

From the Desk of Joe Sweeney

April 14, 2022

To my fellow Charter Commission candidates,

I wanted to reach out and thank you for signing up as a candidate for the Salem Charter Commission. I am confident with 35 candidates running for 9 seats that the people of Salem will be well-served on the Commission and all who are elected will do their part to make sure the Commission meets the moment and takes advantage of the energy in town regarding our form of Government.

No one knows who will be elected on April 26 when voters go to their polling location to decide whether you, I, or any of the other 34 Salem residents running for a seat on the Charter Commission get elected. Regardless of the outcome, and especially regardless of whether I have the privilege to serve on the Commission or not, I wanted to reach out to all candidates who are running for a seat – not only to introduce myself, but to explain in further detail my beliefs when it comes to how the Commission functions and how I believe a proposed schedule of commission meetings and hearings should be structured. I also wanted to include copies of New Hampshire RSAs that govern the Charter process for either a Town Charter or a City Charter.

I firmly believe the Charter Commission needs to be transparent, accessible, and effective. I am proposing the attached schedule to ensure the public and the members elected to the Commission have the utmost clarity as to the process they can participate in before the final report of the Commission is submitted to Municipal and State officials in October.

The members who are elected to the Commission on April 26 and subsequently organized following notice from the Town Clerk can pursue any schedule or process as they see fit; I simply intend by proposing this schedule to give the Commission a starting point for the purposes of organizing and building a comprehensive timeline of Commission meetings that can be shared with Salem residents as soon as possible.

I do thank you again for running for Charter Commission and if you and I both have the privilege of being elected by the voters on April 26 I look forward to serving with you. I hope all who are running for a seat on the Charter Commission will still make their voice heard throughout the process regardless of the outcome on Election Day; I know I will.

Best,

A handwritten signature in blue ink that reads "Joseph Sweeney". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Rep. Joe Sweeney
Candidate, Salem NH Charter Commission
State Representative, Rockingham District 8

Sweeney's Proposed Charter Commission Schedule

Within 5 days after the deadline under RSA 669:30 for requesting a recount, the municipal clerk shall notify those elected to the charter commission of the date, time, and place of the organizational meeting of the charter commission. However, if a recount is requested, such notice shall be given within 5 days after the last recount is completed. The date, time, and place of the organizational meeting shall be fixed by the clerk. The date shall be at least 7 days and not more than 14 days after the date of the notice.

Last day to request a recount: Friday, April 29th

Monday, May 2nd through Friday, May 6th: Formal notification by the Town Clerk to the members who were elected of their election to the Charter Commission if no recount is requested.

Proposed draft meeting schedule (*following the organizational meeting, Charter Commission Chair should seek to find a date and time that works for all the members of the Charter Commission well in advance*):

Week of May 16th - Organizational Meeting of the Charter Commission called by the Town Clerk (*at least 7 days and not more than 14 days after the date of the notice*). The Charter Commission shall organize by electing from its members a chairperson, a vice chairperson and a secretary and shall file notice thereof with the municipal clerk.

Week of May 30th (Excluding Memorial Day) - Second Meeting of the Charter Commission. Charter Commission Chair should arrange for presentations from the New Hampshire Municipal Association, a presentation from an elected official operating on a Town Council, and a presentation from an elected official operating on a City Council for the purposes of information to the board.

Week of June 13th - Third Meeting of the Charter Commission; First Public Input Session. Following the information gathering meeting previously held, the Charter Commission should dedicate this meeting to the solicitation and collection of public comments by members of the public wishing to be heard.

Week of June 27th - Fourth Meeting of the Charter Commission, First Public Workshop on drafting a proposed Charter. Following the input of the public and the first informational session, the Charter Commission should have an open and honest discussion on the pros and cons of adopting a Town Council Form of Government or switching to a Mayor/City Council form of Government. Following discussion, an informal vote of the Charter Commission pertaining to which form of Government the members are leaning towards should be held to direct future drafts and discussions pertaining to the Charter.

Week of July 18th - Fifth Meeting of the Charter Commission, Second Public Input Session. Following the previous meeting's discussion and informal vote on which overarching direction the Commission is seeking, members of the public should be encouraged to submit their public comments at the second public input session regarding the ongoing drafting of the municipal charter.

Week of August 1st - Sixth Meeting of the Charter Commission, Second Public Workshop on drafting a proposed Charter. Following the second public input session, the Charter Commission should continue work on drafting a proposed Charter. Regardless of the form of Government, the Charter

Commission needs to lay out a proposal as it pertains to the length of terms of offices; the number of positions on town boards and committees; the date of town elections; the fiscal year(s) utilized for the municipal budget; the power vested in the governing body compared to the power retained by the voters; and any other questions pertaining to the Charter Commission that must be answered and included in a proposed Charter. This Second Public Workshop should end with a working draft of a proposed Charter for the members of the public to review.

Week of August 15th - Seventh Meeting of the Charter Commission, Third Public Input Session. This public input session will be the first of two that can fully review the working draft of the proposed Charter crafted by the Commission during previous meetings.

