

Town Council Zoning Authority Charter Amendment Subcommittee

Thursday, July 22, 6:00PM

Membership in Attendance: David Boutin, Chairman, Roger Duhaime

Absent: Timothy Tsantoulis

Town Staff In attendance: Nick Germain, Project Coordinator

Councilor David Boutin opened the meeting at approximately 6:03 PM. Nick Germain, Town Project Coordinator, will take the minutes.

Councilor David Boutin, with assistance from specialists at the Southern New Hampshire Planning Commission (SNHPC), New Hampshire Municipal Association (NHMA), and town staff, compiled a package of information regarding zoning and ordinance authority in Hooksett and other similar communities in New Hampshire. The text of a letter submitted by one Cameron Prolman, Regional Planner with the SNHPC, indicates that there are seven communities with "Town Council" forms of government in the state of New Hampshire, and five (Derry, Durham, Londonderry, Merrimack, and Newmarket) that have the authority to introduce and adopt zoning amendments as defined in their town charters.

Councilor Boutin began reviewing package material he highlighted as relevant for the purposes of the first subcommittee meeting.

David Boutin: Section 3.6 of Hooksett's Town Charter covers how ordinances are handled. Part "F." deals specifically with items such as Zoning Ordinances, historic district ordinances, or building codes and identifies the Planning Board's current role. The next item is a part of Derry's Town Charter, which makes no difference between zoning and other ordinances, and I'm under the understanding that gives their council the authority over zoning ordinances. The next is a part of Durham's charter - Section B covers ordinances, Section D notes that ordinances can be adopted immediately after appropriate publication by the Town Council, but ordinances, including zoning, can't be adopted at the same meeting. Londonderry, the next charter item, in 3.7 b, again notes no difference between types of ordinances. Merrimack is up next, and again specifically doesn't differentiate between zoning and other types of ordinances. Newmarket, the final community, explicitly says the Council can pass ordinances of all types including zoning after the appropriate procedures applied by law. The final item is a letter from attorney Cordell Johnston of the New Hampshire Municipal Association. I knew him for a long time from my time on the Senate Public and Municipal Affairs Committee and worked with him extensively. He was nice enough to propose specific language to achieve the end the proposed amendment is considering. To summarize, I got this information together to see if this kind of amendment was a possibility, and to feel out what other similarly governed towns are doing.

Councilor Roger Duhaime: I was impressed. There's a lot of information here. Even a legal opinion too. I'd be interested in what town legal counsel would have to say. I've been wondering about how far zoning authority would cover when it comes to this.

David Boutin: A real world example could be the Cigna building situation. Say a developer is interested

and the zoning is inaccurate for their purposes and the town would like what's described. Instead of jumping through hoops and waiting, the Town Council could expediate things.

R. Duhaime: I do wonder how this would work out with Town Council. Zoning issues are very technical.

D. Boutin: I think generally the membership is knowledgeable and could handle it. The Planning Board is what I anticipate as being the biggest opponents, and we'd want to get their opinion and input on the subject as we go along.

Discussion then ensued about the charter amendment process intricacies

D. Boutin: I'd like to ask Nick about the process for getting a Charter Amendment.

Nick Germain – It's a straightforward process. A town official can bring forward an amendment or it can be petitioned by the public, but generally the follow through is the same: A public hearing has to be advertised in a paper of record a set number of days in advance then and discussed at said meeting. If the language of the proposed amendment gets changed, it must go back to a new public hearing. If no significant changes are made, the language gets sent to the Attorney General to look over its basic legality. If the AG doesn't see anything wrong, they send it back to the town where the language can be moved to the next town ballot as an item. Town Council can just approve regular other ordinances without a town vote.

Roger Duhaime: I don't think I have more questions now. I want to read over these details more to get a better idea. I know the process can be tedious, and I don't know necessarily if this is the option, but we can look at it. I don't like to rush things. I do appreciate though that other towns do this sort of thing already and Hooksett wouldn't be the first.

Attendees then went over the benefits / costs of different zoning authority change scenarios and what it could mean for the town. Councilor Boutin noted the next meeting should tentatively be scheduled for August 19th and that the subcommittee membership should read over available material, research the subject more, especially with regards to what the other five described communities are doing, and start engaging other members of the public and public officials. The subcommittee will eventually engage other relevant public bodies in town formally later for their input, possibly with remote participation dimensions via zoom or other methods.

