

Article IX: TRANSITIONAL PROVISIONS

1. CONTINUATION OF EXISTING LAWS

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to Framingham that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation.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.

2. CONTINUATION OF GOVERNMENT AND ADMINISTRATION

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

3. TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any municipal agency, or part thereof, the powers and duties of which are assigned in whole or in part to another municipal agency, shall be transferred forthwith to such agency.

4. CONTINUATION OF PERSONNEL

Any person holding a municipal office, or a position in the administrative service of the municipality, or any person holding full-time employment under the municipality, shall retain such office, or position, or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in the permanent full-time service of the municipality shall forfeit his or her time in service of the municipality.

5. EFFECT ON OBLIGATIONS, TAXES, ETC.

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

6. DISPOSITION OF CERTAIN SPECIAL LAWS

- (a) ***Certain Special Laws Recognized and Retained*** - The following special acts are hereby especially recognized and retained: Chapter 124 of the Acts of 1995; Chapter 10 of the Acts of 1987; Chapter 273 of the Acts of 1890; Chapter 216 of the Acts of 1871; Chapter 26 of the Acts of 1833; Chapter 21 of the Acts of 1790; Chapter 60 of the Acts of 1785; Chapter 133 of the Resolves of 1781; Chapter 33 of the Acts of 1719; Chapter 44 of the Acts of 1702; Chapter 38 of the Acts of 1700; Chapter 51 of the Resolves of 1700; and, Chapter 32 of the Acts of 1700.
- (b) ***Certain Special Laws Recognized and Retained, in part*** - The following special acts which were enacted for the purpose of enabling and authorizing the town to exercise certain powers or functions, which prior to the enactment of article eighty-nine of the amendments to the

state constitution may not otherwise have been available to the town, are hereby recognized, so much of these acts which might grant a power to the town which it otherwise might not have are hereby retained, but all such powers shall be exercised in a manner consistent with the charter:

- (c) ***Certain Other Obsolete Special Laws Repealed*** - The following special laws, and any amendment thereto, which were enacted for special purposes and were limited in time by their own provisions are hereby recognized as obsolete and are to stand repealed, but all acts taken under the authority of the said special laws is hereby preserved: Chapter 126 of the Acts of 2016; Chapter 63 of the Acts of 2016; Chapter 19 of the Acts of 2013; Chapter 9 of the Acts of 2010; Chapter 57 of the Acts of 2008; Chapter 97 of the Acts of 2006; Chapter 75 of the Acts of 2005; Chapter 372 of the Acts of 2004; Chapter 350 of the Acts of 2004; Chapter 169 of the Acts of 2003; Chapter 338 of the Acts of 2002; Chapter 34 of the Acts of 2002; Chapter 341 of the Acts of 1998; Chapter 338 of the Acts of 1998; Chapter 333 of the Acts of 1998; Chapter 147 of the Acts of 1997; Chapter 418 of the Acts of 1996; Chapter 27 of the Acts of 1996; Chapter 54 of the Acts of 1992; Chapter 277 of the Acts of 1991; Chapter 632 of the Acts of 1989; Chapter 590 of the Acts of 1987; Chapter 10 of the Acts of 1987; Chapter 126 of the Acts of 1986; Chapter 339 of the Acts of 1983; Chapter 338 of the Acts of 1983; Chapter 284 of the Acts of 1982; Chapter 697 of the Acts of 1979; Chapter 34 of the Acts of 1979; Chapter 207 of the Acts of 1976; Chapter 448 of the Acts of 1976; Chapter 816 of the Acts of 1975; Chapter 710 of the Acts of 1974; Chapter 804 of the Acts of 1969; Chapter 805 of the Acts of 1969; Chapter 425 of the Acts of 1966; Chapter 34 of the Acts of 1962; Chapter 162 of the Acts of 1962; Chapter 56 of the Acts of 1953; Chapter 609 of the Acts of 1953; Chapter 76 of the Acts of 1952; Chapter 143 of the Acts of 1949; Chapter 321 of the Acts of 1935; Chapter 232 of the Acts of 1933; Chapter 50 of the Acts of 1925; Chapter 358 of the Acts of 1915; Chapter 701 of the Acts of 1914; and, Chapter 238 of the Acts of 1910.