Saturday, August 27th - Eight Meeting of the Charter Commission, Fourth & Final Public Input Session. This public input session should be held Saturday morning August 27th as an alternative session compared to the public input previously gathered during weeknight meetings, and Charter Commission members should avail themselves to members of the public with comments and concerns pertaining to the working draft of the proposed Charter.

Week of September 5th - Ninth Meeting of the Charter Commission, Final Vote on Proposed Charter. This meeting shall contain the final discussions among the Charter Commission Members as it pertains to the proposed Charter, and a final vote shall be taken on the draft Charter proposal. Depending on the outcome, a Majority and a Minority Report can be published. The proposed Charter shall be sent to an attorney for their legal review and verification the proposal does not conflict with the constitution or the general laws.

Week of September 19th - Charter Commission Report Submission. Following such legal review, the charter commission shall file with the municipal clerk a preliminary report including the text of the charter which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable and shall provide sufficient copies of the preliminary report to the municipal clerk to permit its distribution to each voter requesting it. The commission shall also file the preliminary report with the secretary of state, the attorney general, and the commissioner of the department of revenue administration as provided in RSA 49-B:4-a, I.

Forms of Town Government

There are two basic forms of *town* government under New Hampshire law: (1) traditional, board of selectmen/open town meeting form; and (2) town council/town manager form described in [RSA Chapter 49-D](#). Each form has several variations.

1. Board of Selectmen/Open Town Meeting

This is the traditional, "pure democracy" form of town government, where the voters themselves, acting at town meeting, are the legislative body. Budgetary and other questions are put before the voters in the form of warrant articles, the merits of which are debated, and then voted on at the meeting. There are three variations of the board of selectmen/open town meeting form of government, two of which require specific adoption under the charter process set forth in [RSA Chapter 49-B](#). The three variations are:

a. Official Ballot Referendum Form of Meeting

This official title is a bit cumbersome, which may be why this form of government is better known as "SB 2" (for Senate Bill 2, the legislation creating this option, and codified at [RSA 40:12 - :16](#), that was enacted by the legislature in 1995). The official ballot/SB 2 form may be adopted only by a three - fifths majority of the voters voting on the question. [RSA 40:14](#). Towns may adopt this "standardized" official ballot option by following the provisions of RSA 40:14. Under this form, warrant articles - either submitted by the board of selectmen or by petition - come before the voters, are debated, and may be amended at a "first session" (also known as the "deliberative session") of town meeting. [RSA 40:13](#). The final vote on the warrant articles, as amended, occurs later, at the "second session" of the voters, at the polls, by means of an official ballot. This second session is the official "election" date.

b. Official Ballot Town Meeting

This is the "customized" official ballot option, as opposed to the "standard" SB 2 version. Under this variation, also enacted by the legislature in 1995, the details of how the official ballot would be used is up to the community's discretion and must be adopted by following the charter process outlined in [RSA 49-13](#). According to [RSA 49-D:3, II-a](#), a charter must specify with precision the following information: what types of questions will go on the official ballot (budgetary and non-budgetary); a finalization process for the budget in the event it is rejected by the ballot vote; the process for public hearing, debate, and amendment of questions to be placed on the official ballot; the procedure for transferring funds among various departments and accounts during the year; and the procedure for balloting at special town meetings. General laws relative to town meeting apply to those utilizing this option, such as the warning of meetings, the right for petitioned warrant articles, the conduct of the meeting, and the type of majority required for bond issues.

c. Representative Town Meeting

This is the third variation on the traditional open town meeting form of government, and is the second of the three variations that must be adopted by means of the charter process described below. Instead of vesting legislative authority in a town meeting made up of all registered voters in the town, this option vests legislative authority in a group of people elected to represent districts within the town. [RSA 49-D:3, III](#). The representative town meeting has all the powers of town meeting conferred by statute and the state constitution. The charter must specify: the manner of district representation; how vacancies are filled; requirements of attendance and quorum; residency or eligibility requirements (up to one year in the town or district and continued residency during the term); specific procedures for annual budget adoption, including preparation, presentation and public hearing; designation of a fiscal year; an annual election date; and audit requirements. The charter may provide for referenda on certain issues to the registered voters of the town at large at special town meetings called for the purpose of deciding those issues. In addition to elected members of town meeting, the board of selectmen, the town clerk and the budget committee chairman are designated as members-at-large of the representative town meeting, with the same rights, privileges, and duties of the elected members. [RSA 49-D:3, III](#).

