any regular municipal election, the city council shall immediately order a special election and the same proceedings shall be had in all respects as are provided for the election of a mayor under this charter and shall be repeated until the election of a mayor is completed. If the vacancy in the office of mayor shall occur less than five months prior to any regular municipal election, it shall be filled by the city council from amongst its members by a majority vote of all its members.

If the full number of members in the office of councilor-at-large has not been elected, or if a vacancy occurs in the office of councilor-at-large for any cause, the city clerk shall within five calendar days notify the city council and the chairperson of the board of election commissioners of the vacancy. Within five calendar days after notification, the chairperson of the board of election commissioners or a designee shall certify, in writing, to the city clerk that the defeated candidate for the office of councilor-at-large with the next highest number of votes at the regular municipal election at which councilors-at-large were elected for the term in which the vacancy occurs shall serve as councilor-at-large. If the person is eligible and willing to serve, the city clerk shall administer the oath of office to the person within 15 calendar days after certification and the person shall serve for the remainder of the unexpired term. If the person who is

eligible declines the office, is not eligible and willing to serve or fails to take the oath of office within the time period set forth in this section, then the person with the next highest number of votes at the election who is eligible and willing to serve shall fill the remainder of the unexpired term in the manner set forth in this section. If there is no defeated candidate eligible and willing to serve who has taken the oath of office and the vacancy occurs more than 180 days prior to any regular municipal election, the city council shall immediately order a special election to fill the vacancy for the remainder of the unexpired term.

If the full number of members in the office of councilor elected by ward has not been elected or if a vacancy occurs in the office of councilor elected by ward for any cause more than 180 days prior to any regular municipal election, the city council shall immediately order a special election to fill the vacancy for the remainder of the unexpired term.

If a vacancy occurs 180 days or less prior to any regular municipal election in the office of councilor-at-large, for which there is no defeated candidate eligible and willing to serve and who has taken the oath of office, or in the office of councilor elected by ward for any cause then the person elected at the next regular municipal election for the office shall fill the vacancy for the remainder of the unexpired term and the city clerk shall administer the oath of office to the person at the next meeting of the city council.

(Special Acts 1919, Chapter 98, accepted by voters Nov. 4, 1919; Acts 1946, Chapter 167, approved March 28, 1946; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Special Acts 2014, Chapter 90](#), approved May 1, 2014. [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 8. - General meetings of qualified voters.

General meetings of the citizens qualified to vote may from time to time be held, according to the right secured by the constitution of the Commonwealth, and all such meetings may, and upon the request in writing of fifty qualified voters setting forth the purposes thereof, shall be called by the city council.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 9. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 has superseded section 9 of this Charter.

TITLE 3. - LEGISLATIVE DEPARTMENT

Sec. 10. - City council—Composition; election; terms.

The city council shall be composed of eleven members, to be elected as follows: four councilors at large shall biennially be elected by the qualified voters of the city at large, voting in their respective wards, and one councilor shall at the same time be elected by and from the qualified voters of each ward. The members of the city council shall hold office for the two municipal years next following their election, or, if elected after the regular municipal election, for the remainder of the two municipal years, following such regular municipal election and until a majority of the new council shall be elected and qualified in their stead.

(Special Acts 1919, Chapter 98, accepted by voters Nov. 4, 1919; Acts 1930, Chapter 50, approved Feb. 21, 1930; Acts 1934, Chapter 298, accepted biennially be elected by the qualified voters of the city at large, voting in their respective wards, and one councilor shall at the same time be elected by and from the qualified voters of each ward. The members of the board by voters Nov. 6, 1934; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 11. - Same—Rules for proceedings; quorum; salaries.

The city council shall make rules for its proceedings. A majority of the members of the board shall constitute a quorum for the transaction of business. The city council may, by a 2/3 vote of all its members taken by a call of the yeas and nays, establish a salary for its members. Such salary may be reduced at any time by a similar vote.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Editor's note— See M.G.L.A. ch. 39, § 6A.

(Acts 1927, Chapter 47, accepted by voters Nov. 8, 1927; Acts 1936, Chapter 330, accepted by voters Nov. 3, 1936; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 12. - Oath of office of mayor and councilors.

The mayor-elect and councilors-elect shall on the first Monday of January following the regular municipal election, meet and be sworn to the faithful performance of their duties. The oath shall be administered by the city clerk, or by any justice of the peace, and shall be duly certified on the journal of the city council. At any time thereafter the oath may be administered to the mayor-elect or to any councilors-elect who was absent or who was not then elected.

(Special Acts 1915, Chapter 218, approved March 25, 1915; Special Acts 1919, Chapter 98, accepted by voters Nov. 4, 1919; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 13. - Organization of city council.

On the first Monday of January in each year the city council shall meet and elect a president and a vice-president who shall hold office during the municipal year. The mayor, or in ~~his-the mayor's~~ absence the oldest in age of the members present, shall call the city council together, and shall preside until a president is elected, who shall thereafter preside over the ~~board~~council. The vice-president shall preside in the absence of the president. At any meeting of the ~~board~~council, in the absence of the president and vice-president, the oldest in age of the members present shall preside until a president pro-tempore is elected. The city clerk shall be clerk of the city council.

(Special Acts 1919, Chapter 98, accepted by voters Nov. 4, 1919; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 14. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 has superceded section 14 of this Charter.

Sec. 15. - Passage of ordinances, orders and resolutions.

Any ordinance, order or resolution of the city council may be passed through all its stages of legislation at one session; provided that no member of said council objects thereto; but if one or more members object, the measure shall be postponed for that meeting; and if when it is next brought up three or more members object to its passage at that meeting, a second postponement of at least one week shall take place.

(Acts 1938, Chapter 104, accepted by the Board of Aldermen and approved by Mayor April 2, 1938; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 16. - Certain ordinances, etc., to be approved by mayor; mayor's veto power.

Every ordinance, order, resolution or vote of the city council, except such as relates to its own internal affairs, shall be presented to the mayor. If ~~he-the mayor~~ approves thereof, ~~the mayor~~ shall signify ~~his~~ approval by signing the same; but if not ~~the mayor~~ shall return the same with ~~allhis~~ objections to the city council, which shall enter the objections of the mayor at length upon its records and proceed to reconsider said ordinance, order, resolution or vote, and if after such reconsideration two-thirds of all the members of the ~~council~~board vote to pass the same it shall be in force. In all such cases the vote shall be taken by yeas and nays. If such ordinance, order, resolution or vote shall not be returned within ten days after it has been presented to the mayor the same shall be in force. ~~The mayor~~He may except from ~~thehis~~ approval of any ordinance, order, resolution or vote which ~~the mayor~~he has the power to veto any part involving a distinct item of appropriation of expenditure, and in such case only the part so excepted shall be reconsidered in the manner and with the effect above provided. The veto power of the mayor shall not extend to elections.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 17. - Powers and duties of city council.

- (a) The city council shall, except as is otherwise provided in this charter, have and exercise the powers and duties set forth in this section.
- (b) The city council shall have all the powers, authorities and duties of towns, boards of aldermen, city councils and common councils of cities under the General Laws; provided, however, that all appointments required by law to be made by the mayor ~~and aldermen~~ shall be made by the mayor, subject to confirmation by the city council.
- (c) The city council shall have all the powers, authorities and duties now held by the city of Somerville, the city council, the common council, the board of aldermen or the board of mayor and aldermen of Somerville, by special laws.
- (d) Subject to the veto power of the mayor, as provided in this charter, the city council shall have the power, without appeal from its decision, to lay out, locate anew, alter, widen and discontinue public ways and streets and to order specific repairs or a change of grade therein; to order the construction of sidewalks and of sewers and to take real estate therefore. Any such taking shall be made under chapter 79 of the General Laws, and any person injured in the person's real estate by acts done by the council hereunder may recover damages under said chapter 79. No public way or street shall be laid out, located anew, changed as to grade or otherwise, widened or discontinued, until a public hearing has been held after notice given in accordance with the General Laws relating to public ways. Said hearing may be adjourned from time to time.
- (e) The city council shall have the power to make ordinances and to affix penalties for the violation thereof. The penalty for the violation of any ordinance, rule or regulation adopted or issued in pursuance thereof shall be a fine of not more than \$300 for each offense; provided, however, that when a higher penalty is permitted by the General Laws, such higher penalty shall be the maximum for each offense.

(Acts 1938, Chapter 268, approved May 5, 1938; Acts 1973, Chapter 949, accepted March 14, 1974 by the Board of Aldermen; Acts 1988, Chapter 171; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 18. - Appropriations for expenditures.

On or before the thirtieth day of April in each year the city council shall appropriate the amount necessary to meet the expenditures of the city for the current municipal year, and to provide the ways and means for raising the same. It shall take care that no money be paid from the treasury unless the same is granted or appropriated, and shall require bonds with sufficient penalties and sureties from all persons entrusted with the receipt, custody and disbursement of money. All votes of city council making appropriations of money shall show the specific objects for which the appropriations are made.

(Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 18A. - Disqualification from serving.

An elected official who has been convicted of a state or federal felony shall, upon final conviction, be deemed to have vacated that office and shall be disqualified from serving the remainder of the term.

(Acts 2012, Chapter 400, approved Jan. 3, 2013.)

Sec. 19. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 superseded section 19 of this Charter.

TITLE 4. - EXECUTIVE DEPARTMENT

Sec. 20. - Mayor; vested with executive powers; term of office.

