

## Chapter C

### CHARTER

**[HISTORY: Adopted by the New Hampshire Legislature as Ch. 260 of the Laws of 1893; adopted by town meeting 3-19-1894. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Administrative Code — See Ch. 4.

Officers and employees — See Ch. 61.

Fiscal year — See Ch. 24.

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#### **§ C-1. City established.**

The inhabitants of the Town of Franklin in the County of Merrimack shall continue to be a body corporate and politic under the name of the City of Franklin.

#### **§ C-2. Wards. [Amended by Ch. 355 of the Laws of 1973]**

Said City of Franklin is hereby divided into three wards, which shall be constituted as follows, namely:

- A. Ward 1 shall include all that portion of said Franklin located west of the Merrimack and Pemigewasset Rivers.
- B. Ward 2 shall include all that portion of the City of Franklin within the boundary commencing at the intersection of New Hampton Road and New Boston Road; then easterly to the Sanbornton town line; then following the Sanbornton town line northwesterly to New Hampton Road; then westerly to the Pemigewasset River; then southerly along the Pemigewasset and Merrimack Rivers to the Northfield town line; then easterly to Prospect Street; then northerly along Prospect Street to Central Street; then easterly along Central Street to Sanborn Street; then northerly along Sanborn Street to a point marked by a drill hole on property owned by the City of Franklin and currently occupied by the Franklin Middle School, so called; then turning and running N 78° 35' 01" W 81.27 feet to a point at a rock wall; then turning and running N 78° 16' 32" W 60.43 feet to an iron pipe in said wall; then continuing N 78° 16' 32" W 53.80 feet further along said wall; then turning and running N 77° 56' 13" W 50.19 feet to a granite bound; then turning and running N 78° 14' 54" W 699.98 feet to a point; then turning and running N 78° 52' 56" W 15.26 feet to a highway bound; then turning and running S 60° 58' 38" W 82.90 feet to a highway bound; then N 04° 51' 02" W 52.66 feet to a granite bound; then turning and running N 06° 13' 52" W 5.90 feet to a point; then turning and running N 06° 13' 52" W 77.41 feet to a point; then turning and running N 06° 13' 52" W 157.57 feet to a granite bound; then turning and running N 10° 07' 28" W 12.86 feet to a granite bound; then turning and running N 05° 19' 13" W 85.94 feet to a granite bound; then turning and running N 05° 26' 42" W 81.16 feet to a granite bound; then turning and running N 04° 59' 23" W 35.09 feet to a point; then turning and running S 84° 39' 09" E 121.92 feet to an iron pipe; then turning and running S 86°

17' 40" E 129.59 feet to a granite bound; then turning and running S 82° 14' 29" E 133.53 feet to a granite bound; then turning and running N 82° 45' 25" E 290.51 feet to a granite bound; then turning and running N 82° 50' 50" E 27.07 feet to a point; then turning and running N 82° 50' 50" E 0.87 feet to a granite bound; then turning and running N 84° 34' 50" E 330.51 feet to a point; then turning and running N 84° 34' 50" E 99.26 feet to a drill hole at a rock wall; then turning and running N 84° 04' 36" E 67.21 feet to a drill hole in said wall; then turning and running S 07° 37' 30" E 400.03 feet to a granite bound; then turning and running S 22° 33' 28" E 284.11 feet to a granite bound; then turning and running S 59° 54' 55" E 170.28 feet to a granite bound; then turning and running S 78° 18' 30" E 189.40 feet to a drill hole set in a stone wall on the westerly side of Sanborn Street; then northerly along said Sanborn Street to Babbitt Road; then northwesterly along Babbitt Road to the intersection of Babbitt Road and Victory Drive; then northerly along New Hampton Road to the point of beginning. [Amended 11-28-1995; 10-4-2022<sup>1</sup>]

- C. Ward 3 shall include all that portion of the City of Franklin remaining after the formation of the above-indicated lines for Wards 1 and 2.

### § C-3. Administration. [Amended 11-24-1998]

The administration of all the fiscal, prudential and municipal affairs of said city, and the government thereof, shall be vested in one principal officer to be called the "Mayor" and one board consisting of nine members to be called the "Council," the members whereof shall be called "Councilmen." The Mayor and Council shall sit and act together and compose one body and in their joint capacity shall be called the "City Council." (See also § C-19.)

