

## CHAPTER 1 Incorporation and General Powers

### **Section 1.1. Incorporation.**

All the inhabitants dwelling within the territorial limits of the Town of Durham, as heretofore constituted, shall continue to be a body politic and corporate under the name of "The Town of Durham," hereinafter in this Charter called "the town," and as such shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by the town and not inconsistent with the privileges herein conferred, and all powers and privileges conferred upon towns under the General Statutes of the State of Connecticut as amended, hereinafter called the "General Statutes."

### **Section 1.2. Rights and obligations.**

All property, both real and personal, all rights of action and rights of every description and all securities and liens vested or inchoate in the town as of the date when this Charter shall take effect are continued in the town, and the town shall continue to be liable for all debts and obligations of every kind for which the town shall be liable on said date, whether accrued or not. Nothing herein shall be construed to affect the right of the town to collect any assessment, charge, debt, or lien. If any contract has been entered into by the town prior to the effective date of this Charter, or any bond or undertaking has been given by or in favor of the town which contains provisions that the same may be enforced by any office or agency therein named, which is hereby abolished, such contracts, bonds, or undertakings shall in no manner be impaired but shall continue in full force and effect, and the powers conferred and the duties imposed with reference to this same upon any such office or agency shall, except as otherwise provided in the Charter, thereafter be exercised and discharged by the Board of Selectmen of the town.

### **Section 1.3. General grant of powers.**

In addition to all powers granted to towns under the Constitution and General Statutes, the town shall have all powers specifically granted by this Charter and all powers fairly implied in or incident to the powers expressly granted herein and all other powers incident to the management of the property, government and affairs of the town, including the powers to enter into contracts with the United States, any federal agency, the State of Connecticut or any political subdivision thereof for services and the use of facilities, the exercise of which is not expressly forbidden by the federal and state constitutions and General Statutes of the State of Connecticut. In the event that the functions of existing offices and/or agencies are transferred under such contract or agreement, such offices and/or agencies may, by ordinance, be abolished.

### **Section 1.4. Hiring of staff.**

All officers, boards, commissions, and other agencies of the town shall have the authority to engage, and may remove, clerical, professional, technical, or other staff as may be required. Expenditures for such staff may not exceed the limits of their individual appropriations. Except as specifically provided herein no office, board, agency or commission member shall receive compensation directly or indirectly for goods or services furnished to that office, board, agency or commission.

## CHAPTER 2 Officers and Elections

### Section 2.1. General town elections.

A meeting of the electors of the Town of Durham for the election of the municipal officers shall be held biennially on the Tuesday following the first Monday of November in the odd-numbered years. At such meeting the following shall be elected on voting machines, between hours to be set in accordance with General Statutes:

- (1) A Board of Selectmen consisting of a First Selectmen and two additional members; a Town Clerk; a Tax Collector; a Town Treasurer, and two Registrars of Voters, all for terms of four years each.
- (2) Two members of the six-member Board of Finance for the term of six years each.
- (3) One member of the three-member Board of Assessment Appeals for the term of six years each.
- (4) Two or three regular members and one or two alternate members of the five member Zoning Board of Appeals for terms of four years.
- (5) Four or five regular members and one or two alternate members of the nine member Planning and Zoning commission, for terms of four years.
- (6) Sufficient members to maintain a full delegation to represent the town on the Regional District 13 Board of Education, for terms of four years each.

The terms of all officers shall commence on the first Monday in December except the Town Clerk and Town Treasurer, whose terms shall begin on the first Monday in January. All elective officers presently holding office and to be elected hereunder, shall hold office until their successors are elected, have taken the oath of office and have otherwise qualified.

### Section 2.2. State election.

Nomination and election of state and federal officers and other elective officers of the town, including two registrars of voters shall be conducted in the manner prescribed in the Constitution of the United States and the General Statutes. The nomination or appointment of 18 Justices of the Peace shall also be conducted in this manner. The Registrars of Voters shall prepare lists of electors qualified to vote in accordance with said laws.

### Section 2.3. Minority representation.

The maximum number of members of any board, commission, committee, or similar body of the state or any political subdivision thereof, whether elective or appointive, except any such board, commission, committee, or body whose members are elected on the basis of a geographical division of the state or such political subdivision, who may be members of the same political parties shall be as specified in the following table:

All such elections and/or appointments shall be made in accordance with the General Statutes.

**Total Membership Party**

**Maximum From One**

3	2
4	3
5	4
6	4
7	5
8	5
9	6
More than 9	No more than two-thirds of total membership

**Section 2.4. Breaking a tie.**

When, as a result of any general, municipal, or special election conducted under the provisions of this Charter, it is necessary to break a tie, procedures in accordance with the General Statutes shall prevail.

**Section 2.5. Eligibility.**

No person will be eligible for election to any town office or appointment to any board or commission who is not at the time of his/her election or appointment an elector or resident of the town, and any person ceasing to be an elector or resident of the town will thereupon cease to hold elective office or appointive board or commission membership in the town.