Meeting adjourned at approximately 6:47PM

Submitted with respect,



Nicholas P Germain, MPA

Project Coordinator

- B. Every proposed ordinance of the Council shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Each ordinance shall be identified by a number and a short title. The enacting clause shall be "The Town of Hooksett ordains ...". Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics.
- C. Every ordinance, including zoning ordinances and building codes, shall take effect upon passage and publication as ordinances required by law or at a later date as specified by the ordinance. No ordinance shall be introduced and adopted during the same meeting, except emergency ordinances.
- D. All ordinances, including any amendments thereto, shall be recorded in full, uniformly and permanently, by the Town Clerk, and each ordinance so recorded shall be authenticated by affixing the signatures of the Council Chair and the Town Clerk and the Town Seal, and kept on file in the office of the Town Clerk. The Town Clerk shall be responsible for the systematic indexing, printing, publication and maintenance of the ordinances of the Town. Copies of any or all ordinances shall be available to the public, and the Town Clerk may charge a reasonable fee to defray the printing costs.
- E. Upon passage, the ordinance shall be published in a newspaper of general circulation in the Town and posted on the official Town website.
- F. Creation of, or amendments to, Zoning ordinances, historic district ordinances or building codes may be petitioned for by no less than two percent (2%) of the voters of the town and shall be established or amended in accordance with the procedures outlined under RSA 675:4. Any Zoning Ordinance, Historic District Ordinance or Building Code or amendment to an existing Zoning Ordinance or Building Code proposed by the Council or the Planning Board shall be submitted to the voters of the Town in accordance with the provisions of RSA 675:3.

Sec. 3.7. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by a public utility for its services or authorize the borrowing of money except as provided in Sec. 3.8 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at

expenses incurred in the performance of Town business outside the Town limits of Hooksett according to rules of the Council.

Sec. 3.5. Exercise of Powers; Meetings; Rules of Procedure: Appropriations.

- A. Exercise of Powers. Except as otherwise prohibited by law or this Charter, the powers of the Council may be exercised in a manner determined by it.
- B. A quorum of the Council for the transaction of any business shall be two-thirds (2/3) of the members currently in office. However a smaller number may adjourn the meeting to another time or date.
- C. Meetings. All meetings of the Council shall be public as required by the State "Right to Know Law" (RSA Ch. 91-A). Regular meetings (minimum one per month) shall be held on such day or days of each month at such time as the Council shall by ordinance or resolution direct. Agendas shall be prepared and posted one week in advance of each regular meeting. Special meetings may be called by the Chair. Special meetings also may be called at the written request of the Town Administrator or at least six (6) Councilors, and upon such request the Chair of the Council shall call such special meeting. Written notice of said special meeting shall be delivered to each Councilor at least twenty-four (24) hours prior to the call of the special meeting. The method of delivery of notice for special meetings shall be established by Council rule.
- D. Rules of Procedure. The Council shall establish rules for its proceedings not inconsistent with this Charter. Every matter coming before the Council for action shall be put to a vote and all members shall vote "aye", "nay", or abstain and give a reason for abstaining. The results of such voting shall be duly recorded. All votes shall be recorded by roll call except votes on procedural matters.

Sec. 3.6. Ordinances.

- A. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk or designee shall distribute a copy to each Councilor and to the Town Administrator, file a reasonable number of copies in the office of the Town Clerk, post a copy in such other public places as the Council may designate, and provide for publication in a local newspaper or newspapers of their choice seven (7) days prior to the public hearing on said ordinance. The full text of the proposed amendment or ordinance need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice. Final action on said ordinance shall not be taken by the Town Council until at least seven (7) days after said public hearing.

more than 10% greater than the smallest district. Each district shall have well defined boundaries.

Sec. 1.6. Changes in Districting.

- A. No later than two years after the official publication of the decennial United States of America census, the Supervisors of the Checklist (defined in 2.2 hereof) shall establish new district boundaries so as to establish six (6) equal (population-based) districts. The Supervisors of the Checklist may establish their own rules and procedures to conduct redistricting; however, they shall have at least one public hearing on its proposed new district boundaries.
- B. Upon the written petition signed by at least ten percent (10%) of the registered voters in the Town, the Town election officers shall include on the ballot at the next Town annual election the following question: "Shall the Supervisors of the Checklist be directed to establish new district boundaries for the Town no later than one (1) year from the passage of this question? Yes or No". However, no petition for redistricting shall be accepted within three (3) years of any previous action to redistrict. If a majority at that March election vote "Yes", then the Supervisors of the Checklist shall establish new equal districts for the Town pursuant to its redistricting rules and procedures and based on such population and census data as the Supervisors of the Checklist finds fair and reliable; however they shall have at least one public hearing on their proposed new district boundaries.

