

Section 1. Incorporation.

The inhabitants of the City of Rochester, in the County of Strafford, shall continue to be a body corporate and politic under the name of the City of Rochester.

Section 2. Wards.

The City of Rochester is hereby divided into six wards, which wards shall be bounded and configured in accordance with the procedures set forth in Section 3 hereinafter set forth.

Section 3. Review and revision of ward boundaries.

Ward boundaries shall divide the City of Rochester into six wards of as equal population as is practicable. To achieve that goal, starting with the 1990 census the City Council shall complete a review of the ward boundaries at least once every 10 years, within one year of the publication of each federal decennial census. Further, within 60 days of the completion of the review, the City Council may by the affirmative vote of at least nine City Councilors revise the ward boundaries so as to divide the City of Rochester into six wards of as equal population as is practicable. Any such revision in ward boundaries shall take effect at the first election after the City Council's adoption of such boundaries.

Note: See attached Exhibit A regarding ward line revisions adopted by Rochester City Council on March 5, 2002.¹ (The 1990 census based ward lines are referenced and described in City Council Minute Book FF pages 359-360 and 378-381, dated April 7, 1992.)

GOVERNING BODY

Section 4. City Council.

Except as herein provided otherwise, all the powers of the City of Rochester shall be vested in a City Council, consisting of 12 Councilors and the Mayor. Except as herein provided otherwise, the City Council shall have all powers conferred by law upon city councils, boards of mayor and alderman, and the selectmen of towns so far as applicable to cities. All committees of the City Council and all boards shall be deemed advisory only, except as herein otherwise provided. The City Clerk shall serve as Clerk of the City Council.

Section 5. Election of Councilors. [Amended 1-22-2002, effective 1-22-2002]

Beginning with the regular municipal election of 2003, two Councilors shall be elected from each ward, for terms of two years each, commencing on the first business day after January 1 following their election. Pursuant to Section 47 of this Charter, the City Clerk shall establish each ward seat as a separate municipal office, and shall establish a system to distinguish each separate ward seat on the municipal election ballot. Qualified persons may declare their candidacy for no more than one seat on the City Council at

1. Editor's Note: Exhibit A is on file at the office of the City Clerk.

any municipal election.

Section 6. Qualifications of Councilors. [Amended 11-2-2021]

Each City Councilor and the Mayor shall be a registered voter of the City of Rochester at the time they file their declaration of candidacy, pursuant to Section 47 of this Charter. Each Ward Councilor shall be a resident and registered voter of their ward at the time they file said declaration, at the time of their election, and throughout their term of office. If a City Councilor or the Mayor moves their residence from the City of Rochester during their term of office, then their office shall be declared vacant, and the vacancy shall be filled as provided in Section 68 of this Charter in the case of a City Councilor and filled as provided in Section 9 of this Charter in the case of the Mayor. If a Ward Councilor moves their residence from their ward during their term of office, then their office shall be declared vacant, and the vacancy shall be filled as provided in Section 68 of this Charter.

Section 7. City Council meetings.

Regular meetings of the City Council shall be held at such hours, on such days of the week, and at such intervals as may be designated by ordinance. Special meetings of the City Council shall be held upon notice being delivered by the City Clerk to each City Councilor, or delivered to an address within the City of Rochester previously specified by each Councilor to the City Clerk. The City Clerk shall call a special meeting of the City Council at the written request of the City Manager, the Mayor, or at the written request of a majority of the City Council. The City Council shall establish its own rules. Any Councilor or the Mayor shall have the right to introduce ordinances and resolutions and to initiate other measures. A majority shall constitute a quorum for the transaction of the business of the City Council.

Section 8. Election of Mayor.

At the municipal election to be held in November 1989, and at every regular municipal election thereafter, the Mayor shall be elected for a term of two years.

Section 9. Deputy Mayor.

The City Council shall, at its first regular meeting in January following each municipal election, choose one of its members Deputy Mayor, for a two-year term. The Deputy Mayor shall act as Mayor in the absence or disability of the Mayor. Upon the City Council declaring the office of Mayor vacant, the Deputy Mayor shall serve as Mayor for the balance of the unexpired term of the Mayor.

Section 10. Powers of Mayor.

The Mayor shall be the official head of the City for all ceremonial purposes, shall preside at all meetings of the City Council, may speak and vote in such meetings, and shall appoint all committees of the City Council. All other duties of the Mayor prescribed by law shall be exercised by the City Manager, except as this Charter provides otherwise.

The City shall provide the Mayor with appropriate office space and secretarial and clerical assistance to perform his duties.

Section 10-a. Mayoral veto. [Added 11-5-1991, effective 7-1-1992; amended 11-2-1993, effective 7-1-1994]

The Mayor shall have the right to veto any and all actions of the City Council. No vote or decision of the City Council which has been vetoed by the Mayor shall be effective unless such veto is overridden by the vote of 2/3 of all Councilors serving in office, provided, however, that for the purposes of any such override vote the Mayor shall not be considered as a City Councilor.