**Section 2.6. Vacancies other than expiration of term.**

Unless otherwise specified in this Charter or the General Statutes, any vacancy, from whatever cause arising other than the expiration of term, in any elective or appointive town office, shall be filled by appointment by the Board of Selectmen for the unexpired portion of the term or until the next scheduled election for that office, whichever shall be sooner.

Vacancies created by the demise or resignation of a board member shall be reported by the chairman or resigning board member, in writing, to the Town Clerk and to the Board of Selectmen as soon as such information becomes available and before the first meeting of the Board of Selectmen following the reporting of said vacancy.

Such impending or actual vacancies shall be publicized. The Board of Selectmen shall make such appointment no sooner than five days nor later than 30 days after the Board of Selectmen's meeting at which the vacancy is announced.

Such vacancies shall be filled as follows:

- (1) Selectman. Such vacancy shall be filled by appointment by the remaining Selectmen, and such appointee shall be a member of the same political party as the person vacating the office.

Should the remaining Selectmen be unable to agree on the appointment within 30 days after the office is vacated, the procedure prescribed in the General Statutes shall be followed.

- (2) Office filled by General Town Election or Appointment. When a person vacating the office shall have been elected or appointed as a member of a political party, such vacancy shall be filled by appointment of a member of the same political party.
- (3) Office filled by Election at Annual Town Meeting or Annual Budget Meeting. Such vacancy shall be filled by appointment not in conflict with Section 2.3 (minority representation) of this Charter and the General Statutes.
- (4) The First Selectman or his/her appointed representative, shall provide each person appointed to a board, commission or other position, a copy of the ordinance, General Statute or other source clearly defining the appointee's duties.

### **Section 2.7. Vacancies: Expiration of terms.**

The Town Clerk shall maintain a list of appointed board and commission members including dates of expiration of their terms. The Town Clerk shall, at least two months prior to the expiration of any term, notify the Board of Selectmen. The appointing authority shall notify boards and commissions chairpersons of impending term expirations and shall publicize impending vacancies. All appointments shall be made prior to the expiration of the term.

### **Section 2.8. Officers of boards.**

Except as otherwise specified in this Charter, every board shall elect from its members a chairman, a vice-chairman to act in the place of the chairman, and a secretary.

### **Section 2.9. General powers, duties and remuneration.**

All elective town officers shall have powers and duties in accordance with the General Statutes and this Charter. Remuneration, if any, of town officials, whether elected or appointed, shall be set by vote of the Annual Budget Meeting upon the recommendation of the Board of Finance. Such salaries shall be listed separately for voting by being included as separate line items in the budget.

### **Section 2.10. Minutes of meetings.**

All town boards and commissions shall keep and file copies of their minutes with the Town Clerk, in accordance with General Statutes and Freedom of Information Acts, as amended. Upon receipt of the minutes, the Town Clerk shall cause a copy of said minutes to be transmitted to the Board of Selectmen.

Meetings of all town boards and commissions shall be open to the public, excepting that, upon a majority vote of the members present, meetings may be closed to the public for executive session.

### **Section 2.11. Referendum.**

Except as otherwise provided in this Charter, the provisions of the General Statutes shall prevail for all referenda.

**Section 2.12. Regional districts.**

The town may enter into such regional districts and associations as are permitted by the General Statutes and this Charter.

## CHAPTER 3 Town Meeting

### **Section 3.1.1. Legislative powers.**

The legislative powers of the town shall be vested in the Town Meeting.

### **Section 3.1.2. Annual and special meetings.**

The Annual Town Meeting shall be held on the first Monday of October of each year unless changed by vote of a town meeting or by referendum. Special meetings may be called by the Board of Selectmen, in the manner provided by the General Statutes, whenever it deems it necessary, or on a petition of not less than 100 electors, qualified to vote at town meetings, such meetings to be held within 21 days after such petition is received by the Selectmen. In order to expedite the petition process and ensure due representation, the Town Clerk shall provide the petitioner with guidelines.

### **Section 3.1.3. Call of special meetings.**

The matters which the petitioners for a special town meeting desire acted upon, if they are legally proper subjects for action at a town meeting as determined by Town Counsel (at the request of the Selectmen), shall be put in proper form for the call of a town meeting and for a town meeting resolution with the assistance of the Town Counsel, if or when necessary, and those matters shall come first in the call of the meeting. The Board of Selectmen, at its discretion, may add other matters to the call of the meeting.

### **Section 3.1.4. Legal notice.**

Legal notice of all town meetings shall be placed in a newspaper having circulation in Durham, and a copy posted on the bulletin board at the Town Hall, at least five (5) days prior to date of meeting. Warnings for town meetings shall be keyboarded and printed and a copy shall be filed with the Town Clerk in the Town Meeting Record Book. Warnings must contain place, date, and hour of meeting and list all articles to be acted upon.

### **Section 3.2. Organization and procedure.**

The First Selectman shall call the meeting to order at the advertised time and the meeting shall choose a moderator. The Town Clerk or Assistant Town Clerk shall serve as clerk. In their absence, the meeting shall choose a clerk.