2. Town Council/Town Manager

This second form of town government (with its three variations) allows a town to adopt a charter establishing a *representative* body - the town council - which has powers similar to those of a city council. The charter must provide for the appointment of a town manager by the council, who shall have all the powers of town managers as set out in [RSA Chapter 37](#). The provisions of the charter adopting this form of government must comply with the requirements of [RSA Chapter 49-B](#) and [RSA 49-D:2](#). The council may have as many as 15 members, and must have an odd number unless the vote of the chair is reserved for breaking ties. [RSA 49-D:3, 1\(b\)](#).

a. Board of Selectmen/Open Town Meeting Abolished

The adoption of a town council town manager charter abolishes the traditional board of selectmen/open town meeting form of government.

b. Legislative Body Options

Under the town council form of government, [RSA 49-D: 2, II\(a\)](#) requires establishment of a *legislative body* to replace the traditional open town meeting. However, the charter may reserve authority, by referendum, to the town voters over amendments to land use ordinances and approval of bond issues. [RSA 49-D:2, I](#). [RSA 49-D:3](#) spells out three charter options for choosing the type of legislative body:

i. Town Council functions as both the governing body and legislative body, as do city councils in cities. Where the town council is both the governing body and the legislative body, it generally has all the powers and duties of selectmen, city councils and boards of aldermen, and may address all matters that general law requires to be done at town meetings, all as provided by [RSA 49-D:3, 1\(a\)](#). The charter may provide for voter referenda on certain issues at special town meetings called for the sole purpose of deciding those issues. [RSA 49-D:3, 1\(e\)](#). (Of course, some state statutes require that certain questions be decided by official ballot vote.)

ii. Official Ballot Town Council is a variation of the town council form (enacted by the legislature in 1995) that limits the power of the town council by authorizing the charter to specify certain matters on which the voters will vote by official ballot. These matters may be some or all such matters that the general laws require annual or special town meetings to vote on. *Thus, the town council is vested only with authority to vote on such matters not voted on by official ballot.* The charter must specify with precision the budgetary items to be included on the official ballot, a finalization process for the annual budget, and a process for public hearings, debate, discussion and amendment of questions to be placed on the ballot. [RSA 49-D:3, I-a](#).

iii. Budgetary Town Meeting has the limited authority to vote on the annual operating budget as presented by the town council. [RSA 49-D:3, II](#). Under a charter providing for a budgetary town meeting, although the legally effective business to come before the town meeting is the budget, some towns use the annual meeting as an advisory session, where the voters may express concerns publicly.

3. Changes without Charters

Towns have many statutory options for making adjustments in their form of government without adopting charters, e.g., adoption of the Municipal Budget Act ([RSA 32:14](#) et seq.), adoption of the 5-member board of selectmen ([RSA 41:8-a - :8-e](#)), adoption of the official ballot referendum (SB 2) discussed above, and - one of the most popular options - adoption of the town manager statute, [RSA Chapter 37](#).

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

Chapter 49-D

LOCAL OPTION-TOWN CHARTERS

Section 49-D:1

49-D:1 Purpose and Intent. – It is the purpose of this chapter to implement the home rule powers recognized by part I, article 39 of the constitution of the state of New Hampshire by providing an outline of optional forms of town government which may be adopted by any municipality pursuant to the process and restrictions set forth in RSA 49-B. It is the intent of the general court to recognize that while the pressures of growth, demand for services and complexity of governmental issues may compel citizens to consider alternative forms of governance of towns, which forms have the same or similar structural appearance and powers traditionally found in cities, that the preservation of a community's unique sociological and cultural heritage and history as a town be encouraged by the provision of the optional forms of town government described in this chapter.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-D:2

49-D:2 Town Council-Town Manager. –

I. As distinguished from adopting a city form of government described in RSA 49-C, a town may adopt a charter pursuant to RSA 49-B which abolishes the open town meeting and vests all legislative authority in a town council as the elected body or, in the alternative, vests authority to make appropriations in a budgetary town meeting. A charter establishing this form may reserve authority by the voters, at a referendum, over amendments to land use ordinances pursuant to RSA 675 and approval of bond issues consistent with RSA 33.

II. A charter establishing this form of government shall:

(a) Establish a legislative body as described in RSA 49-D:3.

(b) Provide for either the direct election by the voters or the selection by the elected body of a chair of the elected body and prescribe the term of office, powers and duties and other matters relative to the position.

(c) Provide for the appointment by the town council of a chief administrative officer to be called a town manager or similar title. This position shall head the administrative services of the town and shall be selected on the same basis, possess the same qualifications, be vested with the same authority, be charged with the responsibility and enjoy similar job security as town managers under RSA 37.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-D:3

49-D:3 Optional Forms of Legislative Body. –

Town charters adopted under RSA 49-B and patterned as prescribed by this chapter may adopt a charter providing for one of the following types of legislative bodies:

I. Town council shall be an elected body which serves as the legislative and governing body of the town. Any charter providing for a town council shall be guided by the following:

(a) Notwithstanding any other provision of law, if a town should adopt a charter which provides for a town council form of government and no other form of legislative body, all powers and duties of selectmen, city councils and boards of aldermen, conferred by statute or the constitution, shall be conferred on the town council. The town council shall be empowered also to address all matters that general law requires to be addressed at the annual or a special meeting of a town, except those matters which by statute or charter must be placed upon the official ballot of the

town. All procedural requirements prescribed by law relative to the actions of a city shall also apply to the actions of a town council.

(b) The charter shall provide for up to 15 members of the town council with an odd number chosen unless the vote of the chair is reserved for the purpose of breaking ties.

