

Article III
Council

Article III: Council

Section 1. COMPOSITION, TERM OF OFFICE¹

- a) Composition: There shall be a council of eleven (11) members which shall exercise the legislative powers of Framingham. Two (2) of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Nine (9) of these members, to be known as district councilors, shall be nominated and elected by and from the voters of each district, with one district councilor to be elected from each of the nine (9) districts into which the municipality is divided, under Article VII, section 3 of the Framingham Home Rule Charter.
- b) Term of Office: The term of office for councilors-at-large shall be four (4) years. The term of office for district councilors shall be two (2) years. All councilor terms shall begin on the first day of January in the year following the councilor's election, and shall continue until their successors have been qualified.
- c) Eligibility: Any voter shall be eligible to hold the office of councilor-at-large. Any voter, who is a resident of the district on or before June 1 in any municipal election year, shall be eligible to serve as the district councilor for that district. If a councilor-at-large or a district councilor removes from Framingham, or a district councilor removes to another district in Framingham, during the term for which elected, that office shall be considered vacant and the balance of the unexpired term shall be filled in the manner provided in Article II, section 11 of the Framingham Home Rule Charter.
- d) Qualifications: The council shall be the judge of the election and qualification of its members.
- e) Term Limit: No person shall hold the office of councilor-at-large for more than three consecutive full 4-year terms and no person shall hold the office of district councilor for more than six consecutive full 2-year terms.

Section 2. COUNCIL OFFICERS²

- a) Election and Term of Council Chair: As soon as practicable following the taking of the oath of office and councilors have otherwise qualified for office, as provided in Article IX, section 11 of the Home Rule Charter, the councilors shall elect from among its members a council chair who shall serve for a two (2) year term of office.
- b) Powers and Duties of Council Chair: The council chair shall preside at all meetings of the council, shall regulate its proceedings and shall decide all questions of order. The council chair shall have the same powers to vote upon all measures coming before the council as any other councilor. The council chair shall perform any other duties consistent with the office that may be provided by charter, by ordinance, by council rules, or by other vote of the council.
- c) Appointments of the Council Chair: The council chair shall appoint all members of all committees established by the rules of the council, whether special or standing, including, but not limited to a finance subcommittee.
- d) Council Vice-Chair: The councilors shall also elect from among their members a council vice-chair who shall serve as acting council chair during the temporary absence or disability of the council chair during the current term of office. The powers of the vice chair acting as council chair shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of temporary absence or disability.

Section 3. PROHIBITIONS³

- a) Holding Other Office or Position: No councilor shall hold any other municipal office or municipal employment for which a salary or other emolument is payable from the Framingham treasury. No former councilor shall hold any compensated appointed municipal office or appointed municipal employment until one (1) year after the date on which the former councilor's service on the council has terminated.
- b) Interference with Administration: Neither the council nor any councilor shall give orders or directions to any municipal officer or employee, either publicly or privately.

Section 4. COMPENSATION, EXPENSES⁴

¹ Text from Charter Article II Section 1

² Text from Charter Article II Section 2

³ Text from Charter Article II Section 3

⁴ Text from Charter Article II Section 4

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- a) Compensation: The councilors shall receive such stipend for their services as may from time to time be set by ordinance. Any ordinance increasing the stipend of councilors (i) must be adopted during the first eighteen (18) months of the then councilors' terms; (ii) shall not be effective until after the next election and qualification of councilors; and (iii) shall only be adopted by a two-thirds (2/3) vote of the full council on a roll call vote. At-large councilors shall be eligible to receive any increase received by district councilors, notwithstanding the longer term of office. Said stipend shall be \$5,000 per year for Councilors and \$7,500 per year for the Council Chair.
- b) Expenses: Subject to prior authorization by the council, councilors shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

Section 5. GENERAL POWERS⁵

- a) Municipal Powers: Except as otherwise provided by the general laws or by this charter, all municipal powers of Framingham shall be vested in the council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the municipality by law.