7. TIME OF TAKING EFFECT

This charter shall take effect upon its ratification by the voters and in accordance with the following schedule:

- a) All municipal officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the ratification by the voters of the home rule charter, but, being mindful that on the first business day in January of the year following the year the charter has been so ratified, that the executive authority will thereafter be vested in a mayor and the legislative authority shall be vested in a council. As such, the board of selectmen, town manager and town meeting shall limit their respective actions during this transitional period to those matters essential and necessary to the current operations of the municipality, such as the annual budget, taking no actions contrary to or that frustrates the purpose of the adoption of this charter by the voters. Special town meetings shall be held only to address matters not admitting of delay, of which the board of selectmen shall be the sole judge. The board of selectmen shall maintain a list of board and commission memberships from date of the charter adoption to the date of installation of the mayor and council as necessary to assure quorum for the conduct of business plus one member. No appointments shall be made that do not meet this criterion after the charter adoption unless necessary for matters not admitting of delay. Said board shall provide a list of vacancies on boards and commissions to the mayor-elect.
- b) Upon adoption of this home rule charter by the voters, the terms of office of members of the Housing Authority, Regional Vocational School Committee, Planning Board, and Town Clerk, shall be extended until the expiration of their current term or until successors to their respective

positions are duly appointed in accordance with this charter to fill a vacancy, whichever is sooner. The mayor shall negotiate an amendment to the existing regional school agreement with the other member communities to allow the mayor to appoint the Framingham members.

- c) The first election of officers under this charter shall be held on the first Tuesday following the first Monday in November 2017 (November 7, 2017) for the purpose of electing a mayor, eleven councilors, and nine school committee members. Nomination papers will be available on June 1, 2017 and must be returned by August 8, 2017. A preliminary election for the purpose of nominating candidates to be elected at such election shall be held on the sixth Tuesday preceding such election (September 26, 2017). So much of this charter shall become effective as is necessary to conduct such elections, including the requirements of Article IX, section 18. The board of selectmen shall issue the warrants for such elections.

- d) A municipal election shall be held in November 2017 to elect a mayor to be elected for a 4-year term; two councilors at large elected to initial 2-year terms; nine district councilors and nine district school committee members to 2-year terms from each of the following nine districts which shall be comprised as follows:
 - i. District 1: precincts 1 and 2;
 - ii. District 2: precincts 3 and 5;
 - iii. District 3: precincts 4 and 7;
 - iv. District 4: precincts 6 and 9;
 - v. District 5: precincts 8 and 12;
 - vi. District 6: precincts 10 and 11;
 - vii. District 7: precincts 13 and 14;
 - viii. District 8: precincts 15 and 18; and,
 - ix. District 9: precincts 16 and 17.

- e) The terms of all school committee members in office at the time the charter is adopted shall be terminated upon the assumption of office of the school committee elected at the November 2017 municipal election.

- f) The status of the Board of Library Trustees shall be as follows: The 4 members of the Board of Library Trustees elected in 2015 and the 2 members of the Library Trustees receiving the highest vote totals at the 2016 municipal election shall have their terms extended and shall serve until January 2020 when the 6 members of the Board of Library Trustees elected in November 2019 shall assume office. The 4 members of the Board of Library Trustees elected in 2017 and the 2 members receiving the 3rd and 4th highest vote totals in the 2016 municipal election shall have their terms extended until January 2022 when the 6 members of the Board of Library Trustees elected in November 2021 shall assume office. Thereafter, 6 members of the Board of Library Trustees shall be elected at each municipal election.

- g) The status of the Trustees of the Edgell Grove Cemetery shall be as follows: The trustees elected in 2014 and 2015 shall serve until January 2020 when 2 trustees elected at the 2019 municipal election shall assume office. The trustees elected in 2016, 2017, and 2018 shall serve until January 2022 when 3 trustees elected at the 2021 municipal election assume office. Thereafter, 2 trustees and 3 trustees shall be elected at alternate municipal elections for terms of 4 years.

