
THE CITY OF FALL RIVER CHARTER



PREPARED BY THE SPECIAL CHARTER REVIEW COMMITTEE

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The Charter of the City of Fall River

PREAMBLE

We, the people of Fall River, in order to affirm the customary and traditional liberties of the people with respect to the conduct of our local government, ensure the accountability, transparency, and effectiveness of our government, and reflect the fullest advantages inherent in the home rule amendment to the constitution of the Commonwealth, do hereby adopt the following home rule charter for the City of Fall River.

Article 1 INCORPORATION; SHORT TITLE; DEFINITIONS

SECTION 1-1 INCORPORATION.

The inhabitants of the City of Fall River, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "City of Fall River".

SECTION 1-2 TITLE.

The formal name of this document is the City of Fall River Home Rule Charter. Hereinafter in this document it will be referred to as the Charter.

SECTION 1-3 DIVISION OF POWERS.

The administration of the fiscal and municipal affairs of the City of Fall River shall be vested in an executive branch headed by a mayor and a legislative branch consisting of a City Council. The legislative branch shall never exercise any executive power and the executive branch shall never exercise any legislative power.

SECTION 1-4 POWERS OF THE CITY.

Subject only to express limitations on the exercise of any power or function by a municipal government in the United States Constitution, Federal Statutes,

the Massachusetts Declaration of Rights, or the General Laws of the Commonwealth, it is the intention and the purpose of the voters of Fall River, through the adoption of this charter, to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each power were specifically and individually enumerated in this charter.

The powers of the City of Fall River under this charter are to be construed liberally in favor of the city and the specific mention of any particular power is not intended to limit the general powers of the city.

Subject only to express limitations in the United States Constitution, Federal Statutes, the Massachusetts Declaration of Rights or the General Laws of the Commonwealth, the City of Fall River may exercise any of its powers or perform any of its functions and may finance them, jointly or in cooperation, by contract or otherwise, with the Commonwealth of Massachusetts or any of its agencies or political subdivisions, or with the United States government or any of its agencies.

SECTION 1-5 DEFINITIONS.

As used in this charter, the following words shall have the following meanings:

- (1) "Charter", this charter, and any adopted amendments to it.
- (2) "City", the City of Fall River.
- (3) "City agency", any department, division, or office of the City of Fall River.
- (4) "Department Head", a person appointed to head a city office or department.
- (5) "City website", a site established and maintained by the city as its online repository of municipal information, including agendas and minutes of multi-member boards.
- (6) "Emergency", a sudden, generally unexpected occurrence or set of circumstances, to include but not limited to inclement weather, medical emergencies, civil unrest, natural disasters, death, demanding immediate action.
- (7) "Ex Officio Member" an ex-officio member of a multi-member committee shall have the opportunity to participate in all aspects of that committee but shall not have the right to vote.

- (8) "Full City Council", the entire membership of the City of Fall River City Council.
- (9) "Full multiple-member body", the entire membership of a multiple-member body.
- (10) "Full School Committee", the entire membership of the City of Fall River School Committee.
- (11) "General Laws", the General Laws of the Commonwealth of Massachusetts including all amendments subsequently adopted.
- (12) "Initiative measure", a measure proposed by the voters through the initiative process provided under this charter.
- (13) "Local newspaper", a newspaper of general circulation within the City of Fall River, with either a weekly or daily circulation.
- (14) "Majority vote", when used in connection with a meeting of a multiple-member body, shall mean a majority of those present and voting, unless another provision is made by ordinance or by such body's own rules; provided, however, that General Laws related to any vote to meet in executive session shall always require a majority of the full multiple-member body.
- (15) "Measure", any ordinance, order, or other vote or proceeding adopted, or which might be adopted, by the City Council or the School Committee.
- (16) "Multiple-member body", any council, commission, committee, subcommittee, or other body consisting of 2 or more persons, whether elected, appointed or otherwise constituted, but not including the City Council, the School Committee or an advisory committee appointed by the mayor.
- (17) "Organization or reorganization plan", a plan submitted by the mayor to the City Council which proposes a change in the organization or the administrative structure of the city administration or organization or a change in the way in which municipal services are delivered.
- (18) "Quorum", a majority of all voting members of a multiple-member body unless some other number is required by law or by ordinance.
- (19) "Recall", an election to remove an elected official from office before the expiration of the term for which elected.
- (20) "Referendum measure", a measure adopted under the referendum procedures, Article 8-3, of this charter.

- (21) "Remove from the city" when a person ceases to be domiciled within the territorial limits of the city.
- (22) "Resolution" a formal expression of opinion or a ceremonial declaration voted by the City Council not requiring the signature of the mayor and having no force of law.
- (23) "Voters", registered voters of the City of Fall River.
- (24) "Year", a calendar year, which runs from January 1 to December 31, unless otherwise specified as a fiscal year which runs from July 1 to June 30.

Article 2 LEGISLATIVE BRANCH

SECTION 2-1 COMPOSITION; TERM OF OFFICE; ELIGIBILITY.

- (a) Composition - There shall be a city council consisting of 9 members elected at-large which shall exercise the legislative powers of the city.
- (b) Term of Office - The term of office for City Councilors shall be two (2) years each, beginning on the first Monday in January following the election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day.
- (c) Eligibility - Any City resident who is also a registered voter shall be eligible to hold the office of councilor-at-large. If a councilor-at-large removes from the city during the councilor's term, that office shall immediately be deemed vacant and filled in the manner provided in section **2-11, the Vacancy Provision.**

SECTION 2-2 PRESIDENT AND VICE-PRESIDENT, ELECTION; TERM; POWERS.

- (a) Election and Term - As soon as possible after the councilors-elect have been qualified following each regular city election, as provided in section **9-**

11 Certificate of Election or Appointment, the members of the City Council shall elect from among its members a president and vice-president who shall serve until the first meeting of the next calendar year. The method of election of the president and vice-president shall be prescribed within the rules of the City Council.

- (b) Powers and Duties - The president shall prepare the agenda for City Council meetings. The president shall preside at all meetings of the City Council, regulate its proceedings, preserve decorum, and decide all questions of order. The president shall appoint all members of committees of the City Council, whether special or standing, and such other appointments as are established by the charter and ordinances. In making appointments as established by the charter and ordinances, the president shall appoint city residents. The president shall have the same powers to vote upon measures coming before the City Council as any other member of the City Council. The president shall perform any other duties consistent with the office that are established by charter, ordinance, or other vote of the City Council. The vice-president shall preside in the absence of the president, unless multiple absences constitute a vacancy as defined by **Section 2-11**.

SECTION 2-3 PROHIBITIONS.

- (a) Holding Other City Position - No former member of the City Council shall hold any compensated appointed city position until one (1) year following the date on which the former member's service on the City Council has terminated.
- (b) Interference with Administration - Except for employees appointed in accordance with section **2-8**, the City Council, or any member of the City Council, shall not give orders or directions to any employee of the city, either publicly or privately. All actions shall comply with MA General Law 268A – Conduct of Public Officials and Employees.

SECTION 2-4 COMPENSATION.

- (a) Salary - The members of the City Council shall receive compensation for their services as set by ordinance. No ordinance increasing or reducing the compensation of the members of the City Council shall be effective unless it has been adopted during the first eighteen (18) months of the term for which the council is elected, provides that the compensation increase or reduction is to take effect upon the organization of city government following the next regular city election, and is adopted by a minimum of six (6) votes of the City Council.

- (b) Expenses - Subject to appropriation, the council members shall be entitled to reimbursement of their actual and necessary expenses in the performance of their duties. Actual and necessary expenses shall be defined within the council's rules and regulations.

SECTION 2-5 GENERAL POWERS.

Except as otherwise provided by the General Laws or by this charter, all powers of the city shall be vested in the City Council which shall provide for the performance of all duties and obligations imposed upon the city by law.

SECTION 2-6 EXERCISE OF POWERS; QUORUM; RULES.