Section 6. EXERCISE OF POWERS; QUORUM; RULES⁶

- a) Exercise of Powers: Except as otherwise provided by the general laws or by the Framingham Home Rule Charter, the legislative powers of the council may be exercised in a manner determined by the council.
- b) Quorum: The presence of a majority of members of the full council shall constitute a quorum for the transaction of business.
- c) Required Vote: Except as otherwise provided by the general laws or by this charter, the affirmative vote of the majority of the full council shall be required to adopt any ordinance or appropriation order. Any zoning ordinance shall only be adopted by a two-thirds (2/3) vote of the full council, unless otherwise required by the general laws.
- d) Rules of Procedure: The council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:
 - i. Regular meetings of the council shall be held at a time and place fixed by ordinance, provided that the council shall meet at least once per month;
 - ii. Special meetings of the council shall be held at the call of the council chair, or, at the call of any four (4) or more councilors, by written notice delivered in hand to the councilor or to the place of residence of each councilor and which contains a listing of the items to be acted upon. Except in case of an emergency, the existence of which the council chair shall be judge, this notice shall be delivered at least forty-eight (48) hours in advance of the time set for the meeting. A copy of the notice to councilors shall simultaneously be posted on the municipal bulletin board and otherwise published as may be required by ordinance;
 - iii. All sessions of the council and of every committee or subcommittee of the council, shall at all times be open to the public, unless another provision is made by law;
 - iv. All votes on ordinances shall be by roll call;
 - v. A full, accurate, up-to-date account of the proceedings of the council shall be kept, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. The minutes of any executive session shall be made available as soon as their publication would not defeat the lawful purpose of the executive session consistent with the requirements of the Open Meeting Law, General Laws chapter 30A, section 22;
 - vi. Any resident of Framingham may be recognized and speak to any agenda item on the current council agenda. The council shall include in its rules procedures to address public participation at council meetings, including but not limited to, special rules which may govern such public participation at special or emergency meetings; and,

⁵ Text from Charter Article II Section 5

⁶ Text from Charter Article II Section 6

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- vii. Absent any unforeseen difficulty, technical or otherwise, all meetings of the council shall be recorded and broadcast live.

Section 7. ACCESS TO INFORMATION⁷

- a) In General: The council may make investigations into the affairs of the municipality and into the conduct and performance of any of its agencies and for this purpose may subpoena witnesses, administer oaths and require the production of evidence. Upon completion of any investigation, a report shall be submitted to the secretary of the council and such report shall be posted on the municipal bulletin board.
- b) Officers, Members of Agencies, Employees: The council may require any officer, member of an agency or employee to appear before it to give any information that the council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and within the jurisdiction of the council. The mayor shall receive notice of any such request at the same time as the officer, member, or employee is notified.
- c) Mayor: The council may require the mayor to provide specific information to it on any matter within the jurisdiction of the council. The council may require the mayor to appear before it, in person, to respond to written questions made available to the mayor at the time the request to attend is made to the mayor, or to provide specific information on the conduct of any aspect of the business of the municipality. The mayor may bring to this meeting any assistant, division head, department director or other officer or employee that the mayor may consider necessary to assist in responding to the questions posed by the council.
- d) Notice: The council shall give not less than five (5) days advance notice to any person it may require to appear before it under this section. The notice shall include specific questions on which the council seeks information, and no person called to appear before the council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of that person. The mayor shall receive a copy of all such notices.

Section 8. OFFICERS APPOINTED BY COUNCIL⁸

- a) Auditor: The council shall appoint an auditor to serve for a term of three (3) years and until a successor is chosen and qualified. The auditor shall conduct, or cause to be conducted, financial and performance audits following government auditing standards as promulgated by the comptroller-general of the United States. The auditor shall make periodic reports to the council in such detail and with such frequency as the council shall, by ordinance, by rule or by other vote, direct. All officials and employees of the municipality shall cooperate with the auditor in the performance of this audit function. The auditor shall have such other powers and duties as may be provided by charter, by ordinance or by other vote of the council.
- b) City Clerk: The council shall appoint a city clerk to serve for a term of three years and until a successor is chosen and qualified. The city clerk shall, with the approval of the council, appoint an assistant clerk to serve coterminously with the city clerk. The city clerk shall be the keeper of vital statistics for the municipality; shall be the custodian of the Framingham seal; shall administer the oath of office to all persons, elected or appointed, to any office; shall issue such licenses and permits as are required by the general laws to be issued by clerks; and shall supervise and manage the conduct of all elections and all other matters relating to elections. The city clerk shall have any other powers and duties that are given to city clerks by the general laws, by this charter, by ordinance or by other vote of the council.
- c) Secretary of the Council: The council shall appoint a secretary of the council to serve for a term of three (3) years and until a successor is chosen and qualified. The secretary of the council shall give notice of its meetings to its members and to the public, keep the journal of its proceedings, research municipal matters and perform any other duties that may be provided by ordinance or by other vote of the council.
- d) Salaries/Compensation: The officers appointed or elected by the council shall receive the salaries or other compensation that may from time to time be provided for these offices, by ordinance.