ARTICLE 2

Elections: Election Officials; Conduct of Elections

Sec. 2.1. Moderator.

There shall be a Moderator of the Town who shall have all the powers and duties granted to him/her by this Charter and state law. He/She shall be elected on an at large basis to a term of two (2) years at the first Town election following adoption of this Charter. Without limitation to the foregoing, for election purposes, the Moderator shall have the power to appoint all election officials except those, which must be elected or otherwise appointed. The Moderator shall determine whether all ballots from all polling places are to be counted in one or more locations.

Sec. 2.2. Supervisors of the Checklist.

- A. There shall be three (3) Supervisors of the Checklist who shall hold office for six (6) years (and until their successors are elected and qualified) on a staggered basis so that one Supervisor is elected every two years at the Town election.

ARTICLE 1
Incorporation; Town Form of Government; Power

Sec. 1.1. Incorporation.

The legal residents of the Town of Hooksett shall continue to be a body politic and corporate under the name of the "Town of Hooksett" and as such to enjoy all the rights, immunities, powers and privileges and be subject to all duties and liabilities now appertaining to or incumbent upon them as a municipal corporation. All existing property of the Town shall remain vested in it, and all its existing debts and obligations shall remain obligatory upon it under this chapter.

Sec. 1.2. Town Form of Government.

The administration of the fiscal, prudential, municipal and other affairs of the Town, with the governance thereof, shall be vested in an executive branch to consist of a Town Administrator and the various departments of the Town as established by this Charter and from time to time by the Town Council. Legislative powers, not otherwise vested in another body as provided by this Charter, shall be vested in the Town Council and the Budgetary Town Meeting. Except as expressly authorized by this Charter, no Councilor shall participate in the conduct of the administrative affairs of the Town.

Sec. 1.3. Construction.

The powers of the municipality under this Charter are to be construed liberally in favor of the Town, and the specific mention of particular powers is not intended to limit in any way the general powers of the municipality as stated in Sec. 1.1.

Sec. 1.4. Intergovernmental Relations.

Subject only to express limitations in the provisions of the New Hampshire Statutes, the Town may exercise any of its powers or perform any of its functions under this Charter and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of New Hampshire, or any political subdivision or agency thereof, or the United States of America or any agency thereof.

Sec. 1.5. Initial Districting.

Upon adoption of this Charter, the Board of Selectmen of Hooksett shall on or before 07/15/88 prepare preliminary district boundaries. After public hearings held thereon, the selectmen shall finalize district boundaries by 10/15/88 and publish and disseminate district maps.

The Town shall be divided into six (6) voting districts; each established to consist of as nearly as possible an equal number of residents. The largest district shall be no



Southern New Hampshire Planning Commission

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Planning Board and planning staff initiates the zoning amendments and brings them to a Public Hearing and then if approved by the Planning Board forwards them to the Town Council for consideration and recommends approval.

In Newmarket, Town Manager Steve Fournier shared that this authority was given to the Town Council when the Town adopted their charter. From his perspective, the ability for the Town Council to introduce and amend zoning works great. He noted that they can change their ordinance as needed and amend it to fit their community, unlike most towns that must wait once a year for the voters to approve the changes. He also said that they are, for all intent and purposes, a city in their form of government and that they can be much more responsive to the community in this way.

Similarly, in Londonderry, Town Manager Kevin Smith found that in his time as Town Manager over eight years, the ability for the Town Council to introduce and amend the zoning ordinance appears to work quite well and is far more efficient than waiting for Town Meeting to take place. There is ample opportunity for the public to weigh in as most zoning changes go before the Planning Board prior to making their way to the Council, where the public is offered another opportunity to weigh in on the proposed amendment.

Todd I. Selig, Durham Town Manager shared similar insight into how this Town Council authority has worked for the Town of Durham. Like in Newmarket and Londonderry, Mr. Selig believes that the ability for the Town Council to introduce and amend the zoning ordinance has been successful, and even recommended it. Much like in the other Town Council communities mentioned above, Mr. Selig noted that there are abundant opportunities for public input. He also shared that in his opinion, the ability to have a dialogue throughout an amendment process allows amendments to go through various stages and changes before a recommendation by the Planning Board, and a vote by the Town Council, compared to having one version of an amendment go to a 'yes or no' vote.