The executive powers of the city shall be vested solely in the mayor, and may be exercised ~~by him~~ ~~them~~ either personally or through the several officers and boards in their respective departments, under ~~his~~ ~~their~~ ~~mayor's~~ general supervision and control. In case of a vacancy in any office to which appointment is made by the mayor, ~~the~~ ~~mayor~~ may personally perform the duties thereof, but ~~he~~ shall not be entitled to receive any salary or pay attached thereto. The mayor shall hold office for the two municipal years beginning with the first Monday in January following ~~his~~ ~~the~~ ~~mayor's~~ ~~is~~ election, unless sooner removed,

and until ~~his~~ a successor is elected and qualified; provided, that if elected to fill an existing vacancy, ~~he~~ the mayor shall hold office only for the remainder of the unexpired term.

(Special Acts 1919, Chapter 98, accepted by voters November 4, 1919.)

Sec. 21. - Mayor to appoint certain officers and boards.

The mayor may appoint, subject to confirmation by the city council, the following officers and boards; provided, however, that under section 46D of this charter, administrative orders may replace or modify the titles or assign the functions to any other city agency, unless otherwise provided, for 1 year and until the appointment and qualification of a successor: (i) a city treasurer, who shall also be the collector of taxes and in case of a vacancy, the office shall be filled for the unexpired term by the mayor, subject to confirmation; (ii) a city auditor, for a term of 3 years, from the date of the appointment until the qualification of a successor, and in case of a vacancy, the office shall be filled for the unexpired term by the mayor, subject to like confirmation; (iii) a chief of police, who shall be appointed in the manner provided by ordinance and shall have an employment agreement for a term of not more than 5 years, all other officers and members of the police department, a chief engineer and all other officers and members of the fire department; (iv) a city attorney; (v) a purchasing agent; (vi) a board of health; (vii) a board of trustees of the public library; (viii) a commissioner of public works, who shall serve for the term of the mayor; (ix) a city engineer, who may be the commissioner of public works; (x) a superintendent of the division of public buildings and grounds; (xi) a superintendent of inspectional services; (xii) a superintendent of highways, electric lines and lights; (xiii) a superintendent of water works; (xiv) 1 animal control officer of each public animal control facility in the city; (xv) the number of constables as may be deemed advisable; and (xvi) a 311 director, special police officers and all other officers and boards of the city whose election or appointment is not otherwise provided for in this charter. The executive officers shall hold their respective offices at the pleasure of the mayor and until removed by the mayor and city council in the same manner in which the officer was appointed or until the offices are otherwise vacated. Nothing in this section shall be construed to conflict with chapter 197 of the acts of 1895.

(Acts 1934, Chapter 294, accepted by voters Nov. 6, 1934; Acts 1934, Chapter 295, accepted by voters Nov. 6, 1934; Acts 1949, Chapter 234, approved April 29, 1949; Acts 1949, Chapter 474, approved July 1, 1949; Acts 1953, Chapter 650, accepted by voters Nov. 3, 1953; Acts 1985, Chapter 486, approved November 12, 1985; Acts 1986, Chapter 368, approved August 6, 1986; Acts 2006, Chapter 183, approved July 27, 2006; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 22. - Appointment of person to examine books and accounts.

The mayor may at any time appoint a suitable person or persons to examine, without notice, the books and accounts of any department, officer, or employee of the city.

Sec. 23. - Suspension and removal of officers.

The mayor may in writing suspend any executive officer, and ~~he they~~ shall at once report ~~that~~~~their~~~~his~~ action and ~~the~~~~ir~~~~his~~ reason therefor to the city council. The suspension of any such officer shall, unless previously revoked by the mayor, be a removal at the expiration of fifteen days after said report is made, unless within that time such officer asks for a hearing before the council, which hearing shall forthwith be granted. If within one week after the conclusion of such hearing the council, by two-thirds vote, shall set aside the suspension, the officer shall thereby be reinstated; otherwise the suspension shall constitute a final dismissal from office.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 24. - Mayor may call special meetings of the city council.

The mayor shall communicate to the city council such information and shall recommend such measures as in ~~his~~ ~~the mayor's~~ ~~ir~~ judgment the interests of the city require. ~~He~~ ~~The mayor~~ may at any time call a special meeting of the city council, upon such notification as ~~he~~ ~~the mayor~~ may deem sufficient, and other special meetings of said council may be called at such times and in such manner as may be prescribed by the rules of said council.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 25. - Mayor to enforce laws, ordinances, etc.; appointment of secretary authorized.

The mayor shall cause the laws, ordinances and orders for the government of the city to be enforced, and shall cause a record of all ~~his the mayor's~~ official acts to be kept, and for that purpose and to aid ~~him them in his accomplishing the~~ official duties ~~the mayor~~ he may appoint a secretary and define ~~his the secretary's~~ duties; and, subject to the approval of the city council, shall fix the salary of the secretary. No increase in the salary of the mayor shall take effect in the calendar year in which it is voted.

(Acts 1982, Chapter 656, approved Jan. 5, 1983; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 26. - Mayor to have sole power to sign, execute, etc., deeds, leases, contracts, etc.

The mayor shall have the sole power to sign, seal, execute and deliver in behalf of the city, deeds and leases of land sold or leased by the city, and other deeds, agreements, contracts, leases, indentures and assurances on behalf of the city.

(Acts 1932, Chapter 308, approved June 7, 1932.)

Sec. 27. - Acting mayor authorized when mayor unable to perform duties.

In case of the inability of the mayor to perform the duties of the office, the president of the city council shall, until such inability is removed, but in no case for a period of time longer than 10 days, exercise the powers and perform the duties of mayor, under the style of acting mayor; provided, however, that the president of the city council acting as mayor shall not, unless authorized in a special instance by the city council, and then only in case of exigency requiring an immediate appointment or removal, make any permanent appointment or removal. In case of the inability of the mayor to perform the duties of the office for longer than 10 days, but prior to a vacancy occurring under section 7 of this charter, the acting mayor shall be elected by the city council from amongst its membership by a majority vote of all its members. An acting mayor chosen by majority vote of the city council shall have power to approve or disapprove an ordinance, order, resolution or vote of the city council and then, only in case of exigency requiring an immediate appointment or removal, make a permanent appointment or removal. In case of such inability on the part of the president of the city council to serve as acting mayor for the initial period of 10 days, the powers and duties shall devolve upon the vice-president of the council, and in case of such inability on the part of both the president and vice-president such powers and duties shall devolve upon the president pro tempore of the council.

(Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

TITLE 5. - SCHOOL COMMITTEE

Sec. 28. - Composition; election; terms; vacancies.

The school committee shall exercise the powers conferred and discharge the duties imposed by law upon school committees. The committee shall consist of the mayor and the president of the city council, ex officials [ex officio], neither of whom shall serve as ~~chairman~~ ~~chairperson~~, and seven other members, elected as follows; one member shall be elected by and from the voters of each ward at each regular municipal election to serve for the term of two years next following. If a vacancy in the office of school committee ~~member~~ ~~man~~ shall occur one year or more prior to any regular municipal election, the city council shall forthwith order a special election, and the same proceedings shall be had in all respects as are hereinbefore provided for the election of such school committee ~~member~~ ~~man~~. But, if the vacancy in the office of school committee ~~member~~ ~~man~~ shall occur less than one year prior to any regular municipal election, it shall be filled for the remainder of the term by ballot of the remaining members of the school committee, the member so elected to be a qualified voter of the ward in the representation of which on said committee the vacancy exists.

(Acts 1904, Chapter 354, accepted by voters Nov. 8, 1904; Special Acts 1919, Chapter 98, accepted by voters Nov. 4, 1919; Acts 1930, Chapter 50, approved Feb. 21, 1930; Acts 1934, Chapter 297, accepted by voters Nov. 6, 1934; Acts 1935, Chapter 35, approved Mar. 2, 1935; Acts 1946, Chapter 167, approved Mar. 28, 1946; an act transferring the management and control of school buildings of the City of Somerville to the school committee of said city; Acts 1971, Chapter 1026, adopted by Board of Aldermen Nov. 11, 1971, Document No. 121243 not returned by the Mayor; Acts 1977, Chapter 644 was adopted by the Board of Aldermen and approved by the Mayor December 1,

1977 revoking Acts 1971, Chapter 1026 and providing for the transfer of the management and control of school buildings to the school committee; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 29. - Meetings; organization.

The school committee shall meet on the first Monday of January in each year and organize by the election by ballot of one of its members as ~~chairman~~chairperson. The oldest in age of the members present shall preside at all meetings until a ~~chairperson~~man is elected.

Sec. 30. - Rules for proceedings; quorum.

The school committee shall make rules for its proceedings. A majority of all the members of the committee shall constitute a quorum for the transaction of business. The committee shall annually appoint a superintendent of schools, who shall also be its secretary but shall not be a member of the school committee.

(Acts 2012, Chapter 400, approved Jan. 3, 2013.)

TITLE 6. - ADMINISTRATIVE OFFICERS

Sec. 31. - City clerk.

The city clerk shall have charge of all journals, records and documents of the city council, and attest all warrants. ~~He~~The city clerk shall be clerk of the city council, and shall keep a journal of all votes and proceedings. ~~The city clerk~~He shall perform such other duties as may be prescribed by the city council and ~~they~~he shall perform all the duties and exercise all the powers assigned by law to city clerks or town clerks, so far as such laws can apply to said city. In ~~the city clerk's~~his absence a clerk of the city council pro tempore shall be chosen, who shall be sworn to the faithful performance of ~~the city clerk's~~his duties.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 32. - City treasurer and collector of taxes.