### § C-4. Powers and duties of Mayor and Council.

The Mayor and Council created by this act shall have all the powers and do and perform, in reference to each other or otherwise, all duties which mayors, boards of aldermen and common councils of cities are by law authorized or required to do and perform, either separately or otherwise, and all provisions of statutes pertaining to the duties or powers of aldermen and common councils of cities, separately or otherwise, shall be construed to apply to said City Council unless a contrary intention appears.

### § C-5. School district.<sup>2</sup>

Said city shall constitute one school district, and the administration of all fiscal, prudential and district affairs of said district shall be vested in the City Council, except such as shall hereinafter be vested in the School Board.

### § C-6. Property and debts.

All property of said Town of Franklin, or of the school district of said town, shall be vested in said city, and all debts of said town and said school district shall be considered for all purposes as the debts of said city.<sup>3</sup>

1. Editor's Note: The effective date of this amendment is 1-1-2023.

2. Editor's Note: See also Ch. 82, School District, Art. I, Fiscal Policy.

3. Editor's Note: Former Section 7.00, regarding election to the General Court, Section 8.00, regarding election of

**§ C-7. Annual meeting. [Amended by referendum 11-27-2001]**

The Annual Meeting of each ward shall be held on the First Tuesday of October in each year, at such place in said City as fixed by the City Council. Said Annual Meeting shall also be the time for conducting all municipal elections unless specifically designed otherwise in the Charter or by state statute.

**§ C-8. Election of Councilman and Ward Clerk. [Amended 11-7-1978]**

At each annual election in each ward there shall be elected by ballot a Councilman who shall serve for three years. At each biennial city election in each ward, commencing with the election of 1978, there shall be elected by ballot a Ward Clerk who shall serve for two years.

**§ C-9. Compensation of Councilmen. [Added by Ch. 348 of the Laws of 1961]**

Each Councilman shall be paid from the city a sum to be established by the Council, after notice and public hearing, not to exceed \$25, for each regular monthly meeting of the City Council which he attends, but not exceeding 12 meetings in any year. Said sums shall be paid to each Councilman quarter-annually and shall be in full payment for all services of any and every kind rendered by him as Councilman.

**§ C-10. Mayor. [Amended by Ch. 348 of the Laws of 1961; 11-22-1966]**

The Mayor of said city shall be chosen biannually and shall have a negative upon all the actions of the Council to which his veto power would extend had the city government herein constituted provided for a board of aldermen. He shall preside in the meetings of the City Council but shall have no vote except in case of an equal division. In his absence the Council may elect one of their number Chairman, who shall have all the powers and perform all the duties of Mayor during his absence or disability or a vacancy in said office from any cause. The Mayor shall be paid out of the city treasury an annual salary to be established by the Council, after notice and public hearing, not to exceed \$2,000, payable quarter-annually, which shall be in full for all services of any and every kind rendered by him in said office. The Mayor shall not be paid any fixed sum as an expense account but shall be reimbursed only for such specific expenses made by him in connection with his office as may be authorized and approved by the Council prior to being incurred; provided, however, that the sums so authorized by the Council shall not exceed \$250 for any one year.

**§ C-11. Vacancies. [Added by Ch. 153 of the Laws of 1979; amended 11-26-1979; 11-25-1986; 10-5-2021]**

If the Mayor, a member of the City Council or other elected city official is unable or unwilling to serve out his or her full term of office for any reason and the office becomes officially vacant during said term, then in any such event a new city official shall be appointed by the City Council for the remainder of that calendar year in which the vacancy occurred. An election shall occur at the next municipal election to fill the balance of the term caused by the vacancy. If the office of Mayor becomes vacant, the

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moderators and supervisors of the checklist, as amended 11-7-1978, and Section 9.00, regarding checklists, which immediately followed this section, were deleted 11-24-1998.

City Council shall designate one of its members to act as interim Mayor.

