

**TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES**

**CHAPTER 49-C
LOCAL OPTION--CITY CHARTERS**

Section 49-C:1

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

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

Section 49-C:2

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

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

Section 49-C:3

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

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

Elections

Section 49-C:4

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

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

Section 49-C:5

49-C:5 Qualification of Voters. – Persons who would be qualified to vote in a biennial election if held on the day of such municipal election shall be qualified to vote in all elections held pursuant to this

chapter, and all such elections shall be deemed elections within the meaning of all general statutes, penal and otherwise, and said statutes shall apply to municipal elections so far as consistent with this chapter. The polls shall be open at each municipal election during such hours as the charter may provide, consistent with state election laws.

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

Section 49-C:6

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

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

Section 49-C:7

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

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

Section 49-C:8

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

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

Section 49-C:9

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

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

Section 49-C:10

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

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

Section 49-C:11

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

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

Section 49-C:12

49-C:12 Meetings. –

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

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

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

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

Section 49-C:13

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

I. The elected body may, on specific charges and after due notice and hearing, at any time remove the mayor or one of its own members for cause, including but not limited to prolonged absence from or other inattention to duties, crime or misconduct in office, or as specified in the charter.

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

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

Section 49-C:14

49-C:14 Ordinances. – Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be "The City of _____ ordains," and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the city clerk, and each ordinance so recorded shall be authenticated by the signature of the mayor and the city clerk. Ordinances shall be published, compiled and revised in such manner and at such times as the elected body shall determine.

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

Section 49-C:15

49-C:15 General Powers. – Except as otherwise provided, the elected body hereby established shall have all the powers and discharge all the duties conferred or imposed upon city councils in convention, city councils voting concurrently, or boards of mayor and aldermen acting separately, by RSA 44 through RSA 48 or other general law now in force or later enacted, or upon the existing city councils or board of mayor and aldermen of the city by special laws not hereby repealed. The elected body shall have the powers of selectmen of towns so far as consistent with this charter. All provisions of such laws pertaining to the powers or duties of any or all such bodies shall be construed to apply to the elected body unless there is a contrary intent or provision, it being the purpose of this chapter to confer upon the elected body all functions of the existing board of aldermen or city council, whether legislative, executive or judicial.

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

Administrative Service

Section 49-C:16

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

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

Section 49-C:17

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

I. The city council shall appoint as city manager for an indefinite term, and fix the salary of, a qualified person who receives the votes of at least a majority of the council. The first city council elected under this charter shall appoint a manager within 6 months after the effective date of the charter. The city manager

shall be chosen solely on the basis of executive and administrative qualifications, but need not be a resident of the city or the state at the time of appointment.

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

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

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

Section 49-C:18

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

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

Section 49-C:19

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

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

Section 49-C:20

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

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

Section 49-C:21

49-C:21 Departments; Administrative Code. – The city shall have departments, divisions, and bureaus as may be established by the charter or as the elected body may establish by ordinance. It shall be the duty of the first chief administrative officer, under the provisions of the charter to draft and submit to the elected body within 9 months after assuming office, an ordinance consistent with the charter which

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

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

Finance

Section 49-C:22

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

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

Section 49-C:23

49-C:23 Budget Process and Fiscal Control. – The charter shall provide for the following:

I. A budget submission date and a date by which an annual budget shall be finally adopted by the elected body. Failing final adoption by the established date, the budget shall be determined as provided in the city charter, or as originally submitted by the chief administrative officer if no such provision is made in the city charter.

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

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

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

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

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

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

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

expenditures within total anticipated revenues.

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

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

Section 49-C:24

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

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

Section 49-C:25

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

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

Section 49-C:26

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

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

Transition Provisions

Section 49-C:27

49-C:27 Employees When Charter Adopted. – No employee of the city at the time this charter is adopted shall be required to take any examination in order to continue within the employment of the city. All other provisions of the merit plan will apply to such employees. The incumbents when this charter

takes effect who are not elected by popular vote, of all municipal offices not hereby abolished or superseded, shall continue to hold the same until the expiration of their respective terms where a term of years exists, or until such offices are abolished or superseded by lawful ordinances.

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

Section 49-C:28

49-C:28 Oath of Office. – Every person elected or appointed to any city office before entering upon the duties of his office shall take and subscribe to an oath of office, as provided by law, which shall be filed and kept in the office of the city clerk.

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

Section 49-C:29

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

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

Section 49-C:30

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

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

Section 49-C:31

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

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

Section 49-C:32

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

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

Section 49-C:33

49-C:33 Optional Provisions; Limitations. –

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

(a) Referendum procedures whereby voters may petition to suspend implementation of an ordinance, except budget adoption and land use regulation ordinances, enacted by the elected body, require a reconsideration by the body and, failing satisfactory reconsideration, require a referendum on approval.

(b) Initiative procedures whereby voters may initiate ordinances by petition, require consideration of the petitioned ordinance by the elected body and, failing satisfactory consideration, require a referendum to enact the ordinance.

(c) Conflicts of interest so long as any provisions adopted are at least as stringent as the state general laws relative to conflicts of interest.

(d) A limit on the annual spending increases that increase the amount raised by taxes under the city budget adopted pursuant to RSA 49-C:23. Such a tax cap shall provide for an override threshold on a vote to exceed the limit on annual increases which shall be by a supermajority as determined in the charter. A tax cap provision in the city charter may provide for specific exclusions for dedicated, enterprise, or self-supporting funds or accounts, capital reserve funds, grants, or revenue from sources other than local taxes.

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

Source. 1991, 304:11. 2011, 234:3, eff. July 5, 2011.

Section 49-C:34

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

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