



## TOWN OF DURHAM

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### FINAL REPORT

#### DURHAM TOWN CHARTER AMENDMENTS TO BE PLACED ON THE MARCH 10, 2020 TOWN OF DURHAM ELECTION BALLOT

Outlined below are Durham Town Charter amendments to be placed on the March 10, 2020 Durham Town Election ballot. Questions concerning the proposed Charter amendments should be directed to Administrator Todd Selig at 603-868-5571, [tselig@ci.durham.nh.us](mailto:tselig@ci.durham.nh.us).

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**Strikethrough:** Indicates language to be removed from the Charter.  
**Underline:** Indicates language to be added to the Charter.

#### ARTICLE 2 "ELECTIONS: ELECTION OFFICIALS; CONDUCT OF ELECTIONS" – SECTION 2.5 (A)

##### Sec. 2.5. Conduct of elections.

- A. The election ~~of~~ officers, whose duty it is to conduct regular elections, shall use a nonpartisan official ballot system as detailed in the election laws of the State of New Hampshire, on the second Tuesday in March, to choose three (3) Councilors and such other officials as are specified in this Charter, each of whom shall be elected by the voters of the entire town.

*Reason for proposed change:*  
*To correct a typographical error.*

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#### ARTICLE 3 "TOWN COUNCIL" – SECTION 3.11

##### Sec. 3.11. Codification of ordinances.

The Town Council, as needed, ~~not later than eighteen (18) months after taking office under this Charter and at least every tenth year thereafter~~, shall have prepared a revision or codification of the ordinances of the town which are appropriate for continuation as local laws of the town.

Reason for proposed change:

*The language to be stricken referred to the initial codification of all Town ordinances. Codification was completed and adopted by the Town Council on March 1, 1999. Updates to ordinances contained within the Town Code are now done on an annual basis.*

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**ARTICLE 4 "ADMINISTRATION OF GOVERNMENT", SECTION 4.3**

**Sec. 4.3. Reprimand or removal from office.**

The Administrator may be reprimanded or removed for cause by the affirmative vote of at least six (6) members of the Council as herein provided. At least thirty (30) days before the proposed reprimand or removal of the Administrator, the Council shall adopt a resolution stating its intention to reprimand or remove him, the reasons therefor and an effective date. A copy of the resolution shall be served forthwith on the Administrator, who may, within ten (10) days, demand a **public** hearing, in which event the Administrator shall not be reprimanded or removed until such **public** hearing has been held. Upon or after passage of a resolution of intent to remove, the Council may suspend the Administrator from duty, but his pay shall continue until removal. In case of such suspension, the Council shall, by the affirmative vote of the Council, appoint an Acting Administrator to serve at the pleasure of the Council for not more than ninety (90) days. The action of the Council in removing the Administrator shall be final.

Reason for proposed change:

*To allow the Administrator the option of asking for either a public or nonpublic hearing.*

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**ARTICLE 4 "ADMINISTRATION OF GOVERNMENT", SECTION 4.5 (A) (h)**

**Sec. 4.5. Powers and Duties of Administrator.**

A. The Administrator shall be the chief administrative officer of the town and supervise and be responsible for the administrative and financial affairs of the town and shall carry out the policies enacted by the Council. He shall be charged with the preservation of the health, safety and welfare of persons and property and shall see to the enforcement of the ordinances of the town, this Charter and the laws of the State of New Hampshire. He shall supervise and direct the administration of all of the town departments and personnel therein. He shall be responsible for:

- (h) Convening the Chairmen of the administrative committees **at least annually in February and such other times** as may be appropriate to discuss matters of common concern.

Reason for proposed change:

*To allow the Administrator, at their discretion, to choose when they may desire to meet with various chairpersons.*

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**ARTICLE 4 "ADMINISTRATION OF GOVERNMENT", SECTION 4.11**

**Sec. 4.11. Town Clerk/Tax Collector.**

A Town Clerk/Tax Collector shall be elected for a three-year term at a Town election by the voters of the Town by ballot pursuant to the applicable provisions of state law. The Town Clerk/Tax Collector shall have the powers and duties prescribed by state law pertaining to Town Clerks and Town Tax Collectors.