The Interim Mayor shall retain his/her vote as a Councilor and shall exercise all general duties as Mayor but shall not have the ability to cast an additional deciding vote in the event of an equal division of the Council nor shall he/she have the authority to veto any action of the Council. The interim Mayor shall so serve until the next scheduled City Election at which time a Mayor shall be elected to serve for the unexpired mayoral term and inaugurated as soon as practical.

### **§ C-12. Oath of office. [Amended 11-24-1998]**

The Mayor and Council shall annually, on the first Monday of January, meet for the purpose of taking their respective oaths.<sup>4</sup>

### **§ C-13. Board of Education. [Amended by Ch. 406 of the Laws of 1959; 11-27-1990; 11-28-1995]**

- A. The general management and control of public schools, and of the building and property pertaining thereto, shall be vested in a Board of Education consisting of nine members, three of whom shall be designated from each ward. The ward members shall be chosen one from each ward by the voters of the city at the annual election, and no person shall be eligible to be a candidate from a ward unless he shall be a resident in such ward. Ward members shall serve for a term of three years and until their successors are elected and qualified. No person shall serve on both the Board of Education and the City Council simultaneously. Members of the Board shall receive such compensation as may be fixed by the Council, and their term of office shall begin on the first Monday of January following their election.
- B. For purposes of implementation of this section, no person shall be elected to the Franklin Board of Education at large after the regular municipal election of 1990, and all at-large seats chosen at that election, or prior to that election, shall be allowed to expire without being filled. Commencing with the municipal election of 1991, each ward shall elect one School Board representative to represent that ward for a period of three years, but at such election only each ward shall also elect a representative for a term of two years and a term of one year. Thereafter, all terms shall be for a period of three years for each ward representative and there shall be no at-large representation.<sup>5</sup>

### **§ C-14. Vacancies filled by appointment. [Amended 11-25-1986]**

All vacancies on the Board of Education, City Council and in all ward offices shall be filled by appointment of the City Council in accordance with § C-11 of this Charter.

### **§ C-15. Ballots; powers and duties of Clerk. [Amended by Ch. 153 of the Laws of**

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4. Editor's Note: The following sections, which immediately followed this section and provided for appointments by the Council, were deleted 11-24-1998: Section 14.00, as amended by Ch. 382 of the Laws of 1959 and Ch. 322 of the Laws of 1961; Section 14.00-A, as added by Ch. 425 of the Laws of 1957; Sections 14.00-B and 14.00-C, as added by Ch. 382 of the Laws of 1959; and Section 14.00-D, as added by Ch. 322 of the Laws of 1961.

5. Editor's Note: Former Section 16.00, regarding the Board of Water Commissioners, and former Section 17.00, regarding establishment of a police court, as amended in 1895, which immediately followed this section, were deleted during codification (see Ch. 1, General Provisions, Art. II).

**1979; 11-26-1979; 11-25-1980]**

The City Clerk shall prepare the ballots to be used at the municipal elections. The ballot shall contain the names in alphabetical order without party designation of all who file with the City Clerk as candidates for the office of Ward Councilman or for any other city elective office no earlier than 45 days before the election and not later than 5:00 p.m. in the afternoon 35 days before the election. Each candidate shall pay the City Clerk a fee of \$3, except one on whose behalf a petition shall have been filed by at least 50 qualified voters. No name shall be printed on the ballot by reason of such a petition unless consent thereto shall be endorsed on the petition by the candidate himself not later than 5:00 p.m. in the afternoon 35 days before the election. Below the list of names of the candidates there shall be as many blank spaces as there are Councilmen to be elected. The City Clerk shall have the same powers and duties with reference to municipal elections as has the Secretary of State with reference to general biennial elections, so far as such powers and duties are not inconsistent herewith. The general provisions of the statute relating to state biennial elections shall apply to all elections for city and ward officers, so far as such provisions are not inconsistent herewith.

**§ C-16. Canvass of votes; contested elections; tie votes. [Added by Ch. 153 of the Laws of 1979; amended 11-26-1979]**

Within seven days after a municipal election the Council shall canvass the votes cast, and the candidates receiving the highest number of votes for the offices to be filled shall be declared elected. Within seven days thereafter the Council shall, subject to such rules and regulations as it may prescribe, upon request of any candidate, recount the ballots cast in the election and hear and determine any contest on the grounds of fraud or misconduct therein. Decisions of the Council in cases of contested elections shall be final. Tie votes for any elective office shall be resolved by lot in the manner that the Council may determine. In cases arising under this section, the Council shall have the power to subpoena witnesses and compel the production of all pertinent books, records and papers.