#### **Section 3.2.1. Voting qualifications.**

Electors of the town and other persons qualified to vote in accordance with the General Statutes may vote at town meetings. Unless otherwise required by this Charter, substantive town meeting action shall be by majority vote of those present and voting. Town meetings shall be conducted in accordance with procedures as set forth in the General Statutes and in the manual entitled "The Connecticut Town Meeting."

**Section 3.3. Annual budget.**

Adoption of the annual budget shall be by majority vote of those qualified to vote at the Annual Budget Meeting. The meeting shall have the power to decrease or delete any appropriation or item in an appropriation, but it may not increase or add to any appropriation or item in an appropriation, or make any appropriation for a purpose not recommended by the Board of Finance.

**Section 3.3.1. Annual budget meeting.**

The Annual Budget Meeting shall be held at least 30 days prior to the end of the fiscal year. Said date shall be set at the Annual Town Meeting of the prior year or at a special town meeting.

**Section 3.4. Special appropriations.**

Per Section 5.1.9 of this Charter, a special appropriation and a payment into or appropriation from the reserve fund for capital and nonrecurring expenditures, requiring town meeting approval, may be decreased by the town meeting but may not be increased. A town meeting may make no special appropriation or transfer of funds not recommended by the Board of Finance.

**Section 3.5. Ordinances.**

Section 3.5.1. Petition For Enactment of Ordinances. Not less than 100 electors, who are qualified to vote in a town meeting, may, at any time, petition over their personal signatures for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Selectmen shall call a special town meeting to be held within 21 days from the date of filing. A call for such meeting shall state the proposed ordinance in full and shall provide for a "yes" or "no" vote as to its enactment. If a majority of the persons entitled to vote voting at such meeting shall vote "yes," then such ordinance shall take effect, after it has been published in a newspaper having a general circulation in the town.

Section 3.5.2. Action on Ordinances. When the Board of Selectmen submits a proposed ordinance in accordance with Section 4.5 of this Charter, by vote of the town meeting the proposed ordinance may be adopted, or amended and adopted, or rejected. If adopted, said ordinance shall become effective on a date set by the town meeting or 30 days after adoption, but not before a notice of the ordinance has been published. Within 10 days after adoption of an ordinance, the Town Clerk shall cause to be published in a newspaper having general circulation in the town, a notice, which indicates that a copy of the ordinance is available at the Town Hall. The Town Clerk shall promptly record said ordinance in a book kept for that purpose.

**Section 3.6. Sale or purchase of real estate.**

Subject to the provisions of Section 3.7 of this Charter, the discontinuance of roads by the town, the sale or other disposition of real estate of the town used or reserved for town purposes, and except as provided in Section 4.6, the purchase or other acquisition of real estate for such purposes, shall require approval of a town meeting. The sale of real estate not used or reserved for town purposes shall be in accordance with an ordinance adopted by town meeting.

**Section 3.7. Actions requiring referendum.**

Any action of the town requiring 1) a special appropriation or the borrowing of \$100,000 or more, or 2) the acquisition or taking of any property through Eminent Domain proceedings shall be the subject of a referendum conducted according to the General Statutes.



## CHAPTER 4 Board of Selectmen

### **Section 4.1. Number of selectmen.**

There shall be a Board of Selectmen consisting of a First Selectman and two additional Selectmen, hereinafter referred to as the Selectmen, who shall be compensated in such manner and amount as set by vote of the Annual Budget Meeting, upon recommendation of the Board of Finance.

The candidate receiving the largest number of votes for First Selectman at the General Town Election shall be declared elected to the office of First Selectman. The two candidates receiving the next highest number of votes at the General Town Election shall be declared elected to the Board of Selectmen.

### **Section 4.2. Procedures.**

The newly elected Board of Selectmen shall hold a first organizational meeting within 10 days after taking office. At this meeting the Board of Selectmen, in accordance with the General Statutes and this Charter, shall fix the time and place of its regular meetings, provide a method for the calling of Special Meetings, and designate who shall act in the place of the First Selectman in the event of his or her absence or disability. It shall, by resolution, determine its own rules of procedure, except that each Selectman shall always retain the ability to make a motion or offer a proposal which shall be considered by the Board without the necessity of a second. All meetings of the Selectmen for the transaction of business shall be open to the public, subject to the provisions of Section 2.10. The votes of each member shall be recorded at the session at which they occur, in accordance with the General Statutes, and reported in the minutes of such meeting. Two members shall constitute a quorum, and no resolution or action shall be adopted by less than two affirmative votes.

### **Section 4.3. General powers and duties.**

Section 4.3.1. Affairs of the Town. The Board of Selectmen shall be responsible for supervising the affairs of the town, and shall guide all town officers, boards, agencies, commissions, and committees toward accomplishing the objectives of the town's long-range comprehensive plans.

Section 4.3.2. Capital Expenditures. The Board of Selectmen shall be responsible for presenting to the Board of Finance the amount, purpose, and proposed method of financing projected capital expenditures. The Board of Selectmen may, in order to carry out its duties and responsibilities, require such information from, or joint meetings with, any town officer, board, commission, or agency.