⁷ Text from Charter Article II Section 7

⁸ Text from Charter Article II Section 8

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- e) Removal/Suspension: Any person appointed or elected by the council may be removed or suspended by the council by the use of the procedures established in the municipality's personnel ordinance for the removal of municipal employees.

Section 9. ORDINANCES AND OTHER MEASURES⁹

- a) Emergency Ordinances: No ordinance shall be passed finally on the date it is introduced, except in case of emergency. No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to the ordinance, separately voted upon and receiving the affirmative vote of seven (7) or more councilors. Emergency ordinances shall stand repealed on the sixty-first (61st) day following their adoption, unless an earlier date is specified in the measure.
- b) Measures: The council may pass a measure through all of its stages at any one meeting, except proposed ordinances, appropriation orders and loan authorizations, provided no councilor shall object. If any single member objects, a vote on the measure shall be postponed to the next meeting of the council. On the first occasion that the question of adopting any measure is put to the council, except an emergency measure as defined in Article II, section 9(a), if a single member objects to the taking of a vote, the vote shall be postponed until the next regular or special meeting of the council. This procedure to postpone a vote shall not be used more than once for any measure notwithstanding any amendments made to the original measure.
- c) Any ordinance authorizing the granting of a special permit in accordance with Massachusetts zoning laws shall limit such authority to the council, planning board or zoning board of appeals, and any such ordinance shall further require a two-thirds (2/3) vote of such bodies with more than five (5) members, a four-fifths (4/5) vote of a five-member body, and a unanimous vote of a three-member body, unless otherwise required by the general laws.
- d) Publication: Every proposed ordinance, appropriation order or loan authorization, except emergency ordinances under subsection (a) of this section, shall be posted on the municipal bulletin board, and in any additional manner as may be provided by ordinance, at least ten (10) days before its final passage. An emergency ordinance shall be posted on the municipal bulletin board as soon as practicable. After final passage of any ordinance, appropriation order or loan authorization, it shall be posted on the municipal bulletin board and otherwise published as may be required by ordinance.

Section 10. COUNCIL REVIEW OF CERTAIN APPOINTMENTS¹⁰

- a) Submission of Names to Council: The mayor shall submit to the council the name of each person the mayor desires to appoint to any office as a division head, the citizen participation officer, or as a member of a multiple-member body. The council shall refer each name that is submitted to it to a standing committee of the council which may investigate each candidate for appointment and may make a report, with recommendations, to the full council not less than seven (7) nor more than twenty-one (21) days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the council, to give any information relevant to the appointment as such committee, or the council, may require.
- b) Effective Date for Certain Appointments: Appointments made by the mayor for division heads or the citizen participation officer shall become effective on the thirtieth (30th) day after the date on which notice of the proposed appointment was filed with the secretary of the council, unless the full council by a two-thirds (2/3) vote shall within those thirty (30) days vote to reject the appointment, or unless the full council has sooner voted to affirm the appointment. The question of approval or rejection of any appointment made by the mayor shall not be subject to the procedures provided for in Article VIII of the Charter.
- c) Approval of Multiple-Member Body Appointments: Appointments made by the mayor for multiple-member body members shall be submitted to the council for its approval, provided that said appointments shall become effective on the thirtieth day after the date on which notice of the proposed appointment was filed with the clerk unless the majority of the full council rejects said appointment within thirty (30) days or the full council has sooner voted to affirm the appointment earlier. The question on approval or rejection of any

⁹ Text from Charter Article II Section 9

¹⁰ Text from Charter Article II Section 10

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appointment made by the mayor shall not be subject to the procedures provided for in section Article VIII of Charter.