**§ C-17. When effective; duties of Supervisors. [Amended 11-24-1998]**

This act shall take effect, as to the election of ward, city and school officers under it, on the fourth Tuesday of November next after a vote of said town to adopt it, and for other purposes on the first Monday of January next after such vote to adopt it, and the Supervisors of said town shall seasonably post checklists and warrants for said first annual ward meetings and shall seasonably appoint a Moderator and Clerk for each of said wards from the legal voters thereof, who shall, after being duly sworn, have the powers and perform the duties of their respective offices at the first annual election under this act and until others are elected and qualified. The returns of votes provided by law to be made to the City Clerk shall at said first annual election be made to said Town Supervisors, who shall forthwith perform all the duties in relation thereto which are by law assigned to the Mayor and Council and City Clerk, respectively. Said Supervisors shall also select and provide a suitable place for the first meeting of the City Council and seasonably notify the members thereof of the place selected. (Said vote occurred on March 13, 1894, as reflected in City Council minutes of January 7, 1895.)

**§ C-18. Adoption procedure.**

The question of the adoption of this act shall be submitted to the voters of said town at a legal meeting thereof, and if a majority vote of those voting shall be cast in favor, it shall be adopted. If at any meeting this act shall fail of adoption, it may, at the expiration of three months from such meeting and prior to July 5, 1894, be again submitted for adoption. It shall be the duty of the Selectmen to call a meeting of the town to act on said question of adoption, in accordance with the foregoing provisions, upon the petition of 10 or more voters of said town.

**§ C-19. Appointment of Manager. [Added 11-25-1969; amended 10-5-2004<sup>6</sup>]**

The chief administrative officer of the City shall be called the "Manager." The Council shall appoint a qualified person as Manager for a term of employment and salary as negotiated by the Council and Manager in an employment agreement, and approved by a vote of 2/3 of the members of the Council. In setting the term of the Manager's employment agreement, the Council shall retain the right to discharge the Manager at any time during such term pursuant to other provisions of this Charter and/or employment agreement.

**§ C-20. Qualifications of Manager; residency requirements. [Added 11-25-1969; amended 9-13-1999<sup>7</sup>]**

The Manager shall be chosen solely on the basis of his/her executive administrative qualifications. The Council may impose reasonable residency requirements upon the Manager to assure his/her ability to respond personally to emergency or extraordinary situations within the city.

**§ C-21. Removal of Manager. [Added 11-25-1969; amended 11-28-1995]**

The Manager may be removed by a majority vote of the members of the Council as herein provided. At least 30 days before the proposed removal of the Manager, the Council shall adopt a resolution stating its intention to remove him and the reasons therefor, a copy of which shall be served forthwith on the Manager, who may, within 10 days, demand a public hearing, in which event the Manager shall not be removed until such public hearing has been held. Upon or after passage of such a resolution the Council may suspend him from duty, but his pay shall continue until his removal. In case of such a suspension the Council may appoint an Acting Manager to serve at the pleasure of the Council for not more than 180 days. The action of the Council in removing the Manager shall be final.

**§ C-22. Vacancy in office of Manager. [Added 11-25-1969; amended 11-28-1995; 11-24-1998]**

If the office of City Manager shall be vacant for any cause, the City Council may appoint an Acting Manager to serve at the pleasure of the Council for not more than 180 days and shall appoint a permanent Manager in accordance with § C-19 within 181 days of the date of vacancy.

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6. Editor's Note: Approved by a majority of the qualified electors at the City election held 10-5-2004.

7. Editor's Note: This amendment was approved by a majority of the qualified electors at the election held 11-23-1999.

**§ C-23. Acting Manager. [Added 11-25-1969]**

If the Manager is temporarily incapacitated or unable to act from any cause, the City Council may appoint an Acting Manager to serve at the pleasure of the Council. Said Acting Manager shall have all the powers and perform all the duties of the City Manager during his incapacity or inability to act. Said Acting Manager shall be paid such salary for his services hereunder as may be prescribed by the City Council.