Section 4.3.3. Joint Meeting With Other Town Agencies. The Board of Selectmen shall be responsible for holding joint meetings at least two times a year with one or more members of all boards, commissions, and agencies to coordinate the planning and action of such. The items discussed shall be appropriately recorded.

Section 4.3.4. Town budget. All agencies shall submit to the Board of Selectmen for its review in recommending a general government budget to the Board of Finance, copies of the itemized

## Section 4.3

## Section 4.6

estimate of the expenditures to be made by that agency, and all revenues, other than town appropriations, to be received by it during the ensuing fiscal year; such itemized estimates along with supporting data to be submitted to the Board of Selectmen at such time as the Board of Finance, under Section 5.1.5 of this Charter, may require for the preparation of the annual budget.

Section 4.3.5. Financial planning. The Board of Selectmen shall be responsible for reviewing the current and projected administrative and fiscal needs of the town and shall develop, maintain and update annually a long-range comprehensive financial plan. Said plan shall be filed with the Town Clerk.

Section 4.3.6. Town procurement policy. The Board of Selectmen shall be responsible for implementing a Town Procurement Policy and review such policy on an annual basis.

**Section 4.4. Appointments.**

Unless otherwise specified in this Charter or in the General Statutes as amended, the Board of Selectmen shall make all appointments to the following town offices: 911 Coordinator, Animal Control Officer, Building Code Board of Appeals, Building Official, Burning Officials, Conservation Commission, Constables, Director of Emergency Management, Director of Health, Economic Development Commission, Fire Marshal and Deputy Fire Marshal, Fire Wardens, Historic District Commission, Inland Wetlands and Watercourses Agency, Municipal Agent for Elderly, Ordinances Committee, Public Safety Committee, Recreation Committee, Regional Planning Agency, Senior Citizen Board, Special Constables, Street Naming Committee, Tax Assessor, Town Counsel, Town Engineer, Town Sanitarian, Tree Warden, Water Commission.

**Section 4.5. Powers with respect to ordinances.**

The Board of Selectmen may propose to a town meeting duly called, ordinances consistent with the General Statutes and this Charter on any matter which the General Statutes or this Charter authorize to be legislated by ordinance, and which in general would serve to aid in the preservation of the good order, health, welfare and safety of the town.

**Section 4.6. Additional powers and duties of board of selectmen.**

Except for the powers committed to the Board of Finance by the General Statutes, the Selectmen shall have the power, subject to the provisions of the General Statutes and this Charter:

- (1) To incur indebtedness in the name of the town, and to provide for the due execution of contracts and evidences of indebtedness issued by the town;
- (2) To purchase, lease, sell, or convey real or personal property of or for the town; and also with the approval of the Planning and Zoning Commission under General Statutes, or any successor statute of similar import, the Selectmen may accept any of the following without town meeting approval: new roads constructed to town standards and interests in land reserved as open space or otherwise protected from development pursuant to a development plan approved by the Planning and Zoning Commission.
- (3) To institute, prosecute, defend, or negotiate any legal action or proceeding by or against the

town;

- (4) To enter into contractual arrangements with other municipalities to obtain needed services provided such arrangements meet with provisions set forth in Section 5.1.9 of this Charter;
- (5) To put out to public bid all contracts in amounts in excess of (\$5,000.00); in accordance with the Town Procurement Policy;
- (6) To pay all town bills and record all town expenditures against appropriations.

#### **Section 4.7. Other powers and duties.**

The Selectmen shall have such other powers and duties as are provided by the General Statutes and this Charter.

#### **Section 4.8. The first selectman.**

The First Selectman shall be:

- (1) The chief executive and administrative officer of the town, and shall have the powers and duties of First Selectman conferred upon that office by the General Statutes and by this Charter;
- (2) An ex-officio member, without vote, of all town boards, commissions, and committees. The First Selectman may attend all sessions, both public and executive, of said boards, commissions, and committees. In the event the First Selectman is unable to attend said sessions, he or she may, in writing, appoint a Selectman to be his or her representative at any of said sessions, also without vote. The First Selectman shall be given reasonable notice of all meetings of all boards, commissions, and committees;
- (3) Chief of Police of the town, supervising the duties and responsibilities of the constables and other police or/and public safety officers.

#### **Section 4.9. Duties of the first selectman.**

The First Selectman shall be responsible for:

- (1) Executing and carrying out all ordinances, resolutions, policies and other action approved by the Board of Selectmen or a town meeting;
- (2) Coordinating administration of the agencies, boards, and commissions of the town, except those functions expressly reserved or delegated to such agencies by law;
- (3) Guiding the Board of Selectmen in the discharge of all the Board's duties and responsibilities;
- (4) Directing and supervising the activities of town employees, and where the First Selectman deems advisable, working with town employees, except employees of the Board of Education and employees whose employment is otherwise provided by law;
- (5) Keeping full and complete records of the activities of this office;
- (6) Providing monthly written financial reports and analysis to the Board of Selectmen and the

Board of Finance; such report shall be filed with the Town Clerk by the end of the following month;

- (7) Keeping or causing to be kept complete books of account showing the financial transactions of the town, and all other accounts and records as may be prescribed by the Board of Selectmen, the General Statutes, this Charter, and a town meeting.