- (a) Exercise of Powers - Except as otherwise provided by General Laws or by this charter, the legislative powers of the City Council may be exercised in a manner determined by the City Council.
- (b) Quorum - The presence of five (5) City Councilors shall constitute a quorum for the transaction of business. Except as otherwise provided by the General Laws or by this charter, the affirmative vote, taken by a roll call vote, of 5 councilors shall be required to adopt any ordinance.
- (c) Rules of Procedure - The City Council shall adopt rules regulating the procedures of the City Council, which shall include, but not be limited to, the following rules:
 - (i) Regular meetings of the City Council shall be held at a time and place fixed by ordinance. All regular meetings of the City Council shall provide for a period of public comment as required by section **9-18** of this charter; provided, however, the City Council may promulgate rules that regulate the period of public comment as deemed appropriate.
 - (ii) Special meetings of the City Council shall be held at the call of the president or at the call of any three (3) or more members, for any purpose. Notice of the meeting shall, except in an emergency, which shall be determined by the president, be delivered to each member at least 48 weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purpose or purposes for which the meeting is to be held. A copy of each notice shall immediately be posted as the General Laws relative to such postings require.
 - (iii) All sessions of the City Council and of every committee or subcommittee of the City Council shall always be open to the public unless otherwise permitted by law.

(iv) A full, accurate, up-to-date account of the proceedings of the City Council shall be maintained by the city clerk, which shall include a record of each vote taken and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting. The minutes of an executive session shall be made available as soon as publication of the minutes would not defeat the purpose of the executive session.

SECTION 2-7 ACCESS TO INFORMATION.

- (a) In General - The City Council may make investigations into the affairs of the city and into the conduct and performance of any city agency.
- (b) Information Requests - The City Council may require a member of a multiple-member body, department head, or a city employee to appear before the City Council to give any information that the City Council may require in relation to the municipal services, functions and powers or duties which are within the scope of responsibility of that person. The City Council may request budget related information concerning the school department.
- (c) Mayor - The City Council may request specific information from the mayor on any municipal matter and may request that the mayor be present to answer written questions relating to that information at a meeting that the council may call within a reasonable time after the request is made to the mayor. The mayor shall personally, or through a designee, attend such meeting and respond to the questions. The mayor, or the person designated to attend, shall not be required to answer questions relating to any other matter. The council may further delineate procedures under this provision in the council's rules.
- (d) Notice - The City Council shall, by resolution, request the attendance of any department head or employee of the city to appear before it under this section. No member of the School Committee or employee of the school department can be required to appear before it under this section, except as to budgetary issues. The resolution shall include the subject on which the City Council seeks information and may contain specific questions prepared by the council. No officer or employee called to appear before the City Council under this section shall be required to respond to any question not relevant to the subject of the inquiry as identified in the resolution. The mayor shall receive a copy of all such resolutions.

SECTION 2-8 APPOINTMENTS OF THE CITY COUNCIL.

Subject to appropriation, the City Council may employ staff as it deems

necessary.

SECTION 2-9 ORDINANCES AND OTHER MEASURES.

- (a) Measures - No measure shall be considered final on the date on which it is introduced, except in the case of an emergency. Except as otherwise provided by the charter, every adopted measure shall become effective at the expiration of ten (10) days after adoption or upon the signature of the mayor, whichever occurs first. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum procedures. This section shall not apply to resolutions.
- (b) Emergency Measures - An emergency measure shall be introduced in the form and manner prescribed for measures generally, except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing the scope and nature of the emergency in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of a minimum of six (6) members of the City Council. An emergency measure may be passed with an amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal, or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure. Except as provided by the General Laws, such grant, renewal, or extension shall be made by ordinance. An emergency measure shall become effective upon adoption or at such later time as it may specify.
- (c) Charter Objection - On the first occasion that the question of adoption of a measure is put to the City Council, if a single councilor present objects to the taking of the vote, the vote shall be postponed until the next meeting of the City Council, whether regular or special. If more than one (1) councilor present objects, such postponement shall be until the next regular meeting. If it is an emergency measure, at least three (3) councilors must object. This procedure shall not be used more than once for any specific matter notwithstanding an amendment to the original matter. A charter objection shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.
- (d) Posting - All adopted ordinances shall be posted on the city website within seven (7) days of adoption, and copies of such documents shall be filed in the office of the City Clerk and the main public library.

SECTION 2-10 CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS.

The mayor shall refer to the City Council and simultaneously file with the city clerk, the name of each person the mayor desires to appoint as a department head or as a member of a multiple-member body. Appointments made by the mayor shall become effective on the thirtieth day after the date on which notice of the proposed appointment was filed with the city clerk unless approved or rejected by the City Council within the forty-five (45) days. All individuals appointed to a multiple-member body shall be residents of the city. If an appointed individual removes from the city, the position shall be immediately deemed vacant.

SECTION 2-11 FILLING OF VACANCIES.

If a vacancy shall occur on the City Council, the vacancy shall be filled in descending order of votes received by the candidate for the office of City Councilor at the preceding city election who received the highest number of votes without being elected, provided such candidate remains eligible and willing to serve. The candidate will have seventy-two hours to decide to take the position. The city clerk shall certify this candidate to the office of City Council and the candidate shall be sworn to office to serve for the balance of the unexpired term.

Article 3 EXECUTIVE BRANCH

SECTION 3-1 MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION; PROHIBITIONS.

- (a) Mayor Qualifications - The chief executive officer of the city shall be a mayor, elected by the voters of the city at large. Any City resident who is also a registered voter shall be eligible to hold the office of mayor. The mayor shall devote full-time to the office and shall not hold any other elective public office.
- (b) Term of Office - The term of office of the mayor shall be two (2) years, beginning on the first Monday in the January succeeding the mayor's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and shall continue until a

successor has been qualified.

- (c) Compensation - The City Council shall, by ordinance, establish the compensation for the mayor. No ordinance increasing or reducing the compensation of the mayor shall be effective unless it has been adopted during the first eighteen (18) months of the term for which the mayor is elected, provides that the compensation increases or reduction is to take effect upon the organization of the city government following the next regular city election, and has been adopted by a minimum of six (6) votes of the City Council.
- (d) Prohibitions - The mayor shall hold no other compensated city position. No former mayor shall hold a compensated appointed city office or city employment until one (1) year following the date on which the former mayor's city service has terminated. This subsection shall not prevent a city officer or other city employee who has vacated a position in order to serve as mayor from returning to the same office or other position of city employment held at the time such position was vacated; provided, however, that no such person shall be eligible for any other municipal position until at least one (1) year following the termination of service as mayor. This prohibition shall not apply to persons covered by a leave of absence under section 37 of chapter 31 of the General Laws.

SECTION 3-2 EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES.

The executive powers of the city shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several city agencies under the general supervision and control of the office of the mayor as defined in Section 1-5. The mayor shall cause the charter, ordinances, and other orders of the city government to be enforced and shall cause a record of all official acts of the executive branch of the city government to be kept. The mayor shall exercise general supervision and direction over all city agencies, unless otherwise provided by law or by this charter. Each city agency shall furnish to the mayor, upon request, any information, or materials the mayor may request and as the needs of the office of mayor and the interests of the city may require. The mayor shall supervise, direct and be responsible for the efficient administration of all city activities and functions placed under the control of the mayor by law or by this charter. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the city and may call together for consultation, conference, and discussion, at reasonable times, all persons serving the city, whether elected directly by the voters, chosen by persons elected directly by the voters or otherwise. The mayor shall be, by virtue of the office, a member of every appointed multiple-member body of the city. The mayor may, as such ex officio member, attend a

meeting of an appointed multiple-member body of the city, at any time, including executive sessions, to participate in the discussions of that body, but shall not have the right to vote.

SECTION 3-3 APPOINTMENTS BY THE MAYOR.

The mayor shall appoint, subject to review by the City Council under Article 2, section **2-10**, all department heads, and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter; provided, however, that this shall not include persons serving under the School Committee and persons serving under the City Council. All appointments to multiple-member bodies shall be for terms established under Article 5. Upon the expiration of the term of any member of a multiple-member body, a successor shall be appointed under Article 5. The mayor shall annually post on the city's web site in February a list of all vacancies on multiple-member bodies. Such listing shall include guidance on applying to serve on a multiple-member body. The mayor may also notify any civic, business, neighborhood, or service organizations in the city of multiple-member body vacancies. Members of multiple-member bodies and appointments made by the mayor to other committees as established by the charter and ordinances must be city residents. If a member resigns from a multiple-member body, removes from the city, or is otherwise unable to complete the term to which appointed, the mayor shall fill such resulting vacancy for the remainder of the unexpired term.