Reason for proposed change:

*To clarify that the term for the Town Clerk/Tax Collector is three years.*

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**ARTICLE 5 "FINANCE", SECTION 5.3**

**Sec. 5.3. Budget hearings.**

The Town Council shall hold in convenient places as many public hearings on the budget as it deems necessary, but at least one (1) public hearing on the budget shall be held at least fourteen (14) days before its final adoption by the Council at such time and place, convenient to the public, as the Council shall direct. Notice of such public hearing, together with a copy of the budget as submitted, shall be posted in two (2) public places. **Notice of the public hearing shall be and published in a local newspaper** once at least one (1) week in advance. ~~by the Town Clerk.~~

Reason for proposed change:

*To clarify the requirement for publication in a local newspaper.*

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**ARTICLE 5 "FINANCE", SECTION 5.12 (A)**

**Sec. 5.12. Borrowing procedure.**

A. Subject to the applicable provisions of state law and the rules and regulations provided by ordinance in the Administrative Code, the Council, by resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the Town and the issuance of bonds of the Town or other evidence of indebtedness therefor and may pledge the full faith, credit and resources of the Town for the payment of the obligation

created hereby; provided that no bonds shall be issued by the Council in excess of five hundred thousand dollars (\$500,000.00) per issue except by a two-thirds vote of the Council, and not exceeding ~~one million dollars (\$1,000,000.00)~~ **two million three hundred thousand dollars (\$2,300,000)** except by a two-thirds vote of the Council and a two-thirds vote at a regular town election or special ballot called by the Council. Notification and posting of such bond issues in excess of ~~one million dollars (\$1,000,000.00)~~ **two million three hundred thousand dollars (\$2,300,000)** shall be in the same manner as if it were a bond issue of a town pursuant to RSA 33, as amended, with voting by ballot at a regular or special election. In addition to any other public hearings required by this Charter or state law, the Council shall hold a public hearing on such bond issue in excess of five hundred thousand dollars (\$500,000.00) preceding its vote on the issue.

Reason for proposed change:

*The cap of \$1,000,000.00 has been in existence since the adoption of the Charter in 1987. Town staff believes this amount should be raised to reflect the rate of inflation since that time, which in today's dollars would be \$2,288,768.96. (Rounded to \$2,300,000.00).*

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**ARTICLE 5 "FINANCE", SECTION 5.15 (A)**

**Sec. 5.15. Trust Funds.**

- A. Trustees of the trust funds. There shall be three (3) Trustees of the trust funds, who shall hold office for three (3) years and until their successors are elected and qualified, on a staggered basis so that one (1) Trustee is elected at each town election. **The board may recommend to the Town Council the names of no more than two (2) persons who may serve as alternate members on the board. The alternate members shall be appointed to one (1) year terms.** The Trustees shall have all the powers and duties granted to Trustees of trust funds by this Charter and state law.

Reason for proposed change:

*The Town's current (and wonderful, long-serving) Trustees of the Trust Funds are aging and they believe it would be beneficial to have two (2) alternate positions added to the Charter for additional person power, and to mindfully create training positions for upcoming future members of the board. RSA 31:22 "Trustees" allows no more than two alternates.*

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**ARTICLE 6 "PERSONNEL POLICIES", SECTION 6.2**

**Sec. 6.2. Personnel Plan.**

There shall be a set of rules and regulations providing for the establishment of a system of personnel administration, known as the "Personnel Plan." The plan shall include provisions with regard to classification, compensation, selection, training, promotion, grievances, discipline, vacations, retirement and any other matters necessary to the maintenance of efficient service and proper working conditions. The Personnel Plan shall continue in force, subject to amendments submitted from time to time by the Administrator, which shall become effective one (1) month after the submission, unless vetoed by the Council within that period: **Unless otherwise specified,** ~~the~~ Personnel Plan shall not apply to any elected officials, board and commission members and other officers appointed by the Council. Each employee shall be provided with a written job description prepared by the Administrator and subject to Council review.

*Reason/ background for proposed change:*

*Some personnel policies should apply to elected or appointed officials, such as non-discrimination, sexual harassment, etc.*

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**ARTICLE 7 "CONDUCT OF OFFICIALS", SECTION 7.1 (D)**

**Sec. 7.1. Conditions for holding office.**

D. The Zoning Board of Adjustment shall not have any members who also serve on the Planning Board, ~~Conservation Commission~~ or Historic District Commission.