The city treasurer and collector of taxes shall collect all moneys due the city. ~~The city treasurer and collector of taxes~~He shall have the custody of and pay out all moneys, and cause an accurate account of the same to be kept in proper bookkeeping form, and shall perform such other duties as the ordinances prescribe, ~~and; they~~he shall also perform all the duties and exercise all the powers assigned by law to city treasurers and collectors of taxes or town treasurers and collectors of taxes, so far as such laws can apply to said city.

(Acts 2012, Chapter 400, approved Jan. 3, 2013.)

Sec. 33. - City auditor.

The city auditor shall perform such duties as the ordinances prescribe.

Sec. 34. - City attorney.

The city attorney shall perform such duties as the ordinances prescribe.

(Acts 2012, Chapter 400, approved Jan. 3, 2013.)

Sec. 35. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 superseded section 35 of this Charter.

Sec. 36. - Board of assessors.

- (a) *Composition; term of office.* The board of assessors shall consist of three members. They shall be appointed by the mayor subject to the approval of the city council. Each assessor shall serve a three-year term. Their terms shall be staggered so that only one term elapses at the end of each year.

The ~~chairman-chairperson~~ of the board of assessors shall serve full-time ~~and. TheyHe~~ shall be nominated as chair~~personman~~ by the mayor at the time of ~~theirhis~~ appointment. ~~TheAs~~ chair~~personman~~ of the board~~he~~ shall also serve as the department head in the administration of the department.

The other two assessors shall serve part-time and constitute the other members of the board of assessors.

(b) *Qualifications.* The members of the board of assessors shall possess the following minimum qualifications before assuming their official duties: a bachelor's degree from an accredited four-year college or university with major course work in accounting, business or public administration, economics, statistics, real estate, computer science, engineering or mathematics and not less than three years of paid, full-time experience in the public or private sector where the primary task involved the assessment or appraisal of real property; provided, however, that possession of any one or more of the following certificates or memberships may be substituted for the bachelor's degree requirement:

- (1) Certified Massachusetts Assessor (CMA);
- (2) Certified Appraisal Evaluator (CAE);
- (3) Designated member of Society of Real Estate Appraisers (SREA);
- (4) Designated member of the American Institute of Real Estate Appraisers.

The provision of this paragraph may be waived by the mayor, with the approval of a two-thirds vote of the city council taken by a call of the yeas and nays, if the mayor determines that there is no reasonable expectation that qualified persons will be able and willing to accept appointment as an assessor, but in no case shall such a waiver be made for the position of ~~chairman-chairperson~~ of the board of assessors; provided, however, that a waiver granted pursuant to this paragraph shall be renewed annually. If such waiver is not sought by the mayor by the first regularly scheduled meeting of the city council in February, then that assessor shall cease to hold office. If the city council fail to act upon the request for waiver by the end of March, then that assessor shall cease to hold office. The waiver provided for herein shall be granted for not more than three consecutive times as to each person.

- (c) *Powers and duties.* The members of the board of assessors shall exercise the powers conferred and discharge duties imposed upon the board of assessors by law.
- (d) *Compensation of members.* The salary of members of the board of assessors shall be established by ordinance by the city council with the approval of the mayor.
- (e) *Quorum; voting.* A majority of the full board of assessors shall constitute a quorum. Every member of the board of assessors may vote on any question coming before it. The affirmative vote of at least two assessors (a majority of the assessors present and voting) shall be necessary for the approval of any matter, including, but not limited to, statutory and discretionary tax abatements.
- (f) *Rules.* The board of assessors shall, from time to time, establish, amend or alter rules for its proceedings.
- (g) *Meetings.* Regular meetings of the board of assessors shall be held at a time and place fixed by rule or otherwise required by law; provided, however, that at least one meeting shall be held each month. The ~~chairman-chairperson~~ of the board of assessors or any two members thereof may, at any time, call a special meeting by causing written notices, stating the time of holding such meeting and the subject to be acted upon, and signed by the members calling the same, to be delivered in hand to each member of the board of assessors or left at ~~his-their~~ usual dwelling place, and posted as required by law.
- (h) *Journal.* A full and accurate journal of the proceedings of the board of assessors shall be kept. Every matter which comes before the board of assessors for a vote shall be included in the journal.
- (i) *Roll call votes.* All final votes of the board of assessors on questions involving the abatement of taxes in the amount of one thousand dollars or more or the granting of any special tax agreement, or upon the request of one member of the board of assessors, shall be taken by a call of the yeas and nays and shall be entered upon the records.

- (j) *Filling of vacancies.* If a vacancy shall occur in the office of assessors at any time, the mayor shall, subject to confirmation by the city council, appoint a qualified person to fill such vacancy for the balance of the unexpired term.

Notwithstanding any election of assessors having occurred in November of nineteen hundred and eighty-one and in November of nineteen hundred and eighty-three, section one of this Act [subsections (a)—(j)] shall operate to dissolve the currently elected board of assessors and their terms of office and powers shall terminate on the sixtieth day after the effective date of this Act.

The first term of each assessor appointed pursuant to section one of this Act [paragraph (a)] shall be as follows:

- (1) The ~~chairman~~ chairperson shall be appointed for a full three-year term;
- (2) The two part-time assessors shall be appointed for a term of two years and one year, respectively and thereafter each assessor shall be appointed to a three-year term or to fill an unexpired three year term.

(Acts 1985, Chapter 23, approved April 9, 1985; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 37. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 superseded section 37 of this Charter.

Sec. 38. - Board of health.

As soon after the organization of the government as practicable the mayor shall appoint, subject to confirmation by the city council, three persons, who shall constitute the board of health, to serve, two for one year, and one for two years, and each year thereafter one to serve for the term of one year, and one for the term of two years. Vacancies occurring in the board may be filled in the same manner, but only for the unexpired term. At least one member of the board shall be a doctor of medicine. Said board may make rules not inconsistent with law, to govern the action of said inspectors. The board of health shall perform such duties as are prescribed by law and ordinance.

(Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 39. - Board of trustees of the public library.

The board of trustees of the public library shall consist of nine members, to be appointed by the mayor, subject to confirmation by the city council. As soon after the organization of the city government under this Charter as may be convenient, the mayor shall appoint three trustees to serve for the term of one year, three for the term of two years, and three for the term of three years, and each year thereafter the mayor shall appoint three trustees to serve for the term of three years. Vacancies occurring in the board may be filled in the same manner, but only for the unexpired term. Said trustees shall have the care and management of the public library.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 40. - Department of public works.

There shall be a department of public works which shall be under the direction and control of the commissioner of public works.

(Acts 1953, Chapter 650, accepted by voters Nov. 3, 1953.)

Sec. 40A. - Powers and duties of commissioner of public works.

The commissioner of public works shall have the direction and control of the construction, alteration, repair, maintenance and management of ways, streets, sidewalks and bridges; ~~he~~ shall have the powers and discharge the duties of surveyors of highways, the construction, alteration, repair and care of main drains and common sewers; the care, superintendence and management of public grounds and parks, including cemeteries; ~~he~~ shall make and have the custody of all plans, surveys, measurements and levels appertaining the public ways, drains, sewers, water works or lands; ~~he~~ shall have charge of the

construction, alteration, repair, maintenance and care of public buildings except school buildings; ~~he~~ shall have charge, so far as the rights of the city extend, of fire alarm and police signal systems and of trolley wires, of all gas pipes and street lighting; ~~he~~ shall have charge of the construction, extension, alteration, repair, care and management of the water works; and shall perform such other duties as the city council may direct.

(Acts 1953, Chapter 650, accepted by voters Nov. 3, 1953; an act transferring the management and control of school buildings of the City of Somerville to the school committee of said city; Acts 1971, Chapter 1026, adopted by Board of Aldermen Nov. 11, 1971, Document No. 121243 not returned by the Mayor; Acts 1977, Chapter 644, adopted by the Board of Aldermen Nov. 29, 1977 and approved by the Mayor Dec. 1, 1977; [Acts 2018, Chapter 355](#) , approved Jan. 1, 2019.)

Sec. 40B. - Appointment of commissioner of public works.

The mayor shall, subject to the approval of the city council, appoint a commissioner of public works who may also be the city engineer of said city, and shall hold office during the term of the mayor and until ~~his~~ the mayor's successor is appointed.

(Acts 1953, Chapter 650, accepted by voters Nov. 3, 1953; [Acts 2018, Chapter 355](#) , approved Jan. 1, 2019.)

Sec. 40C. - Divisions within department of public works—Established.

There shall be within the department of public works the following divisions:

- (1) division of highways, electric lines and lights;
- (2) division of engineering;
- (3) division of waterworks; and
- (4) division of buildings and grounds.

Existing divisions may be eliminated or new divisions created as may be considered necessary by the mayor with the approval of the city council.

Each division of the department of public works shall have the management and control of those duties as may be determined by the commissioner of public works or by the city council.

(Acts 1953, Chapter 650, accepted by voters Nov. 3, 1953; Acts 2008, Chapter 112; [Acts 2018, Chapter 355](#) , approved Jan. 1, 2019.)

Sec. 40D. - Same—City engineer, superintendents to control.

There shall be a superintendent of the division of highways, electric lights and lines; a city engineer; a superintendent of the division of waterworks; a superintendent of the division of buildings and grounds; and a supervisor of school facilities and energy conservation. The city engineer and the superintendents of the various divisions shall have charge of their respective divisions under the direction of the commissioner of public works.

The mayor shall annually appoint, subject to the confirmation of the city council, a superintendent of the division of highways, electric lights and lines; a city engineer who may also be the commissioner of public works; a superintendent of waterworks; an operations manager of waterworks; a 311 director; a superintendent of the division of buildings and grounds; and a supervisor of school facilities and energy conservation.