The mayor shall file notice of removal of any member from a multiple-member body with the city clerk.

The method of appointment for all other city employees shall be prescribed by administrative order under Article 5.

SECTION 3-4 TEMPORARY APPOINTMENTS TO CITY OFFICES.

Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs of the city require that such office be filled, the mayor may designate a person to perform the duties of the office on a temporary basis until the position can be filled as provided by law or by this charter. When the mayor designates a person under this section, the mayor shall file a certificate with the city clerk in substantially the following form:

“I, (name with first or middle name in full) designate (full name of person) to perform the duties of the office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular

procedure for filling the vacancy, or when the regular officer shall return). I certify that this person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the City of Fall River.”

Signature

Persons serving as temporary officers under this section shall have only those powers of the office indispensable and essential to the performance of the duties of the office during the period of temporary appointment and no others. Notwithstanding any general or special law to the contrary, no temporary appointment shall be for more than ninety (90) days; provided, however, that not more than two (2) extensions of a temporary appointment, which together shall not exceed a total of sixty (60) days, may be made when a permanent vacancy exists in the office.

SECTION 3-5 REMOVAL OR SUSPENSION OF CERTAIN OFFICIALS.

Unless some other procedure is specified in a collective bargaining agreement or by civil service law, the mayor may, in writing, remove or suspend the head of any city agency or department appointed by the mayor by filing a written statement, with the city clerk, setting forth the reasons for the removal or suspension. A copy of the written statement shall be delivered in hand, or mailed by certified mail, postage prepaid, to the last known address of the city officer or agency or department head. The decision of the mayor in suspending or removing a city employee shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely with the mayor.

SECTION 3-6 COMMUNICATIONS; SPECIAL MEETINGS.

- (a) Communications to the City Council - The mayor shall, by written communications, recommend to the City Council for its consideration measures as, in the judgment of the mayor, the needs of the city require. The mayor shall, by written communication, keep the City Council fully informed of the financial and administrative condition of the city and shall specifically indicate in any such reports any fiscal, financial, or administrative issues facing the city.
- (b) Special Meetings of the City Council - The mayor may call a special meeting of the City Council for any purpose. Notice of the meeting shall, except in an emergency declared by the mayor, be delivered at least forty-eight (48)

weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purpose for which the meeting is to be held. A copy of the notice shall be posted immediately or as required by the General Laws relative to such a posting.

- (c) State of the City - The mayor shall in each year on or before the third Wednesday in March make an address to a joint meeting of the City Council and School Committee, and shall include the city's multiple-member bodies, city officers and department heads, to report on the state of affairs of the city. Such address shall be open to the public.

SECTION 3-7 APPROVAL OF MAYOR, VETO.

Every order, ordinance, or vote adopted or passed by the City Council relative to the affairs of the city, except resolutions, the selection of city officers by the City Council and any matters relating to the internal affairs of the City Council, shall be presented to the mayor for approval within three (3) business days of such adoption or passage. If the mayor approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure, the mayor shall return the measure with the specific reason for such disapproval attached to the measure in writing to the City Council. The City Council shall enter the objections of the mayor on its records and not less than ten (10) business days nor more than thirty (30) days from the date of its return to the City Council, shall again consider the same measure. If the City Council, notwithstanding such disapproval by the mayor, shall again pass the order, ordinance, or vote by a minimum of six (6) votes of the City Council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve it. If the mayor has neither signed a measure nor returned it to the City Council within ten (10) days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

SECTION 3-8 TEMPORARY ABSENCE OF THE MAYOR.

- (a) Acting Mayor - Whenever, by reason of sickness or other cause, the mayor is unable to perform the duties of the office, for more than twenty-one consecutive days, the president of the City Council shall be the acting mayor unless the president of the City Council is unable to serve; in such instance, the provisions of section **3-8** (c) shall apply. In the event that the mayor announces his inability before the expiration of twenty-one (21) days, these provisions shall apply immediately upon that notice.
- (b) Powers of Acting Mayor - The acting mayor shall have only those powers of the mayor as are indispensable and essential to conduct the business of the city in an orderly and efficient manner and on which action may not be delayed. The acting mayor shall have no authority to make a permanent

appointment or removal from city service unless the disability or absence of the mayor shall extend beyond sixty (60) days, nor shall an acting mayor approve or disapprove of any measure adopted by the City Council unless the time within which the mayor must act would expire before the return of the mayor. The City Council president or any other city councilor who may be serving as acting mayor pursuant to section **3-8(c)** shall not act as a member of the City Council.

- (c) Succession - In the event that the City Council president is unable to serve as acting mayor under this section, the vice president of the City Council shall serve as acting mayor; if either the City Council president or vice president is unable to serve, the City Council shall then elect, from among its membership, a councilor to serve as acting mayor.
- (d) If the vacancy occurs within the first eighteen months of the term, a special election, including a primary and final election shall be held. If the vacancy occurs in the last six months of the term, the acting mayor will complete the term and there will be no special election.

SECTION 3-9 DELEGATION OF AUTHORITY BY MAYOR.

The mayor may authorize a subordinate officer or employee of the city to exercise a power or perform a function or a duty which is assigned by this charter to the mayor. The mayor may rescind or revoke an authorization previously made; provided, however, that all acts performed under any such delegation of authority during the period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate the powers and duties of a School Committee member.

SECTION 3-10 VACANCY IN OFFICE OF MAYOR.

Whenever a vacancy occurs in the office of mayor by death, removal, resignation, or incapacity for a period greater than twenty-one days during the first eighteen (18) months of the term for which the mayor was elected, the City Council shall call a special election to be held within ninety (90) days following the date the vacancy is created to fill the vacancy for the remainder of the unexpired term. Between the date of the declaration of the vacancy and the certification of the results of the special election, the vacancy in the office of mayor shall be filled as provided in section **3-8** (a). If the council president is unable to serve, the provisions of section **3-8** (c) shall apply. The candidate elected as mayor in such special election shall be sworn to office immediately upon certification of the results of the special election.

If a regular city election is to be held within one hundred fifty (150) days after the date the vacancy is created, a special election need not be held and the position shall be filled by vote at the regular city election and the candidate elected as mayor shall be sworn to office immediately upon certification of the results of the regular city election, and shall serve for the remainder of the unexpired term in addition to the term to which elected.

If a vacancy occurs after the eighteenth month through the end of the term for which the mayor was elected, the vacancy in the office of mayor shall be filled as provided in section **3-8** (a). If the vacancy cannot be filled under section **3-8** (a), the provisions of section **3-8** (c) shall apply. The acting mayor shall exercise all the rights and powers of the mayor and shall be sworn to the faithful discharge of the mayoral duties. Any City Councilor serving as acting mayor under this section shall not be entitled to have the words "candidate for reelection" printed with that councilor's name on the election ballot. Any councilor serving as mayor under this section shall receive the compensation then in effect for the office of mayor.

SECTION 3-11 PLANNING.

At least once in every five (5) years, the mayor shall consult with all city officers, multiple-member bodies, agencies, departments and offices with responsibility for land use policy, development, or regulation concerning the priorities for city planning initiatives, including but not limited to land use, development, transportation, housing, and the environment; such consultations shall include an assessment of the need for new plans or revisions to plans currently in effect. The mayor shall advise the City Council on or before December 1 in the year the consultations are held of any proposals to prepare or revise one or more plans to address the city's planning needs and priorities.

SECTION 3-12 STRATEGIC PLAN.

The mayor, in conjunction with agency and department heads, multiple-member bodies, the City Council, School Committee, and residents, shall prepare a long-range strategic plan every ten (10) years in the year ending in a zero. The committee shall be composed of nine (9) members; the mayor shall appoint no more than three (3) members who shall be city department heads, city employees, or members of multiple-member bodies. The mayor shall also appoint two (2) members who shall be city residents. The City Council and the School Committee shall each appoint two (2) members, who shall be city residents. The strategic plan shall address fiscal, financial, service, and management needs of the city, including but not limited to, personnel practices

and use of technology. The committee shall complete its work within one (1) year of its appointment, including preparation of a plan addressing its findings and recommendations. The mayor shall oversee the update of the plan every three (3) years. The mayor shall submit the plan and any updates to the City Council, and such plan and any updates thereto shall be posted on the city website when submitted to the City Council.