*Reason for proposed change:*

*There is no indication within state statutes that a conflict would exist with a Conservation Commission member also serving on the Zoning Board of Adjustment.*

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**ARTICLE 10 "GENERAL PROVISIONS", SECTION 10.10**

**Sec. 10.10. Violations and penalties.**

All willful violations of provisions of this Charter, unless otherwise provided, are hereby declared to be **grounds for removal of office.** ~~misdemeanors, and all such violations and all violations of town ordinances for which no other punishment is provided shall be punishable by a fine in accordance with state statutes.~~

Reason for proposed change:

*The Town's attorney does not believe there is any authority to make violations of the Charter a crime.*

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**ARTICLE 10 "GENERAL PROVISIONS", SECTION 10.15 (A)**

**Sec. 10.15. Prohibition.**

- A. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any town position or appointed town administrative office because of age, race, sex, **sexual orientation, gender identity**, political or religious opinions or affiliations.

Reason for proposed change:

*To come into compliance with state law.*

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**ARTICLE 10 "GENERAL PROVISIONS", ADD SECTION 10.19 TITLED "GENDER SPECIFIC TERMS"**

**Sec. 10.19 Gender specific terms**

**Gender specific terms, including without limitation, chairman, he, him, and his, shall be construed to be gender neutral for all purposes.**

Reason for proposed change:

*Self-explanatory*

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**ARTICLE 11 "ADMINISTRATIVE AND JUDICIAL BOARDS" - SECTION 11.1 (C)**

**Sec. 11.1. Administrative Committees.**

- C. Parks and Recreation Committee. There shall be a Parks and Recreation Committee consisting of seven (7) members and ~~one (1)~~ **three (3)** alternate members. The Six ~~appointed by the Town Council~~ **regular members and three alternate members shall be appointed by the Town Council and** shall have terms of three (3) years, such terms to be staggered. ~~The alternate shall be appointed by the Town Council for a term of three (3) years.~~ A representative from the Town Council shall be appointed annually at its first meeting. The representative shall have all the rights of membership, including the right to hold office. The Council shall fill any vacancy for the period of the unexpired term. The Parks and Recreation Committee shall have all the powers granted to Parks and Recreation Committees by state law.

Reason/ background for proposed change:

*To facilitate the increase in workload and alleviate issues in regards to establishing a quorum for the purposes of meetings, the Parks & Recreation Committee requests that the number of alternate members be increased from one (1) to three(3).*

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**ARTICLE 11" ADMINISTRATIVE AND JUDICIAL BOARDS" - SECTION 11.1 (D)**

**Sec. 11.1. Administrative Committees.**

- D. Historic District Commission. There shall be a Historic District Commission consisting of seven (7) members, **and up to three alternate members**. The five (5) **members and the alternate members** appointed by the Town Council shall have terms of three (3) years, such terms to be staggered. The Town Council and the Planning Board shall each appoint a representative at their first meetings. These representatives shall have all the rights of membership, including the right to hold office. The Council shall fill any vacancy for the period of the expired term. The Historic District Commission shall have all the powers granted to Historic District Commissions by state law.

Reason for proposed change:

*The Charter does not currently include language allowing the appointment of alternate members to the Historic District Commission. RSA 673:6 allows for the appointment of not more than five (5) alternate members to the HDC with three-year terms. The HDC requests it be allowed to have up to the five (5) alternate members permitted by state statute.*

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**ARTICLE 11 "ADMINISTRATIVE AND JUDICIAL BOARDS", SECTION 11.1 (I)**

**Sec. 11.1. Administrative Committees.**

- I. ~~At least annually in April, and more often if town affairs warrant, the Town Council shall meet with the Chairmen of all standing town committees to review significant actions taken by the committees, projects currently under discussion and anticipated activity for the coming year.~~ **On an annual basis, Chairs of Town of Durham committees will be provided the opportunity to present to the Town Council any significant actions or projects taken by their respective committee. This report can be in the form of a written summary or a formal presentation. No action is required if there is nothing of significance to report, although the Town Council can ask for a presentation if there is interest.**

Reason for proposed change:

*Self-explanatory*