(Acts 1953, Chapter 650, accepted by voters November 3, 1953; Acts 1988, Chapter 94.; Acts 2008, Chapter 112)

Sec. 41. - Superseded.

Editor's note— Chapter 650 of the Acts of 1953 has superseded section 41 of this Charter.

Sec. 42. - Security required for excavations of streets and sidewalks.

The commissioner of public works may require that no person or corporation, other than an officer or agent of the city, authorized by the city council to dig up any public street or sidewalk in said city shall

begin such digging before furnishing to said commissioner security satisfactory to ~~him~~ said commissioner to restore such street or sidewalk to its former condition.

(Acts 1953, Chapter 650, accepted by voters Nov. 3, 1953; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 43. - Purchasing agent to make all purchases.

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

(Acts 1932, Chapter 308, approved June 7, 1932; Acts 1985, Chapter 486, approved November 12, 1985; Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 44. - Mayor may appoint, discharge, etc., employees.

The mayor shall appoint, employ, and discharge, at pleasure, all subordinate officers, clerks assistants and laborers in their respective departments, and shall have the immediate direction and control of all executive and administrative business therein. They shall at all times be accountable to the mayor for the proper discharge of their duties.

(Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 45. - Terms of appointed officers.

All officers required by this Act or by General Law to be appointed by the mayor or by the mayor and councilors shall be appointed as soon as practicable after the mayor and a majority of the councilors have been qualified and shall, unless sooner removed, hold their respective offices for the length of time prescribed by law, or the portion thereof then remaining, beginning on the first Monday in January of the year in which they are respectively appointed and until their respective successors are appointed and qualified. This section shall not apply to the appointment of election officers.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

TITLE 7. - GENERAL PROVISIONS

Sec. 46. - Estimate of expenses of departments, boards.

The heads of departments and all other officers and boards whose duties involve the expenditure of public money shall annually in the month of January or February, present to the mayor an itemized estimate of the money required for their respective departments or offices during the current financial year, who shall examine and submit the same, with ~~his~~ the mayor's recommendation for appropriations, to the city council during the month of February or March.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 46A. - Certain contracts to be accompanied by bond; meet other requirements.

All contracts made by a department, board or commission of the city shall comply with section 17 of chapter 30B of the General Laws. A contract required to be in writing shall not be deemed executed until signed by the mayor and the head of the department, board or commission making the contract. When contracts are required to be in writing under said section 17 of said chapter 30B, contracts for supplies, services and construction may be subject to additional signature requirements under applicable city ordinances. All contracts may be required to be accompanied by a bond with sureties, a deposit of money, certified check or other security for the faithful performance thereof, satisfactory to the procurement officer, department head or commission. Said security shall be deposited with the city treasurer. No such contract shall be altered except by written agreement of the contractor, the procurement officer or department head making the contract, with the approval of the mayor affixed thereto.

(Acts 1932, Chapter 308, approved June 7, 1932; an act further regulating the awarding of certain contracts by the City of Somerville, Acts 1971, Chapter 972, adopted by the Board of Aldermen Dec. 21, 1971, Document No. 121276 not returned by the Mayor; Acts 1980, Chapter 217; Acts 1985, Chapter 486, approved Nov. 15, 1985; Acts 1993, Chapter 201, approved Oct. 28, 1993; Acts 2016, Chapter 340, approved Dec. 22, 2016.)

Editor's note— Section 1 of Acts 1993, Chapter 201 amended § 46A to read as set out above and repealed § 46B. The subject matter of new § 46A is the same as that of former § 46B; therefore, the editor has retained the history note of former § 46B for the new § 46A. Former § 46A required bids for certain contracts, purchases, etc. In addition to the legislation included in the history note to this section, former § 46A was also amended by Acts 1936, Chapter 183, accepted by the voters Nov. 2, 1937.

Sec. 46B. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 superseded section 46B of this Charter.

Sec. 46C. - City auditor to certify contract appropriations.

No contract or order for the performance of labor or for the purchase of apparatus, supplies or materials except in cases of special emergency involving the health or safety of the people or their property, shall be awarded by the city unless and until the city auditor has certified on said contract or order that there is an unencumbered balance in the appropriation chargeable therefore sufficient to cover the cost of said labor, apparatus, supplies or materials, as the case may be.

(Acts 1937, Chapter 353, approved May 26, 1937; an act further regulating the awarding of certain contracts by the City of Somerville, Acts 1971, Chapter 972, adopted by the Board of Aldermen Dec. 21, 1971, Document No. 121276 not returned by the Mayor; Acts 1980, Chapter 217; Acts 2012, Chapter 400, approved Jan. 3, 2013.)

Sec. 46D. - Organization of city agencies.

- (a) The organization of the city into operating agencies to provide services and for the administration of the government, as described in this charter, special acts or the General Laws, shall be accomplished through an administrative order filed with the city council by the mayor. No administrative order may originate with the city council. The mayor may, subject only to express prohibitions in the General Laws or this charter, propose to reorganize, consolidate or abolish a city agency, in whole or in part, or to establish a new city agency as is deemed necessary. No function assigned by this charter to a particular city agency may be discontinued, but the function may be assigned to another city agency by administrative order.
- (b) The mayor may prepare and submit to the city council administrative orders that establish operating divisions for the orderly, efficient or convenient conduct of the business of the city. All ordinances addressing the organization and operation of city departments, agencies, boards, commissions and offices may be modified, revised, repealed or otherwise addressed in such administrative orders. Administrative orders may provide for the combination, separation, creation or dissolution of departments, provided that all essential city functions are assigned to a department, board, commission or office.

Administrative orders shall be accompanied by a message from the mayor that explains the benefits expected and advises the city council if the administrative order shall require amendments, insertions, revisions, repeal or otherwise of existing ordinances.

When the mayor proposes an administrative order, the city council shall hold 1 or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than 7 nor more than 14 days following said publication. An organization or reorganization plan shall become effective upon a 2/3 vote of the city council to approve the plan. The city council may vote only to approve or to disapprove the plan and may not vote to amend or alter it.

(Acts 2012, Chapter 400, approved Jan. 3, 2013; [Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 47. - Officers, boards to provide information to councilors concerning discharge of duties.

Every administrative board, through its chairperson~~man~~, and every officer having charge of a department, shall, at the request of the city council, appear before it and give such information as it may require in relation to any matter, act or thing connected with the discharge of the duties of such board or officer; and when so requested to appear, the officer who appears shall have the right to speak upon all matters then under consideration relating to ~~his~~their department.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 48. - Restrictions on appropriations.

No sum appropriated for a specific purpose shall be expended for any other purpose unless by authority of the city council first obtained; and no expenditure shall be made and no liability incurred by or in behalf of the city until the city council has duly voted an appropriation sufficient to meet such expenditure or liability, except that after the expiration of the financial year and before the making of the regular annual appropriations liabilities payable out of a regular annual appropriation may be incurred or payments made to an amount not exceeding one-fourth of the total appropriation made for similar purposes in the preceding year.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 49. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 superseded section 49 of this Charter.

Sec. 50. - Elected and appointed persons to receive certificate, take oath.

Every person who is elected and every person who is appointed by the mayor or by the mayor and city council to an office shall receive a certificate of such election or appointment from the city clerk, and except as otherwise provided by law, before performing any act under ~~their~~his election or appointment, shall take and subscribe an oath qualifying ~~the person~~him to enter upon ~~their~~his duties. A record of such oath shall be made by the city clerk. Any oath required by this act may be administered by the mayor, the city clerk, or any officer authorized by law to administer oaths.

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 51. - Existing ordinances, regulations to continue in force.

The existing ordinances and regulations of the City of Somerville, so far as they are not inconsistent with this Act, shall continue in force until amended or repealed.

Sec. 52. - Civil Service Act to remain in force.

Nothing in this charter shall be construed to affect the enforcement of chapter 31 of the General Laws in the city of Somerville.

(Acts 2012, Chapter 400, approved Jan. 3, 2013.)

Sec. 53. - Repealer.

All acts and parts of acts inconsistent with this Act are hereby repealed, but the passage of this Act shall not affect any right accruing or accrued, or any suit, prosecution or other legal proceeding pending at the time when it shall take effect by acceptance, as herein provided, and no penalty or forfeiture previously incurred shall be affected thereby. No act which has been repealed shall be revived by the repeal of acts mentioned in this section.

(Acts 2012, Chapter 400, approved Jan. 3, 2013.)

Sec. 54. - Acceptance of Charter by voters.

This Act shall be submitted to the qualified ~~male~~ voters of the City of Somerville for acceptance at a special election to be called by the city council and held on the fourth Tuesday of September, in the year eighteen hundred and ninety-nine. 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-nine, entitled 'An Act to Revise the Charter of the City of Somerville', be accepted?"

([Acts 2018, Chapter 355](#), approved Jan. 1, 2019.)

Sec. 55. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 superseded section 55 of this Charter.

Sec. 56. - Severability; continuance of duties.

Where provisions of the Somerville charter conflict with city ordinances, rules, regulations, orders or special acts or acceptances of laws, the charter shall govern. All city ordinances, rules, regulations, orders and special acts not superseded by this act shall remain in force.

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

(Acts 2012, Chapter 400, approved January 3, 2012.)

Division 2 – SOMERVILLE CITY CHARTER APPENDIX⁽¹⁾

Footnotes:

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Editor's note— The acts contained herein are acts of the General Court which did not specifically amend the 1899 Charter of the city but set out basic requirements of the city government. The acts have been classified according to subject matter and have been arbitrarily renumbered for classification and indexing purposes. The official citation to each section contained in the division is enclosed in parentheses following each section.

