

# Charter for the Town of Salem, NH

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# **ARTICLE 1 - Incorporation: Town Form of Government: Power**

## **§ 1.1 Incorporation**

The inhabitants of the Town of Salem shall continue to be a body politic and corporate under the name of the "Town of Salem" and as such to enjoy all the rights, immunities, powers and privileges and be subject to all the 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 Charter.

## **§ 1.2 Form of Government**

Salem shall be governed by a Town Council - Town Manager form of government and the legislative body shall be an Official Ballot Town Council in accordance with RSA 49-D:3, I-a. The administration of the fiscal, prudential, municipal and other affairs of the Town, with the governance thereof, shall be vested in a Town Council, shall be directed by a Town Manager, and shall consist of the various departments of the Town as established by this Charter and from time to time by the Town Council. Except as expressly authorized by this Charter, no Councilor shall participate in the conduct of the administrative affairs of the Town.

### **§ 1.2.1. Official Ballot**

The official ballot as provided by this Charter is an element of the total legislative process wherein certain matters are placed on the official ballot by the council, or by other means described in this charter, for final action or ratification by the official ballot. Legislation that is placed on the ballot by the council is subject to public hearing and amendment by the council before being placed on the ballot, and is placed on the official ballot for final action. Legislation placed on the ballot by other means is subject to public hearing and amendment in accordance with provisions of the Charter or general laws. Matters may be placed on the official ballot by the following means:

- A. By vote of the council,
- B. By other means as defined in this charter,
- C. By initiative petition as defined in this charter, and
- D. In accordance with provisions of applicable New Hampshire statutes.

## **§ 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 §1.1.

## **§ 1.4 Precedence of Requirements**

Any conflict of requirements shall be resolved in accordance with the following order of precedence.

- A. The New Hampshire constitution.
- B. New Hampshire statutes are required to apply to municipalities that have adopted the Official Ballot Town Council form of government.
- C. This Charter.
- D. Provisions of New Hampshire general laws that are optional for towns adopting the Official Ballot Town Council form of government and legislature that have been adopted by enactment of this Charter, to the extent that such provisions have been adopted by this Charter.
- E. Provisions of New Hampshire general laws that are optional for towns adopting the Official Ballot Town Council form of government and legislature that have been adopted in accordance with provisions of this Charter.
- F. Other ordinances adopted in accordance with provisions of this Charter.

## **§ 1.5 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.

# **ARTICLE 2 - Elections: Election Officials: Conduct of Elections**

## **§ 2.1 Composition of Board of Election Officers**

The Supervisors of the Check list, the Moderator and the Town Clerk shall constitute the Board of Election Officers. The Moderator shall be Chair. The Town Clerk shall serve as the Clerk of the Board.

## **§ 2.2 Moderator**

There shall be a Moderator of the Town who shall have all the powers and duties granted by this Charter and State Law. The Moderator shall be elected on an at-large basis to a term of two (2) years at the Town election. 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. Vacancies in the office of moderator shall be filled pursuant to State Law.

### **§ 2.3 Supervisors of the Checklist**

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 at each odd year Town election. Vacancies in the Supervisors of the Checklist shall be filled pursuant to State Law. The person so appointed shall hold office until the vacancy for the unexpired term is filled at the next Town election. The Supervisors shall elect a chair for a term of two (2) years. The Supervisors of the Checklist shall have such powers and duties as specified under New Hampshire law.

### **§ 2.4 Town Clerk**

There shall be a Town Clerk who shall have all the powers and duties granted by the Charter and State Law. The Clerk shall be elected to a term of three (3) years at the Town Election. Vacancies in the office of the Clerk shall be filled pursuant to State Law.

### **§ 2.5 Conduct of Elections**

The election officers shall conduct regular and special elections on the dates specified by New Hampshire State law. They shall use a Non-Partisan Official Ballot System as detailed in the election laws of the State of New Hampshire, on the second Tuesday in March, to choose Town Councilors and such other officials as specified by this Charter, each of whom shall be elected by the voters of the entire town. At all Town elections the polls shall be open not less than twelve (12) hours and may be open not earlier than six o'clock in the forenoon of the day of the election, nor later than eight o'clock in the forenoon of the day of the election, nor closed earlier than seven in the evening. The Town Council shall determine the hours at least thirty (30) days prior to the election. The election laws of the State of New Hampshire shall govern voter qualifications. The Town Council shall specify the polling places of the Town.