NH OSI, while they didn't have many comments on how this works for these towns, shared that in most cases, it is likely that Town Councils have some sort of relationship with Planning Boards to keep them involved in this process.

Please feel free to contact me if you have any questions about this correspondence, or if there is any other way we can be of assistance.

Sincerely,

Cameron Prolman
Regional Planner
Southern New Hampshire Planning Commission
438 Dubuque St.
Manchester, NH 03102



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July 1, 2021

Mr. David Boutin, Hooksett Town Councilor
Town of Hooskett
35 Main Street
Hooksett, NH 03106

Re: Hooksett Town Council Information Request

Dear Mr. Boutin:

On June 23, 2021, The Southern New Hampshire Planning Commission received an information request to assist the Hooksett Town Council. It is my understanding that the Hooksett Town Council will be forming a Subcommittee to evaluate their Town Charter language. Specifically, one of the things the Subcommittee will assess is whether the Town Council should have the authority to introduce and amend the Town's Zoning Ordinance. Currently, any Zoning Ordinance, Historic District Ordinance or Building Code or amendment to an existing Zoning Ordinance or Building Code proposed by the Hooskett Town Council or the Planning Board shall be submitted to the voters of the Town in accordance with the provisions of RSA 675:3.

This document provides examples of other community town charters, specifically communities with a Town Council form of government with the authority to introduce and amend zoning ordinance. Additionally, town charter sections for each of the pertaining to the town councils and ordinances on this email.

Seven communities in New Hampshire have a Town Council form of government. The towns are Bedford, Derry, Durham, Hooksett, Londonderry, Merrimack, and Newmarket. Of these communities, the Town Councils in Derry, Durham, Londonderry, Merrimack, and Newmarket have the authority to introduce and adopt zoning amendments as defined in their town charters. Each of the mentioned communities town charter sections pertaining to the town councils and ordinances are attached to this correspondence.

I was able to get in contact with NH OSI, the Towns of Derry, Newmarket, Londonderry, and Durham who provided some insight into how this authority has worked in their communities.

The Town of Derry changed their form of government back in the mid -1980s from Town Meeting to Town Council, which is when the charter was created, and the wording was put in for the zoning amendments. Since then, there have not been any times when the Town Council introduced zoning amendments and thus bypassing the Planning Board. Over the years it has occasionally come up that the Town Council would possibly do this but never got beyond conceptual discussion. George Sioras, Planning Director for the town noted that town officials involved did not want to see two town boards not on the same page and let the Planning Board do the zoning versus the Town Council. However, the Town Council has recommended the Planning Board work on zoning per a Town Council Goal. Ultimately, the

Derry

**ARTICLE 6
ORDINANCES**

SECTION 6.1 Municipal Legislation

Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be "The Town of Derry Ordains," and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the clerk of the Town Council, and each ordinance so recorded shall be authenticated by the signature of the Chairman of the Town Council and the Clerk of the Town Council.

SECTION 6.2 Ordinances

- (A) An ordinance may be introduced by any Councilor at any regular or special meeting of the Town Council. Upon introduction of any ordinance, the Clerk of the Town Council shall distribute a copy to each Councilor and to the Town Administrator, shall file a reasonable number of copies in the office of the Town Clerk and shall post a copy in such other public places as the Council may designate. The full text of the proposed measure or ordinance need not be included in the notice if an adequate statement is included, describing the proposal and designating the place where the proposal is on file for public inspection.
- (B) Every proposed ordinance shall be introduced in writing in the form required for final adoption. Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics.
- (C) After the ordinance's first reading, it shall be published on the Town website and a notice placed in a newspaper of general circulation in the Town at least once, publicizing the time and place when and where it will be given a public hearing and be considered for final passage. The newspaper notice shall also contain a statement describing the proposal, and designating the

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THEORY

THEORY OF THE EARTH

The theory of the earth is a branch of geology which deals with the origin and development of the earth and its various parts. It is a science which seeks to explain the processes which have shaped the earth and its features. The theory of the earth is based on the study of the earth's history and its various parts. It is a science which seeks to explain the processes which have shaped the earth and its features. The theory of the earth is based on the study of the earth's history and its various parts. It is a science which seeks to explain the processes which have shaped the earth and its features.