- h) Forthwith following the first election under this charter in November 2017, the persons elected as mayor and council members shall begin the process of transition from the existing form of government to the new form of government.
- i. This council members-elect shall meet for the sole purposes of electing officers, for adopting interim rules that will govern the conduct of the business of the council until such time following assumption of office when the council adopts permanent rules, and to commence review of the mayor-elect's nominees to the board of license commissioners established in Article V. Such meetings shall be called by the council member-elect most senior in age and shall be open to the public, although the business of any such meetings shall be confined to the topics identified here. The clerk shall serve as an advisor to the council-elect in this endeavor. The council shall adopt permanent rules within six months of the assumption of office; any rules adopted, whether interim or permanent, must contain the requirements for council rules as stated in Article II.
 - ii. The person chosen as mayor-elect shall meet regularly with the members of the board of selectmen and the school committee. The mayor-elect shall have a right to meet with any municipal officer, municipal agency or municipal employee during regular business hours for the purpose of acquiring and advancing knowledge and information necessary to assume the full powers of mayor on the first business day of January in the year following the year in which the charter is adopted. The mayor-elect shall be notified of all meetings of the committee established for the review of town bylaws as established in (s) below, and may consult with the board of selectmen and municipal attorney to keep informed of the recommendations of the committee, in particular such bylaw revisions as identified by the committee of highest priority to assure that the charter can be implemented as intended.
 - iii. The town shall provide suitable offices in a public building and access to clerical services and office equipment to the mayor-elect and council-elect to allow them to undertake their transitional assignments.
 - iv. At noon on the first business day of January (January 2, 2018) in the year following the year in which this charter is adopted, the terms of office of the members of the board of selectmen, the town moderator and of the representative town meeting members shall all be terminated, and their offices abolished upon the assumption of office of the mayor and council in accordance with section 11 of Article VIII. The council, school committee, library board, and board of cemetery trustees shall organize as provided in Articles II and IV. Each appointed municipal officer and employee shall continue to serve in the same office or position until some other provision is made in accordance with the provisions of Articles III or V.
- i) The Board of License Commissioners established by Article V of this charter shall be appointed by the mayor within 15 days upon the assumption of office; the initial terms of office for the members shall be as follows: two members shall serve one year terms, two members shall serve two year terms, and one member shall serve a three year term. Following the completion of such terms, their successors shall serve three year terms.
 - j) The Traffic Commission established by article V of this charter shall be appointed by the mayor within 15 days upon the assumption of office; the initial appointments the member representing the business community shall serve for three years, the members representing the downtown area shall serve for two years, and the residents at-large shall serve for one year. Following the completion of such terms, their successors shall serve three year terms.

- k) Until such time as another salary is established for the office of the mayor in accordance with the procedure provided in Article III, the initial salary for the mayor of Framingham shall be established as the same sum which is provided as the annual salary for the position of town manager on December 31, 2016. The initial salary for the members of the council shall be established as \$5,000. for each councilor and \$7,500. for the chair of the council. The initial salary for the members of the school committee shall be established as \$5,000. for each person elected as a school committee member and \$7,500. for the chair of the school committee.
- l) The office of town manager established by chapter 27 of the acts of 1996 is hereby abolished and the said special act is hereby repealed effective on the first business day of January in the year following the year in which this charter is adopted. The incumbent of the office of town manager shall continue to serve in that office until the said first business day of January. Such incumbent may be continued in the service of the municipality beyond said termination date, as shall be determined in any agreement continuing the employment of the manager in either a temporary or permanent position, if the manager in office at the time the position is abolished and the mayor so agree.

Should an interim manager be serving at the time that the mayor assumes office, these provisions shall not apply, and the interim manager shall be terminated upon the taking of office of the mayor. If an officer or employee of Framingham is serving as the interim or acting manager at the time the mayor and council take office, such officer or employee will return to his or her position in the municipality.

- m) The position of chief financial officer established by chapter 418 of the acts of 1996 is hereby abolished and the said special act is hereby repealed effective on the first business day of January in the year following the year in which this charter is adopted. The incumbent of the office of chief financial officer shall continue to serve in that office until the said first business day of January. Such incumbent may be continued in the service of the municipality beyond said termination date, or in some other position, if such person and the mayor so agree. Should an interim chief financial officer be serving at this time, the same conditions as noted above for an interim manager shall apply to this circumstance.
- n) The position of the town accountant, which has existed in Framingham before the effective date of this charter, shall, after the assumption of power and authority by the mayor, be divided into two separate and distinct functions. The powers of the office which are associated with auditing, including those described in sections 50, 51, 53 and 54A of chapter 41 of the General Laws shall be assigned to the office of municipal auditor established by Article II.

The remaining powers of the town accountant having to do with the regular payment of bills and invoices submitted by municipal agencies including those described in sections 52, 56, 57 and 58 of chapter 41 General Laws shall be exercised by a person in the executive branch under the title municipal accountant.