CITY ADMINISTRATION

Section 11. Appointment of City Manager.

By a vote of at least seven members of the City Council, the City Council shall appoint as City Manager for an indefinite term, a person specifically qualified by experience and training to serve in that office. The City Council shall fix the City Manager's salary and compensation.

Section 12. Residency requirement for City Manager.

The City Manager shall establish a residence within the City of Rochester within one year of his or her appointment, unless excused from doing so by the City Council.

Section 13. Elected officials disqualified for City Manager.

The City Council shall not select as City Manager any person who, within two years preceding their selection, has served in any office which they were popularly elected in the City of Rochester, Strafford County, or State of New Hampshire.

Section 14. Powers of City Manager.

The City Manager shall be the chief administrative and executive officer of the City. Except for the School Department, and as herein established otherwise, the City Manager shall be responsible for the proper administration of all departments of the City of Rochester. The City Manager shall be charged with the preservation of the public peace and health and safety of persons and property, and shall see to the enforcement of the ordinances of the City, this Charter and the laws of the State of New Hampshire. The City Manager shall carry out all policy decisions made by the City Council. The City Manager shall oversee all property, real and personal, owned by the City of Rochester. The City Manager shall inform the City Council of the conditions and needs of the City and shall make all reports required by law, requested by the Council, or deemed advisable by the City Manager. The City Manager shall have the right to participate in all City Council meetings, and to discuss all matters coming before such meetings, but the City Manager shall not be a voting member of the Council.

Section 15. City Manager's appointment power.

The City Manager shall appoint and remove, subject to the provisions of this Charter, all officers and employees in the administrative services of the City, except the School Department. The City Manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such departments or office. All such appointments shall be without definite term unless for provisional, temporary, or emergency service not to exceed the maximum periods which may be prescribed by the rules and regulations of the Merit Plan.

Section 16. Non-interference by the Council.

Except for the purpose of official inquiries or investigations, both the City Council and any member thereof shall deal with any City officers or employees who are subject to the direction and supervision of the City Manager solely through the Manager. Neither the City Council nor any member thereof shall give orders to any such officer or employee, either publicly or privately. Neither the City Council nor any member thereof shall direct or request except in writing, the appointment or removal of any person to office or employment by the City.

Section 17. Removal of the City Manager.

The City Manager may be removed by a vote of seven members of the City Council as herein provided. At least 30 days before the proposed removal of the City Manager, the City Council shall adopt a resolution stating its intention to remove him and the reasons therefore, a copy of which shall be served forthwith on the City Manager. The City Manager may, within 10 days of such service, demand a public hearing. If the City Manager demands such hearing, then the City Manager shall not be removed until such hearing has been held. The City Council may suspend the City Manager from duty pending such hearing, but shall pay the City Manager until such removal. In case of such suspension the City Council may appoint an Acting City Manager to serve at the pleasure of the City Council for not more than 90 days. The action of the City Council in removing the City Manager shall be final.

Section 18. City officers and department heads.

The City Manager shall appoint a City Clerk, City Solicitor, City Treasurer, Business Administrator, City Assessor, City Physician, Commissioner of Public Works, Collector of Taxes, Chief of the Fire Department, and such other officers as may be necessary for the good government of the City. The powers and duties of officers and heads of departments appointed hereunder shall be those prescribed by state law, by this Charter, or by ordinance. In the event that an appointment or reappointment to any office is not made prior to the inception of the term of any office the incumbent office holder, if any, shall be allowed to remain in office until a successor is appointed and qualified, but in no event for a period in excess of six months.

Section 19. Water Works and Sewer Works.

There shall be two separate, self-sufficient, and financially independent City departments or divisions of the existing Department of Public Works known as:

- a. The Water Supply Works; and
- b. The Sewage and Waste Treatment Works

Both shall be regulated by a Utility Advisory Board of five members. Each shall be governed by (respectively) a water (or sewer) use ordinance, and funded by a water (or sewer) fund, each of which funds shall be segregated from any other City funds and shall be raised from charges imposed solely on water (or sewer) users. The City Manager shall appoint the necessary manager(s) of said departments. Such ordinances, and the necessary board and manager(s) shall be as the City Council, subject to any overriding state or federal law or regulation, shall provide.²

Section 20. Board of Assessors. [Amended 9-14-2004, effective 1-1-2005; 11-6-2012, effective 1-1-2013]

The City Manager shall appoint three Deputy Assessors in addition to the City Assessor, for such terms and upon such conditions as the City Council shall by ordinance determine. The Deputy Assessors need not be employees of the City. The Board of Assessors shall be comprised as follows: three members at large who shall elect one of them to serve as Chairman. The City Assessor shall be ex-officio and shall provide advice and assistance to the Board as needed. He/she shall have no vote in the Board's deliberations. The City Assessor and the Deputy Assessors appointed pursuant to this Charter shall, prior to appointment, have demonstrated knowledge of property appraisal or assessment and of the laws governing the assessment and collection of property taxes. The City Assessor and the Deputy Assessors shall constitute the Board of Assessors for the City, and shall perform all duties and assume all responsibilities and liabilities of assessors of taxes determined by state law.

