



**EDWARD J. COLLINS, JR. CENTER FOR PUBLIC MANAGEMENT**  
JOHN W. McCORMACK GRADUATE SCHOOL OF POLICY AND GLOBAL STUDIES  
UNIVERSITY OF MASSACHUSETTS BOSTON

100 Morrissey Boulevard  
Boston, MA 02125-3393  
P: 617.287.4824  
F: 617.287.5566  
mccormack.umb.edu/centers/cpm  
collins.center@umb.edu

**TO: Framingham Charter Commission**

**FROM: Tanya Stepasiuk, Edward J. Collins, Jr. Center for Public Management**

**DATE: July 5, 2016**

**RE: Preliminary Election Provision Examples**

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You asked us to recommend language that would make a preliminary election unnecessary for the council in certain instances.

Condition Making Preliminary Unnecessary- If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the town clerk for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the town clerk shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding general election, and the town clerk shall not print their names on the ballots to be used at said preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballots to be used in any particular district or districts of the town, no preliminary election shall be held in such district or districts.

We have also included examples of five preliminary election sections; Beverly, West Springfield, Lawrence, Waltham and Watertown.

## **Beverly**

Beverly MA Home Rule Charter 1996

### **SECTION 7-3: PRELIMINARY ELECTION**

(a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor not less than one hundred such signatures, provided, however, that not more than twenty-five signatures from any one ward shall be counted in the minimum number of required signatures; for the office of councillor-at-large not less than one hundred such signatures, provided, however, that not more than twenty-five signatures from any one ward shall be counted in the minimum number of required signatures; for the office of ward councillor not less than fifty such signatures, all of which shall be from the ward from which the nomination is sought.

(b) Ballot Position - The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the city clerk which shall be open to the public.

(c) Determination of Candidates - The two persons receiving at a preliminary election the highest number of votes for nomination for any office shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular general city election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons, in number equal to twice the number so to be elected, receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names shall be printed on the official ballots. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have his name printed on the official ballots for the election, all candidates participating in said tie vote shall have their names printed on the official ballots, although in consequence thereof there be printed on such ballots the names of candidates exceeding twice the number to be elected.

(d) Condition Making Preliminary Unnecessary - If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the city clerk for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the city clerk shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding general election, and the city clerk shall not print their names on the ballots to be used at said preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballots to be used in any particular ward or wards of the city, no preliminary election shall be held in such ward or wards.

## **West Springfield**

West Springfield MA Home Rule Charter, adopted 2000

### **SECTION 7-2: PRELIMINARY ELECTION**

(a) Signature Requirements- The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor not less than one hundred such signatures, provided, however, that not more than twenty-five signatures from any one district shall be counted in the minimum number of required signatures; for the office of councilor-at-large or school committee member, not less than one hundred such signatures, provided, however, that not more than twenty-five signatures from any one district shall be counted in the minimum number of required signatures; for the office of district councilor not less than fifty such signatures, all of which shall be from the district from which the nomination is sought.

(b) Ballot Position - The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the town clerk, which shall be open to the public.

(c) Determination of Candidates- The two persons receiving at a preliminary election the highest number of votes for nomination for any office shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular general town election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons, in number equal to twice the number so to be elected, receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names shall be printed on the official ballots. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have their name printed on the official ballots for the election, all candidates participating in said tie vote shall have their names printed on the official ballots, although in consequence thereof there be printed on such ballots the names of candidates exceeding twice the number to be elected.

(d) Condition Making Preliminary Unnecessary- If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the town clerk for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the town clerk shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding general election, and the town clerk shall not print their names on the ballots to be used at said preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballots to be used in any particular district or districts of the town, no preliminary election shall be held in such district or districts.

## **Lawrence**

St. 1983, c. 425

### **8.4 Preliminary Election**

(a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor not less than two hundred and fifty ; for the office of councillor at large or school committee member not less than one hundred; and for the office of district councillor not less than fifty signatures of voters of the district from which the candidate seeks to be nominated. In no case shall a person collect signatures to be a candidate for more than one city office.

(b) Ballot Position - The order in which names of candidates appear on the ballot, for each municipal office, shall be as follows: first, the names of candidates who are the elected incumbents of said offices arranged alphabetically by their surnames and second names of all other persons arranged alphabetically by their surnames.

(c) Determination of Candidates for Election - The two persons receiving at a preliminary election the highest number of votes for an office shall be the sole candidates for that office and whose names shall be printed on the official ballot to be used at the regular election at which said office is to be filled. No acceptance of a nomination at a preliminary election shall be necessary to its validity. If two or more

persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number so to be elected, receiving at such preliminary election the highest number of votes for nomination for that office, shall be the sole candidates for that office and whose names shall be printed on the official ballot.

#### 8.4 Districts

The territory of the city shall be divided into six districts for the purpose of electing district councillors. Such districts shall be established so as to contain as nearly an equal number of inhabitants as is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways, the Merrimac River, or by other well-defined limits. Each district shall be divided into precincts as may be required by state statutes. The city council shall from time to time review such districts to assure their uniformity in number of inhabitants.

## **Waltham**

St. 1986, c. 135

### Section 5-1 Preliminary Elections, Contents of Notice or City Council Order

Not later than the fifth Tuesday preceding every regular city election and preceding every special election at which any office mentioned in this charter is to be filled, there shall be held, except as otherwise provided in section 5-7, a preliminary election for the purpose of nominating candidates for such general or special election, and section 9-2 of this charter shall not apply. The notice, or order adopted by the city council, for regular, preliminary and special elections shall specify by name all the offices to be voted for and state, in the form in which it will appear upon the ballot, any question submitted to the voters. They shall specify the time when the polls will be opened and when the polls will be closed. The polls at such election shall be open during such hours as the city council may prescribe; provided, that they shall be opened not earlier than seven o'clock in the forenoon nor later than ten o'clock in the forenoon and shall be kept open at least six hours, but in no event later than eight o'clock in the evening. The ballots to be used at such elections shall be governed by the provisions of section forty-nine of chapter forty-three of the General Laws.