**§ C-24. Powers and duties of Manager. [Added 11-25-1969; amended 11-24-1998]**

The Manager shall supervise the administrative affairs of the city and shall carry out the policies enacted by the Council. He 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. He shall keep the Council 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 prescribed by this Charter or required of him by ordinance or resolution of the Council not inconsistent with this Charter. He shall have and perform such other powers and duties not inconsistent with the provisions of this Charter as now are or hereafter may be conferred or imposed upon him by municipal ordinance or upon city managers by general law. He shall have the right to take part in the discussion of all matters coming before the Council but not the right to vote.

**§ C-25. Appointive power of Manager. [Added 11-25-1969; amended 11-27-1990; 10-1-2002]**

The Manager shall have the power to appoint and remove, subject to the provisions of this Charter, all officers and employees in the administrative service of the City, but the Manager may authorize the head of the department or office responsible to him to appoint and remove in such department or office. It shall be the duty of the Manager to furnish the Council, in writing, with the identity of any person whom he proposes to appoint as the head of any department or office at least 10 days prior to the date on which the appointment is to be made. If the Council has any objection to the person proposed by the Manager for appointment, it shall certify its objections to the Manager, in writing, within said ten-day period. The Council, by a five-vote majority, being defined as an affirmative vote of at least 5 members of the Council present and voting within that ten-day period, may give a vote of disapproval to the person so proposed. If a vote of disapproval is passed, the Manager shall not appoint that person.

**§ C-26. Noninterference by Council. [Added 11-25-1969]**

Neither the Council nor any of its members shall direct or request, except in writing, the appointment of any person to office or employment, or his removal therefrom, by the Manager or any of the administrative officers. Neither the Council nor any member thereof shall give orders to any of the administrative officers, either publicly or privately, but they may make suggestions and recommendations. Any violation of the provisions of this section by a member of the City Council shall be a misdemeanor, a conviction of which shall constitute immediate forfeiture of his office.

**§ C-27. Appointive officers. [Added 11-25-1969<sup>8</sup>]**

There shall be appointed, by the Manager, an Assessor or Assessors, a City Clerk, Tax Collector, Treasurer, Police Chief, Fire Chief, City Solicitor, Welfare Director and Director of the Municipal Services Department and such other officers as are necessary to administer all departments which the Council shall establish, which departments shall replace all existing departments, boards and commissions, except the Planning Board, Highway Safety Commission and Conservation Commission, which are hereby saved, and the ordinances and laws pertaining thereto. The power and duties of these officers and heads of departments so appointed shall be those prescribed by state law, by this Charter or by ordinance.

**§ C-28. Administrative Code; supervision of departments. [Added 11-25-1969]**

The first Manager under this Charter shall draft and submit to the Council, within nine months after assuming office, an ordinance dividing the administrative service of the city into departments, divisions and bureaus and defining the functions and duties of each. After the adoption of that ordinance, upon recommendation of the Manager, the Council by ordinance may create, consolidate or abolish departments, divisions and bureaus of the city and define or alter their functions and duties. Such ordinances shall be known as the "Administrative Code."<sup>9</sup> Each officer shall have supervision and control of his department and the employees therein and shall have power to prescribe rules and regulations not inconsistent with general law, this Charter, the Administrative Code and the rules and regulations of the Merit Plan. Pending passage of such code the Manager may establish temporary regulation.

**§ C-29. Purchasing procedures. [Added 11-25-1969]**

The Administrative Code shall establish purchasing and contract procedures, including the assignment of all responsibility for purchases to a single person, the combination of purchasing of similar articles by different departments and purchasing by competitive bids wherever practical.

**§ C-30. Fiscal and budget year. [Added 11-25-1969]**

The fiscal and budget year of the city shall begin on the first day of January unless another date shall be fixed by ordinance. (See Chapter 24, Fiscal Year.)

**§ C-31. Financial control. [Added 11-25-1969]**

The Manager shall appoint an officer other than the Treasurer who 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. He shall audit and approve all authorized claims against the city before paying the same.