Section 21. Board of Health.

The Board of Health shall be comprised of five members including the City Physician, the City Health Officer, and three additional persons, legal voters of the City, to be appointed by the City Manager for such terms as the City Council shall by ordinance determine. The powers and duties of the Board of Health shall be those prescribed by state law, by this Charter, and by ordinance.

Section 22. Board of Library Trustees. [Amended 11-2-2021]

The Board of Library Trustees shall be comprised of the City Manager, or his designee, and six members to be elected by the City Council, one member to be elected from each ward for a term of three years, and their election so arranged that 1/3 of the members of the Board shall be elected each year. Elections by the City Council shall be

2. Editor's Note: See Ch. 200, Sewers, and Ch. 260, Water.

conducted pursuant to Section 68 of this Charter. The duties and powers of said Board of Trustees shall be those enumerated in Chapter 202-a of the Revised Statutes Annotated, as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated. The Board of Trustees of the Public Library shall organize annually by the choice of a Chairman and such other officers and committees as it deems necessary. The Board of Trustees shall appoint a librarian who shall not be a trustee and their compensation and other terms of employment shall be in conformity with relevant provisions of this Charter and City Ordinances.

Section 23. Election of Police Commission. [Amended 9-10-2002, effective 7-1-2003]

There shall be a Police Commission for the City of Rochester consisting of three members. Beginning with the regular municipal election in 2003, Commissioners elected to succeed members of the said Commission whose terms of office shall expire shall be elected for a term of two years. Beginning with the regular municipal election in 2003, the members of the said Commission shall be elected from districts of the City such that one member shall be elected from Ward 1 and Ward 2, one member shall be elected from Ward 3 and Ward 4, and one member shall be elected from Ward 5 and Ward 6. Each Police Commissioner shall be a resident and registered voter of one of the wards from which he is elected at the time he files his declaration of candidacy, at the time of his election, and throughout his term of office. If a Commissioner moves his residence from the wards from which he was elected during his term of office, then his office shall be declared vacant, and the vacancy shall be filled as provided in Section 68 of this Charter. In order to accommodate the currently scheduled expiration of the existing staggered six-year at-large terms for Police Commissioners, the district election of Commission members provided for herein shall be phased in, as follows: At the regular municipal election in 2003, the Commissioner's seat, the term of which is scheduled to expire in January 2004, shall be filled by a Commissioner who shall be elected from Ward 1 and Ward 2; at the regular municipal election in 2005, the Commissioner's seat, the term of which is scheduled to expire in January 2006, shall be filled by a Commissioner who shall be elected from Ward 3 and Ward 4; and, at the regular municipal election in 2007, the Commissioner's seat, the term of which is scheduled to expire in January 2008, shall be filled by a Commissioner who shall be elected from Ward 5 and Ward 6.

Section 24. Duties of Police Commission.

It shall be the duty of the Board of Police Commissioners authorized hereunder to appoint such police officers, constables, and superior officers as it may in its judgment deem necessary and to fix their compensation; and, to make all rules and regulations for the government of the police force and to enforce the same.

Section 25. Police Commission, removal authority.

The Board of Police Commissioners shall have authority to remove any police officer, constable, or superior officer of the force at any time for just cause and after due hearing which cause shall be specified in the order of removal.

Section 26. Administrative Code.

The City shall have a Department of Administration headed by the City Manager, and including the heads of such other departments, divisions, and bureaus as the City Council may establish by ordinance. The compilation of ordinances creating the various departments, divisions, and bureaus of the City and defining their respective duties and functions shall be known as the "Administrative Code."³ The head of each department, division, or bureau within the City shall have the supervision and control of his department and of the employees therein, and shall have power to prescribe rules and regulations, not inconsistent with general law, this Charter, the Administrative Code, or City ordinances.

Section 27. Centralized purchasing and contract system.

The Administrative Code shall establish a centralized purchasing and contract system, including the combination of purchasing of similar articles for different departments, and purchasing by competitive bid whenever practical. A single person shall be charged with the administration of the system so established.

SCHOOL DEPARTMENT**Section 28. School district.**

The City of Rochester shall constitute a single municipal corporation with powers for municipal and school purposes, including all the powers of a school district conferred by law. The School Department of the City of Rochester shall continue to constitute the school district for the City, organized as herein described.

Section 29. General powers of School Board.

The policy-making body for the School Department of the City of Rochester shall be a School Board of the City of Rochester, consisting of 13 members. Except for the City Council's exclusive right to determine and appropriate the total amount of money to be spent by the School Department, the administration of all fiscal and prudential affairs of the City of Rochester School District, the general management and control of its schools and properties, and all powers prescribed by law shall be vested in the School Board. The Superintendent of Schools shall serve as Clerk of the School Board.