Article 4 SCHOOL COMMITTEE

SECTION 4-1 COMPOSITION; TERM OF OFFICE; ELIGIBILITY.

- (a) Composition - There shall be a School Committee which shall consist of seven (7) members. Six (6) of these members shall be nominated and elected by the voters of the city at large. The mayor shall be the seventh member and shall serve as chair.
- (b) Term of Office - The term of office for elected School Committee members shall be two (2) years each, beginning on the first Monday in the January after the elected School Committee's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day, and until successors have been qualified.
- (c) Eligibility - A School Committee member shall, at the time of election, be a resident of the City of Fall River and a registered voter. If a School Committee member removes from the city during the term for which that person was elected, that office shall immediately be deemed vacant and filled in the manner provided in section **4-8**.

SECTION 4-2 ELECTION OF SCHOOL COMMITTEE VICE CHAIR; POWERS AND DUTIES OF CHAIR AND VICE CHAIR.

- (a) Election and Term - As soon as practicable after School Committee members-elect have been qualified following each regular city election as

provided in section **9-11**, the members of the School Committee shall elect from among its members a vice-chair who shall serve for a one (1) year term. The method of election of the vice-chair shall be prescribed within the rules of the School Committee.

- (b) Powers and Duties - The chair shall approve the agenda for School Committee meetings. The chair shall preside at all meetings of the School Committee, regulate its proceedings, and decide all questions of order. The chair shall appoint all members of committees of the School Committee, whether special or standing. The chair shall have the same powers to vote upon measures coming before the School Committee as any other member of the School Committee. The chair shall perform any other duties consistent with the office that are established by charter, ordinance, or other vote of the School Committee. The vice-chair shall preside in the absence of the chair.

SECTION 4-3 PROHIBITIONS.

No former member of the School Committee shall hold any compensated appointed city employment until one (1) year following the date on which that member's service on the School Committee had terminated.

- (a) Holding Other City Position - No former member of the School Committee shall hold any compensated appointed city position until one (1) year following the date on which the former member's service on the School Committee has terminated.
- (b) Interference with Administration - The School Committee, or any member thereof, shall not give orders or directions to any employee of the school department, appointed by the superintendent, either publicly or privately. All actions shall comply with MA General Law 268A – Conduct of Public Officials and Employees.

SECTION 4-4 COMPENSATION, EXPENSES.

- (a) Salary - The City Council shall, by ordinance, establish the compensation for the elected members of the School Committee. No ordinance increasing or reducing the compensation of elected members of the School Committee shall be effective unless it has been adopted during the first eighteen (18) months of the term for which the School Committee is elected, provides

that the compensation increase or reduction is to take effect upon the organization of city government following the next regular city election, and has been adopted by a minimum of six (6) votes of the City Council.

- (b) Expenses - Subject to appropriation, the School Committee members shall be entitled to reimbursement of their actual and necessary expenses in the performance of their duties. The actual and necessary expenses shall be defined in the rules and regulations of the School Committee.

SECTION 4-5 SCHOOL COMMITTEE POWERS AND DUTIES.

The School Committee shall have all powers which are conferred on School Committees by the General Laws and the additional powers and duties provided by charter, ordinance or otherwise and not inconsistent with the General Laws. The powers and duties of the School Committee shall include:

- (a) selecting and removing a superintendent of the schools who shall be charged with the administration of the school system, subject only to policy guidelines and directives adopted by the School Committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as authorized by the General Laws.
- (b) making all reasonable policies, rules, and regulations for the management of the public school system and for conducting the business of the School Committee as deemed necessary or desirable; and
- (c) adopting and overseeing the administration of an annual operating budget for the school department, subject to appropriation by the City Council; provided, however, that the School Committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment; provided further, that the School Committee shall provide ordinary maintenance of all school buildings and grounds, unless a central municipal maintenance department, which may include maintenance of school buildings and grounds, is established; provided further, that whenever the School Committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the School Committee, or a designee of the School Committee, shall serve on the agency, board or committee for the planning or construction of the new, remodeled or renovated school building.

SECTION 4-6 MEETINGS OF THE SCHOOL COMMITTEE.

- (a) Except in the case of an emergency, or in the event of a joint meeting with the City Council, the School Committee shall not meet on the same date as a regularly scheduled City Council meeting.
- (b) Regularly scheduled meetings of the School Committee shall be held at a time and place as determined by the School Committee's rules.

SECTION 4-7 FILLING OF VACANCIES.

If a vacancy shall occur on the School Committee, the vacancy shall be filled in the descending order of votes received by the candidate for the office of School Committee at the preceding city election who received the highest number of votes without being elected to the office, provided such candidate remains eligible and willing to serve. The city clerk shall certify this candidate to the office of School Committee member and the candidate shall be sworn to office immediately to serve for the balance of the unexpired term. Persons serving as School Committee members under this section shall not be entitled to have the words "candidate for reelection" printed with that person's name on the election ballot.

Article 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1 ORGANIZATION OF CITY AGENCIES.

The organization of the city into agencies to provide services and administer the government may be accomplished only through an administrative order submitted to the City Council by the mayor. No such administrative order may originate with the City Council. The mayor may, subject only to express prohibitions of a general law or this charter, submit proposals to reorganize, consolidate or abolish any agency, in whole or in part, or to establish a new agency as is deemed necessary, establish terms of office, and prescribe the functions and administrative procedures to be followed by all such agencies. No function assigned by this charter to a particular agency may be discontinued or assigned to any other agency unless specified by this charter. The mayor may prepare and submit to the City Council, administrative orders that establish agencies for the orderly, efficient, or convenient conduct of the business of the

city. These administrative orders shall be accompanied by a message from the mayor which explains the expected benefits and advises the City Council if an administrative order shall require amendments, insertions, revisions, repeal or otherwise of existing ordinances. Whenever the mayor proposes an administrative order, the City Council shall hold one (1) or more public hearings on the proposal giving notice by publication in a local newspaper and on the city website, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than seven (7) nor more than fourteen (14) days following the publication. An organization or reorganization plan shall become effective at the expiration of sixty (60) days following the date the proposal is submitted to the City Council unless the City Council shall, by a majority vote, within that sixty (60) day period, vote to disapprove the plan. The City Council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

SECTION 5-2 MERIT PRINCIPLE.

All appointments and promotions of persons employed by the city shall be made based on merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person employed by the city shall be especially fitted by education, training, and previous work experience to perform the duties of the office or position.

Article 6

FINANCE AND FISCAL PROCEDURES

SECTION 6-1 FISCAL YEAR.

The fiscal year of the city shall begin on July 1 and shall end on June 30, unless another period is required by the General Laws.

SECTION 6-2 ANNUAL BUDGET MEETING.

At least 75 days before the beginning of the fiscal year, the mayor shall call a joint meeting of the City Council and School Committee, including the superintendent of schools, to review the fiscal and financial condition of the city, revenue and expenditure forecasts, and other relevant information prepared by the mayor to develop a coordinated budget.

SECTION 6-3 SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE.

At least forty-five (45) days before the beginning of the fiscal year, the mayor shall submit to the City Council a proposed operating budget for all city agencies, which shall include the school department, for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the mayor shall explain the operating budget in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed operating budget and include any major variations from the current operating budget, fiscal policies, revenues, and expenditures together with reasons for these changes. The proposed operating budget shall provide a complete fiscal plan of all city funds and activities and shall be in the form the mayor deems desirable. The school budget, as adopted by the School Committee shall be submitted to the mayor at least thirty (30) days before the submission of the proposed operating budget to the City Council. The mayor shall notify the School Committee of the date by which the proposed budget of the School Committee shall be submitted to the mayor.

SECTION 6-4 ACTION ON THE OPERATING BUDGET.