**§ C-32. Budget procedure. [Added 11-25-1969]**

At such time as may be requested by the Manager or specified by the Administrative

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8. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

9. Editor's Note: See Ch. 4, Administrative Code.

Code, 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 Manager shall submit the proposed budget to the Council at least one month before the start of the fiscal year of the budget.

- A. Limitation of budget increases. Recognizing that final tax rates for the City of Franklin are set by the New Hampshire Department of Revenue Administration pursuant to RSA 21-J:35, I, the administration, School Department and City Council of the City of Franklin shall develop their annual budget proposals and the City Council shall act upon such proposals in accordance with the mandates of this section. In establishing a combined municipal budget, the City Council shall be allowed to assume an estimated property tax rate only in an amount equal to the tax rate established during the prior fiscal year increased by a factor equal to the change in the National Cost of Living Index as published by the United States Department of Labor for the calendar year immediately preceding budget adoption. Total expenditures for any given budget year shall not exceed funds reasonably calculated to be derived by a tax rate so established in addition to other revenues generated by the municipality. In the event of the loss of other revenues other than from property taxes from any single source in excess of 2% of the prior year's revenues or a combination of sources in excess of 4% of the prior year's revenues, the Franklin City Council may, by a two-thirds vote, exceed the above limitation but not in excess of the amount of the lost revenue. This provision shall not limit the Council from appropriately funding any programs or accounts mandated to be paid from municipal funds by state or federal law. **[Added 11-28-1989]**
- B. Exception to budget limitation. The total or any part of principal and interest payments of any municipal bond, whether established for school or municipal purposes, may be exempted from being included in expenditures subject to the prior limitation upon a two-thirds vote of the Franklin City Council. This decision shall be made annually. Additionally, capital expenditures deemed necessary by the Franklin City Council may similarly be exempted from this limitation by a two-thirds vote. **[Added 11-28-1989; amended 11-24-1998]**
- 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 the combined real estate tax revenues as follows: The combined real estate taxes raised from the prior budget year shall be increased by a factor no more than the change in the National Cost of Living Index as published by the United States Department of Labor for the calendar year immediately preceding budget adoption, then using this figure in establishing the new combined municipal budget. In the event of the loss of other revenues other than from property taxes from any single source in excess of 2% of the prior year's revenue or a combination of sources in excess of 4% of the prior year's revenues, the Franklin City Council may, by a two-thirds vote, exceed the above limitation but not in excess of the amount of the lost revenue. **[Added by referendum 11-27-2001]**
- 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 Council shall adhere to a maximum increase in combined real estate tax revenues as follows: **[Added 10-1-2002]**

- (1) The combined real estate taxes raised from the prior year shall be increased by a factor no more than the change in the National Cost of Living Index 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.
- (2) In the event of the loss of other revenues other than from property taxes from any single source in excess of 2% of the prior year's revenue or a combination of sources in excess of 4% of the prior year's revenues, the Franklin City Council may, by a two-thirds vote, exceed the above limitation but not in excess of the amount of the lost revenue.

**§ C-33. Budget hearing and notice. [Added 11-25-1969]**

A public hearing on the budget shall be held before its final adoption by the Council, at such time and place as the Council shall direct, and notice of such public hearing, together with a summary of the budget as submitted, shall be published at least one week in advance by the City Clerk.

**§ C-34. Date of final budget adoption. [Added 11-25-1969]**

No later than the 27th day of the first month of the fiscal year the budget shall be presented to the Council for action, and if such budget is not acted upon by the Council within 30 days after such presentation, it shall automatically become effective. This section shall not apply to the first fiscal year after this Charter takes effect.

**§ C-35. Appropriations. [Added 11-25-1969]**

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds majority of the Council after a public hearing held to discuss said appropriation. The Council shall by resolution designate the source of any money so appropriated.

**§ C-36. Budget control. [Added 11-25-1969]**

At the beginning of each quarterly period during the fiscal year and more often if required by Council, the Manager shall submit to the Council data showing the relation between the estimated and actual income and expense to date, and if it shall appear that the income is less than anticipated, the Council or Manager may reduce the appropriation for any item or items, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income. The Manager may provide for monthly or quarterly allotments of appropriations to departments, funds or agencies under such rules as he shall prescribe.