(c) Councilors may be elected for coterminous terms or terms may be staggered to assure continuity of experience and familiarity with issues, laws and procedures.

(d) Using the guidelines established in RSA 49-C, the charter shall specify at-large or district representation or a combination thereof; the manner of filling vacancies; powers of nomination, appointment, and confirmation; requirements for attendance and quorum; any domicile or eligibility requirements of up to one year in the town or district and continued domicile during a term; specific procedures for the preparation, presentation, public hearing, and adoption of annual budgets and designation of a fiscal year; procedures for issuing bonds and notes pursuant to RSA 33:8-e; an annual municipal election date pursuant to RSA 669:1; bonding of certain town officials and employees where not required by general law; and requirements for periodic independent audits of all town financial matters by a certified public accountant.

(e) Other matters of local concern may be included in a charter including, but not limited to, conflict of interest provisions which shall be at least as strict as those established in the general laws, citizen powers of initiative, referendum and recall as described in RSA 49-C, the adoption and periodic review of an administrative code, a merit personnel system, a purchasing system, and a town investment policy, and the adoption of a tax cap limiting the annual increases in amounts raised by taxes under the town budget. Such tax cap shall include an override threshold on a vote to exceed the limit on annual increases which shall be by a supermajority as determined in the charter. Such tax cap may specifically exclude certain dedicated, enterprise, or self-supporting funds or accounts, capital reserve funds, grants, or revenue from sources other than local taxes, or interest and principal payments on municipal bonded debt, or capital expenditures which shall be by a supermajority vote as determined in the charter. An ordinance or accounting practice that redistributes excludable budget items from within the limits of the capped budget to outside the limits of the capped budget shall be by a supermajority vote as determined in the charter.

I-a. Official ballot town council shall be a variation of the town council which provides for voting on some or all matters that general law requires to be addressed at the annual or a special meeting of a town, by official ballot. In such event, the town council shall be vested only with the limited authority to vote on all matters not voted on by official ballot. When an official ballot town council is included in any charter, the provisions of RSA 49-D:3, I, relative to town councils, shall apply in all respects, except with respect to those matters to be voted on by official ballot. When a charter provides for an official ballot town council it shall also specify with precision the budgetary items to be included on the official ballot, a finalization process for the annual budget, the process for public hearings, debate, discussion, and amendment of questions to be placed on the official ballot, the procedures for the transfer of funds among various departments, funds, accounts, and agencies as may be necessary during the year, and the applicability of the official ballot procedure to special elections. The majority vote required to approve bonds or notes shall be either 2/3 or 3/5 as adopted and provided for in the charter. If a charter does not specify which majority vote is required, then the required majority vote shall be 2/3. All voting by official ballot shall be in accordance with the procedures established in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours. Nonbudgetary items may be placed on the official ballot pursuant to this section notwithstanding the provisions of RSA 40:4-e and RSA 39:3-d.

II. Budgetary town meeting shall be a variation of the open town meeting but vested with the limited authority to vote on the annual town operating budget as presented by the governing body. When included in any charter the provisions of general law relative to town meeting, their warning, the right for petitioned articles at such meetings and conduct of such meetings shall apply to a budgetary town meeting in all aspects relative to the appropriation of funds, including the approval of bond issues. When a charter provides for a budgetary town meeting it shall also delineate procedures for the transfer of funds among various departments, funds, accounts and agencies as may be necessary during the year.

II-a. Official ballot town meeting shall be a variation of the open town meeting which provides for voting on some or all warrant articles, including part or all of the annual town operating budget, by official ballot. In such event, the open town meeting shall be vested only with the limited authority to vote on all matters not voted on by official ballot. When an official ballot town meeting is included in any charter, the provisions of general law relative to town meetings, their warning, the right for petitioned articles at such meetings, and the conduct of such meetings shall apply to the official ballot and open town meeting in all respects. The majority vote required to approve bonds or notes shall be either 2/3 or 3/5 as adopted and provided for in the charter. If a charter is silent with regard to such required majority, then the majority vote shall be 2/3. When a charter provides for an official ballot town meeting it shall also specify with precision the budgetary items to be included on the official ballot, a finalization process for the

annual budget, the process for public hearings, debate, discussion, and amendment of questions to be placed on the official ballot, the procedures for the transfer of funds among various departments, funds, accounts, and agencies as may be necessary during the year, and the applicability of the official ballot procedure to special meetings. All voting by official ballot shall be in accordance with the procedures established in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours. Nonbudgetary items may be placed on the official ballot pursuant to this section notwithstanding the provisions of RSA 40:4-e and RSA 39:3-d.

III. Representative town meeting shall be a variation of the open town meeting, but with legislative authority vested in a group of individuals elected to represent districts within the town. Any charter providing for a representative town meeting shall be guided by the following:

(a) Notwithstanding any other provision of law, all powers of the town meeting conferred by statute or the constitution shall be conferred on the representative town meeting. The representative town meeting shall be empowered to address all matters that the general law requires to be addressed at the annual or a special town meeting, except those matters which by statute or charter must be placed on the official ballot of the town. All procedural requirements prescribed by law relative to the actions of a town meeting shall also apply to the actions of a representative town meeting.