Section 30. Election of School Board. [Amended 11-5-1991, effective 7-1-1992; 1-22-2002, effective 1-22-2002]

Beginning with the regular municipal election of 2003, two School Board members shall be elected from each ward and one School Board member shall be elected at-large, for terms of two years each, commencing on the first business day after January 1 following their election. Pursuant to Section 47 of this Charter, the City Clerk shall establish each ward and at-large seat as a separate municipal office and shall establish a system to distinguish each separate ward and at-large seat on the municipal election

3. Editor's Note: See Ch. 7, Administrative Code.

ballot. Qualified persons may declare their candidacy for no more than one seat on the School Board at any municipal election.

Section 31. Qualifications of School Board members.

Each School Board member shall be a registered voter in the City of Rochester at the time they file their declaration of candidacy, pursuant to Section 47 of this Charter. Each ward School Board member shall be a resident and registered voter in their ward at the time they file said declaration, at the time of their election, and throughout their term of office. If a School Board member moves from the City of Rochester during their term of office, then their office shall be declared vacant, and the vacancy shall be filled as provided in Section 68 of this Charter. If a ward School Board member moves their residence from their ward during their term of office, then their office shall be declared vacant, and the vacancy shall be filled as provided in Section 68 of this Charter.

Section 32. School Board meetings. [Amended 11-6-2012, effective 1-1-2013]

The School Board shall meet not later than the second Thursday of each January immediately following a municipal election. The date, time, and place of such meeting shall be set by a majority vote of the School Board at the December meeting immediately after said municipal election. The School Board shall meet at least once in every other month at such hours, on such days of the week, and at such intervals as the School Board determines at its January meeting. Special meetings of the School Board shall be held upon notice being delivered by the Superintendent of Schools to each School Board member, or delivered to an address within the City of Rochester previously specified by each School Board member to the Superintendent of Schools. The Superintendent of Schools shall call a special meeting of the School Board at written request of the Chairman of the School Board, or at the written request of a majority of the School Board. The School Board shall establish its own rules. A majority of the School Board shall constitute a quorum for the transaction of its business.

Section 33. Chairman of School Board.

The School Board shall, at its first regular meeting in January following each regular municipal election, choose one of its members Chairman, for a term of two years. The Chairman shall preside at all meetings of the School Board, and may speak and vote in such meetings.

Section 34. Vice-Chairman of School Board.

The School Board shall, at its first regular meeting in January following each regular municipal election, choose one of its members Vice-Chairman of the School Board, for a two-year term. The Vice-Chairman of the School Board shall act as Chairman in the absence or disability of the Chairman. Upon the School Board declaring the office of Chairman of the School Board vacant, the Vice-Chairman shall serve as Chairman for the balance of the unexpired term.

Section 35. Control of school expenditures.

All money appropriated in the annual City budget for the School Department shall be subject to the control of the School Board, which alone shall have line-item control over its budget. In the event that the City Manager certifies that the City's revenues are less than budgeted, or that the City's expenditures are greater than budgeted, the City Council may order the School Department to reduce its budgeted expenditures. The School Board shall reduce its budgeted expenditures accordingly, but the School Board alone shall make the line-item reductions in said expenditures.

Section 36. Superintendent of Schools.

The School Board shall choose an individual to be the Superintendent of Schools, who shall serve under such terms and conditions as may be established by the School Board. The Superintendent of Schools shall be the chief operating officer and chief administrator of the School Department, and shall be independent of the City Manager. The Superintendent may speak at all School Board meetings, but shall not vote therein.

Section 37. Joint Committee of the School Board and the City Council.

All joint committees of the School Board and the City Council shall select their chairpersons from among their members.

FINANCE**Section 38. Fiscal year.**

The fiscal and budget year of the City shall begin on the first day of July, unless another date shall be fixed by ordinance.

Section 39. Financial control.

The City Business Administrator shall maintain accounting control over the finances of the City, make financial reports, and perform such other duties, as may be required by the Administrative Code.

Section 40. Budget procedure.

At such time as the City Manager requests, or the Administrative Code specifies, each officer or director of a department shall submit an itemized estimate of the expenditures for the next fiscal year for the departments or activities under his control. The City Manager shall submit the proposed budget to the City Council at least 60 days before the start of the fiscal year of the budget.

Section 41. City Council review of the budget.

The City Council shall act as a committee-of-the-whole in all reviews of and actions upon the proposed budget.

Section 42. Public hearing.

A public hearing on the budget shall be held before its final adoption by the City Council, at such time and place as the City Council shall direct. The City Clerk shall publish a public notice of such hearing, together with a summary of the budget as submitted, at least one week in advance of such hearing. The City Council shall provide a copy of the proposed budget to all voters who request one at least 24 hours before such hearing.

Section 43. Adoption of budget.

A reduction of, increase in, deletion of, or addition of any item or items in the City Manager's budget shall become effective upon a majority vote of the City Council. The budget shall be finally adopted not later than the first day of the fiscal year. If the City Council fails to adopt a budget prior to such day, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, until a budget is adopted.