ARTICLE I. - BOARD OF APPEALS

Sec. 1. - Powers and duties.

There shall be a zoning board of appeals in the city of Somerville with all the powers and duties under section 12 of chapter 40A of the General Laws.

(Acts 1928, Chapter 49, Section 1; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 2. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 has superseded section 2 of this Article I.

ARTICLE II. - ASSOCIATE MEMBERS OF THE BOARD OF APPEALS

Sec. 1. - Appointment; vacancies.

The City of Somerville may by ordinance provide for the appointment by the mayor, subject to confirmation by the councilors, of associate members of the board of appeals established in relation to the zoning ordinances and general building ordinances of said city under chapter 40A of the General Laws. In case of a vacancy, inability to act or interest on the part of a member of the board of appeals ~~his~~ **that member's** place shall be taken by an associate member.

(Acts 1928, Chapter 81, Section 1; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 2. - Acceptance of Act and effective date.

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, otherwise it shall not take effect; but, for the purpose of such acceptance, it shall take effect upon its passage.

(Approved March 1, 1928. Accepted by board of aldermen with approval of mayor, March 23, 1928. Acts 1928, Chapter 81, Section 2)

ARTICLE III. - LICENSING COMMISSION

Sec. 1. - Creation; powers and duties; compensation.

The City of Somerville may by ordinance establish a licensing commission and from time to time place in charge of and withdraw from said commission the issuing of such of the licenses, now or hereafter authorized by law to be issued by its city council, as the city may by ordinance determine. Said commission shall have all the powers conferred by the statutes of the Commonwealth upon the city council and the mayor in relation to such licenses as may be placed in its charge and the regulation of the subject matters thereof. The members of said commission shall be appointed by the mayor, subject to confirmation by the city council, and shall receive such compensation, if any, as the mayor and city council may determine. The powers and duties of licensing boards, mentioned in Section four of Chapter one hundred and thirty-eight of the General Laws, shall vest in said commission.

(Acts 1923, Chapter 191, Section 1; Acts 1939, Chapter 190, Section 1; Acts 2018, Chapter 410, Section 1)

Sec. 2. - Composition; appointment.

Notwithstanding any general or special law to the contrary, the licensing commission of the city of Somerville shall consist of 3 persons who shall be appointed without regard to political affiliation.

(Acts 1923, Chapter 191; Acts 1939, Chapter 190, Section 2; Acts 2018, Chapter 410, Sections 2, 3)

ARTICLE IV. - BOARD OF ELECTION COMMISSIONERS

Sec. 1. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 has superseded section 1 of this Article IV.

Sec. 2. - Composition; compensation.

There shall be a board of election commissioners in the city of Somerville. The board shall consist of 4 persons, 2 of whom shall always represent each of the 2 leading political parties, as defined in section 1 of chapter 50 of the General Laws. They shall receive such compensation as the mayor and city council determine.

(Acts 1928, Chapter 82, Section 2; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 3. - Members; appointment, terms.

The members of the board of election commissioners shall serve until the expiration of their respective terms and until their successors are qualified. As the terms of the several election commissioners expire, and in case a vacancy occurs in said board, the mayor shall, subject to the approval by the city council, so appoint their successors that the members of the board shall equally represent the two leading political parties as defined as aforesaid. Such appointments shall be for terms of three years beginning April first, except that any appointments to fill a vacancy shall be for the unexpired term.

(Acts 1928, Chapter 82, Section 3; amended by Acts 1929, Chapter 178; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 4. - Organization; record keeping.

The board shall organize annually in the month of April by the choice of a chair~~person~~ and a secretary. In case the members are unable to agree upon a chair~~person~~ and a secretary, such officers shall be designated by the mayor. The secretary shall keep a full and accurate record of the proceedings of the board and shall perform such other duties as the board may require.

(Acts 1928, Chapter 82, Section 4)

Sec. 5. - Powers and duties.

The board of election commissioners shall oversee the conduct of elections under state laws and regulations and this charter, except for the power and duty of fixing the days, hours and places for holding municipal elections.

(Acts 1928, Chapter 82, Section 5; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 6. - Appointment of assistants authorized.

The mayor may appoint assistant election commissioners and such other assistants as the mayor deems necessary, who shall at all times equally represent the 2 leading political parties as defined in section 1 of chapter 50 of the General Laws.

(Acts 1928, Chapter 82, Section 6; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 7. - Annual register; notice to persons not entered.

The board of election commissioners shall, after the first day of January in each year, prepare an annual register containing the names of all qualified voters in said city for the current year, beginning with the first day of January. The names shall be arranged by precincts and, opposite the name of each voter, shall be entered ~~their~~ residence on the preceding first day of January or on any subsequent day when ~~they~~ became a resident of said city. The board of election commissioners shall enter in the annual

register every name contained in the lists, for the current year, of persons listed by the listing board, giving, as the residence of each person on the first day of January, the place at which ~~each person~~ was listed by said board; provided, that in every case they are able to identify the name so listed as that of a person whose name was borne on the voting list of said city at the last preceding election. They shall make all inquiries and investigations necessary to identify such person, and they shall not enter in the annual register the name of a person objected to by any of the election commissioners, until such person has been duly notified and been given an opportunity to be heard by them, and shall have appeared and satisfied them of ~~that person's~~ right to have ~~their~~ name so entered. The ~~board of election commissioners~~ shall forthwith enter in the annual register the name of every person whose qualifications as a voter have been determined by them in the current year and whose name has accordingly been entered in the general register. They shall, on or before the first Monday of August in each year, send notice in writing by mail to each voter of the preceding year whose name has not been entered in the annual register of the current year that ~~their~~ name has not been so entered.

(Acts 1938, Chapter 394, Section 7)

ARTICLE V. - RESERVED

Editor's note— Chapter 400 of the Acts of 2012 has superseded Article V, sections 1—13, of this Charter Appendix, Division 2.

ARTICLE VI. - MUNICIPAL ELECTIONS

Sec. 1. - Preliminary elections; date and hours.

On the third Tuesday preceding every regular or special municipal election in the City of Somerville at which any elective municipal office is to be filled, there shall be held, except as otherwise provided in section ten, (section 14 of this article) a preliminary election for the purpose of nominating candidates therefor. The polls at every such election shall be open during such hours, not less than nine, as may be designated by the city council, and the General Laws relative to municipal elections shall apply thereto, except as is otherwise specifically provided in this Act.

(Acts 1932, Chapter 281, Section 1, amended by Acts 1933, Chapter 16)

Sec. 2. - Nominating procedure limited.

Except as is otherwise provided, there shall not be printed on the official ballot to be used at any regular or special municipal 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 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 ~~such person~~ shall have submitted, within the time limited and as provided by section three, the nomination paper therein described.

(Acts 1932, Chapter 281, Section 2; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 3. - Requirements for nomination.

Any person who is qualified to vote at any regular or special election for a candidate for any elective municipal office in said city, and who is a candidate for nomination thereto, shall be entitled to have ~~their~~ name as such candidate printed on the official ballot to be used at a preliminary election for nomination therefor; provided, that if ~~such person~~ is a candidate to be voted for in a single ward ~~they~~ ~~are~~ a registered voter in the ward wherein ~~they~~ ~~are~~ a candidate; and provided, further, that on or before five o'clock in the afternoon of the eighth Tuesday preceding such regular or special municipal election there shall be submitted to the board of election commissioners, hereinafter called the board, a nomination paper prepared and issued by the board, wherein the candidate sets forth in writing ~~their~~ candidacy, and wherein the petition is signed by voters of the city qualified to vote for a candidate for said office to the number of at least two hundred and fifty for the office of mayor, one hundred and fifty for the office of councilors at large and one hundred for the office of ward councilor and of member of the school committee, whose signatures are certified as hereinafter provided.

(Acts 1932, Chapter 281, Section 3; amended by Acts 1936, Chapter 311; Acts 1937, Chapter 211; Acts 1943, Chapter 124)

Sec. 4. - Form of nomination paper.

Said nomination papers shall be in substantially the following form:

COMMONWEALTH OF MASSACHUSETTS
CITY OF SOMERVILLE
NOMINATION PAPER
STATEMENT OF CANDIDATE

I (_____), on oath declare that I am a citizen of the United States of America, that I have resided in the City of Somerville for at least six months, that my present residence is (number, if any) on (name of street) and ward in said city, that I am a voter therein, qualified to vote for a candidate for the office hereinafter mentioned; 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 _____, two thousand 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

Middlesex, ss/

Subscribed and sworn to on this _____ day of _____, two thousand and ____, before me,

(Signed)

Justice of the Peace
(or Notary Public)

(Acts 1932, Chapter 281, Section 3)

Sec. 5. - 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 Somerville 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 Tuesday, the _____, day of _____, two thousand and ____.

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

| Signature of Nominators (to be made in person) | Residence April 1 | Ward | Present Residence |
|--|-------------------|------|-------------------|
| | | | |

(Acts 1932, Chapter 281, Section 3; Acts 2016, Chapter 321, approved Nov. 29, 2016)

Sec. 6. - Acceptance of nomination not required.

No acceptance by the candidate for nomination named in the said nomination paper shall be necessary to its validity or its filing. The petition, which may be on one or more papers, need not be sworn to.

(Acts 1932, Chapter 281, Section 3)

Sec. 7. - Names to be certified by certain time.