(b) The charter shall specify the manner of district representation; the manner of filling vacancies; powers of nomination, appointment, and confirmation; requirements for attendance and quorum; any domicile or eligibility requirements of up to one year in the town or district and continued domicile during term; specific procedures for the preparation, presentation, public hearing, and adoption of annual budgets and designation of a fiscal year; an annual municipal election date pursuant to RSA 669:1; bonding of certain town officials and employees where not required by general law; and requirements for periodic independent audits of all town financial matters by a certified public accountant.

(c) In addition to the elected members, the board of selectmen, town clerk, and chairman of the town budget committee shall be members-at-large. The members-at-large shall have the same rights, privileges, and duties with respect to representative town meeting as the elected members.

(d) The charter may provide for referenda on certain issues to the registered voters of the town-at-large at special town meetings called for the sole purpose of deciding those issues.

Source. 1991, 304:11. 1994, 87:3. 1995, 53:3, 4. 2003, 205:1; 289:12, 13. 2004, 254:2. 2011, 234:4, eff. July 5, 2011. 2021, 88:3, eff. Aug. 20, 2021.

Section 49-D:4

49-D:4 Non-Interference by the Elected Body. – The elected body shall act in all matters as a body, and shall not seek individually to influence the official acts of the chief administrative officer, or any other official, or to direct or request, except in writing, the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. Any member violating the provisions of this section, as determined through procedures established in the charter, shall forfeit his office.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-D:5

49-D:5 Transition Provisions. – Any charter adopted pursuant to this chapter may provide for the efficient and timely transition to any new form of government including, but not limited to, the holding of any necessary special elections, the phasing in of any aspect of the new form of government, expenditure authority during any transition and the integration of the remaining terms of office of any existing municipal officers as part of any new elected body established by the charter.

Source. 1991, 304:11, eff. Aug. 23, 1991.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

Chapter 49-C

LOCAL OPTION-CITY CHARTERS

Section 49-C:1

49-C:1 Purpose. – The purpose of this chapter shall be to implement part I, article 39 of the New Hampshire constitution enabling municipalities to draft city charters within the framework of the statute without the need for creating special charters by action of the general court.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:2

49-C:2 Incorporation. – The inhabitants of any municipality adopting a city charter under this charter shall continue to be a body politic and corporate under its pre-existing name and as such to enjoy all the rights, immunities, powers and privileges and be subject to all duties and liabilities now incumbent upon them as a municipal corporation. All existing property of the municipality shall remain vested in it and all its existing debts and obligations shall remain obligatory upon it after the adoption of a charter under this chapter.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:3

49-C:3 Wards. – The city shall continue to be divided into the same number of wards as constituted at the time of the adoption of a charter hereunder, and the general laws relative to wards of cities, officers of such wards and voters, checklists, elections and jurors shall be applicable to such wards.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Elections

Section 49-C:4

49-C:4 Conduct of Elections. – The election officers in each ward whose duty it is to conduct regular biennial elections shall conduct a municipal election at city expense in the same manner as a regular biennial election on a date permitted for city elections in RSA 44:11 and specified in the charter to elect all elected officials provided for in the charter. The supervisors of the checklist in each ward shall fix the polling place in each ward and give notice of the polling place when the checklist for the municipal election is first posted.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:5

49-C:5 Qualification of Voters. – Persons who would be qualified to vote in a biennial election if held on the day of such municipal election shall be qualified to vote in all elections held pursuant to this chapter, and all such elections shall be deemed elections within the meaning of all general statutes, penal and otherwise, and said statutes

shall apply to municipal elections so far as consistent with this chapter. The polls shall be open at each municipal election during such hours as the charter may provide, consistent with state election laws.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:6

49-C:6 Preparation of Ballots. – The city clerk shall prepare the ballots to be used at the municipal elections. Under charters providing for election by the Australian ballot system, the ballots shall be prepared in accordance with the procedure provided for in general election laws governing such system. Under charters providing for non-partisan elections, the ballot shall contain the names in alphabetical order by surname according to the alphabetization procedure established in RSA 656:5-a, without party designation, of all who file with the city clerk as candidates for elective office. The charter shall specify a filing period, the filing fee to be paid for each office, and, as an alternative method of becoming a candidate on the ballot, the number of qualified voters which may be subscribed to a nominating petition in such form as the charter may set out.

Source. 1991, 304:11. 2010, 330:1, eff. July 20, 2010.