- (a) Public Hearing - The City Council shall publish in at least one (1) local newspaper and post on the city website a notice of the proposed operating budget as submitted by the mayor. The notice shall state: (i) the times and places where copies of the entire proposed operating budget are available for inspection by the public; and (ii) the date, time, and place when a public hearing on the proposed operating budget will be held by the City Council, not less than fourteen (14) days after publication of the notice.
- (b) Adoption of the Budget - The City Council shall adopt the proposed operating budget, which may have amendments, within forty-five (45) days following the date the proposed budget is filed with the city clerk. In amending the proposed operating budget, the City Council may delete or decrease amounts except expenditures required by law; provided, however, that except on the recommendation of the mayor, the City Council shall not increase any item in the proposed operating budget unless otherwise authorized by the General Laws. If the City Council fails to act on an item in the proposed operating budget within forty-five (45) days after its receipt, that amount shall, without any action by the City Council, become a part of the appropriations for the year and be available for the purposes specified.

- (c) Availability of the Operating Budget - In addition to any other posting requirements under law, immediately after the submission of the proposed budget to the City Council, the mayor shall cause the entire budget document to be posted on the city's website. The proposed budget document shall remain posted during the City Council's review process. The budget as enacted shall be posted on the city's website and shall remain there throughout the fiscal year for which it is in effect. The budget document shall reflect any amendments made by the City Council and approved by the mayor and shall indicate that it is the budget in effect for the city.

SECTION 6-5 CAPITAL IMPROVEMENT PROGRAM.

- (a) Submission - The mayor shall submit a capital improvement program to the City Council at least one hundred eighty (180) days before the start of each fiscal year. The capital improvement program shall include:
 - (1) a clear and concise summary of its contents;
 - (2) a list of all capital improvements proposed to be undertaken during the next 5 years, with supporting information as to the need for each capital improvement;
 - (3) cost estimates, methods of financing and recommended time schedules for each improvement; and
 - (4) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information shall be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

- (b) Public Hearing - The City Council shall publish in at least one (1) local newspaper of general circulation in the city and shall post on the city's website a notice stating: (i) the times and places where copies of the entire capital improvement program are available for inspection by the public; and, (ii) the date, time and place of a public hearing on the plan to be held by the City Council not less than fourteen (14) days after publication of the notice.
- (c) Adoption - At any time after the public hearing but before March 1 the City Council shall by resolution adopt the capital improvement program, which may be amended, provided that each amendment shall be voted on

separately and that an increase in the capital improvement program as submitted shall clearly identify the method of financing to accomplish the proposed increase.

SECTION 6-6 INDEPENDENT AUDIT.

The City Council shall annually provide for an outside audit of the books and accounts of the city to be conducted by a certified public accountant or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. The mayor shall annually provide to the City Council funds sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the City Council. The award of a contract to conduct the audit shall be made by the City Council on or before September 15 of each year. The report of the audit shall be filed in final form with the City Council not later than March 1 in the year following its award. Within thirty (30) days of the filing of the audit report, the City Council shall call a joint meeting with the administration and the independent auditor to discuss the findings of the independent audit. At least every five (5) years, the City Council shall conduct a competitive procurement process to retain these auditing services.

SECTION 6-7 EXPENDITURES IN EXCESS OF APPROPRIATIONS.

Except as otherwise provided by law, no official of the City of Fall River shall knowingly or intentionally expend in a fiscal year sum in excess of the appropriations, awards, grants, or gifts duly made in accordance with law or involve the city in any contract for the future payment of money in excess of these appropriations, awards, grants or gifts. It is the intention of this section that **Section 31 of Chapter 44** of the General Laws shall be strictly enforced. Any official who violates this section shall be personally liable to the city for any amounts so expended to the extent that the city does not recover these amounts from the person to whom the sums were paid.

SECTION 6-8 QUARTERLY BUDGET UPDATES.

Quarterly budget updates shall be made by the mayor or a designee during the second regular monthly meeting of the City Council in the months of January, April, July, and October.

SECTION 6-9 LONG TERM FINANCIAL FORECAST.

The mayor shall annually prepare a five (5) year long-term financial forecast of city revenues and expenditures; the forecast shall address the general financial condition of the city, including, but not limited to, an identification of factors which will impact the financial condition of the city and revenue and expenditure trends, including long and short term debt service to be incurred, a debt management plan, potential for new or expanded revenues, and any long or short term actions which may be taken to enhance the financial condition of the city. The forecast shall be submitted to the City Council at least one hundred eighty (180) days before the start of the fiscal year.

SECTION 6-10 PUBLIC ACCESS TO FINANCIAL DOCUMENTS.

Copies of the annual budget, capital improvement program, long term financial forecast, debt management plan and the annual independent audit shall be made available on the city website and for public inspection, at the same time they are made available to the council, and when the council receives the independent audit report. Copies of such documents shall also be filed in the office of the city clerk and the main public library.

Article 7 ELECTIONS

SECTION 7-1 PRELIMINARY ELECTIONS.

A preliminary election to nominate candidates for mayor, City Council, and School Committee shall be held on the third Tuesday in September in each odd-numbered year in which the candidates are to be elected, but the city clerk may, with the approval of the City Council, reschedule the preliminary election to the second or fourth Tuesday in September to avoid a conflict with any civil or religious holiday. Whenever a special election to fill a vacancy is to be held, a preliminary election shall be conducted, if necessary, twenty-eight (28) days before the date established for the special election.

SECTION 7-2 PRELIMINARY ELECTION PROCEDURES.

- (a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor, not less

than one hundred (100) certified signatures; for councilor at large or School Committee member not less than one hundred (100) certified signatures. Signatures of voters shall be made on a form prescribed by the board of election commissioners and shall be made available not earlier than April 2 in each preliminary election year and those forms shall be submitted to the board of election commissioners for certification of the names on or before the fourteenth day preceding the date fixed for submission to the city clerk. The forms shall be submitted to the Board of Elections on or before five (5) o'clock in the afternoon (Eastern Standard Time) on the forty-fifth day prior to the declared date of the preliminary election. An individual may appear on the ballot for only one (1) office at any preliminary, regular, or special city election.

- (b) Ballot Position - The order in which names of candidates for each office appear shall be alphabetical.
- (c) Determination of Candidates:
 - (i) Office of Mayor - The two candidates receiving the highest number of votes for nomination at the preliminary election, except as provided in subsection (d), shall be the sole candidates for that office whose names shall be printed on the official ballot to be used at the regular or special city election.
 - (ii) City Council and School Committee - If two (2) or more candidates are to be elected to the same office at the regular or special city election, the several candidates equal in number to twice the number to be elected, receiving at such preliminary election the highest number of votes for nomination for that office shall, except as provided by subsection (d), be the sole candidates for that office whose names shall be printed on the official ballot.
 - (iii) Tie Votes - If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which would entitle a candidate receiving the same to have that candidate's name printed on the official ballot for the election, all candidates participating in the tie vote shall have their names printed on the official ballots, although in consequence thereof there shall be printed on the ballots the names of candidates exceeding twice the number to be elected.
- (d) Condition Making Preliminary Unnecessary - If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election, not more than twice as many such statements have been filed with the city clerk for an office as are to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to the office and those candidates shall be voted on for

such office at the succeeding regular or special city election and the city clerk shall not print those names on the ballot to be used at the preliminary election and no other nomination to the office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at a preliminary election in the city, no preliminary election shall be held.

SECTION 7-3 REGULAR CITY ELECTION.

The regular city election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

SECTION 7-4 BALLOT POSITION, REGULAR CITY ELECTION.

The order in which names of candidates for each office appear on the ballot shall be alphabetical.

SECTION 7-5 NON-PARTISAN ELECTIONS.

All elections for city offices shall be non-partisan and election ballots shall be printed without any party affiliation, emblem, or other political designation.

SECTION 7-6 WARDS.

The territory of the city shall be divided by the city clerk into nine (9) wards to consist of nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded as far as possible by the center line of known streets or ways or by other well-defined limits. Each ward shall be composed of voting precincts established under the General Laws. The City Council shall review these wards to ensure uniformity in the number of inhabitants at least once every ten (10) years.

SECTION 7-7 APPLICATION OF STATE GENERAL LAWS.