Section 43-a. Limitation on budget increase.⁴ [Added 11-4-2008, effective 7-1-2009]

- A. Limitation on budget increase. Recognizing that final tax rates for the City of Rochester are set by the New Hampshire Department of Revenue Administration pursuant to RSA 21-J:35, I, the City Manager shall submit a proposed budget to the City Council, and the City Council shall adopt its annual budget proposals and shall act upon such proposals, in accordance with the mandates of this section.

Override provision. Budgetary restrictions described in any part of Section 43-a may be overridden upon a vote of 2/3 of all elected members of the City Council. Such override expires following adoption of the annual budget. Subsequent budgets or supplemental appropriations require additional two-thirds override votes, or the limitations expressed in this section will apply.

In establishing a municipal budget, the City Manager and City Council shall be allowed to assume an estimated property tax rate in an amount not to exceed the tax rate established during the prior fiscal year increased by a factor equal to the change in the National Consumer Price Index – Urban as published by the United States Department of Labor for the calendar year immediately preceding the year of the budget adoption.

- B. Exception to budget increase limitation. Capital expenditures, and the total or any part of the principal and interest payments of any municipal bond, whether established for school or municipal purposes, may be excepted from being included in the expenditures that are subject to the prior limitation upon a two-thirds vote of all members of the City Council. The exception made under this section shall expire upon adoption of the budget for the next budget year, unless 2/3 of all members of the City Council vote to renew the exception for the next budget year.

4. Editor's Note: See also Ch. 7, Administrative Code, § 7-66.

- C. Budget limitation in a revaluation year. When the City Council accepts an increase in real estate values as the result of a City-wide revaluation, the City Council shall adhere to a maximum increase in real estate tax revenues as follows: The real estate taxes raised from the prior budget year shall be increased by a factor no more than the change in the Nation Consumer Price Index - Urban as published by the United States Department of Labor for the calendar year immediately preceding budget adoption, then this figure shall be used in establishing the new municipal budget.
- D. Budget limitation with annual changes in assessments. When annual changes in real estate values occur as a result of State of New Hampshire assessing requirements, the City Manager and City Council shall adhere to a maximum increase in real estate tax revenues as follows: The real estate taxes raised from the prior year shall be increased by a factor of no more than the change in the National Consumer Price Index – Urban as published by the United States Department of Labor for the calendar year immediately preceding budget adoption, plus real estate taxes calculated by applying the prior year real estate tax rate to the net increase in new construction. "Net increase in new construction" is defined as the total dollar value of building permits less total dollar value of demolition permits issued for the period of April 1 – March 31 preceding budget adoption.
- E. Total expenditures. Total expenditures for any given budget year shall not exceed the amount of funds reasonably calculated to be derived by the tax rate established herein, increased by the other revenues generated by the municipality.

Section 44. Supplemental appropriations and transfers.

After the budget has been adopted, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred except pursuant to a budget appropriation unless there shall be a specific appropriation specifying the source from which the funds shall come. Except as otherwise provided in this Charter, the City Council may transfer any unencumbered appropriation balance, or any portion thereof, within a department from one fund or agency to another, or from one department to another.

Section 45. Borrowing funds.

Subject to the applicable provisions of state law and the rules and regulations provided by ordinance in the Administrative Code, the City Council by resolution may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City, or other evidence of indebtedness therefor, and may pledge the full faith, credit and resources of the City for the payment of the obligation created thereby. Borrowing for a term exceeding one year shall be authorized by the City Council only after a duly advertised public hearing.

Section 46. Audit of City accounts, annual reports.

An independent audit shall be made of all accounts of the City at least once every year, by certified public accountants, experienced in municipal accounting and selected by the

City Council. Said audit shall be reported to the City Council. A summary of such audit shall be made public. The City Manager shall prepare an annual, public, written report of the City's business, which shall be printed in sufficient number to provide a copy to each voter who requests one.

MUNICIPAL ELECTIONS

Section 47. Municipal election filing period, ballot preparation. [Amended 11-2-2021]

The name of any qualified person shall be printed upon the municipal election ballot upon his filing with the City Clerk not later than five o'clock in the afternoon of the 45th day, nor earlier than nine o'clock in the forenoon of the 60th day prior to the date of said municipal election, his declaration in writing that he is a candidate for an office to be filled at the next succeeding municipal election. Each candidate shall pay to the City Clerk a filing fee in an amount established by ordinance, but which in no event shall exceed \$50 for any office.⁵ The City Clerk shall prepare the ballots to be used at the municipal election. The ballot shall contain the names, according with RSA 656:5-a, without party designation, of all persons who qualify with the City Clerk as a candidate for any office to be voted on at said municipal election. Below the list of names of candidates for each office there shall be as many blank spaces for write-in votes as there are votes permitted for such office.

Section 48. Municipal election date, terms of office.