Section 49-C:7

49-C:7 Contested Elections. – Any election contest shall be resolved in accordance with the procedure set forth in the general election laws governing biennial elections.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:8

49-C:8 The Elected Body. – The governing and legislative body under the mayor-aldermen plan shall be a principal officer called the mayor and a board of aldermen; and, under the council-manager plan shall be a city council, all of whom shall be elected. In the mayor-aldermen plan the mayor shall be elected from the city-at-large. In the council-manager plan, the charter shall provide for the election of the mayor-at-large or the selection by the council of one of its own members to serve as mayor. Under either plan, the charter may provide for selection by the elected body of one of its own members to serve as a designated official in the stead of the mayor and shall designate this position by the title vice-mayor, assistant mayor, mayor pro tem or other similar term. Terms of elected officials, the date of commencement, and termination of office and ward and at-large representation shall be set forth in the charter.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:9

49-C:9 Qualifications for Office. – No person shall be a candidate for the office of mayor, councilor-at-large, or alderman-at-large who is not a registered voter of the city. No person shall be a candidate for the office of ward alderman or ward councilor who is not a registered voter in the ward in which he or she seeks election. The charter may require a period of domicile of up to one year for eligibility to run for office.

Source. 1991, 304:11. 2003, 289:11, eff. Sept. 1, 2003.

Section 49-C:10

49-C:10 Vacancies. – The charter shall provide a procedure for filling vacancies in the offices of mayor, aldermen, and councilors until the next municipal or state general election at which time an election shall be held for the unexpired term.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:11

49-C:11 Compensation. – In the mayor-aldermen plan, the mayor shall devote full time to mayoral duties and shall receive such salary as may be designated by the charter, or by ordinance if the charter so authorizes. In the council-manager plan, the mayor shall not be full-time as to the daily administrative responsibility, and authority for city operations shall be vested in the city manager. The aldermen or councilors shall be compensated in an amount not to exceed in aggregate a sum fixed by the charter, or by ordinance if the charter so authorizes.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:12

49-C:12 Meetings. –

I. The mayor shall preside over all meetings of the elected body, and the city clerk shall act as a clerk of the body. All meetings of the elected body shall be public in accordance with RSA 91-A. Regular meetings shall be held at such hours on such days of the week, at such intervals, as the charter may designate and special meetings upon such notice as is required in the charter. The elected body shall establish its own rules, and a majority shall constitute a quorum for the transaction of the business of the board. The mayor shall have the right to introduce bills and initiate other measures at the meetings and to speak at meetings upon pending measures without resigning the chair. In cases where the mayor is directly elected, the mayor shall not be counted to make a quorum of such board, nor vote as a member of the board except in case of equal division.

II. Notwithstanding paragraph I, a city may, pursuant to the procedures for adoption of charter amendments and submission to the voters under RSA 49-B:5 and 49-B:6, vote to allow the mayor to vote and be counted for purposes of a quorum at meetings of the city council, despite such mayor having been directly elected.

III. Notwithstanding any contrary provision in paragraph I, the adoption of an override threshold provision to a tax cap included in a charter pursuant to RSA 49-C:33, I(d) shall provide for a supermajority vote of the elected body to adopt the annual budget.

Source. 1991, 304:11. 1999, 27:1. 2011, 234:2, eff. July 5, 2011.

Section 49-C:13

49-C:13 Removal of Mayor, Aldermen, and Councilors. –

I. The elected body may, 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.

II. Any vacancy occasioned by removal under this section shall be filled in the manner provided in the charter.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:14

49-C:14 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 _____ 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 elected body shall determine.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:15

49-C:15 General Powers. – Except as otherwise provided, the elected body hereby established shall have all the powers and discharge all the duties conferred or imposed upon city councils in convention, city councils voting

concurrently, or boards of mayor and aldermen acting separately, by RSA 44 through RSA 48 or other general law now in force or later enacted, or upon the existing city councils or board of mayor and aldermen of the city by special laws not hereby repealed. The elected body shall have the powers of selectmen of towns so far as consistent with this charter. All provisions of such laws pertaining to the powers or duties of any or all such bodies shall be construed to apply to the elected body unless there is a contrary intent or provision, it being the purpose of this chapter to confer upon the elected body all functions of the existing board of aldermen or city council, whether legislative, executive or judicial.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Administrative Service

Section 49-C:16

49-C:16 General Powers and Duties of Mayor and City Manager. – The charter shall specify a mayor or city manager who shall be the chief administrative officer and the head of the administrative branch of the city government, supervising the administrative affairs of the city and carrying out the policies enacted by the elected body. He shall enforce the ordinances of the city, the charter, and all general laws applicable to the city. He shall keep the elected body informed of the condition and needs of the city and shall make such reports and recommendations as he may deem advisable and perform such other duties as may be required by charter, ordinance or resolution of the elected body. He shall have and perform such other powers and duties not inconsistent with the provisions of the charter as now are or may be conferred or imposed upon him by municipal ordinance or upon mayors or city managers by general law. The city manager shall have the right to take part in the discussion of all matters before the city council, but not the right to vote.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:17

49-C:17 Appointment of City Manager; Qualification; Removal. –

I. The city council shall appoint as city manager for an indefinite term, and fix the salary of, a qualified person who receives the votes of at least a majority of the council. The first city council elected under this charter shall appoint a manager within 6 months after the effective date of the charter. The city manager shall be chosen solely on the basis of executive and administrative qualifications, but need not be a resident of the city or the state at the time of appointment.

II. The charter shall provide a detailed procedure for removal, after notice and hearing, of the city manager. The action of the city council in removing a city manager shall be final.