After any such nomination paper has been submitted to the board, it shall certify thereon the number of signatures which are the names of registered voters in said city qualified to sign the same. All such papers found not to contain a number of names so certified equivalent to the number required to make a nomination shall be invalid, and such papers shall be preserved by the board for one year. The board shall complete their certification on or before five o'clock in the afternoon of the seventh Tuesday preceding such regular or special municipal election, and the board, or some member thereof, shall file in their office on or before five o'clock in the afternoon of the next day all papers not found to be invalid as aforesaid.

(Acts 1932, Chapter 281, Section 4; amended by Acts 1937, Chapter 211; Acts 1943, Chapter 124)

Sec. 8. - Posting of qualified candidates; position on ballot to be drawn by lot; form of preliminary official ballot.

On the first day, other than a legal holiday, following the expiration of the time for filing the above described nomination papers, the board shall post in a conspicuous place in their office the names and residences of the candidates for nomination who have duly qualified as such, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, which shall be drawn by lot by the chair~~person~~~~man~~ of the board within seven days succeeding five o'clock in the afternoon of the last day fixed for the filing of objections to nomination papers, and the board shall cause the ballots, which shall contain said names in their order as so drawn, and no others, with a designation of residence, and of the office and term of office, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election. At any drawing for position on the ballot, each candidate shall have an opportunity to be present in person or by one representative. There shall be left at the end of the list of candidates for nomination for each office blank spaces equal in number to the number of persons to be nominated therefor, in which spaces the voter may insert the name of any person not printed on the ballot for whom ~~they~~~~he~~ desires to vote for nomination for such office, but the name of such person shall not be printed on the official ballot to be voted for at any regular or special municipal election in said city unless such person is qualified to be nominated under the provisions of section three (sections 3 through 6 of this article). There shall be printed on such ballots such directions as aid the voter, as for example: "vote for one", "vote for two", and the like, and the ballot shall be headed substantially as follows:

OFFICIAL PRELIMINARY BALLOT

Candidates for nomination for the offices of (name of offices) in the City of Somerville at a preliminary election to be held on the _____ day of _____, in the year two thousand and ____.

On the back and outside of each ballot when folded shall be printed the words "Official Ballot for Preliminary Election", followed by the designation of the ward, for which the ballot is prepared, the date of the preliminary election and a facsimile of the signatures of the members of the board.

(Acts 1932, Chapter 281, Section 5; amended by Acts 1934, Chapter 62; Acts 1937, Chapter 211)

Sec. 9. - Party or political designations prohibited on ballots.

No ballot used at any preliminary election in said city shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything showing how ~~any candidate~~~~he~~ was nominated or indicating ~~any candidate's~~~~his~~ view or opinions.

(Acts 1932, Chapter 6)

Sec. 10. - When polling places to be announced.

The preliminary elections and the regular municipal elections shall be held by wards and the city council shall designate on or before the eighth Tuesday preceding a regular municipal election or on or before the fourth Tuesday preceding a special municipal election, the polling places where the preliminary

election and the regular municipal elections shall be held. The regularly appointed election officers shall serve at both the preliminary elections and the regular municipal elections.

(Acts 1932, Chapter 281, Section 7)

Sec. 11. - Counting of ballots; announcement of results.

The election officers shall, immediately upon the closing of the polls at preliminary election, 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 board, who shall canvass said returns and shall forthwith determine the result thereof, insert the same in a newspaper published in said city and post the same in a conspicuous place in ~~his~~ the board's office.

(Acts 1932, Chapter 281, Section 8)

Sec. 12. - Determination of persons nominated.

The two persons receiving at a preliminary election the highest number of votes for nomination for any office, except one to which two or more persons are to be elected at the regular or special election following, and, as to each of such offices, 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 ten, (section 14 of this article) 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.

(Acts 1932, chapter 281, Section 9)

Sec. 13. - Tie votes.

If the preliminary election results in a tie vote among candidates for nomination to any office receiving the lowest number of votes, which, but for said tie vote, would entitle a person receiving the same to have ~~their~~ 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 the names of candidates to a number exceeding twice the number to be elected.

(Acts 1932, Chapter 281, Section 9)

Sec. 14. - Exception to preliminary election.

If at the expiration of the time for filing nomination papers for candidates to be voted for at any preliminary election there have not been filed more than twice as many such nomination papers, for an office as there are persons to be elected to such office, the candidates whose nomination papers have thus been filed shall be deemed to have been nominated to said office, and their names shall be printed on the official ballot to be used at the regular or special election following, and the board 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 said city, no preliminary election shall be held in any such ward or wards.

(Acts 1932, Chapter 281, Section 10)

Sec. 15. - Certain election laws to apply.

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.

(Acts 1932, Chapter 281, Section 11)

Sec. 16. - Repealer.

So much of Chapter two hundred and forty of the Acts of eighteen hundred and ninety-nine, (the revised Charter) and acts in amendment thereof and in addition thereto, as is inconsistent herewith is hereby repealed.

(Acts 1932, Chapter 281, Section 12)

ARTICLE VII. - TRAFFIC COMMISSION²

Footnotes:

--- (2) ---

Editor's note— Specific rules and regulations of the traffic commission are not printed in this volume but are on file in the traffic commission office.

Sec. 1. - Established; composition; terms of appointment members.

There is hereby established in the City of Somerville, hereinafter referred to as the city, a traffic commission, consisting of the commissioner of public works, the chief of police or ~~their~~his designee, the chief engineer of the fire department or ~~their~~his designee, the chair~~person~~man of the committee on traffic and parking of the city council and one member of the general public of the city appointed by the mayor and confirmed by the city council. The member appointed by the mayor shall serve for a term coterminous with the mayor, or until the qualification of a successor.

(Acts 1978, Chapter 397, Section 1)

Sec. 2. - ~~Chairman~~Chairperson; compensation of members.

The commissioner of public works shall be chair~~person~~man of the traffic commission. The members of the traffic commission shall receive no compensation for their services as commissioner, but shall be reimbursed by the city for any expenses actually and necessarily incurred in the performance of their duties.

(Acts 1978, Chapter 397, Section 2)

Sec. 3. - Meetings; notice required.

Meetings of the traffic commission shall be held on the third Tuesday of each month unless sooner necessitated for reasons of public safety, welfare or convenience, in which case a meeting may be called on motion of the chair~~person~~man. Notice of meetings shall be posted according to the provisions of section twenty-three B of chapter thirty-nine of the General Laws and shall be sent to all commission members, the mayor, the city council and the planning director. All of said persons may attend commission meetings and present their views, but only commission members may vote.

(Acts 1978, Chapter 397, Section 2)

Sec. 4. - Appointment of certain positions.

Upon recommendation of the traffic commission the mayor, with the approval of the city council shall have the authority to create the position of director of traffic and parking and subordinate staff positions including parking control officers. The mayor shall, with the approval of the city council, make appointments to such positions and shall fix their compensation.

(Acts 1978, Chapter 397, Section 2)

Sec. 5. - Traffic director; qualifications, removal.

A member of the traffic department staff shall be a traffic engineer, possessing the qualifications required for associate or full membership in the Institute of Traffic Engineers. The position of traffic engineer shall not be subject to chapter 31 of the General Laws. The traffic director shall be appointed and may be removed in the same manner set forth for the suspension and removal of officers confirmed by the city council.

(Acts 1978, Chapter 397, Section 2; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 6. - Board of traffic and parking—Established; composition; terms; compensation.

There is hereby established in the City of Somerville a board of traffic and parking, hereinafter referred to as the traffic board, consisting of three persons to be appointed as follows: one by the mayor for a term of one year, one by majority vote of the city council for a term of two years and one by vote of the first two members for a term of three years; provided, however, that if, after thirty days from the appointment of the first two members the third member has not been agreed to, such member shall be appointed by the mayor, subject to confirmation by the city council. Upon the expiration of the term of a member, ~~their~~ successor shall be appointed for a term of three years. Members shall be eligible for reappointment. No person holding public office in said city shall be eligible for appointment. A member shall not receive any compensation for ~~their~~ services, but shall be reimbursed for all reasonable expenses incurred ~~by him~~ in carrying out ~~their~~ duties. The chair~~person~~~~man~~ of the traffic board shall be chosen by and from its membership.

(Acts 1978, Chapter 397, Section 2A)

Sec. 7. - Same—Functions.

The traffic board shall carry out the functions prescribed in clause (b) of section three (section 8(b) of this article) and, in addition, shall be available to the traffic commission for advice and consultation with respect to all of its activities.

(Acts 1978, Chapter 397, Section 2A)

Sec. 8. - Powers and duties.