- o) As soon as practical after the first mayor and council have been elected, but no later than seven days after taking office, the mayor shall call together for an initial meeting the mayor-elect's nominees to the board of license commissioners established in Article V and submit said names to the council for their review. The board of selectmen and its staff shall keep the prospective board of license commissioners so named fully apprised of its activities in the year-end renewing of licenses in order to acquaint the members of the said board to these procedures. The board of

license commissioners shall assume full authority under chapter one hundred and thirty-eight and chapter one hundred and forty of the General Laws, and any other authority delegated to it by ordinance, on the thirtieth day following the assumption to office of the mayor, and being sworn to their duties as license commissioners. The mayor shall exercise said authority only to the extent necessary until the board is duly formed to allow the council adequate time to review the nominees.

- p) Not later than thirty days following the date of the adoption of this charter by the voters the municipal clerk shall give to each member of the Massachusetts House and Senate who represent any part of Framingham a copy of the vote ratifying this charter and the following petition for the enactment of a special law applicable to Framingham in the following form:

AN ACT REQUIRING CANDIDATES FOR MAYOR AND COUNCIL IN FRAMINGHAM TO ADHERE TO AND REPORT IN ACCORDANCE WITH SECTION 19 OF CHAPTER 55.

SECTION 1. Notwithstanding any general or special law to the contrary, candidates for mayor and council, and any committee formed relative to these offices, in Framingham shall be covered by section 19 of chapter 55 and required to designate a financial institution as a depository for the campaign funds of such candidate or committee, and make report of its activities to the Office of Campaign Finance in accordance with chapter 55.

SECTION 2. This act shall take effect upon its passage.

- q) Not later than thirty days following the date of the adoption of this charter by the voters the municipal clerk shall give to each member of the Massachusetts House and Senate who represent any part of Framingham a copy of the vote ratifying this charter and the following petition for the enactment of a special law applicable to Framingham in the following form:

AN ACT TO CLARIFY AND RESTATE THE APPLICABILITY OF THE CIVIL SERVICE LAWS TO EMPLOYEE POSITIONS IN THE TOWN OF FRAMINGHAM

SECTION 1. Notwithstanding sections 48, 51 and 52 of chapter 31 of the general laws, or any other general or special law to the contrary, the Framingham Home Rule Charter, as approved by the voters on April 4, 2017, shall not change the applicability of the civil service laws, chapter thirty-one of the general laws, to all designated employee positions in the Town of Framingham as said laws applied prior to said charter up through and including April 4, 2017.

SECTION 2. Notwithstanding sections 48, 51 and 52 of chapter 31 of the general laws, or any other general or special law to the contrary, the Framingham Home Rule Charter, as approved by the voters on April 4, 2017, shall not amend, supersede or nullify any agreement between the Town of Framingham and any employee organization as defined in chapter one hundred fifty E of the general laws, including but not limited to the collective bargaining agreement between the Town of Framingham and the Framingham Police Officers Union, regarding the existing or future applicability of the civil service laws, chapter thirty-one of the general laws, to employee positions in the Town of Framingham.

SECTION 3. Notwithstanding sections 48, 51 and 52 of chapter 31 of the general laws, or any other general or special law to the contrary, the appointment, promotion, discipline, discharge, layoff, and any other aspect of employment for the following positions in the Town of Framingham shall continue to be subject to the civil service laws, chapter thirty-one of the general laws: (1) sworn police officers up to the rank of lieutenant, excluding the chief of police, deputy chiefs of police, and employees of the police department whose positions have been civilianized under any agreement between the Town of Framingham and any employee organization as defined in chapter one hundred fifty E of the general laws; and (2) uniformed firefighters up to the rank of deputy chief, excluding the fire chief, the assistant fire chief, and

employees of the fire department whose positions have been civilianized under any agreement between the Town of Framingham and any employee organization as defined in chapter one hundred fifty E of the general laws.

SECTION 4. This act shall take effect upon its passage.

- r) Not later than thirty days following the election at which this charter is adopted, the board of selectmen shall appoint seven persons to be a committee to begin a review of the town by-laws for the purpose of preparing such revisions and amendments as may be needed or necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. At least two of the persons appointed to the committee shall have been members of the Charter Commission elected in 2016. The committee shall submit a report, with recommendations, to the mayor-elect and council-elect forthwith following the election held in the year in which this charter is adopted. The review shall be conducted under the supervision of the municipal attorney, or, by special counsel appointed for that express purpose.