III. In case of a vacancy in the position of city manager, the council may appoint an acting city manager to serve at the pleasure of the council for not more than 180 days.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:18

49-C:18 Appointive Powers. – Subject to the provision of the charter, the chief administrative officer shall have the power to appoint and remove all officers and employees in the administrative services of the city, and he may authorize and empower the head of a department or officer responsible to him to appoint and remove subordinates in such department or office. All such appointments shall be without definite term unless made for a provisional, temporary or emergency service not to exceed the maximum limits which may be prescribed by the merit plan.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:19

49-C:19 Non-Interference by the Elected Body. – The elected body shall act in all matters as a body, and shall not seek individually to influence the official acts of the chief administrative officer, or any other official, or to direct or request, except in writing, the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. Any member violating the provisions of this section, as determined through procedures established in the charter, shall forfeit his office.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:20

49-C:20 Appointive Officers. – The charter shall provide for the appointment of a city clerk, a treasurer, one or more assessors, a fire chief, a police chief, a health officer, a city solicitor, a general assistance administrator, and such other officers as may be necessary to administer all departments which the elected body and the charter shall establish. Assessors 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 powers and duties of appointed officers and heads of departments shall be those prescribed by state law, by the charter or by ordinance. Unless otherwise provided in the charter or by law, the term of office of any appointed officer shall begin upon his or her appointment and qualification for office and shall end upon the appointment and qualification of his or her successor.

Source. 1991, 304:11. 2010, 226:2, eff. Aug. 27, 2010.

Section 49-C:21

49-C:21 Departments; Administrative Code. – The city shall have departments, divisions, and bureaus as may be established by the charter or as the elected body may establish by ordinance. It shall be the duty of the first chief administrative officer, under the provisions of the charter to draft and submit to the elected body within 9 months after assuming office, an ordinance consistent with the charter which provides for the division of the administrative service of the city into departments, divisions and bureaus and defines the functions and duties of each. The ordinance shall include provisions for a merit plan to insure that all appointments and promotions in the service of the city shall be made solely on the basis of merit and only after appropriate examination or review of the applicants' relative knowledge, skills, abilities and experience. Subsequent to the adoption of such ordinance, upon recommendation of the chief administrative officer, the elected body by ordinance may create, consolidate or abolish departments, divisions and bureaus and define the functions and duties of each. The compilation of such ordinances shall be known as the "Administrative Code." Each officer shall have supervision and control of his department and of the employees of his department and shall have power to prescribe rules and regulations, not inconsistent with general law, the charter, the administrative code, and the provisions of the merit plan. Prior to adoption of the administrative code the chief administrative officer shall have the power to establish temporary rules and regulations to insure economy and efficiency in the several divisions of the city government.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Finance

Section 49-C:22

49-C:22 Fiscal Year. – The fiscal and budget year of the city shall begin on January 1, or July 1, unless another date shall be fixed by the charter or by ordinance, and the charter shall address any interim period or transition.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:23

49-C:23 Budget Process and Fiscal Control. –

The charter shall provide for the following:

I. A budget submission date and a date by which an annual budget shall be finally adopted by the elected body.

Failing final adoption by the established date, the budget shall be determined as provided in the city charter, or as originally submitted by the chief administrative officer if no such provision is made in the city charter.

II. One or more public hearings on the budget before its final adoption. A copy of the proposed budget and notice of the public hearing shall be published at least one week in advance of any public hearing.

III. Procedures for the transfer of funds among various budgeted departments, funds, accounts, and agencies as may be necessary during the year.

IV. An annual independent audit conducted by certified public accountants experienced in municipal accounting.

Copies or abstracts of such audits shall be made public along with an annual report of the city's business. Nothing in this paragraph shall prevent the elected body from requiring such other audits as it deems necessary. Audit services shall be put out to bid on a periodic basis as specified in the charter.

V. Bonding of officials, officers and employees, the cost of which shall be paid by the city.

VI. Procedures for appropriation of funds, after notice and public hearing and by a 2/3 vote, for purposes not included in the annual budget as adopted.

VII. Designation of one or more depositories of city funds by the elected body, the periodic deposit of funds, and the security required for such funds. Personal surety bonds shall not be deemed proper security.

VIII. Periodic, but at least quarterly, reporting of the state of the city's finances to the public and the elected body by the chief administrative officer. The chief administrative officer, with approval of the elected body, may reduce appropriations for any item or items, except amounts required for debt and interest charges or other legally-required expenditures, to such a degree as may be necessary to keep total expenditures within total anticipated revenues.

IX. Establishment of a fiscal control function, including pre-audit of all authorized claims against the city before payment. The head of such function need not be a resident of the city or the state at the time of selection, shall not be treasurer, and shall be chosen solely on the basis of executive and administrative qualifications and actual experience in and knowledge of accepted practices in respect to the duties of municipal fiscal management.

Source. 1991, 304:11. 2003, 25:5, eff. April 30, 2003.