The election officers in each ward whose duties it is to conduct regular biennial elections shall conduct a municipal election, at the expense of the City, in the same manner as a regular biennial election on the Tuesday following the first Monday in November of the odd numbered years, to elect all elected officials provided for by this Charter. The terms of office of the persons elected at such municipal election shall commence on the first business day after January 1 following such election, unless another date shall be prescribed by law.

Section 49. Municipal elections, general provisions.

Any person having his domicile within the City and who is qualified to vote as provided in RSA 654:1-654:2 and 654:4-654:6, as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated, and whose name is on the checklist shall be qualified to vote in any City election. All elections held under the provisions of this Charter and any other City election shall be deemed elections within the meaning of all general statutes, penal and otherwise, and said statutes shall apply to all municipal elections so far as consistent with the provisions of this Charter. The polls shall be open at each municipal election during such hours as the City Council may provide, but in any event for not less than nine hours. The City Clerk shall have the same powers and duties with reference to elections held pursuant to the provisions of the Charter and any other City elections as has the Secretary

5. Editor's Note: See Ch. 7, Administrative Code, § 7-69.

of State with reference to state biennial elections, so far as such powers and duties are not inconsistent herewith.

Section 50. Candidate elected. [Amended 9-10-2002, effective 9-10-2002]

The candidate for each office receiving the greatest number of votes for such office shall be declared elected.

Section 51. Absentee voting. [Amended 11-2-2021]

Any registered voter in the City of Rochester who qualifies, under RSA 657: 4, for an absentee ballot on the day of the municipal election or any City election, may vote at such election by absentee ballot. The provisions of RSA 669:26 through 669:29 as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated shall apply to such absentee balloting, except that the duties performed therein by the Town Clerk shall be performed by the City Clerk.

Section 52. Municipal election recounts, canvass of votes cast.

The City Council shall meet on the Wednesday following each municipal election and shall canvass the votes cast at such election and declare the results. Within seven days thereafter, any candidate desiring a recount shall file an application for such recount with the City Clerk and shall pay to said City Clerk such fee as shall be established by ordinance.⁶ Within seven days thereafter, the City Clerk shall, subject to rules and regulations as may be prescribed by the City Council, recount the ballots cast in such election and also hear and determine any contest on the grounds of fraud or misconduct therein. Decisions of the City Clerk in cases of contested elections shall be final. Tie votes for any elective office shall be resolved by lot in the manner the City Council shall determine.

Section 53. Election of Supervisors of the Checklist.

Each ward at every regular municipal election shall choose, by ballot and plurality vote, one Supervisor of Checklists, and the City Council shall also, in January following each regular municipal election, by ballot and majority vote, choose one Supervisor of Checklists for all the wards of the City, and the member chosen by the City Council shall be Chairman of the Board. All vacancies occurring in the Board shall be filled by the City Council by ballot and majority vote.

Section 54. Voter checklist preparation.

Said Supervisor, having been first duly sworn to the faithful discharge of the duties of their office, and a certification thereof recorded by the City Clerk, shall, previous to every election, prepare, revise, and post up, in the manner required by law, an alphabetical list of the legal voters in each ward. In preparing said list they shall record

6. Editor's Note: See Ch. 7, Administrative Code, § 7-72.

in full the first or Christian name of each voter, but may use initial letters to designate the middle name of any voter.

Section 55. Supervisors' session, voter registration. [Amended 11-2-2021]

For each municipal election said Board of Supervisors shall be in session for the purpose of revising and correcting the list of voters at such places as they shall designate in accordance with the requirements of RSA 654:27, as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated. In the preparation of said list the said Board of Supervisors shall have all of the powers granted to and perform all of the duties imposed upon such Supervisors by the provisions of Chapter 654 of the New Hampshire Revised Statutes Annotated, so far as the same are not inconsistent with the provisions hereof.

Section 56. Voter checklist, election day.

Said Supervisors shall deliver to the City Clerk attested copies of the list of voters in each ward, prepared and corrected as aforesaid, before the hour of meeting, and said checklist so corrected, and no others, shall be used at the election. After the closing of the polls at said election, the Moderator and the Ward Clerk in each ward shall certify on the checklist used by them that such checklist is in fact the one used by them at said election and that it contains a corrected and complete list of the legal voters in their ward. One marked copy of each checklist used in said election shall be turned over to the City Clerk by the Supervisors. The City Clerk shall preserve such checklists in his custody for a public record for a period of no less than five years. Immediately after the ballots cast at a municipal election have been tabulated and the result have been announced, the Moderator or his designee, in the presence of the Selectman or their designees, shall seal and certify the ballots as provided by RSA 659:95 and shall deliver them to the City Clerk in the manner prescribed by RSA 659:98.

Section 57. (Reserved)⁷

Section 58. Election of Selectmen, Moderators, and Ward Clerks.

At each municipal election, one Selectman shall be elected from each ward for a term of six years and one Moderator and one Clerk shall be elected from each ward for a term of two years.

MERIT PLAN

Section 59. Appointments.

Appointments and promotions to all positions in the service of the City shall be made solely on the basis of merit and only after examination of the applicant's fitness. So far as practicable, examinations shall be competitive.