**Section 4.9.1. Delegation of duties.**

The First Selectman may from time to time assign and delegate his or her duties and powers to another Selectman.

## CHAPTER 5 Finance and Taxation

### **Section 5.1. Board of finance.**

There shall be a six-member Board of Finance which shall exercise the powers and duties granted to such Board under the General Statutes and this Charter. The members of the Board of Finance shall be elected in accordance with Sections 2.1 and 2.3 of this Charter.

#### **Section 5.1.1. Qualifications—Meetings.**

The Board of Finance, within 10 days following qualification of newly elected members, shall meet and elect from its membership a chairman, who shall preside over its meetings, a vice-chairman, who shall preside in the chairman's absence, and shall appoint a clerk, who shall prepare the minutes and other records of each meeting.

The Board shall hold regular monthly meetings, and special meetings when needed, to perform its duties.

Each member of the Board of Finance must meet the following qualifications:

- (1) Be an elector of the town;
- (2) Be a taxpayer of the town;
- (3) Be sworn to faithful performance of his or her duties;
- (4) Hold no salaried town office.

Board members shall receive no compensation for services, but necessary expenses of the Board are to be paid by the town within the limits of the Board's appropriation.

#### **Section 5.1.2. Vacancies.**

Any vacancy occurring on the Board of Finance shall be filled by the Board of Selectmen, as provided for in Section 2.6 of this Charter.

#### **Section 5.1.3. Quorum.**

Four members shall constitute a quorum to hold meetings and transact business at such meetings.

#### **Section 5.1.4. Annual audit.**

The Board of Finance shall annually designate an independent public accountant to audit the books of the town, in accordance with the General Statutes.

#### **Section 5.1.5. Preparation of the budget.**

At such time and in such manner as the Board of Finance may require, but not later than January 15, every agency and office of the town supported wholly or in part by town revenues, or for

which a specific town appropriation is or may be made, shall present to the Board of Selectmen and to the Board of Finance an itemized estimate of the expenditures to be made by that agency/office and all revenues other than town appropriations to be received by it for its use during the ensuing fiscal year. The estimates shall be accompanied by such other reports and data as the Board of Finance or the Board of Selectmen may require. Each agency/office may also be required to submit a statement of its program or programs showing services, activities, and work to be accomplished during the ensuing year. These data and reports will be compiled into a preliminary proposed general town budget.

At such time and in such a manner as the Board of Finance may by regulation require, but not less than 45 days prior to the annual budget meeting, the Board of Selectmen shall present the proposed preliminary budget, with its recommendations, to the Board of Finance for review and final preparation. After reviewing the budget as presented by the Board of Selectmen and Education, the Board of Finance shall prepare the final proposed town budget for presentation at a public hearing. The Board of Finance may require any agency or office, including the Board of Selectmen, to meet with it and explain the requests for funds. Any agency/office shall be entitled to be heard by the Board of Finance in respect to the estimates of proposed expenditures submitted by that agency or office.

#### **Section 5.1.6. Public hearing on proposed budget.**

The Board of Finance shall hold one or more public hearings not later than 14 days before the Annual Budget Meeting. At these hearings, the Board of Finance shall present an itemized statement, by classification, with the following information:

- (1) Actual expenditure for the prior fiscal year;
- (2) Appropriation for current year;
- (3) Estimated expenditure for current year;
- (4) Appropriation requested — ensuing year;
- (5) Appropriation proposed — ensuing year;

In addition to the appropriation budget, estimated revenue for the current and ensuing years should be presented (for information only) showing:

- (1) Estimated cash surplus at beginning of each year;
- (2) Estimated grants and other revenue available - except local property tax;
- (3) Estimated local tax receipts required to balance budget.

After the hearings, the Board of Finance shall then revise the estimates as it deems desirable and shall prepare a recommended appropriation budget, as well as its estimate of anticipated revenue (except for local property taxes) available for the ensuing year.

**Section 5.1.7. Annual budget meeting.**

The Annual Budget Meeting shall be held at least 30 days prior to the end of the fiscal year, as provided for in Section 3.3.1 of this Charter. At the meeting the Board of Finance shall recommend its proposed budget to the town. Sufficient copies of the said annual budget shall be made available for general distribution in the office of the Town Clerk at least five days prior to said budget meeting. The budget shall become official when approved by the Annual Budget Meeting, provided no appropriation shall be made exceeding that for the same purpose recommended by the Board of Finance, and no appropriation shall be made for any purpose not recommended. By a majority or more of the qualified voters present and voting at such meeting, an amount of money less than that recommended may be appropriated. The appropriations recommended by the Board of Finance and the amendments thereto, if any, shall be construed as having been appropriated when approved as herein above prescribed. An official copy of the budget, as finally approved, shall be filed with the Town Clerk.