Section 11. FILLING OF VACANCIES¹¹

- a) councilor-at-Large: Vacancy
 - i. Vacancy during Initial 16 Months of Term: If a vacancy shall occur in the office of councilor-at-large during the first sixteen (16) months of the term for which councilors are elected, the vacancy shall be filled by a special election. A preliminary election will be held within sixty (60) days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.
 - ii. Vacancy between 17 and 21 Months of Term: If a vacancy shall occur in the office of councilor-at-large during or after the seventeenth (17th) month, but before the twenty-first (21st) month of the term to which elected, the vacancy shall be filled at the next regular municipal election and the candidate elected shall serve for the remainder of the present term.
 - iii. Vacancy after initial 21 Months of Term, but prior to 42nd Month of Term: If a vacancy shall occur after the twenty-first (21st) month of the term to which elected, but before the forty-second (42nd) month, the vacancy shall be filled by a special election. A preliminary election will be held within sixty (60) days following the vacancy, and the special election shall be held thirty-five (35) days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.
 - iv. Vacancy during or after 42nd month of Term: Any vacancy in the office of councilor at large during or after the forty-second (42nd) month of the term to which elected shall be filled at the next regular municipal election. The candidate so elected shall take office immediately, and serve for the remaining two (2) months of the present term as well as to the term to which elected.
- b) District Councilor: If a vacancy shall occur in the office of district councilor in the initial twenty (20) months of the term it shall be filled by the candidate receiving the next highest number of votes for the district council seat in the district where the vacancy occurs provided that such candidates received at least 30 per cent of the vote total received by the person receiving the highest number of votes for the seat, and remains willing and able to serve. The council shall qualify the individual elected to the office of district councilor to serve for the remainder of the existing term. Any vacancy occurring after the twentieth (20th) month of the term shall be filled at the next regular municipal election. The candidate so elected shall take office immediately, and serve for the remaining two months of the present term as well as to the term to which elected.
- c) Filling of Vacancies by Council: Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill the vacancy in the manner provided in Article II, sections 11(a) or 11(b), the vacancy shall be filled by vote of the remaining members of the council. Notice of said councilor vacancy shall be posted for a minimum of twenty-one (21) days prior to the meeting at which the council shall fill any such vacancy.

Section 12. Distribution of literature to Councilors¹²

- 12.1 Any multiple member body or officer of Framingham or any sponsor of a measure before the council shall submit background material to the Council. Any material so submitted must bear the name of the entity or person that submits the material. The material may also be delivered electronically to Councilors. All such materials shall be posted with the meeting materials on the municipal bulletin board.
- 12.2 Any multiple member body, municipal officer or resident of Framingham may distribute literature pertinent to any measure before the Council.

¹¹ Text from Charter Article II Section 11

¹² From town bylaws Article III, Section 1.8

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Section 13. Publication of Council Actions¹³

- 13.1** A record of Council actions shall be posted on the municipal bulletin board within ten (10) days after the votes by the Council. A record of Council actions shall also be made a part of the Annual Report.
- 13.2** A record of attendance of Council members at each Council session shall be made a part of the Annual Town Report.
- 13.3** A record of all motions made under each measure, except procedural motions, along with a record of votes taken, including those that pass and those that fail, shall be made a part of the Council minutes for each session and posted on the municipal bulletin board. Additional language and information (e.g., Background Material or Handouts) shall be a part of the record when specifically referenced in a motion.
- 13.4** Resolutions made under a measure, or independently by a Councilor, shall be made part of the Council's minutes, including those that pass and those that fail.

Section 14. Financial Disclosure¹⁴

All Councilors shall file a financial disclosure with the City Clerk in accordance with these ordinances.

Section 15. Publication of Council Votes

The City Clerk shall post within a reasonable time after each council session in which a rollcall vote was taken on a question a list which shall disclose how each Councilor voted. Said list shall become a permanent record of the City, posted on the municipal bulletin board, and be included in the annual report for the year in which it was voted.

¹³ From town bylaws Article III Section 1.16

¹⁴ As required by Charter Article IX Section 18