7. Editor's Note: Former Section 57, Supervisors of the Checklist, election day duties, was repealed 11-2-2021.

Section 60. Rules and regulations. [Amended 11-6-2012, effective 1-1-2013]

The first City Manager under this Charter shall draft and submit to the City Council within one year after assuming office, a set of rules and regulations which shall become effective three months after its submission unless vetoed by the City Council within that period, providing for the establishment of a merit system of personnel administration and for the implementation of such portions of that system as are prescribed by this Charter. The rules and regulations shall include provisions with regard to classification, compensation, selection, training, promotion, discipline, vacations, and any other matters necessary to the maintenance of the efficient service and the improvement of working conditions. The rules and regulations shall continue in force subject to amendments submitted from time to time by the City Manager which shall become effective upon majority vote of the City Council. City Council shall vote within 60 days of amendment submittal. Until the first set of such rules and regulations becomes effective, the City Manager may establish temporary rules and regulations.

Section 61. Compensation.

The compensation of all officers and employees not fixed by this Charter shall be fixed in the rules and regulations of the merit plan by a schedule of pay which shall include a minimum and maximum and such intermediate rates as may be deemed desirable for each class or position provided for in said rules and regulations. In increasing or decreasing items in the City budget, the City Council shall not increase or decrease any individual salary item but shall act solely with respect to total salaries in the various departments of the City.

Section 62. Personnel Advisory Board.

There is hereby established a Personnel Advisory Board of three citizens holding no other municipal office and appointed, one member by the City Manager, one by the City Council, and the third by these two appointees. In the first instance only the member appointed by the City Manager shall serve for one year, the member appointed by the City Council for two years, and the third member for three years, in each case beginning on the effective date of this Charter; the term of all succeeding members shall be for three years beginning on the expiration of the term each succeeds. It shall be the duty of the Personnel Advisory Board to study the broad problems of personnel policies of the City and the City Manager regarding the administration of the Merit Plan and to hear appeals from any employee aggrieved as to the status or conditions of his employment. The Board shall issue written reports containing findings of facts and recommendations to the City Manager upon such appeals but the Board shall have no power to reinstate an employee unless it finds, after investigation, that disciplinary action was taken against the employee for religious, racial, or political reasons.

Section 63. Certification of compensation.

No compensation shall be paid without certification by the City Manager, or such officer as he may direct, that the recipients are employed by the City and that their rates of compensation comply with the pay schedule provided for in Section 61. If such officer

approves payment not in conformity therewith, he and his surety shall be liable for the amount of such payment. A taxpayer may maintain a civil action to restrain payment of compensation to persons unlawfully appointed or employed or to recover for the City any sums paid contrary to the provisions in this Charter.

Section 64. Employees when Charter adopted.

No employee of the City at the time this Charter is adopted shall be required to take any examination in order to continue within the employment of the City. All other provisions of the merit plan will apply to such employees.

GENERAL PROVISIONS

Section 65. Oath of office.

Every person elected or appointed to any City office before entering upon the duties of his office shall take and subscribe to an oath of office as provided by law which shall be filed and kept in the office of the City Clerk.

Section 66. Notice of election or appointment.

The City Clerk shall mail written notice of election or appointment to any City officer thus selected within 48 hours after the appointment or the election result is announced. If within 10 days from the date the officer's term of office begins such officer does not take, subscribe to, and file with the City Clerk an oath of office, then the officer shall be deemed to have refused the office, the office shall be declared vacant, and the office shall be filled as provided by this Charter or otherwise by ordinance.

Section 67. Vacancy defined.

In addition to other provisions of this Charter, a vacancy in any City office shall exist when an officer dies, resigns, is removed from office, is convicted of a felony, or is judicially declared to be mentally incompetent.

Section 68. Vacancies in elected offices. [Amended 11-6-2012, effective 1-1-2013]

Vacancies occurring in any City Council, School Board, or Police Commission seat shall be filled until the next regular municipal election by the City Council's election, by majority vote, of some qualified person. Any member of the City Council may nominate persons to fill such vacancy. The candidate receiving a majority of the votes cast by members of the City Council at such meeting shall be declared elected. If there are more than two nominees, and no nominee receives a majority of the votes cast, then the nominee receiving the fewest votes shall be removed from the list of nominees and another vote shall be taken. If no nominee then receives a majority of votes cast, then the above-described process shall be repeated until there are only two nominees. The City Council shall act to thus fill such vacancy not later than the second regular City Council meeting following the creation of such vacancy, and may act only at a regular meeting of the City Council. If the term of the seat thus filled would not otherwise be open for

election at the first regular municipal election following the occurrence of such vacancy, then at said municipal election the seat shall be filled for the balance of the unexpired term.

Vacancies occurring in the office of Ward Moderator, Ward Clerk, Selectman, or Supervisor of the Checklist shall be filled by the City Council for the balance of the unexpired term. In filling such vacancies, the City Council shall conduct an election in the manner prescribed in the preceding paragraph for vacancies in other elected offices.