**Section 5.1.8. Laying taxes.**

After the Board of Assessment Appeals has finished its duties, and a Grand List has been completed, and after considering other estimated yearly income of the town, the Board of Finance shall meet to lay a tax on the Grand List sufficient to pay the expenses and appropriations of the town for the ensuing fiscal year, and to absorb any revenue deficit of the town at the end of the current fiscal year.

**Section 5.1.9. Special appropriations.**

The Board of Finance, on request by town agencies or officials, may make special appropriations from surplus revenue or from an approved contingency fund. Such a special appropriation in excess of \$20,000 shall require approval by a vote of town meeting. Not more than one special appropriation for any town agency, official, or any department may be made by the Board of Finance in each fiscal year, without approval of town meeting.

**Section 5.2. Tax assessor.**

There shall be an Assessor with the powers and duties prescribed for assessors by the General Statutes. The Assessor shall be appointed by the Board of Selectmen on the basis of competitive state examinations.

**Section 5.3. Board of assessment appeals.**

The Board of Assessment Appeals shall function in accordance with the General Statutes and this Charter.

**Section 5.4. Tax collector.**

There shall be a Tax Collector who shall collect the taxes in accordance with the General Statutes and whose term of office shall be as set forth in Section 2.1 of this Charter.

**Section 5.5. Treasurer.**

The Treasurer shall receive all money belonging to the town, pay it out on the order of the proper authority, keep accurately the records required by law, and shall have such other powers and duties as are in accordance with the General Statutes. The Treasurer shall act as agent of the Town Deposit Fund. The procedures of the Treasurer's office shall conform to the regulations of the Board of Finance, adopted in conformance with this Charter. The Treasurer's term of office shall be as set forth in Section 2.1 of this Charter.



## CHAPTER 6

### Boards, Commissions, Committees and Officers

#### **Section 6.1. Regional board of education.**

At each General Town Election there shall be elected sufficient members to maintain a full delegation to represent the Town of Durham on the Regional District 13 Board of Education. Terms of office shall be four years beginning on the first Monday in December following said election, in accordance with Section 2.1 of this Charter, except as provided in the following paragraph.

The transition and terms of office for the Durham members of the Regional District 13 Board of Education shall be accomplished as follows: two members, whose terms expire on June 30, 2007, shall have their terms extended until the General Town Election in November 2007. At that time two members shall be elected for four-year terms. Three members, whose terms expire on June 30, 2008, and one member, whose term expires on June 30, 2009, shall have their terms extended until the General Town Election in November 2009. At that time, three members shall be elected for four-year terms and one member shall be elected for a two-year term.

This method of election is contingent on the approval of a District referendum providing for a four-year term for the Regional Board of Education. Otherwise, the method will revert to the previous method of election by town meeting.

#### **Section 6.2. Regional planning agency.**

The town shall have representation on a Regional Planning Agency in accordance with the provisions of the General Statutes.

#### **Section 6.3. Durham-Middlefield Interlocal Agreement Advisory Board.**

The Durham-Middlefield Interlocal Agreement Advisory Board shall operate and be constituted as provided in the by-laws of said board.

#### **Section 6.4. Planning and zoning commission.**

There shall be a Planning and Zoning Commission consisting of nine regular members and three alternates. Each regular member shall have a vote. Members shall be elected in accordance with Sections 2.1 and 2.3 of this Charter at General Town Elections, and shall serve for a term of four years, beginning on the first Monday in December after said election. At the first regular meeting of the Commission occurring after said first Monday in December, the Commission shall elect a chairman, and vice-chairman and a secretary. The chairman must receive a majority of the votes cast.

The planning and zoning commission shall fill within 30 days any vacancy which occurs among the regular members by appointing one of the three alternate members of the Commission. Said appointee shall serve until the next General Town Election when an election to fill the unexpired portion of the vacating member's term shall be held.

The membership of the Commission and the alternates shall be considered separately for the

purposes of Section 2.3 of this Charter.

The Board of Selectmen shall fill, within 30 days, any vacancy which occurs among the alternate positions. Said appointee shall serve until the next General Town Election when an election to fill out the unexpired portion of said vacating members term will be held.

The Planning and Zoning Commission shall possess all of the powers and duties, not inconsistent with this Charter, in accordance with the General Statutes.

The Commission shall appoint a Zoning Enforcement Officer who will not be a member of said Commission, and who will enforce the zoning regulations of the town. The Commission may also appoint an Assistant Zoning Enforcement Officer if necessary. The Commission will define the scope of the duties of the Office and regulate the activities of said Officer(s), and will have the authority to discharge said Officer(s) for due cause.

The Commission shall appoint one representative who is a resident of the town to the Regional Planning Agency, in accordance with provisions of the General Statutes.

#### **Section 6.5. Zoning board of appeals.**

There shall be a Zoning Board of Appeals consisting of five regular members and three alternate members. Each regular member shall have one vote.