Except as otherwise expressly provided in this charter and authorized by law, all city elections shall be governed by the General Laws relating to the right to vote, the registration of voters, the nomination of candidates, voting places, the conduct of preliminary, regular and special city elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes and the determination of results.

Article 8

CITIZEN PARTICIPATION MECHANISMS

SECTION 8-1 FREE PETITION.

The City Council or the School Committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by fifty (50) or more registered voters, and which seeks the passage of a measure. The hearing shall be held by the City Council or the School Committee and the action by the City Council or the School Committee shall be taken not later than six (6) weeks after the petition is filed with the city clerk or the vice chair of the School Committee. Hearings on two (2) or more petitions filed under this section may be held at the same time and place. The city clerk or the vice-chair of the School Committee shall mail notice of the hearing to the ten (10) persons whose names appear first on the petition at least seven (7) days before the hearing. Notice, by publication, of all such hearings shall be at public expense.

SECTION 8-2 CITIZEN INITIATIVE MEASURES.

- (a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the city clerk or the vice-chair of the School Committee. The petition shall be addressed to the City Council or to the School Committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition and shall be signed by at least two hundred fifty (250) voters. At least twenty-five (25) signatures must be certified from each ward. The petition shall be accompanied by an affidavit signed by ten (10) voters and containing their residential addresses stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.
- (b) Referral to City Attorney - The city clerk or the vice-chair of the School Committee shall, immediately following receipt of a proposed petition, deliver a copy of the petition to the city attorney. The city attorney shall, within fifteen (15) days following receipt of a copy of the petition, in writing, advise the City Council or the School Committee, and the city clerk whether the measure as proposed may lawfully be proposed by the

initiative process and whether, in its present form, it may lawfully be adopted by the City Council or the School Committee. If the opinion of the city attorney is that the measure is not in proper form, the reply shall state the reasons for this opinion, in full. A copy of the opinion of the city attorney shall be mailed to the members of the petitioners committee.

(c) Submission to City Clerk - If the city attorney determines that the petition is in a proper form, the city clerk shall provide blank forms for the use of subsequent signers and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city attorney, together with the names and addresses of the petitioners committee. The city clerk shall notify the petitioners committee that the blank forms are issued. Within one hundred twenty (120) days following the date of the notice, the petition shall be returned and filed with the city clerk signed by at least ten (10) per cent of the total number of voters as of the date of the most recent regular city election. Signatures to an initiative petition need not all be on a single paper, but all papers pertaining to any single measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and address of the person designated as filing the papers. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within ten (10) days following the filing of the petition, the board of election commissioners shall ascertain the number of voters that signed the petition and the percentage that number is of the total number of voters as of the date of the most recent regular city election. The board of election commissioners shall attach to the petition a certificate showing the results of its examination and shall return the petition to the city clerk or the vice-chair of the School Committee, depending on how the petition is addressed. A copy of the board of election commissioners' certificate shall also be mailed to the members of the petitioners committee.

(d) Action on Petitions - Within thirty (30) days following the date a petition has been returned to the city clerk or the vice-chair of the School Committee, the City Council or the School Committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the City Council or the School Committee fails to act within thirty (30) days following the date the measure is returned to it, the measure shall be deemed to have been rejected on the thirtieth day. If an initiative measure is rejected, the city clerk or the vice-chair of the School Committee shall promptly give notice of that fact to the petitioners committee by certified mail.

(e) Submission of Initiative Petition at Regular Municipal Election - If an

initiative petition is certified as containing a minimum of eight (8) per cent of voters' signatures, but less than fifteen (15) per cent, such initiative shall be placed on the next regular municipal election ballot. All provisions of section **8-2** as may be applicable remain in effect, including but not limited to sections **8-2** (a), (b), (c), (d), (g), (h) and (i).

(f) **Supplementary Petitions** - Within sixty (60) days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the city clerk or the vice-chair of the School Committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters equal to at least five (5) per cent of the total number of voters as of the date of the most recent regular city election. The signatures on the initial petition filed under subsection **(c)** and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least fifteen (15) per cent of the total number of voters as of the date of the most recent regular city election. If the number of signatures to this supplemental petition is found to be sufficient by the city clerk, the City Council shall call a special election to be held on a date not less than thirty-five (35) nor more than sixty (60) days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination, but if a city election is to be held within ninety (90) days following the date of the certificate, the City Council may omit calling the special election and cause the question to appear on the election ballot at the approaching election for determination by the voters.

(g) **Publication** - The full text of an initiative measure which is to be submitted to the voters shall be published in at least one (1) local newspaper not less than seven (7) nor more than fourteen (14) days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk, and the text shall appear on the city website.

(h) **Form of Question** - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

A petition has been filed seeking the following: (description of petition)

(i) **Time of Taking Effect** - Subject to section **8-6**, if a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

- (a) Commencement: Initiative procedures shall be started by filing a petition with the city clerk or the vice chair of the School Committee. The petition shall contain a request for the passage of a particular measure set forth in the petition which shall be signed by at least fifty (50) registered voters. An affidavit shall be submitted with the petition identifying the names and addresses of ten registered voters as the petitioners.
- (b) Referral to City Attorney - Once an initiative petition is received a copy will be provided to the city attorney. The city attorney shall provide a written opinion within fifteen (15) days whether the measure may lawfully be proposed by initiative process. If the response is that the measure is not in proper form, then the response shall specify the reasons. A copy of the attorney's opinion shall be mailed to each of the petitioners.
- (c) Submission to City Clerk - If the city attorney determines that the petition is in a proper form, the city clerk shall provide blank forms for the use of subsequent signers and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city attorney, together with the names and addresses of the petitioners committee. The city clerk shall notify the petitioners committee that the blank forms are issued. Within one hundred twenty (120) days following the date of the notice, the petition shall be returned and filed with the city clerk signed by at least five (5) per cent of the total number of voters as of the date of the most recent regular city election. Signatures to an initiative petition need not all be on a single paper, but all papers pertaining to any single measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and address of the person designated as filing the papers. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within ten (10) days following the filing of the petition, the board of election commissioners shall ascertain the number of voters that signed the petition and the percentage that number is of the total number of voters as of the date of the most recent regular city election. The board of election commissioners shall attach to the petition a certificate showing the results of its examination and shall return the petition to the city clerk or the vice-chair of the School Committee, depending on how the petition is addressed. A copy of the board of election commissioners' certificate shall also be mailed to the members of the petitioners committee.
- (d) Action on Petitions - Within thirty (30) days following the date a petition has been returned to the city clerk or the vice-chair of the School Committee, the City Council or the School Committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the

City Council or the School Committee fails to act within thirty (30) days following the date the measure is returned to it, the measure shall be deemed to have been rejected on the thirtieth (30) day. If an initiative measure is rejected, the city clerk or the vice-chair of the School Committee shall promptly give notice of that fact to the petitioners committee by certified mail.

- (e) Submission of Initiative Petition at Regular Municipal Election - If an initiative petition is certified as containing a minimum of five (5) per cent of voters' signatures such initiative shall be placed on the next regular municipal election ballot.
- (f) Publication - The full text of an initiative measure which is to be submitted to the voters shall be published in at least one (1) local newspaper not less than seven (7) nor more than fourteen (14) days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk, and the text shall appear on the city website.
- (h) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a description of the initiative petition and two questions:

I support the proposed initiative petition.

I reject the proposed initiative petition.

Time of Taking Effect - Subject to section **8-6**, if a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

SECTION 8-3 CITIZEN REFERENDUM PROCEDURES.

- (a) Petition, Effect on Final Vote - If, within sixty (60) days following the date on which the City Council or the School Committee has voted finally to approve any measure, a petition signed by a number of voters equal to at least five (5) per cent of the total number of voters as of the date of the most recent regular city election and addressed to the City Council or to the School Committee, protesting against the measure or any part of it is filed with the vice chair of the School Committee or city clerk, the effective date of that measure shall be temporarily suspended. The School Committee or the City Council shall immediately reconsider its vote on the measure or part of it and, if the measure is not rescinded, the City Council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, within such time as may be requested by the School Committee, or at the

next regular city election; provided, however, that pending this submission and determination, the effect of the measure shall continue to be suspended.

