

**City of Fall River**  
*Office of the Corporation Counsel*

**PAUL E. COOGAN**  
Mayor



**ALAN J. RUMSEY**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

**SETH THOMAS AITKEN**  
Assistant Corporation Counsel

29 June 2021

Honorable Members of the City Council  
One Government Center  
Fall River, MA 02722

**Re: Legal Opinion – Interpretation of § 6-4(b) of the Home Rule Charter**

Honorable Members of the City Council:

Please accept the following legal opinion regarding the proper interpretation of § 6-4(b) of the City of Fall River Home Rule Charter:

**I. ISSUE:**

What is the legal effect, if any, of a valid vote of the city's council to reject, in its entirety, the proposed municipal budget.

**II. OPINION:**

Pursuant to § 6-4(b) of the Charter of the City of Fall River, a city council's vote to completely reject the proposed municipal budget is ineffective, and cannot be subsequently converted into a purported line-by-line vote to reduce all expenditures except those required by law.

**III. LAW:**

§ 6-4(b) of the City of Fall River Home Rule Charter state as follows:

Adoption of the Budget - The city council shall adopt the proposed operating budget, which may have amendments, within 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, or the total of, the proposed operating budget unless otherwise authorized by the General Laws. If the city council fails to take action on an item in the proposed operating budget within 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.

#### IV. DISCUSSION:

§ 6-4 of the Charter clearly states that, “The city council **shall adopt** the proposed operating budget, which may have amendments, within 45 days following the date the proposed budget is filed with the city clerk.” As such, the city council has 45 days from receipt of the annual budget to act on each and every amount recommended by the mayor. If the council has not acted on any recommended amount within that 45-day period, then that amount becomes part of the appropriations for the year without any further action of the city council<sup>1</sup>.

Any vote purporting to reject the entire proposed budget is a nullity. The City is legally required to pay for certain annual expenditures, which necessitates the availability of a budget being passed. The city council cannot choose to have no budget whatsoever.

The city council may, of course, delete or decrease expenditures that are not required by law but, in order to do so, the council must vote to reduce specific line-items by specific dollar amounts. Without that required specificity in individual line-items, the city council's reduction of the budget would be ambiguous, and the city auditor would have no basis for deciding which line-items were intended to be reduced.

#### V. CONCLUSION:

§ 6-4(b) of the City of Fall River Home Rule Charter requires the city council to adopt the proposed operating budget within 45 days following the date the proposed budget is filed with the city clerk. If the City has not already incurred the expenditure/financial obligation, the council may vote to reduce specific line-items by specific dollar amounts. However, a proposed budget must be adopted within the 45 days and, as such, any line-item that was not validly deleted or decreased within this 45-day period shall, without any action by the council, become a part of the appropriations for the year.

Very truly yours,



Alan J. Rumsey, Esq.  
Corporation Counsel

cc: Alison Bouchard  
Mary Sahady

---

<sup>1</sup> Based on correspondence from the City Clerk dated June 24, 2021, it appears that the rejection of the proposed municipal budget occurred in the Committee on Finance, rather than in City Council. Although the Committee on Finance is a committee of the whole, it is still necessary for a matter to be referred to the body acting in City Council for final action to be taken. See New Cushing's Manual of Parliamentary Law and Practice, § 254.