Regular members and alternates shall be elected in accordance with Sections 2.1 and 2.3 of this Charter at the General Town Election, and shall serve for a term of four years, beginning on the first Monday of December following the election. The membership of the Board and the alternates shall be considered separately for the purposes of Section 2.3 of this Charter.

The Board of Selectmen shall fill within 30 days any vacancy which occurs among the regular members from among the alternate members. Said appointee shall serve until the next General Town Election.

No regular or alternate member of this Board may be a member of the Planning and Zoning Commission.

The Zoning Board of Appeals shall possess all of the powers and duties in accordance with the General Statutes that are not inconsistent with this Charter.

#### **Section 6.6. Director of health.**

A Director of Health shall be appointed by the Board of Selectmen, with the approval of the State Public Health Council. The Director shall have all of the powers and duties in accordance with the General Statutes and shall serve for a period of four years.

##### **Section 6.6.1. Town sanitarian.**

There shall be a Town Sanitarian appointed by the Board of Selectmen, advised by the Director of Health and having all of the powers and duties in accordance with the General Statutes.

**Section 6.7. Town clerk.**

There shall be a Town Clerk who shall perform all of the duties and functions in accordance with the General Statutes, and whose term of office shall be set forth in Section 2.1 of this Charter.

**Section 6.8. Town counsel.**

The Board of Selectmen shall, by resolution at a meeting to be held not later than one month after taking office, appoint a Town Counsel to serve for a term coterminous with the Board of Selectmen, or until a successor has been appointed.

The Town Counsel shall be an attorney at law admitted to practice law in Connecticut. Unless otherwise provided for by this Charter, he or she shall appear for and protect the rights of the town in all actions, suits, or proceedings brought by or against it or any of its officers, boards, commissions, or committees. He or she shall be a legal advisor to all town officers, boards, commissions, or committees, in all matters affecting the town, and will, upon written request, furnish them with a written opinion on any question of law involving their respective powers and duties, said written requests and replies to be forwarded through the Board of Selectmen. Upon written request, the Town Counsel will prepare or approve forms of contracts or other instruments to which the town is a party or in which it has an interest. He or she shall have the power, with approval of the Selectmen, to compromise or settle any claims by or against the town. In the event of a conflict of interest, the Town Counsel will report said conflict to the Board of Selectmen and disqualify him- or herself. The Board of Selectmen shall have the authority to retain other counsel.

**Section 6.9.1. Fire department.**

The Durham Volunteer Fire Company, Inc. shall be the custodian of all Fire Department equipment and shall be responsible for its maintenance. It will be responsible for the prevention, control, and extinguishment of fires, and shall perform all functions usually associated with the town Fire Department.

**Section 6.9.2. Fire trustees.**

There shall be a Board of Trustees consisting of three voters of the town, and not members of the Durham Volunteer Fire Company, Inc., one of whom shall be elected at each Annual Town Meeting for a term of three years or until his replacement has been elected. These Trustees are to work with the three Trustees elected by the Durham Volunteer Fire Company, Inc., in formulating rules governing the use of and maintenance of the Fire Department buildings.

**Section 6.10. Fire marshal.**

The Board of Selectmen shall appoint a Fire Marshal and such deputies as may be necessary all in accordance with the General Statutes.

**Section 6.11. Animal control officer.**

The Board of Selectmen shall appoint, for a term of two years, an Animal Control Officer who shall have powers and duties in accordance with the General Statutes.

**Section 6.12. Durham conservation commission.**

There shall be a Conservation Commission consisting of nine members appointed by the Board of Selectmen. Terms of office shall be for a period of three years, three members being appointed each year. Each member's term shall begin on January 1.

The Conservation Commission shall function in accordance with the General Statutes.

In addition to the duties and responsibilities specified in the General Statutes, the Commission shall have overall authority to administer and regulate open space property acquired under the provisions of the General Statutes.

The Commission is authorized and empowered to negotiate any and all leases for the rental of such open space land, to develop and execute plans and programs for the conservation and use of such open space land, and to delegate responsibility for the intensive management of any part of these lands to other public and private organizations for the benefit of the public.

**Section 6.13. Recreation committee.**

The Durham Recreation Committee shall be constituted and shall operate as provided in the Articles of Authority of the Durham Recreation Committee as recorded by the Town Clerk. The Committee shall be responsible to the Board of Selectmen.

**Section 6.14. Building code board of appeals.**

There shall be a Building Code Board of Appeals which shall function in accordance with the General Statutes and the State Building Code, as amended.

**Section 6.15. Building official.**

There shall be a Building Official appointed by the Board of Selectmen. The Building Official shall perform duties in accordance with the provisions of the State Building Code. The Board of Selectmen shall have the authority to discharge said Building Official for due cause.

**Section 6.16. Economic development commission.**

There shall be an Economic Development Commission which shall operate in accordance with the General Statutes. The Commission shall consist of seven electors of the town who shall be appointed by the Board of Selectmen. The term of office shall be for two years. All terms shall begin on January 1.