The traffic commission shall have exclusive authority, except as otherwise provided in this Act, to take any and all of the following actions, if it determines that such actions serve the public safety, welfare or convenience. Subject to the provisions of Section two of Chapter eighty-five of the General Laws:

- (a) The traffic commission may adopt, alter or repeal rules and regulations, in a manner consistent with the general laws as modified by this Act, relative to vehicular and pedestrian traffic in the streets of the city, and to the movement, stopping, standing or parking of vehicles on, and their exclusion from, all or any streets, ways, highways, roads and parkways under the control of the city, including rules and regulations designating any way or part thereof under such control as a through way under and subject to the provisions of Section nine of Chapter eighty-nine of the General Laws. Any rule or regulation adopted under this clause, prohibiting the parking or standing of vehicles on the whole or any part or parts of one or more streets, ways, highways, roads or parkways under the control of the city, may provide that it shall not apply in such residential areas as shall be specified, and at such times as shall be prescribed, in such rule or regulation, to any motor vehicle registered under Chapter ninety of the General Laws as principally garaged in the city and owned or used by a person residing in such area who, in the year in which such vehicle is parked or in the preceding December for such year, shall have given, by a writing executed in such form and detail as such rule or regulation shall prescribe, and filed with the chief of police, notice of intention to park in such area and shall display in a conspicuous place on such vehicle, while parked, such visible evidence of the giving of such notice as such rule or regulation shall prescribe; but neither the giving of such notice nor the issuance of visible evidence of the giving thereof shall be construed to assign any specific space to any person or vehicle. The traffic commission may, with the approval of the mayor and city council, prescribe fines for violations of rules or regulations adopted under this chapter excluding snow emergency parking violations as described in this paragraph; provided, however, that no penalty in excess of \$30 shall be imposed except by ordinance. The traffic commission may, with the approval of the mayor and the city council, prescribe a schedule of fines for the following snow emergency parking violations: parking within 20 feet of an intersection, parking within the area of a fire hydrant and parking within designated fire lanes; provided, however, that no penalty in excess of \$50 shall be imposed except by ordinance. A penalty imposed under this section may, if provided in the regulations imposing penalties, be increased by up to 17 per cent if paid later than 21 days after the issuance of a notice of a parking violation but before the parking clerk reports to the registrar in accordance with section 20A1/2 of chapter 90 of the General Laws and 67 per cent if paid thereafter. No adoption, alteration or repeal of a regulation shall take effect until public notice of the proposed action has been given, except with respect to such special rules or regulations as are declared by the traffic commission to be urgently required for the public safety or welfare or such as are of a temporary nature and are to be effective

for a period of not more than three weeks. Public notice shall be given by publication in full of the proposed adoption, alteration or repeal not less than once in each of three successive weeks in one or more newspapers published or distributed in the city. The public notice shall include a statement of the effective date of the proposed action, which shall not be less than twenty-one days following the first of the three newspaper publications. A copy of the public notice shall be provided to the members of the city council at the time of publication.

- (b) Upon the filing of petitions with the traffic board by not less than fifty registered voters of the city, relative to any rule or regulation proposed to be adopted, altered or repealed, and not yet in effect, the proposed action shall be suspended, and the traffic board shall hold a public hearing thereon within two weeks of the date the petitions were filed, and shall by majority vote approve or disapprove the proposed action within two weeks following the public hearing. Upon the filing of petitions with the traffic board by not less than fifty registered voters of the city, relative to any rule or regulation which has been adopted, altered or repealed for a period of at least thirty days, the traffic board shall hold a public hearing thereon within two weeks of the date the petitions were filed and shall, following such hearing, determine by majority vote whether to avoid the adoption, alteration or repeal of the rule or regulation.
- (c) The traffic commission may erect, make and maintain, or cause to be erected, made and maintained, traffic signs, signals, markings and other devices for the control of traffic and parking in the city and for informing and warning the public as to rules and regulations adopted under this act, subject, however, to Section two of Chapter eighty-five and to Sections eight and nine of Chapter eighty-nine of the General Laws.
- (d) The traffic commission may recommend to the city council the alteration, construction, erection, installation and maintenance of street lights.
- (e) The traffic commission, with the approval of the mayor, may retain the services of qualified consultants when such retention is deemed necessary or advisable.
- (f) The traffic commission may promulgate regulations that provide that any sergeant or officer of higher rank in the police department may cause to be removed to some convenient place by towing by an independent contractor any vehicle except a vehicle owned by the Commonwealth or a political subdivision thereof or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing distinctive number plate otherwise conspicuously marked as so owned or registered, and except a vehicle owned by a disabled veteran or a handicapped person and bearing a distinctive number plate, which is parked or standing on any part of any street, way, highway, road or parkway if in the calendar year in which such vehicle is so removed and in the preceding calendar year, five or more notices, in the aggregate, have been affixed to said vehicle, as provided in section 20A1/2 of chapter 90 of the General Laws, and remain unpaid and the cost of such removal and of storage charges resulting therefrom, in accordance with the traffic regulations then in effect, shall be imposed upon the owner of such vehicle. Any such vehicle so removed shall be held until all charges imposed for such removal and storage following the same have been paid and due notice has been received that the fines provided in such notices affixed to said vehicle have been paid or security for the payment thereof has been deposited. The police department shall promptly mail written notice to the registered owner of any such vehicle so removed, directed to the address furnished by the registry of motor vehicles or comparable agency of the state in which said vehicle is registered, stating the date on which such vehicle was removed, the location to which such vehicle has been removed, and a statement that such vehicle shall be released by the police on the payment of all fines, storage and towing charges due. Any such vehicle so removed shall be deemed to have been abandoned and may be disposed of in accordance with Section twenty-two C of said Chapter ninety if, within thirty days of the mailing of the notice to the registered owner as provided for herein, said owner has not paid all charges imposed for such removal and storage following the same and the fines provided in such notices affixed to said vehicle or security for the payment thereof has been deposited.

Nothing in this Act shall be construed to authorize the traffic commission to adopt, alter or repeal any rule or regulation excluding the trackless trolley vehicles or buses of a street railway or bus company from any way or part thereof in which said company has a location; or to modify or limit any power or authority

of the metropolitan district commission or the departments of public works or public utilities of the Commonwealth; or to modify or limit any power or authority of the mayor, city council or of any board or head of a department with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks for reasons not relating to traffic.

(Acts 1978, Chapter 397, Section 3; Acts 2002, Chapter 285; Acts 2012, Chapter 400, approved Jan. 3, 2013)

Sec. 9. - Enforcement.

The planning director, the chief of police, the chief engineer of the fire department, the commissioner of public works, the city engineer, the city electrician and city solicitor shall be available to the traffic commission to advise on matters relating to their respective departments and shall be responsible for putting into effect the rules and regulations adopted by the traffic commission in so far as such rules and regulations relate to their respective departments. The traffic commission shall cooperate with the planning board and with such public carriers as may be authorized and licensed to render service within the city, on matters relating to traffic planning, and shall cooperate with the planning board on all matters that may relate to the need for, location, construction, erection and maintenance of public parking facilities or of private parking facilities for public use within the city. When it is necessary to coordinate with federal, state or other local agencies on matters of traffic movement and traffic planning, the traffic commission may serve as liaison for the city.

(Acts 1978, Chapter 397, Section 4)

Sec. 10. - Existing ordinances, orders, etc., to remain in effect.

All existing orders, ordinances, rules and regulations relating to the control of vehicular traffic, including those relating to the parking of vehicles on any streets, ways, highways, roads and parkways, under the control of the city, shall remain in full force and effect until superseded by rules and regulations adopted by the traffic commission pursuant to clause (a) of section three (section 8(a) of this article), and the adoption thereof shall not effect any act done, any right accrued, any penalty incurred or any suit, prosecution or proceeding pending at the time of such adoption.

(Acts 1978, Chapter 397, Section 5)

Secs. 11, 12. - Superseded.

Editor's note— Chapter 400 of the Acts of 2012 has superseded sections 11 and 12 of this Article VII.

ARTICLE VIII. - MUNICIPAL HEARING OFFICER

Sec. 1. - Municipal hearing officer created.

Notwithstanding section 21D of chapter 40 of the General Laws, a person who desires to contest a violation of any ordinance of the city of Somerville alleged in a notice to appear, pursuant to violations issued by the city in accordance with said section 21D of said chapter 40 of the General Laws, shall request, in writing, a hearing before a municipal hearing officer, who shall be appointed by the mayor, with the approval of the city council, to conduct requested hearings pursuant to this act. The notice to appear shall be in the format required under said section 21D of said chapter 40, except that the third copy of the notice shall be submitted to the municipal hearing officer. The municipal hearing officer may be the same person appointed as municipal hearing officer pursuant to chapter 148A of the General Laws.

(Acts 2008, Chapter 106, Section 1)

Sec. 2. - Notice of code violations; payments; hearings.

Where a notice to appear is for 1 or more code violations, the person notified to appear shall return the notice of violation by mail, personally or by an authorized person to the municipal hearing officer and shall, within 21 days, either: (a) pay, in full, the scheduled assessment by check, postal note or money order; or (b) request a hearing before the municipal hearing officer. Any amounts paid shall be payable to the city of Somerville. If the person notified to appear requests, in a timely manner, a hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not later than 45 days

after receiving the hearing request. The municipal hearing officer shall send a hearing notice to duly notify the person notified to appear of the date, time and location of the hearing. Hearings shall be held at least twice each month, in the evening. When a hearing notice is sent, the person notified to appear shall be given an opportunity to request a rescheduled hearing date. The municipal hearing officer, so designated, shall not be an employee or officer of the department associated with the issuance of the notice of violation. The municipal hearing officer shall receive annual training in the conduct of administrative hearing procedure. The hearings and dispositions by the municipal hearing officer shall be informal and the formal rules of evidence shall not apply. In conducting the hearings, the municipal hearing officer shall find whether the violation occurred and whether it was committed by the person so notified to appear.

(Acts 2008, Chapter 106, Section 2)

Sec. 3. - Appeals of decisions.

Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may appeal to the district court pursuant to section 21D of chapter 40 of the General Laws, on a form provided by the city, and shall be entitled to a de novo hearing before a clerk magistrate of the court. The district court shall consider such appeals under a civil, as opposed to a criminal, standard. The aggrieved person shall file the appeal within 10 days after receiving notice of the decision from the municipal hearing officer who conducted the hearing.

(Acts 2008, Chapter 106, Section 3)

Sec. 4. - Failure to appeal or appear.