Upon the assumption of the office, the mayor shall be responsible for the continuation of the review of town bylaws, and shall appoint seven persons to be a committee to review the town by-laws for the purpose of preparing such revisions and amendments as may be needed or necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. Upon the appointment of such committee the committee established under the paragraph above shall be terminated. The mayor may appoint to such committee any of the persons who served on the committee established under the paragraph above. The mayor may retain any members of the prior committee, or appoint new members, provided however, that least two of the persons appointed to the committee shall have been members of the Charter Commission elected in 2016. The committee shall submit a report, with recommendations, within one year following its creation and may submit interim reports with recommendations at any time. The review shall be conducted under the supervision of the municipal attorney, or by special counsel appointed for that express purpose.

- s) The provisions of Article V reorganizing or recognizing the various departments into divisions shall each take effect upon the appointment by the mayor of the first person to serve as head of each such division. Pending the adoption of an ordinance providing such detail the head of each such division shall have the power to promulgate rules and regulations providing details of the organization of their division as may be necessary to carry out the functions of the departments within each division's jurisdiction.
- t) Unless continued by an ordinance adopted in accordance with the authority contained in clause (v) below in this section, all multiple member bodies, unless otherwise provided for by this charter, shall be abolished as of June 30, 2018.
- u) Notwithstanding any provision of this charter which might appear to the contrary it is recognized that it will not be possible for the first person elected as mayor to begin at once to exercise all of the powers, duties and responsibilities which are assigned to the office of the mayor. It is recognized that it is in the best interest of the town of Framingham that such assumption be on a gradual basis as the mayor, council and other municipal officials are able to adopt ordinances and other regulations as are necessary to implement all of the provisions of the charter.
- v) The mayor may request, and council shall have authority to adopt, measures which clarify, confirm or extend any of the transitional provisions in order that such transition as described herein may be made in the most expeditious and least contentious manner possible.

8. The mayor and council shall investigate the feasibility and efficacy of taking the following actions upon taking office in no particular order or priority:
 - a) Creating a redevelopment authority;
 - b) Consolidating municipal dispatch functions among police, fire and public works;
 - c) Commissioning a performance audit of all municipal functions;
 - d) Designating all members of multi-member bodies as special municipal employees in accordance with section 1(n) of chapter 268A of the general laws;
 - e) Merging school and municipal finance, personnel and technology functions;
 - f) Transferring responsibility for maintenance of the three municipal cemeteries from the parks department to the board of cemetery trustees;
 - g) Authorizing the council to be the special permit granting authority for projects as the council may define;
 - h) Creating a Chief Technology Officer;
 - i) Allowing in limited circumstances members of multi-member bodies to electronically join meetings while at a remote location;
 - j) Soliciting competitive proposals and bids for annual audit services; and,
 - k) Funding a full-time ADA Coordinator.

The mayor shall conduct such examinations with attention to the offices, divisions, departments, and boards and commissions affected. The mayor may establish task forces or working groups to assist in such examinations, and request that entities affected (e.g., school committee, school department administration, Board of Cemetery Trustees, et al) propose residents to serve on such groups. Staff of the various departments may be advisory to such groups, with a voice but no vote in deliberations. For 8(g), the council shall consult with the Planning Board and seek its recommendations prior to the adoption of any ordinance transferring special permit granting authority to the council.

9. The full force of the provisions in Article VI concerning allotments shall be suspended during the fiscal year in which the charter first goes into effect. During such first fiscal year the mayor may, however, provide for partial use of allotments in order to develop information and familiarity on the part of all concerned with the way in which such process will be employed during subsequent years.
10. The Traffic Commission shall undertake and complete an examination of the potential for the municipality to establish a Traffic and Transportation Department within 2 years of the commission's establishment. The examination will include the following features: purpose, duties, and responsibilities of the department, expected initial and ongoing operating costs, to include staffing, proposed department structure, how coordination with other municipal entities involved in traffic and transportation planning and management will be achieved, and expected benefits of the department. The commission will hold a minimum of 2 public hearings to address this examination, and shall present its findings and recommendations to the mayor and council.

Other Related Provision:

Article VII, Section 3, shall be amended to reflect the following changes (underlined in red):

3. DISTRICTS

The territory of Framingham shall be divided into nine districts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits. Each of the nine districts shall cluster together centers of common interest or neighborhoods, considering, but not limited to, places where people congregate, recreate, worship, shop, learn, live and play. Each such district shall then be composed of voting precincts established in accordance with general laws. The council shall from time to time, but at least once in each 10 years, review such districts to insure their uniformity in number of inhabitants and conformity with state and federal law.