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place where the proposal is on file for public inspection.
(amended 9-11-2012)

(D) No ordinance shall be passed finally on the date on which it is introduced, except in cases of emergency involving the health or safety of the people or their property. Every adopted ordinance, except as otherwise provided by this Charter, shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

No ordinance shall be amended or repealed except by another ordinance adopted in accordance with this Charter, or as provided in the initiative and referendum procedures of this Charter.

SECTION 6.3 Emergency Ordinances

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall contain statements after the enacting clause declaring that an emergency exists, and describing the scope and nature of the emergency in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of all the members of Town Council.

Action on an emergency ordinance shall be taken without amendment at the meeting at which the ordinance is introduced. No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency ordinance and except as provided by law relating to utility lines, no such grant, renewal or extension shall be made otherwise than by the regular procedure established for ordinances. After its adoption, an emergency ordinance shall be published as prescribed for other adopted ordinances. It shall become effective upon adoption or at such time as it may specify.

SECTION 6.4 Codification of Ordinances

Not later than 18 months after taking office under this Charter and at least every fifth year thereafter, the Town Council shall have prepared a revision or codification of the ordinances of the Town which are appropriate for continuation as local laws of the Town.

Durham Town Charter

Article 03: Town Council

Sec. 3.8. Ordinances.

A. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk shall distribute a copy to each Councilor and to the Town Administrator, shall file a reasonable number of copies in the office of the Town Clerk and shall post a copy in such other public places as the Council may designate.

B. Every proposed ordinance, except land use ordinances, of the Council shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one (1) subject, which shall be clearly expressed in its title. Each ordinance shall be identified by a number and a short title. The enacting clause shall be "The Town of Durham ordains...." Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

C. After passage of the ordinance's first reading, it shall be published at least once, together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least five (5) days. "Publication," for purposes of this section, shall mean the publication of a notice in any newspaper distributed in the Town of Durham, stating the number and title of the ordinance and either the text of the ordinance in full or, if the full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance.

D. Every ordinance, including zoning ordinances, shall take effect upon passage and publication as ordinances required by law or at a later date as specified in the ordinance. No ordinance shall be introduced and adopted during the same meeting.

E. All ordinances, including any amendments thereto, shall be recorded in full, uniformly and permanently, by the Town Clerk, and each ordinance so recorded shall be authenticated by affixing the signatures of the Council Chairman and the Town Clerk and the Town Seal and kept on file in the office of the Town Clerk. The Town Clerk shall be responsible for the systematic indexing, printing, publication and maintenance of the ordinances of the town. Copies of all ordinances shall be available to the public, and the Town Clerk may charge a fee to defray the printing costs.

The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum. The second part of the paper is devoted to a discussion of the structure of the nucleus. It is shown that the structure of the nucleus is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum.

The third part of the paper is devoted to a discussion of the structure of the molecule. It is shown that the structure of the molecule is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum. The fourth part of the paper is devoted to a discussion of the structure of the crystal. It is shown that the structure of the crystal is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum.

The fifth part of the paper is devoted to a discussion of the structure of the liquid. It is shown that the structure of the liquid is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum. The sixth part of the paper is devoted to a discussion of the structure of the gas. It is shown that the structure of the gas is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum.

The seventh part of the paper is devoted to a discussion of the structure of the plasma. It is shown that the structure of the plasma is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum.

The eighth part of the paper is devoted to a discussion of the structure of the solid. It is shown that the structure of the solid is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum. The ninth part of the paper is devoted to a discussion of the structure of the liquid crystal. It is shown that the structure of the liquid crystal is determined by the laws of quantum mechanics, which are based on the principle of the conservation of energy and the principle of the conservation of momentum.

Chapter I - Town Charter (Cont'd)

ARTICLE 3 - Town Council (Cont'd)

Section 3.7. Ordinances

- A. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Clerk shall distribute a copy to each Councilor and to the Manager, shall file a reasonable number of copies in the office of the Clerk and shall post a copy in such other public places as the Council may designate.
- B. Every proposed ordinance of the Council shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Each ordinance shall be identified by a number and a short title. The enacting clause shall be "The Town of Londonderry ordains.....". Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics.
- C. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least five (5) working days. Publication for purposes of this section shall mean the publication of a notice in any paper distributed in the Town of Londonderry, stating the number and title of the ordinance and either the text of the ordinance in full or if the full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance.
- D. Every ordinance, including zoning ordinances, adopted by referendum, shall take effect upon passage and publication as ordinances required by law, or at a later date as specified in the ordinance. No ordinance shall be introduced and adopted during the same meeting.
- E. All ordinances, including any amendments thereto, shall be recorded in full, uniformly and permanently, by the Clerk, and each ordinance so recorded shall be authenticated by affixing the signatures of the Council Chair and the Clerk and the Town Seal, and kept on file in the office of the Clerk. The Clerk shall be responsible for the systematic indexing, printing, publication and maintenance of the ordinances of the Town. Copies of all ordinances shall be available to the public, and the Clerk may charge a fee to defray the printing costs.