**§ C-37. Transfer of appropriations. [Added 11-25-1969]**

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 additional appropriation therefor. The head of any department, with the approval of the Manager, may transfer any unencumbered balance or any portion thereof from one fund or agency within his department to another fund or agency within his department. The Manager, with the approval of the Council, may transfer any unencumbered appropriation balance or any portion thereof from one department to another.

#### **§ C-38. Deposit of funds. [Added 11-25-1969]**

The Council shall designate the depository or depositories for city funds and shall provide for the daily deposit of all city moneys. The Council may provide for such security for city deposits as it may deem necessary, except that personal surety bonds shall not be deemed proper security.

#### **§ C-39. Independent audit; annual report. [Added 11-25-1969<sup>10</sup>]**

An independent audit shall be made of all accounts of the city government at least annually and more frequently if deemed necessary by the Council. Said audit shall be made by public accountants experienced in municipal accounting. An annual report of the city's business shall be printed and made available.

#### **§ C-40. Official bonds. [Added 11-25-1969]**

Any city officer elected or appointed by authority of this Charter may be required by the Manager to give a bond, to be approved by the City Solicitor, for the faithful performance of the duties of his office, but all officers receiving or disbursing city funds shall be so bonded. All officials' bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the city. Such bonds shall be filed with the City Clerk.

#### **§ C-41. Borrowing procedure. [Added 11-25-1969]**

Subject to the applicable provisions of state law and the rules and regulations provided by ordinance in the Administrative Code, the 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.

#### **§ C-42. Appointments and promotions. [Added 11-25-1969]**

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.

#### **§ C-43. Merit Plan; rules and regulations. [Added 11-25-1969]**

- A. The first Manager under this Charter shall draft and submit to the City Council, within three months after assuming office, a set of rules and regulations which shall become effective one month after its submission, unless vetoed by the Council

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10. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

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.<sup>11</sup> 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 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 Manager which shall become effective one month after their submission, unless vetoed by the Council within that period.<sup>12</sup>

- B. Until the first set of such rules and regulations becomes effective, the Manager may establish temporary rules and regulations.

#### **§ C-44. Salaries and compensation. [Added 11-25-1969]**

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 of position provided for in said rules and regulations. In increasing or decreasing items in the city budget, the Council shall not increase or decrease any individual salary but shall act solely with respect to total salaries in the various departments of the city.

#### **§ C-45. Personnel Advisory Board. [Added 11-25-1969<sup>13</sup>]**

There is hereby established a Personnel Advisory Board of three citizens holding no other municipal office and appointed one member by the Manager, one by the Council and the third by these two appointees. In the first instance only the member appointed by the Manager shall serve for one year, the member appointed by the Council for two years and the third member for three years, in each case beginning on the effective date of this Charter. The terms 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 policy and administration, to advise the Council concerning the personnel policies of the city and the Manager regarding the administration of the Merit Plan and to hear appeals from any employee aggrieved as to the status or condition of his employment. The Board shall issue written reports containing findings of facts and recommendations to the 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.

#### **§ C-46. Certification of compensation. [Added 11-25-1969]**

No compensation shall be paid without certification by the 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 § C-44. If such officer

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11. Editor's Note: See Ch. 347, Personnel.

12. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

13. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

approves payments not in conformity therewith, he and his surety shall be liable for the amount of such payments. 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 of this Charter.

#### **§ C-47. Effect on current employees. [Added 11-25-1969]**

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.

#### **§ C-48. Special assessments; Council resolution. [Added 11-25-1969]**

The Council 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 thereof shall be paid by special assessments, what part, if any, shall be a general obligation of the city and the number of installments in which special assessments may be paid and shall designate the districts or land and premises upon which special assessment shall be levied. If expenditures are to exceed \$1,000, a public hearing shall be held, action to be taken by the Council not earlier than seven days after said hearing.

#### **§ C-49. Special assessment procedure. [Added 11-25-1969]**

The Council shall prescribe by general ordinance a complete special assessment procedure 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.

#### **§ C-50. Oath of office. [Added 11-25-1969]**

Every person elected or appointed to any city office, before entering upon duties of this 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.

