

**Final Report
of the
Salem, New Hampshire
Charter Commission**

December 12, 2022

Commission Members

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Introduction

The Town of Salem voted to create a Charter Commission during the Municipal Election that was held on March 8, 2022. A Special Election was held on April 26, 2022, in which nine members were selected from a slate of thirty-six candidates. The first meeting was held on May 17, 2022. Meetings were held throughout the summer of 2022, and the preliminary charter draft was adopted by the Charter Commission on September 10, 2022. The charter was sent to the State for review following the October 5, 2022 meeting, and was received back on November 30, 2022. The Charter Commission met on December 12, 2022, and adopted the Attorney General's recommendation and the Commission's Final Report.

Summary

The Charter proposes an Official Ballot Town Council, according to RSA 49-D:3, I-a. The Charter provides that the matters reserved for the official ballot are the town budget, bond articles, transfer of property, charter amendments, salaries of councilors and similar items. Zoning amendments and other business is left to the legislative authority of the Council.

In addition, the Charter establishes a formal Ethics Committee, and provides for a process to investigate Ethics Complaints made against members of town boards, town employees and town officials.

The Charter also formally establishes requirements for communications with the citizens of the town, requiring notification of citizens about upcoming municipal elections, and where to find information pertaining to that election.

Comparison With Existing Charter

Salem currently operates with an Official Ballot Town Meeting, with a Board of Selectmen of five members. The Charter proposes an Official Ballot Town Council with a Town Council of nine members. The Deliberative Session, which is currently used, is retained. The major change is that the Charter calls for a single bottom line budget to be presented to the voters, with only bond articles separated from the overall budget appropriation. Bond articles will remain subject to a 3/5ths vote.

The Charter retains the Municipal Budget Committee under RSA 32.

Currently, the Official Ballot Town Meeting has a threshold of 25 signatures for a citizens' petition warrant article. The Charter removes that and replaces it with several options for citizens to seek changes, including an Individual Petition to the Council, a Group Petition to the Council requiring 75 signatures, an Initiative Petition procedure that has a minimum threshold of 200 signatures, and a Referendum Petition requiring 500 signatures.

The Charter also provides for the removal of elected officials through a recall process, as well as through an Ethics Committee process.

Matters related to land use, and the function of the Planning Board and the Zoning Board, remain the same.

The town is required, by the new Charter, to notify voters by mail about the time and place of upcoming municipal elections, and where to find information on sample ballots and voter registration.

The Charter also creates a Communications Committee, which will include representatives from the Town staff, as well as the Town Council, to coordinate communications with town citizens.

Rationale for the Charter

Very early in the process, the Charter Commission attempted to determine the major issues about which our citizens were concerned. We identified several areas of significant concern. There were:

1. Communications: Many citizens reported that they felt uninformed about the issues facing the Town, and felt that the Town had insufficiently prepared them to vote on the issues presented to them on the ballot. It was reported that the ballot language was confusing, the ballot too long, and it was unclear what impact a yes or no vote would have on any given issue.
2. Transparency: A number of citizens reported they felt that town government had become too exclusionary, with not enough citizens participating, and that the small number of representatives for such a large town was discouraging to participation

It was also clear that many of the responders had no desire to see Salem become a city, so the Charter Commission quickly moved away from that structure. Overall, most people did not want to see major changes in the way the town was governed.

The Charter that has been drafted attempts to address these major issues in several ways. By focusing on a Town Council, we addressed the concerns of those who were opposed to moving to a city structure. We retained much of the current structure, by preserving the Deliberative Session, the Municipal Budget Committee, and the existing structures for land use boards. With regards to communication, the Charter mandates several new measures, including the Communications Committee, and the requirement that notification of upcoming elections be mailed out to all households. We addressed the issues of confusing and lengthy ballots by reducing the number of articles to be voted on during the municipal election by calling for a bottom-line budget, outside of bond articles.

The transparency issue was addressed in the size of the Town Council. By increasing the number of representatives to nine, with three elected each year, we hope to increase participation by making the election process less intimidating. Having nine members means a majority vote is five instead of three, eliminating the impression of a small 'cabal' controlling the direction of the town. Also, the introduction of an Ethics Committee, with the power to investigate and refer to the Town Council any findings, and a Recall Provision, will provide citizens with a path to address perceived wrongdoings. The requirement that the Town Council adopt a Campaign Finance Reporting regulation also was a step toward transparency within our community.

We also addressed a number of minor, but important, issues that arose during our feedback process, including Master Plan review, and codifying an Economic Development Committee and Recreation Advisory Committee.

Compliance Statements and Citations

The following section of this preliminary report cites provisions of the Charter that address the "... charter ... shall ..." provisions of RSAs 49-D2 and 49-D3. The format is to copy the applicable section or statement of the statute in the order in which it appears, followed by a citation of the charter provision that applies. The citation is in boldface in a different font, set below the requirement.

49-D:2 Town Council – Town Manager.

I. As distinguished from adopting a city form of government described in RSA 49-C, a town may adopt a charter pursuant to RSA 49-B which abolishes the open town meeting and vests all legislative authority in a town council as the elected body or, in the alternative, vests authority to make appropriations in a budgetary town meeting. A charter establishing this form may reserve authority by the voters, at a referendum, over amendments to land use ordinances pursuant to RSA 675 and approval of bond issues consistent with RSA 33.

II. A charter establishing this form of government shall:

(a) Establish a legislative body as described in RSA 49-D:3.