Section 69. Salaries of elected officials.

All elected City officials shall receive such salary as may be designated by ordinance. Any increase or decrease in such salary shall not become effective until the January following the next regular municipal election. City Councilors shall receive the same salary as School Board members, provided that the Mayor may by ordinance receive a larger salary than any other elected official.

Section 70. Removal of elected officials. [Amended 11-2-2021]

By an affirmative roll-call vote of at least nine City Councilors, the City Council may, consistent with RSA 49-C:13, on specific charges and after due notice and hearing, at any time remove the Mayor or one of its own members for cause, including but not limited to prolonged absence from or other inattention to duties, crime or misconduct in office, or as specified in the charter. A vacancy occasioned by removal under this section shall be filled in the manner provided in the Charter.

Section 71. City ordinances.

Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be "The City of Rochester Ordains" and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the City Clerk, and each ordinance so recorded shall be authenticated by the signature of the Mayor and the City Clerk. Ordinances shall be published, compiled and revised in such manner and at such times as the City Council shall determine. The procedure for passing and amending ordinances shall be as prescribed by ordinance or general laws.

Section 72. Conflict of interest. [Amended 11-5-1991, effective 7-1-1992]

No elective or appointive officer or employee of the City shall participate in any decision concerning the business of the City in which he has an interest which conflicts with his official duties and responsibilities. Such officer or employee may participate in such discussion if:

- A. He or she files a written detailed declaration of his conflicting interest with the City Clerk, who shall distribute copies thereof to all members of the City Council or School Board as appropriate; and,
- B. The City Council or School Board, as appropriate, votes to authorize such

participation.

No City Councilor or School Board member shall vote upon any matter where he or a member of his immediate household would be directly affected financially or personally. The term "member of his household" shall be deemed to include a spouse or any child or stepchild who resides within the same premises.

As to any City Councilor or School Board member, the Mayor or Chairman of the School Board, as the case may be, may disqualify a member from voting on any issue where the Mayor or Chairman perceives a conflict of interest, either on his own or at the suggestion of another Councilor or School Board member, as the case may be. A Councilor or School Board member who has been disqualified, may appeal such disqualification to the Council or the Board, and upon two-thirds vote of the entire Council or Board, the disqualification shall be removed. In any vote appealing such a disqualification, the Mayor and the Chairman, as well as the affected Councilor or member, shall be included as part of the number of which 2/3 is required. Further, they shall be entitled, each of them, to vote upon the appeal.

Section 73. Separability.

The sections of this Charter are separable. If any portion of this Charter, as written or as applied, is found to be invalid for any reason, then the remainder shall not be affected by such finding.

Section 74. Appointments to boards and commissions.

Except as this Charter or state statutes provide otherwise, and subject to the concurrence of the City Council, the Mayor shall appoint all members of boards and commissions now existing, or hereafter established, whether by ordinance or statute. Any appointment by the Mayor shall be considered a nomination unless and until it is confirmed by the City Council. When the Mayor makes any such nomination, then any City Councilor may also nominate a person to fill such position. The City Council shall vote by secret ballot upon such list of nominees. If there are more than two nominees, and no nominee receives a majority of the ballots cast, then the nominee receiving the fewest votes shall be removed from the list of nominees and another vote shall be taken. If no nominee then receives a majority of the ballots cast, then the above described process shall be repeated until there are only two nominees.

Section 75. References not substantive.

All headings, section numbers, and section labels have been provided for reference purposes only, and are not officially portions of the City of Rochester Charter.

TRANSITIONAL PROVISIONS

Section 76. Selection of City Manager.

Within one week of the effective date of this Charter, the City Council shall create a committee for the express purpose of conducting a search for prospective applicants for

the position of City Manager. Within 90 days of appointing said committee, the City Council shall appoint a City Manager pursuant to Section 11, of this Charter.

Section 77. Acting City Manager.

The City Council shall appoint an Acting City Manager, to serve as the City Manager from the effective date of this Charter until the first City Manager is selected. The City Council shall determine the rate of compensation for the Acting City Manager.

Section 78. Tenure of office.

When this Charter takes effect, the incumbents, whether elected or not, of all municipal offices not hereby abolished, superseded, or vacated shall continue to hold the same until the expiration of their respective terms where a term of years exists, or until such offices are abolished, superseded, or vacated by the Charter or by the New Hampshire Revised Statutes Annotated, as presently existing and as may hereafter be from time to time changed.

Section 79. Mayor's salary review.

Notwithstanding Section 69 of this Charter, or any ordinance to the contrary, after January 1, 1990, and before March 1, 1990, the City Council may vote to change the Mayor's salary, said change to take effect immediately, or at such time as the City Council votes, whether during or after said period.

Section 80. Effective date.

This Charter shall take effect at 12:01 a.m. on January 2, 1990; provided that, pursuant to NH RSA 49-B:6, IV(a) (Supp. 1989), the regular municipal election to be conducted in November 1989 shall be in accordance with this Charter.