#### **§ C-51. Notice of election or appointment. [Added 11-25-1969<sup>14</sup>]**

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 or 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 thereupon be deemed vacant, unless the Council shall extend the time in which such officer may qualify.

#### **§ C-52. Vacancies. [Added 11-25-1969]**

In addition to other provisions of this Charter, a vacancy shall be deemed to exist in any

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14. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

office when an officer dies, resigns, is removed from office, is convicted of a felony or is judicially declared to be mentally incompetent.

### **§ C-53. Conflict of interest. [Added 11-25-1969]**

No elective or appointive officer or employee of the city shall take part in a decision concerning the business of the city in which he has a financial interest, aside from his salary as such officer or employee, direct or indirect, greater than any other citizen or taxpayer.

### **§ C-54. Private use of public property. [Added 11-25-1969]**

No officer or employee shall devote any city property or labor to private use except as may be provided by law or ordinance.<sup>15</sup>

### **§ C-55. Liability for discharge. [Added 11-25-1969]**

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 of action for breach of contract.

### **§ C-56. Notice of claim against city. [Added 11-25-1969]**

No action at law or bill in equity for money or damages claimed due shall be sustained against the city unless a notice setting forth the nature and amount, if any, of the claim shall have been delivered or sent by registered mail to the office of the City Clerk not less than 60 days prior to the commencement of said action at law or bill in equity.

### **§ C-57. Violations and penalties. [Added 11-25-1969<sup>16</sup>]**

Any person who violates any provisions of this Charter, unless otherwise provided, shall be fined not exceeding \$500 or imprisoned not exceeding 90 days, or both.

### **§ C-58. Public records. [Added 11-25-1969<sup>17</sup>]**

All records of the city shall be public, in accordance with RSA 91-A.

### **§ C-59. Trust funds. [Added 11-25-1969]**

Trust funds of the City of Franklin, except where otherwise provided by the instrument creating such trust, shall continue to be kept separate and apart from all other funds and shall remain in the hands of the Trustees of Trust Funds, one of whom shall be appointed by the Mayor each year for a term of three years. Said Trustees shall invest such funds in securities legal for investment by savings banks of this state.

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15. Editor's Note: Former Section 57.00, Use of Streets by Public Utilities, which immediately followed this section, was deleted during codification (see Ch. 1, General Provisions, Art. II). See now Ch. 262, Streets and Sidewalks, § 262-23.

16. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

17. Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. II).

**§ C-60. Effect on previous Charter and special legislation. [Added 11-25-1969]**

So much of the previous Charter of the City of Franklin and laws passed in amendment thereof as are now in force relative to the constitution and bounds of its several wards, the election of the Mayor and Council, their duties and powers, its school districts and their government and affairs and to the borrowing of money in aid of its school districts hereby continues in force, with the exception of such provisions as are inconsistent with this Charter. All special legislation relating to registration and elections, the jurisdiction of the Health Officer, library and Board of Library Trustees, police and fire retirement, schools and School Department and the borrowing of money for various purposes is hereby continued in force, with the exception of provisions inconsistent with this Charter, but all special legislation relative to the government of the city not herein expressly saved is hereby repealed. All general laws relative to the government of cities shall remain in force in the city so far as the same can be applied consistently with the interests and purposes of this Charter but shall be deemed superseded as to this city so far as inconsistent herewith. In all existing laws, ordinances and regulations hereby saved, references to the City Council or other 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 this Charter or by the Administrative Code.

**§ C-61. Effect on municipal legislation. [Added 11-25-1969]**

All ordinances and bylaws of the city or its City Council shall continue in force until altered or repealed, except where a contrary intent herein appears.

**§ C-62. Incumbents. [Added 11-25-1969]**

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.

**§ C-63. Severability. [Added 11-25-1969]**

The sections of this act and of charters created hereunder are separable. If any portion of this act or of any charter adopted under the provisions hereof or if the application of the act or such charter to any person or circumstance shall be invalid, the remainder thereof or the application of such invalid portions to other persons or circumstances shall not be affected hereby.

**§ C-64. Effective date. [Added 11-25-1969]**

This Charter shall take effect as of January 1 following its adoption.