**Section 6.17. Board of library directors.**

The Board of Library Directors shall consist of nine members elected at the Annual Town Meeting for terms of three years. The Board shall have the responsibility for providing library services, library personnel, for setting hours of operation and for maintaining the buildings and grounds.

The Board shall have the responsibility of acting as trustees of and administering the endowment funds established for the library.

**Section 6.18. Compensation review/personnel policy commission.**

There shall be a Compensation Review/Personnel Policy Commission. This Commission shall provide continuing review of all compensation, including all monetary and non-monetary compensation and benefits, provided by the town to all public officials and employees. At the request of the Board of Finance or Board of Selectmen, this Commission shall also provide review and/or continuing review of compensation provided by the town to any other party, such as consultants, contractors, and service providers.

The Commission shall, at least annually, provide a written report of its doings to the Board of Finance and Board of Selectmen, and a copy of such report shall be filed with the Town Clerk at least 60 days prior to any hearing on the annual town budget.

No person whose compensation is subject to review by this Commission, and no person who is affiliated with any entity whose compensation is subject to review by this Commission, shall hold membership on this Commission.

The Commission may also advise the Board of Selectmen on personnel matters.

This Commission shall have five members, and members shall hold terms of five years.

The current membership of the Personnel Policy Board shall retain their seats, and shall serve their terms, as the same presently exist. Vacancies from whatever cause shall be filled by election at a Town Meeting, no contrary provision of this Charter withstanding.

**Section 6.19. Inland wetlands and watercourses agency.**

There shall be an Inland Wetlands and Watercourses Agency consisting of seven members whose powers, duties and terms of office are as set forth in an ordinance of the town dated August 27, 1973, and in the General Statutes as either may be amended from time to time.

**Section 6.20. Historic district commission.**

There shall be an Historic District Commission consisting of five members and three alternate members whose powers, duties and terms of office are as set forth in an ordinance of the town dated June 25, 1973, and in the General Statutes as either may be amended from time to time.

**Section 6.21. Ethics commission.**

There shall be an Ethics Commission that shall set forth standards of ethical conduct for public officials, employees, contractors, consultants, and members of boards and commissions in the performance of their duties. Such commission shall be established forthwith by Town Ordinance.

**Section 6.22. Department of emergency management.**

There shall be a department of Emergency Management and a Director of Emergency Management appointed by the Board of Selectmen and it shall function in accordance with Chapter 517 of the General Statutes.

**Section 6.23. Other town officials.**

Except as otherwise provided in this Charter, the town shall have such other town officers, departments, boards, commissions, and agencies as now exist and as are provided by the General Statutes, special acts, or as provided by any ordinance adopted pursuant to law. All such officers, departments, boards, commissions, and agencies, shall be elected or appointed in accordance with the General Statutes or by Special Act, or as provided in this Charter, or by any ordinance adopted pursuant to law, and shall continue to have such powers and duties, privileges and functions as are or may in the future be conferred on them by the General Statutes, Special Acts, this Charter, ordinances, or regulations adopted pursuant to law, or amendments thereto.

## CHAPTER 7 Miscellaneous Provisions

### **Section 7.1. Existing laws and ordinances.**

All general laws applicable to the town, all enabling legislation adopted by the town, and all ordinances and by-laws of the town shall continue in full force and effect, except as they are inconsistent with the provisions of this Charter. All special acts or parts of special acts relating to the town that are not inconsistent with the provisions of this Charter continue in full force and effect.

### **Section 7.2. Continuation in office of officers, boards, and commissions.**

The members of existing boards and commissions, and officers in office, shall continue to hold office and to exercise the powers and duties conferred or imposed on them for the periods of their terms, or until their successors have been elected or appointed.

### **Section 7.3. Amendment of this charter.**

This Charter may be amended in accordance with the General Statutes in effect at the time of such amendment.

#### **Section 7.3.1. Removal from office (or recall) of appointed officials.**

The holder of any office or of any membership on a board (commission, committee, etc.), who is appointed by the Board of Selectmen, may be removed for cause by a majority vote of the members of the Board of Selectmen then in office. The appointee shall be entitled to a hearing before the Board of Selectmen and shall be furnished with a written notice, including a detailed statement of cause and of the day of the hearing, at least 10 days prior to the hearing date. The appointee may ask that the hearing be private, and may attend with counsel. The Board of Selectmen must determine its decision within 20 days of the hearing, and a written order of removal must be filed with the Town Clerk immediately. If an unqualified written resignation of the appointee is received prior to the hearing, there shall be no hearing.

#### **Section 7.3.2. Salary or compensation.**

In the event of a recall or removal from office, any salary or compensation for services shall be continued, or pro-rated, up to the day of decision by the Board of Selectmen.

### **Section 7.4. Saving clause.**

If any section of this Charter is held invalid by a court of competent jurisdiction, such holding will not affect the remainder of this Charter, nor the context on which such section so held may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and affect with the section or part of section to which such holding shall directly apply.

### **Section 7.5. Effective date.**

The effective date of this Charter will be upon adoption of it at public referendum.