Any person who has received a notice to appear issued in accordance with this procedure who, within the prescribed time: fails to pay the scheduled assessment; fails to request a hearing before the municipal hearing officer; or fails to appear at the time and place of the hearing shall be found responsible for the violations as stated in the notice to appear and such finding of responsibility shall be considered prima facie evidence of a finding of responsibility for the violation in any civil proceeding regarding said violation and shall be admissible as evidence in a subsequent criminal proceeding. A person who fails to appear at the scheduled hearing without good cause shall have the appeal dismissed and shall waive any further right to appeal. If the condition which caused the notice to appear to issue continues to exist, the finding of responsibility may also be used by the city of Somerville as prima facie evidence of the existence of a violation in any proceeding to suspend or revoke any license, permit or certificate issued by the city relative to the building, structure or premises pending the correction of the condition.

(Acts 2008, Chapter 106, Section 4)

Sec. 5. - Payments paid to general fund.

All fines, penalties or assessments in actions under this act, shall be paid to the general fund of the city of Somerville.

(Acts 2008, Chapter 106, Section 5)

ARTICLE IX. - ALCOHOLIC BEVERAGE LICENSES

Sec. 1.

Chapter 258 of the acts of 1980 is hereby repealed.

(Acts 2012, Chapter 381, approved Jan. 2, 2013)

Sec. 2.

The licensing commission of the city of Somerville may grant licenses for the sale of all alcoholic beverages and licenses for the sale of wines and malt beverages under section 12 of chapter 138 of the General Laws and the number of such licenses shall be calculated under section 17 of said chapter 138. The licensing commission may grant not more than 20 licenses for the sale of all alcoholic beverages under section 15 of said chapter 138 and not more than 9 licenses for the sale of wines and malt beverages under said section 15 of said chapter 138. The transfer of a license existing on the effective

date of this act or the transfer of stock in a corporation which holds such a license shall be subject to a public hearing and notice of such hearing shall be advertised as provided in said chapter 138 and held at an appropriate time to afford interested citizens an opportunity to be present.

- (a) No other license granted under this act shall be sold or transferred by the licensee. If any such licensee terminates or fails to renew its license, the license shall revert to the licensing commission which may then grant that license to a new applicant in accordance with regulations established by the licensing commission; provided, however, that any restrictions on the transferability of licenses under this paragraph shall only apply to licenses granted on or after the effective date of chapter 449 of the acts of 2008.

(Acts 2012, Chapter 381, approved Jan. 2, 2013)

Sec. 3.

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing commission of the city of Somerville may grant not more than 27 additional licenses for the sale of all alcoholic beverages to be drunk on the premises or for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138, to premises within the Assembly Square district, bounded by the Mystic River, the Fellsway, route 28, interstate highway route 93 and the city of Somerville, city of Boston boundary line. The licenses shall be subject to all of said chapter 138, except said section 17. The licenses assigned to the Assembly Square district shall not be sold or transferred by the licensee. If a licensee terminates or fails to renew its license under this section, the license shall revert to the licensing commission, and shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, and shall only be granted to a new, qualified applicant doing business within the Assembly Square district; provided, however, that the new applicant shall file with the licensing commission a letter from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. The licenses granted under this section shall be subject to all applicable ordinances of the city.

The administrative fee charged by the city of Somerville for licenses granted under this section shall be the same as the administrative fee charged by the city for existing licenses granted for the respective category for such licenses. The licenses granted under this section shall be subject to all applicable ordinances of the city.

(Acts 2012, Chapter 381, approved Jan. 2, 2013; Acts 2016, Chapter 142, §§ 1, 2, approved July 14, 2016)

Sec. 4.

- (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing commission of the city of Somerville may grant 12 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 and 6 additional licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to said section 12 of said chapter 138 to operators and locations to be determined by the licensing commission in accordance with this section. The licenses shall be subject to all of said chapter 138 except said section 17.
- (b) The licensing commission shall restrict the licenses authorized in this section as follows:
 - (1) 2 licenses for the sale of all alcoholic beverages to be drunk on the premises and 1 license for the sale of wines and malt beverages to be drunk on the premises shall be restricted to entities within the Transformative Areas of the Inner Belt, Brickbottom and Boynton Yards, as those areas are shown on the map; provided, however, that for the purposes of this section and section 5 of chapter 142 of the Acts of 2016, "map" shall mean the map entitled "Somerville Proposed Liquor License Area Locations", dated June, 2016, a copy of which is on file in the office of the Somerville city clerk; and
 - (2) 10 licenses for the sale of all alcoholic beverages to be drunk on the premises and 5 licenses for the sale of wines and malt beverages to be drunk on the premises shall be restricted to entities within the Enhancement Areas of Union Square, Davis Square, Ball Square, Gilman Square,

Lowell Street, Northwest Somerville, Teele Square, Broadway, Magoun Square, Highland Avenue, Somerville Avenue and Beacon Street, as shown on the map.

- (c) A license granted pursuant to this section shall be clearly marked on its face "Transformative Areas or Enhancement Areas Only".
- (d) The licensing commission shall not approve the sale or transfer of a license granted under this section. If a licensee terminates or fails to renew a license granted under this section or if any such license is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing commission and the licensing commission may then grant the license to a new applicant at a location within the transformative areas or enhancement areas under the same conditions as specified in this section.

(Acts 2016, Chapter 142, § 3, approved July 14, 2016)

Sec. 5.

- (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing commission of the city of Somerville may grant 4 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 and 1 additional license for the sale of wines and malt beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. The licenses shall be subject to all of said chapter 138 except said section 17.
- (b) Once issued, the licensing commission shall not approve the transfer of a license granted pursuant to this section to any other location but it may grant the license to a new applicant at the same location if the applicant files with the licensing commission a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.
- (c) If a license granted pursuant to this section is cancelled, revoked or no longer in use, it shall be returned physically, with all legal rights, privileges and restrictions pertaining thereto, to the licensing commission and the licensing commission may then grant the license to a new applicant at the same location under the same conditions as specified in this section.

(Acts 2016, Chapter 142, § 4, approved July 14, 2016)

Sec. 6.

- (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing commission of the city of Somerville may grant 15 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 and 7 additional licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to said section 12 of said chapter 138, to operators and locations to be determined by the licensing commission in accordance with this section. The licenses shall be subject to all of said chapter 138 except said section 17.
- (b) The licensing commission of the city of Somerville shall restrict the licenses authorized in this section as follows:
 - (1) 5 licenses for the sale of all alcoholic beverages to be drunk on the premises and 2 licenses for the sale of wines and malt beverages to be drunk on the premises granted pursuant to this subsection shall be restricted to entities within the Transformative Areas of the Inner Belt, Brickbottom and Boynton Yards, as shown on the map; and
 - (2) 10 licenses for the sale of all alcoholic beverages to be drunk on the premises and 5 licenses for the sale of wines and malt beverages to be drunk on the premises shall be restricted to entities within the Enhancement Areas of Union Square, Davis Square, Ball Square, Gilman Square, Lowell Street, Northwest Somerville, Teele Square, Broadway, Magoun Square, Highland Avenue, Somerville Avenue and Beacon Street, as shown on the map.

- (c) A license granted pursuant to this section shall be clearly marked on its face "Transformative Areas or Enhancement Areas Only".
- (d) The licensing commission shall not approve the sale or transfer of a license granted under this section. If a licensee terminates or fails to renew a license granted under this section or if any such license is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing commission and the licensing commission may then grant the license to a new applicant at a location within the transformative areas and enhancement areas under the same conditions as specified in this act.

(Acts 2016, Chapter 142, § 5, approved July 14, 2016)

Sec. 7.

- (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing commission of the city of Somerville may grant 4 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 and 1 additional license for the sale of wines and malt beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. The licenses shall be subject to all of said chapter 138 except said section 17.
- (b) Once issued, the licensing commission shall not approve the transfer of a license granted pursuant to this section to any other location but it may grant the license to a new applicant at the same location if the applicant files with the licensing commission a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes, fees and contributions have been paid.
- (c) If a license granted pursuant to this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing commission and the licensing commission may then grant the license to a new applicant at the same location under the same conditions as specified in this section.

(Acts 2016, Chapter 142, § 6, approved July 14, 2016)

Sec. 8.

The administrative fee charged by the city of Somerville for a license granted pursuant to sections 3 to 6 of chapter 142 of the Acts of 2016, inclusive, shall be the same amount as the administrative fee charged by the city for existing licenses granted for the respective category for such licenses. A license granted pursuant to said sections 3 to 6, inclusive, shall be subject to all applicable ordinances of the city.

(Acts 2016, Chapter 142, § 7, approved July 14, 2016)

Sec. 9.

Sections 1, 3, 4 and 7 of chapter 142 of the Acts of 2016 shall take effect upon their passage.

(Acts 2016, Chapter 142, § 8, approved July 14, 2016)

Sec. 10.

Section 2 of chapter 142 of the Acts of 2016 shall take effect on January 1, 2019, or upon the issuance of all of the licenses authorized in section 3 of chapter 381 of the Acts of 2012, whichever occurs first.

(Acts 2016, Chapter 142, § 9, approved July 14, 2016)

Sec. 11.

Section 5 of chapter 142 of the Acts of 2016 shall take effect on January 1, 2019, or upon the issuance of all of the licenses authorized in section 3 of chapter 142 of the Acts of 2016, whichever occurs first.

(Acts 2016, Chapter 142, § 10, approved July 14, 2016)

Sec. 12.

Section 6 of chapter 142 of the Acts of 2016 shall take effect on January 1, 2019, or upon the issuance of all of the licenses authorized in section 4 of chapter 142 of the Acts of 2016, whichever occurs first.

(Acts 2016, Chapter 142, § 11, approved July 14, 2016)