### Section 5-2 Inclusion of Name on Ballot, Prerequisites

Except as otherwise provided in section 5-7, there shall not be printed on the official ballot to be used at any regular or special election the name of any person as a candidate for any office unless such person has been nominated as such at a preliminary election for nomination, held as provided in sections 5-1 to 5-7, inclusive. There shall not be printed on the official ballot for use at such preliminary election the name of any candidate for nomination at such election, unless such person shall have filed, within the time limited by section 5-3, the statement and petition therein described.

### Section 5-3 Candidates for Nomination, Qualifications, Statement and Petition

Any person who is qualified to vote for a candidate for any elective municipal office and who is a candidate for nomination thereto, shall be entitled to have the name of said person as such candidate printed on the official ballot to be used at a preliminary election; provided, that within the time

prescribed by section ten of chapter fifty-three of the General Laws in the case of preliminary elections in cities such person shall file with the city clerk a statement, in writing, of such person's candidacy, and with it the petition of at least fifty voters, qualified to vote for the said office: Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE I ( ), on oath declare that I reside at (number if any) on (name of street) in city of ; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for the office of (name of office) for (state the term) to be voted for at the preliminary election to be held on Tuesday, the day of , nineteen hundred and , and I request that my name be printed as such candidate on the official ballot for use at said preliminary election. (Signed) Commonwealth of Massachusetts, ss. Subscribed and sworn to on this day of , nineteen hundred and before me, (Signed) Justice of the Peace, or (Notary Public).

PETITION ACCOMPANYING STATEMENT OF CANDIDATE Whereas (name of candidate) is a candidate for nomination for the office of (state the term), we the undersigned, voters of the city of , duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the Tuesday of , nineteen hundred and . We further state that we believe this person to be of good moral character and qualified to perform the duties of the office. No acceptance by the candidate for nomination named in the said petition shall be necessary to its validity or its filing, and the petition, which may be on one or more papers, need not be sworn to.

#### Section 5-4 Official Ballot, Posting Lists of Candidates, Drawing for Position on Ballot

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

#### OFFICIAL PRELIMINARY BALLOT

Candidates for nomination for the offices of ( ) in the city of \_\_\_\_\_ at a preliminary election to be held on the day of in the year nineteen hundred and . (The heading shall be varied in accordance with the offices for which nominations are to be made.)

#### Section 5-5 Counting Ballots, Canvass of Returns

The election officers shall, immediately upon the closing of the polls at preliminary elections, count the ballots and ascertain the number of votes cast in the several voting places for each candidate, and

forthwith make return thereof upon blanks to be furnished, as in regular elections, to the city clerk who shall canvass said returns and shall forthwith determine the result thereof, insert the same in one or more newspapers published in the city, and post the same in a conspicuous place in the city hall.

#### Section 5-6 Determination of Candidates for Election

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall, except as provided by section 5-7, be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular or special election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity; provided, however, that a person nominated at a preliminary election may withdraw from nomination by a request signed and duly acknowledged by such person and filed with the city clerk within six days succeeding five o'clock in the afternoon of the day of holding such preliminary election. Such nominee shall be replaced by the candidate with the next highest number of votes in said preliminary, unless otherwise provided by the charter of the city. If two or more persons are to be elected to the same office at such regular or special election, the several persons, equal in number to twice the number so to be elected, who receive at such preliminary election the highest number of votes for nomination for that office shall, except as provided by section 5-7, be the sole candidates for that office whose names may be printed on the official ballot. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates to a number exceeding twice the number to be elected.

#### Section 5-7 Nomination of Candidates, Conditions Making Preliminary Election Unnecessary

If, at the expiration of the time for filing statements of candidates to be voted for at any preliminary election, the number of statements which have been filed with the city clerk for a particular office does not exceed twice the number of persons to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.

## **Watertown**

WATERTOWN HOME RULE CHARTER – adopted 1981 – revised

SECTION 7-2 TOWN ELECTIONS: GENERAL; PRELIMINARY The regular general town election shall be held on the first Tuesday following the first Monday in November in each odd numbered year. On the

seventh Tuesday preceding every regular general town election there shall be a preliminary election for the purpose of nominating candidates.

SECTION 7-3 PARTISAN ELECTIONS All elections for town offices shall be non-partisan and election ballots shall be printed without any party mark, emblem, or other designation whatsoever.

#### SECTION 7-4 PRELIMINARY ELECTION

(a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of council president and member of the school committee, councillor-at-large, school committee member, or library trustee, not less than one hundred such signatures, not more than fifty of which shall be from any one district; for the office of district councillor not less than one hundred such signatures from the district from which the nomination is sought.

(b) Ballot Position - The order in which names of candidates appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the board of election commissioners, which shall be open to the public.

(c) Determination of Candidates - The two persons receiving at a preliminary election the highest number of votes for nomination for any office shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular general town election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons, in number equal to twice the number so to be elected, receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names shall be printed on the official ballots. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have his or her name printed on the official ballots for the election, all candidates participating in said tie vote shall have their names printed on the official ballots, although in consequence thereof there be printed on such ballots the names of candidates exceeding twice the number to be elected.

(d) Condition Making Preliminary Unnecessary - If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the election commission for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the election commission shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding general election, and the board of election commissioners shall not print their names on the ballots to be used at said preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballots to be used in any particular district or districts of the town, no preliminary election shall be held in such district or districts.