Section 49-C:24

49-C:24 Borrowing Procedure. – Subject to the applicable provisions of state law and the rules and regulations provided by ordinance in the administrative code, the elected body, by resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the city and the issuance by the city of other evidence of indebtedness therefor, and may pledge the full faith, credit, and resources of the city for the payment of the obligation created by such borrowing. Borrowing for a term exceeding one year shall be authorized by the elected body only after a duly advertised public hearing.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:25

49-C:25 Special Assessment Resolution. – The elected body shall have the power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property especially benefited and shall so declare by resolution. Such resolution shall state the estimated cost of the improvement, what proportion of the cost shall be paid by special assessments, and what portion, if any, shall be a general obligation of the city, the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:26

49-C:26 Procedure Fixed by Ordinances. – The elected body shall prescribe by general ordinance complete special assessment procedures concerning plans and specifications, estimate of costs, notice and hearing, the making of the special assessment roll and correction of errors, the collection of special assessments, and any other matters concerning the making of improvements by the special assessment method.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Transition Provisions

Section 49-C:27

49-C:27 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. The incumbents when this charter takes effect who are not elected by popular vote, of all municipal offices not hereby abolished or superseded, 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 or superseded by lawful ordinances.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:28

49-C:28 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.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:29

49-C:29 Notice of Election or Appointment. – Written notice of election or appointment of any city officer shall be mailed to him at his address by the city clerk within 48 hours after the appointment is made or the vote canvassed. If, within 10 days from the date of the notice, such officer shall not take, subscribe to, and file with the city clerk an oath of office, such neglect shall be deemed a refusal to serve and the office shall be deemed vacant, unless the elected body shall extend the time in which such officer may qualify.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:30

49-C:30 Liability for Discharge. – The removal in accordance with this charter with or without cause of a person elected or appointed or otherwise chosen for a fixed term shall give no right or action for breach of contract.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:31

49-C:31 Violations. – Any person who violates any provisions of the charter, unless otherwise provided, or violates any city ordinance for which no other punishment is provided, shall be guilty of a misdemeanor and, notwithstanding RSA 651:2, be fined not more than \$500 or imprisoned not more than 90 days, or both.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:32

49-C:32 Public Records. – All records of the city shall be public in accordance with RSA 91-A.

Source. 1991, 304:11, eff. Aug. 23, 1991.

Section 49-C:33

49-C:33 Optional Provisions; Limitations. –

I. City charters may include provisions relating to any or all of the following matters:

- (a) Referendum procedures whereby voters may petition to suspend implementation of an ordinance, except budget adoption and land use regulation ordinances, enacted by the elected body, require a reconsideration by the body and, failing satisfactory reconsideration, require a referendum on approval.
- (b) Initiative procedures whereby voters may initiate ordinances by petition, require consideration of the petitioned ordinance by the elected body and, failing satisfactory consideration, require a referendum to enact the ordinance.
- (c) Conflicts of interest so long as any provisions adopted are at least as stringent as the state general laws relative to conflicts of interest.
- (d) A limit on the annual spending increases that increase the amount raised by taxes under the city budget adopted pursuant to RSA 49-C:23. Such a tax cap shall provide for an override threshold on a vote to exceed the limit on annual increases which shall be by a supermajority as determined in the charter. A tax cap provision in the city charter may provide for specific exclusions for dedicated, enterprise, or self-supporting funds or accounts, capital reserve funds, grants, or revenue from sources other than local taxes, or interest and principal payments on municipal bonded debt, or capital expenditures which shall be by a supermajority vote as determined in the charter. An ordinance or accounting practice that redistributes excludable budget items from within the limits of the capped budget to outside the limits of the capped budget shall be by a supermajority vote as determined in the charter.

II. Any election pursuant to initiative and referendum procedures shall be held within 60 days after certification of a valid petition or at the next regular municipal election, whichever is earlier.

Source. 1991, 304:11. 2011, 234:3, eff. July 5, 2011. 2021, 88:2, eff. Aug. 20, 2021.

Section 49-C:34

49-C:34 Saving Clause. – So much of the previous charter of the city and of laws passed in amendment or supplementary to the charter, as now may be in force, relative to the constitution and bounds of its several wards, its school districts and sewer, lighting, and other special precincts and their government and affairs, to its water works, and to the borrowing of money in aid of its school districts, is hereby continued in force, with the exception of such provisions as are inconsistent with this chapter. All special legislation relative to the government of the city, not expressly saved, is hereby repealed. All general laws relative to the government of cities shall remain in force in the city so far as consistent with this chapter. Existing ordinances and other municipal regulations shall remain in force so far as the same can be applied consistently with the intents and purposes of this chapter, but are hereby annulled so far as inconsistent with this chapter. In all existing laws, ordinances and regulations hereby saved, references to the city councils, board of mayor and aldermen, board of public works, or other bodies or officers hereby abolished and superseded, or to bodies or officers hereby abolished and superseded, or to bodies or officers whose constitution or functions are hereby altered, shall be taken to mean the body or officer upon whom jurisdiction of the matter in question is conferred by the charter or by the administrative code.

Source. 1991, 304:11, eff. Aug. 23, 1991.