- (b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and insofar as applicable Section **8-2** (a) describing the manner in which a petition is prepared and filed, 8-2 (b) providing for referral to the city attorney for a legal opinion, 8-2 (g) providing for publication of the text of the measure and 8-2 (h) providing for the form of ballot question shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" in said sections wherever it may occur and the word "referendum" shall be deemed to replace the word "initiative" wherever it may occur in said sections.

SECTION 8-4 INELIGIBLE MEASURES.

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the City Council or of the School Committee;
- (2) an emergency measure adopted under the charter;
- (3) the city budget or the School Committee budget as a whole;
- (4) any appropriation for the payment of the city's debt or debt service;
- (5) an appropriation of funds to implement a collective bargaining agreement;
- (6) proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion or other personnel action;
- (7) any proceedings repealing or rescinding a measure or part of it which is protested by referendum procedures;
- (8) any proceedings providing for the submission or referral to the voters at an election; and
- (9) resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

SECTION 8-5 RECALL.

- (a) Application - Any holder of an elective office may be recalled by the voters of the city as herein provided. No recall petition shall be filed against an officer within three (3) months after the officer takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least two hundred seventy (270) days after that election.
- (b) Recall Petition - Any ten (10) voters of the city may file with the city clerk an affidavit containing the name of the officer or officers sought to be recalled and a statement of the grounds for recall. The city clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, printed forms of which the city clerk shall keep available. Said blanks shall be issued by the city clerk with the clerk's signature and official seal attached thereto. Said blanks shall be dated and addressed to the City Council and shall contain the names of the ten (10) persons to whom they are issued, the name of the officer (or officers) whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk. The recall petition shall be returned and filed with the city clerk within twenty (20) days after the filing of the affidavit and shall have been signed by at least five (5) per cent of the voters of the city who shall add to their signatures the street and number of their residences. The city clerk shall submit the petition to the board of election commissioners in the city and the board shall forthwith certify thereon the number of signatures which are names of voters of the city.
- (c) Recall Election - If the petition shall be found and certified by the city clerk to be sufficient, the city clerk shall submit the same with the clerk's certificate to the City Council. The City Council shall give written notice of the receipt of the certificate to the officer or officers sought to be recalled, and shall, if the officer (or officers) does not resign within five (5) days thereafter, thereupon order a recall election to be held on a Tuesday fixed by said City Council at least sixty-five (65) days after the date of the city clerk's certificate that a sufficient petition is filed. If any other city election is to occur within seventy-five (75) days after the date of the certificate, the city clerk shall postpone the holding of the recall election to the date of the other election.
- (d) Recall of One or More Office Holders - The question of recalling any number of officers may be submitted at the same election. For each officer whose recall is sought there shall be a separate question on the ballot.
- (e) Office Holder - The office holder shall continue to perform the duties of the

office to which elected until the recall election. If not recalled, the office holder shall continue in office for the remainder of the unexpired term. If recalled, the office holder shall be deemed removed upon the qualification of the successor to the office, who shall hold office during the unexpired term.

- (f) Recall Election Ballots - Ballots used in a recall election shall submit the following propositions in the order indicated:

Do you want (name of officer) removed from office?

Do you want (name of officer) to remain in office?

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either proposition.

- (g) Office Holder Recalled - Any person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against said office holder shall not be appointed to any office within 1 year after such recall or such resignation.

SECTION 8-6 REQUIRED VOTER PARTICIPATION.

A majority of voters must approve an initiative or referendum petition.

SECTION 8-7 SUBMISSION OF OTHER MATTERS TO VOTERS.

The City Council may on its own motion and shall, at the request of the School Committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at a regular city election for adoption or rejection any measure in the same manner and with the same force and effect as are hereby provided for submission by petitions of voters.

SECTION 8-8 CONFLICTING PROVISIONS.

If two (2) or more measures passed at the same election contain conflicting provisions, only the one receiving the greatest number of affirmative votes shall take effect.

Article 9

GENERAL PROVISIONS

SECTION 9-1 CHARTER CHANGES.

This charter may be replaced, revised, or amended in accordance with any procedure made available under the United States Constitution, the Massachusetts Declaration of Rights or by the General Laws.

SECTION 9-2 SEVERABILITY.

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected by that holding. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 9-3 SPECIFIC PROVISION TO PREVAIL.

To the extent that a specific provision of this charter conflicts with any provision expressed in general terms, the specific provision of the charter shall prevail.

SECTION 9-4 RULES AND REGULATIONS.

Unless an emergency exists, as determined by the mayor, a copy of all rules and regulations adopted by a city agency shall be placed on file in the office of the city clerk at least five (5) days before such rules or regulations are to become effective and shall be available for review by any person who requests such information at any reasonable time.

SECTION 9-5 PERIODIC REVIEW OF ORDINANCES.

Not later than August 1, at five (5) year intervals, in each year ending in a three (3) and eight (8), the mayor and City Council shall provide for a review to be made of some, or all, of the ordinances of the city to prepare a proposed

revision or recodification of them. The review of city ordinances shall be under the supervision of the city attorney.

This review shall be made by a special committee to consist of seven (7) members, all of whom shall be residents and registered voters in the city. The committee's members shall be appointed as follows: five (5) shall be appointed by the City Council president and two (2) shall be appointed by the mayor. At least three (3) of the persons appointed by the City Council president shall be members of the City Council and two (2) shall be residents but shall not be elected or appointed officers or employees of the city. The appointing authority shall fill any vacancies within twenty-one (21) days.

The special committee shall file its report with the city clerk not later than October 1 in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the City Council's agenda for action before November 15 in such year, and if not so scheduled by the city clerk, the matter shall come before the City Council for action at its meeting next held following November 15, and no other business shall be in order until such report has been acted upon by roll call vote.

In each year between these reenactments, an annual supplement shall be prepared which shall contain all ordinances and amendments to ordinances adopted in the preceding year. Copies of the supplement shall be made available to the public on the city website and shall be provided upon request at a cost not to exceed the actual cost of the reproduction.

SECTION 9-6 PERIODIC REVIEW OF CHARTER.

Not later than May 1, in the fifth year following the adoption of this charter, the mayor and City Council shall provide for a review to be made of the city charter. This review shall be made by a special committee to consist of nine (9) members, all of whom shall be voters in the city. The City Council president shall appoint four (4) members, one (1) of whom shall be a City Councilor and three (3) residents who are not be elected or appointed officers of the city. The mayor shall make three (3) appointments, and the School Committee vice-chair shall make two (2) appointments. The appointing authority shall fill any vacancies within twenty-one (21) days.

The special committee shall file its report with the city clerk, not later than August 1 in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the City Council's agenda for action before August 15 in such year and, if not so scheduled by the city clerk, the matter shall come before the City Council for action at its meeting next held following August 15, and no other business shall be in order until such report has been acted upon, by roll call vote.

Copies of any recommendations shall be made available to the public on the city website and shall be available upon request at a cost not to exceed the actual cost of the reproduction.

SECTION 9-7 UNIFORM PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES.

- (a) Officers - All appointed multiple-member bodies shall annually elect a chair, a vice-chair, a secretary, and any other officer the body deems necessary from among the body's membership, but not including alternate members.
- (b) Meetings - All appointed multiple-member bodies of the city shall meet regularly at the times and places that the multiple-member body, by the body's own rules, shall prescribe. Special meetings of any multiple-member body shall be held at the call of the chair or by a majority of the members of the body. Notice of the meeting shall be posted as required by law. Except as may otherwise be authorized by law, all meetings of all multiple-member bodies shall always be open to the public.
- (c) Meeting Documents and Submissions - Each appointed multiple-member body shall determine its own rules and order of business. Each multiple-member body shall provide for the keeping of agendas, minutes, and related submissions of its proceedings. All such documents shall be a public record and certified copies shall be placed on file in the office of the city clerk within a reasonable period from the date of approval.
- (d) Voting - If requested by a member, a vote of an appointed multiple-member body shall be taken by a roll call vote and the vote of each member shall be recorded in the minutes, but if the vote is unanimous, only that fact need be recorded.
- (e) Quorum - A majority of the members of an appointed multiple-member body shall constitute a quorum. Unless some other provision is made by the multiple-member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to vote on any matter representing an exercise of the powers of the multiple-member body unless otherwise required by the General Laws. General Laws related to a vote to meet in "executive session" shall always require a majority of members of the body.
- (f) Residency - All members of multiple-member bodies must, at all times, be residents of the city during their entire term. If a member of a multiple-

member body removes from the city during the term for which appointed, such seat shall immediately be deemed vacant and filled by the appointing authority.