Merrimack

ARTICLE V ORDINANCES

5-1 INTRODUCTION

An ordinance may be introduced by any Town Councilor at any regular or special meeting of the Town Council. Upon introduction of any ordinance, the Town Manager shall distribute a copy to each Town Councilor and the Town Clerk, shall file a reasonable number of copies in the office of the Town Manager, and shall post a copy in at least two (2) other public venues as the Town Council may designate.

5-2 FORM

Every proposed ordinance of the Town Council shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one (1) subject. Each ordinance shall be identified by a number and a title. The enacting clause shall be "The Town of Merrimack ordains..."

Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall indicate matter to be omitted by strikethrough type, and shall indicate new matter by enclosing it in brackets and using bold type.

(Amended 04/10/07 Town Meeting, #4)

5-3 PUBLIC NOTICE

After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least seven (7) calendar days.

Publication for purposes of this Section shall mean the publication of a notice in any paper distributed in the Town of Merrimack as well as the posting of the notice in at least two (2) other public venues as the Town Council may designate, stating the number and title of the ordinance and either the text of the ordinance in full or if the full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance.

Final action on said ordinance shall not be taken by the Town Council until at least seven (7) calendar days after the public hearing on it.

5-4 ADOPTION

No ordinance shall be passed finally on the date on which it is introduced, except in cases of emergency involving the health or safety of the people or their property. Every adopted ordinance, except as otherwise provided by this Charter, shall become effective upon passage or at any later date specified therein.

No ordinance shall be amended or repealed except by another ordinance adopted in accordance with this Charter, or as provided in the initiative and referendum procedures of this Charter.

Newmarket

Section 3.7. Exercise of Powers; Meetings; Rules of Procedure.

- A. **Exercise of Powers.** Except as otherwise prohibited by law or this Charter, the powers of the Council may be exercised in a manner determined by it.
- B. **A quorum** of the Council for the transaction of any business shall be four (4) of the members currently in office. However, a smaller number may adjourn the meeting to another time or date.
- C. **Meetings.** All meetings of the Council shall be public as required by RSA ch. 91-A. Regular meetings shall be held on such day or days of each month at such time as the Council shall by ordinance or resolution direct. Special meetings may be called by the Chair. Special meetings also may be called at the written request of the Town Administrator or at least four (4) Councilors, and upon such request the Chair of the Council shall call such special meeting. Written notice of said meeting shall be delivered to each Councilor at least twenty-four (24) hours prior to the call of the meeting. The method of delivery of notice for special meetings shall be established by Council rule.
- D. **Rules of Procedure.** The Council shall establish rules for its proceedings not inconsistent with this Charter. Every matter coming before the Council for action shall be put to a vote and all members shall vote "aye", "nay", or abstain and give reason for abstaining. The results of such voting shall be duly recorded. All votes shall be recorded by roll call except votes on procedural matters.

Section 3.8. Ordinances and Resolutions.

- A. An ordinance or resolution may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance or resolution, the Town Administrator or his designee shall distribute a copy to each Councilor and to the Town Administrator, shall file a reasonable number of copies in the office of the Town Clerk and post a copy in such other public places as the Council may designate.
- B. Every proposed ordinance of the Council shall be introduced in writing and in the form required for adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Each ordinance shall be identified by a number and a short title. The

enacting clause shall be "The Town of Newmarket ordains . . .". Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics.

C. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least seven (7) calendar days. Publication for purposes of this Section shall mean the publication of a notice in any paper distributed in the Town of Newmarket as well as the posting of the notice in at least two (2) other public venues as the Town Council may designate, one of which may be the Town's website, stating the number and title of the ordinance and either the text of the ordinance in full or if the full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance. Final action on said ordinance shall not be taken by the Town Council until at least seven (7) calendar days after the public hearing on it.