§ 3 of the Charter.

(b) Provide for either the direct election by the voters or the selection by the elected body of a chair of the elected body and prescribe the term of office, powers and duties and other matters relative to the position.

§ 3.2 of the Charter.

(c) Provide for the appointment by the town council of a chief administrative officer to be called a town manager or similar title. This position shall head the administrative services of the town and shall be selected on the same basis, possess the same qualifications, be vested with the same authority, be charged with the responsibility and enjoy similar job security as town managers under RSA 37.

§ 4 of the Charter.

49-D:3 Optional Forms of Legislative Body. Town charters adopted under RSA 49-B and patterned as prescribed by this chapter may adopt a charter providing for one of the following types of legislative bodies:

I. Town council shall be an elected body that serves as the legislative and governing body of the town. Any charter providing for a town council shall be guided by the following:

(a) Notwithstanding any other provision of law, if a town should adopt a charter that provides for a town council form of government and no other form or legislative body, all powers and duties of selectmen, city councils and boards of aldermen, conferred by statute or the constitution, shall be conferred on the town council. The town council shall be empowered also to address all matters that general law requires to be addressed at the annual or a special meeting of a town, except those matters which by statute or charter must be placed upon the official ballot of the town. All procedural requirements prescribed by law relative to the actions of a city shall also apply to the actions of a town council.

(b) The charter shall provide for up to 15 members of the town council with an odd number chosen unless the vote of the chair is reserved for the purpose of breaking ties.

§ 3.1 of the Charter provides for nine members.

(c) Councilors may be elected for coterminous terms or terms may be staggered to assure continuity of experience and familiarity with issues, laws and procedures.

§3.1 provides for staggered three-year terms.

(d) Using the guidelines established in RSA 49-C, the charter shall specify at-large or district representation or a combination thereof;

§3.1 provides for the election of all Town Councils by an at-large vote.

the manner of filling vacancies;

According to §3.4, vacancies on the council are filled by appointment by the remaining members of the council, conforming to state statute.

powers of nomination, appointment, and confirmation;

§3 defines the powers of the Council. Powers of appointment for other positions are defined in the descriptions of appointed offices, commissions, and committees.

requirements for attendance and quorum;

- **Per §3.6.2, a quorum is 5 Councilors.**
- **The quorum for committees is a majority per §8.13.3**
- **The Council is directed in §3.15 to adopt rules of attendance and forfeiture of office for all appointed boards and commissions.**

any domicile or eligibility requirements of up to one year in the town or district and continued domicile during a term;

According to §3.3.1, the Charter establishes one-year domicile and residency requirements.

specific procedures for the preparation, presentation, public hearing, and adoption of annual budgets and designation of a fiscal year;

By §5.1, the Town's Fiscal year is January 1 through December 31.

procedures for issuing bonds and notes pursuant to RSA 33:8-e;

In §5.12, per RSA 33:8-e, the Council is directed to follow the procedures of RSA 33:8-d for the issuance of bonds and notes.

an annual municipal election date pursuant to RSA 669:1;

By §2.6, the second Tuesday in March.

bonding of certain town officials and employees when not required by general law;

§4.10.4 directs the procedures for bonding.

and requirements for periodic independent audits of all town financial matters by a certified public accountant.

§4.10.2 establishes the procedures for audit.

(e) Other matters of local concern may be included in a charter including, but not limited to, conflict of interest provisions which shall be at least as strict as those established in the general laws, citizen powers of initiative, referendum, and recall as described in RSA 49-C,

§7 deals with provisions for initiative, referendum, and recall.

and adoption and periodic review of an administrative code,

§3.10 provides for this.

a merit personnel system, a purchasing system, and a town investment policy.

The merit system and purchasing system are left to Council's discretion. Town may employ an investment advisor under §4.10.3, and the policy is to be set by the Council per §4.10.1.

I-a. The official ballot town council shall be a variation of the town council which provides for voting on some or all matters that general law requires to be addressed at the annual or a special meeting of a town, by official ballot. In such event, the town council shall be vested only with the limited authority to vote on all matters not voted on by official ballot. When an official ballot town council is included in any charter, the provisions of RSA 49-D:3, I relative to town councils, shall apply in all respects, except with respect to those matters to be voted on by official ballot. When a charter provides for an official ballot town council it shall also specify with precision the budgetary items to be included on the official ballot,

§3.7.1 identifies all items, including budget items, to be included on the official ballot.

a finalization process for the annual budget,

§5.3 through §5.6 detail the budget process.

the process for public hearings, debate, discussion, and amendment of questions to be placed on the official ballot,

§5.6 details the Deliberative Session process.

the procedures for the transfer of funds among various departments, funds, accounts, and agencies as may be necessary during the year,

§5.8 details this procedure.

and the applicability of the official ballot procedure to special elections.

§3.7.1 specifies that the official ballot applies to special elections.

The majority vote required to approve bonds or notes shall be either 2/3 or 3/5 as adopted and provided for in the charter. If a charter does not specify which majority vote is required, then the required majority vote shall be 2/3.

§5.13 specifies the requirement of a 3/5ths majority.

Conclusions and Acknowledgements

The Charter Commission believes that this charter represents the future of Salem. We strongly and unanimously encourage its adoption.

We would like to take the opportunity to express gratitude to the Town staff who assisted us in our work, the staff at Salem Community Television for televising our meetings, and ultimately the citizens of Salem who took the time to express their opinions and provide feedback to us. To all of you, we are very grateful.