- (g) Notice to Mayor - A multiple-member body may, by majority vote, send a notice to the mayor if the extended absence of one or more members is impeding the ability of such body to maintain a quorum, fulfill its responsibilities, or otherwise preventing the body from acting in a timely manner.

SECTION 9-8 REFERENCES TO GENERAL LAWS.

All references to General Laws contained in the charter refer to the General Laws of the commonwealth and are intended to refer to and to include any amendments or revisions to such chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

SECTION 9-9 COMPUTATION OF TIME.

In computing time under this charter, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is fewer than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall not be included, when the period is seven (7) days or more, Saturdays, Sundays and legal holidays shall be included.

SECTION 9-10 OATHS OR AFFIRMATIONS FOR THE OFFICE OF MAYOR, CITY COUNCIL, SCHOOL COMMITTEE.

A mayor-elect, the City Council members-elect, and the School Committee members-elect shall, on the first Monday in the January of each even-numbered year, meet and take an oath or affirmation to the faithful discharge of the duties of their office by the city clerk. If the first Monday in January of any even-numbered year falls on a legal holiday, the oaths or affirmations shall be taken on the following day.

Upon receiving the oath or affirmation, each official shall document the same by signing an oath or affirmation that shall be kept in a bound book maintained by the city clerk. In the case of the absence of the mayor-elect or

any member-elect of the City Council or School Committee on the day the oath is administered, the oath or affirmation may at any time thereafter be administered to that person by the city clerk, the assistant city clerk, a judge of a court of record or by a justice of the peace.

SECTION 9-11 CERTIFICATE OF ELECTION OR APPOINTMENT.

Every person who is elected or appointed to an office or as a member of a multiple-member body shall receive a certificate of that election or appointment from the city clerk. Except as otherwise provided by law, every person who is elected or appointed to an office or as a member of a multiple-member body, before performing any act under this election or appointment, shall take and subscribe to an oath or affirmation to qualify to enter upon the duties. A record of this oath shall be kept by the city clerk.

SECTION 9-12 LIMITATION ON OFFICE HOLDING.

A city employee may seek an elected office. A city employee may not hold a second city position unless the mayor has submitted a waiver and justification for the second job with the city clerk. Any hours worked in a part-time position shall not be the same or conflict with the hours worked in the full-time position.

SECTION 9-13 FELONY CONVICTION.

An elected official who has been convicted of a state or federal felony while holding office shall be deemed to have vacated the office as of the date of the conviction.

SECTION 9-14 ENFORCEMENT OF CHARTER PROVISIONS.

- (a) It shall be the duty of the mayor, and all elected officials, to see that the charter is faithfully followed and that all city agencies and city employees comply with its provisions. Whenever it appears that a city agency or city employee is failing to follow this charter, the mayor shall be notified in writing. The mayor shall in writing, cause notice to be given to such city agency or city employee directing compliance with the charter, with a copy of such notice provided to the complainant. If it shall appear to the City Council that the mayor is not adhering to the charter, the City Council shall, by resolution, direct the attention of the mayor to those

areas in which it believes there is a failure to comply with the charter.

- (b) In order to promote enforcement of the charter provisions, a three (3) member grievance committee shall be established. One (1) member of this committee shall be appointed by the mayor, one (1) by the City Council, and one (1) by the School Committee. All appointed members shall serve for a two (2) year term and must be registered voters and residents of the City of Fall River. Within a reasonable time period upon receiving a written complaint of an alleged charter violation, the committee shall schedule a meeting date to discuss such violation. At each meeting there shall be opportunity for public comment, and the committee shall produce a written report concerning each alleged charter violation, with a copy of such report provided to the complainant.
- (c) The procedures made available in chapter 231A of the Massachusetts General Laws may be used to determine the rights, duties, status, or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.
- (d) All charter grievances, notices, and reports will become public record maintained by the city clerk.

SECTION 9-15 PERIODIC REVIEW OF THE NEED FOR MULTIPLE MEMBER BODIES.

Not later than February 1, at ten (10) year intervals, in each year that ends in a four (4), the mayor and City Council shall appoint a special committee to review the purpose and need for each appointed multiple-member body of the city established by ordinance.

The review shall be made by a special committee to consist of five (5) voters of the city, three (3) of whom shall be appointed by the City Council president and two (2) of whom shall be appointed by the mayor. The City Council president shall appoint one (1) City Councilor and two (2) residents of the city, who shall not be elected or appointed officers or employees of the city. The appointing authority shall fill any vacancies within twenty-one (21) days.

The special committee shall file a report outlining any findings and recommendations for changes with the city clerk, not later than April 1 in the year following the year the special committee is appointed. The recommendations of the special committee shall appear on the City Council's agenda for action before April 15 in that year, and if not so scheduled by the city clerk, the matter shall come before the City Council for action at its next meeting held following April 15, and no other business shall be in order until such report has been acted upon by roll call vote.

SECTION 9-16 INSPECTION OF DOCUMENTS.

All documents cited in this article as available for public inspection shall be maintained in the office of the city clerk and in the public library. The city clerk shall provide copies of documents to the public library in a timely manner.

SECTION 9-17 CONFLICT OF INTEREST.

- (a) All city employees shall be considered municipal employees under Chapter 268A of the General Laws and shall comply with the state conflict of interest laws.
- (b) The mayor, City Councilors, School Committee members and members of multiple-member bodies shall not seek to individually influence the official acts of any city official, or to direct or request, except in writing, the appointment or removal of any person to or from office, or to interfere in any way with the performance of such officers of their duties. This provision shall not prohibit:
 - (1) assistance to constituents in their dealings with city officials if constituent requests to the appropriate administrative officials have been unsuccessful;
 - (2) advocacy of particular outcomes on matters pending before the city if the matter is of a general nature; or
 - (3) submission of recommendations or references on behalf of a candidate for city employment which are consistent with this charter.

SECTION 9-18 PUBLIC COMMENT RULES OR POLICY.

The City Council, the School Committee, and all multiple-member bodies shall develop and adopt rules or a policy addressing public comment. The rules or policy shall require that public comment periods appear on meeting agendas for all regular and special meetings. Public comment shall not be limited to items on the agenda for any regular meeting, provided the issues or concerns raised are within the jurisdiction of the City Council, School Committee, or any multiple-member body, respectively; public comment at any special meeting shall be limited to items on the meeting agenda.

The rules or policy shall consider the convenience of the public when scheduling such public comments periods. The City Council, School Committee, and every multiple-member body shall post its public comment rules or policy on the city website and shall, at least annually, review the rules or policy and make revisions as needed.

SECTION 9-19 ELIGIBILITY FOR HEALTH INSURANCE AND OTHER BENEFIT PROGRAMS.

No elected official other than the mayor shall be eligible to participate in the city's health insurance and related benefit programs; provided, however, that any other elected officials in office at the time of this charter's adoption and who are receiving such benefits shall continue to be eligible for the city's health insurance and related benefit programs for as long as they are in continuous elective service to the city.

Article 10 TRANSITION PROVISIONS

SECTION 10-1 CONTINUATION OF EXISTING LAWS.

All general laws, special laws, city ordinances, and rules and regulations of or pertaining to the City of Fall River, including special acts creating regional entities and arrangements of which the city is a member, that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

SECTION 10-2 CONTINUATION OF GOVERNMENT AND ADMINISTRATION.

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

SECTION 10-3 EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments

entered into or executed by or to the city before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as otherwise provided in this charter, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the city shall be rendered invalid by reason of the adoption of this charter.

SECTION 10-4 REVIEW OF ORDINANCES

In the event of any amendments to the Charter, the City Council committee on ordinances shall review them to certify that they are in compliance with the Charter.