D. Every ordinance, including zoning ordinances, adopted by the Council, shall take effect upon passage and publication as ordinances required by law, or at a later date as specified in the ordinance. No ordinance shall be introduced and adopted during the same meeting.

E. All ordinances, including any amendments thereto, shall be recorded in full, uniformly, and permanently, by the Town Clerk, and each ordinance so recorded shall be authenticated by affixing the signatures of the Council Chair and the Town Clerk and the Town Seal, and kept on file in the office of the Town Clerk. The Town Clerk shall be responsible for the systematic indexing, printing, publication, and maintenance of the ordinances of the Town. Copies of any or all ordinances shall be available to the public, and the Town Clerk may charge a fee to defray the printing costs.

F. Every proposed resolution of the Council shall be introduced in writing and in the form required for adoption. No resolution shall contain more than one subject, which shall be clearly expressed in its title. Each resolution shall be identified by a number and short title. The resolution shall have a clause or clauses that explain the reason for the action, followed by the

substance of the resolution. Notice, reading, and adoption requirements shall be as specified in rules adopted by the Council.

(Amended March 11, 2014 to include Resolutions)

Section 3.9. Emergency Ordinances.

Notwithstanding other provisions of this Charter, to meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by a public utility for its services, or authorize the borrowing the money except as provided in Section 3.10 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but an affirmative vote of four (4) Councilors shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption. Every emergency ordinance, except one made pursuant to Section 3.10 of this Charter, shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this Section if the emergency still exists. An emergency ordinance may also be repealed by a repealing ordinance adopted in the same manner specified in this Section for adoption of emergency ordinances.

Section 3.10. Emergency Appropriations.

To meet a public emergency affecting life, health, property, the public peace, or to satisfy a court judgment, casualty loss, or other valid mandated expense, the Council, in accordance with RSA 32:11, and with prior approval of the Budget Committee, may make emergency appropriations as part of an emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may, by such emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to

From: Cordell Johnston cjohnston@nhmunicipal.org
Subject: Zoning authority
Date: July 1, 2021 at 3:24 PM
To: dboutin1465@comcast.net



David—

As we discussed, I've done a preliminary review of other town charters to see how they deal with adopting zoning ordinances and amendments. I've looked at the charters for Bedford, Derry, Durham, Londonderry, Merrimack, and Newmarket. These are all of the towns that have charters, other than Peterborough, whose charter is very different and not useful. I haven't looked at any city charters yet. I will, but I think the town charters are the most useful.

I will review this more thoroughly after I return from vacation on July 13, but briefly, here is what I've found:

Other than Hooksett, none of the town charters explicitly address how zoning ordinances and amendments are adopted. Each of them simply describes the process for the council to adopt ordinances generally, without any specific reference to zoning matters. Since the charters in those towns give the power to adopt ordinances solely to the council, and no separate provision is made for adopting or amending zoning ordinances, the zoning ordinance authority belongs to the council by default. (A couple of the charters do refer to adopting zoning changes "by referendum," but that is a separate process and a very unusual one. The ordinary process is for the council to adopt zoning amendments just as it adopts other ordinances.)

So I don't think Hooksett would necessarily need to add anything to its charter to move the zoning authority from the town meeting to the council. Instead, all you really need to do is remove the existing language that gives that authority to the town meeting. The relevant section of your charter is section 3.6.F., which states as follows:

F. Creation of, or amendments to, Zoning ordinances, historic district ordinances or building codes may be petitioned for by no less than two percent (2%) of the voters of the town and shall be established or amended in accordance with the procedures outlined under RSA 675:4. Any Zoning Ordinance, Historic District Ordinance or Building Code or amendment to an existing Zoning Ordinance or Building Code proposed by the Council or the Planning Board shall be submitted to the voters of the Town in accordance with the provisions of RSA 675:3.

The first sentence allows for petitioned zoning amendments, as opposed to amendments recommended by the council or planning board. The second sentence deals with those recommended by the council or planning board, but requires that they be voted on by the town meeting. You will want to remove the second sentence, but I assume you still want to keep the option of allowing for petitioned zoning amendments, so you would keep the first sentence.

If the council is going to have authority to adopt zoning changes, it still has to comply with RSA 675:2, paragraph II, which requires that a public hearing be held using the process in RSA 675:7. It would be good to note that in the charter as a reminder. So my preliminary suggestion is that section 3.6.F be amended to read approximately as