### **§ 2.6 Preparation of Ballots**

The Town Clerk shall prepare separate ballots to be used at all local referenda and at elections at which Town officers are chosen. The ballots shall contain in appropriate sections the names of all candidates, listed in such order as prescribed by State Law, without party designation. Below the list of names of the candidates of each office, there shall be as many blank spaces as there are offices to be filled at the election. No titles, military, professional or otherwise, shall accompany the name of any candidate on the ballot.

### **§ 2.7 Preservation of Ballots**



All the ballots cast at each election shall be preserved, maintained, and sealed as required by the election laws of the State of New Hampshire.

### **§ 2.8 Contested Elections**

Contested Elections shall be resolved in accordance with the State Law.

### **§ 2.9 Display of Local Campaign Materials at Polling Place**

Persons as candidates for elected office or representing or working for a candidate for office or promoting a petition, resolution, referendum or measure on the ballot may not solicit votes, display, exhibit or distribute any campaign materials in violation of local ordinances or state statutes. The Moderator shall exercise the powers under State Law relative to the conduct of elections, distribution of campaign materials and electioneering within the polling place.

### **§ 2.10 Campaign Finance Reporting**

The Town Council shall adopt (within 1 calendar year of the adoption of the Charter), as a Town Ordinance, a requirement that candidates and interest groups participating in municipal elections shall file a report with the Town Clerk detailing the donations and expenses incurred during a municipal election. These reports will be made public by the Town and available to all citizens of Salem.

## **ARTICLE 3 - Town Council**

### **§ 3.1 Membership: Term of Office**

Except as otherwise provided in this Charter, all of the powers of the Town shall be vested in a Town Council (hereafter referred to as the "Council"), consisting of nine (9) Councilors. The Councilors shall be elected from the Town at large for a three (3) year term of office with staggered terms. All Councilors shall take office following their election after being duly sworn in, and shall hold office until their successors are duly elected and qualified.

### **§ 3.2 Organization Meeting**

The Councilors shall meet in their capacity as the Council within ten (10) calendar days following their election for the purpose of taking their respective oaths of office, adopting rules and for the transaction of business required by law or ordinance to be transacted in such meeting. The Council shall, by the affirmative vote of at least five (5) of its members, at its first regular meeting following each election, choose one of its members as Chair for a term of one (1) year. The Council shall choose one of its members as Vice Chair, for a term of one (1) year,

who shall act in the absence or disability of the Chair. In the event of a vacancy occurring in the office of the Chair, the Vice Chair shall serve out the unexpired term. The Chair shall be the official head of the Town for all ceremonial purposes, shall preside at all meetings of the Council, and may speak and vote at such meetings.

### **§ 3.3 Qualifications of Councilors**

#### **§ 3.3.1 Residency and Domicile**

To be eligible for election to the office of Town Councilor, a candidate must be 18 years of age, and be a resident of the Town for at least one calendar year before the election. If a Councilor or any elected official of the Town moves from the Town and establishes a domicile in some other place, the office shall be declared vacant and shall be filled as provided by this Charter.

#### **§ 3.3.2 Removal of Councilors**

The Council may, on specific charges and after due notice and hearing, at any time remove one of its own members for cause, including but not limited to prolonged absence from or other inattention to duties, crime or misconduct in office, or as specified under Article 6 of the provision of this Charter.

#### **§ 3.3.3 Incompatible Positions**

No Councilor shall, while serving a term, be eligible to hold any other Town position of remuneration nor shall the Councilor transact any business with the Town, except pursuant to Article 4.5 and Article 6 of the provisions of this Charter.

#### **§ 3.3.4 Incompatible Offices**

Except as otherwise provided in this Charter, members of the Council shall not hold any employment with the Town. Former members of the Council shall not be eligible for appointment as a compensated Town officer or employee until one year after the expiration of their service.

### **§ 3.4 Vacancies**

Vacancies occurring in the office of Councilor at any time shall be filled, by appointment until the next regular election in accordance with the provisions of Section 3.3.1, by a majority vote of the remaining Councilors; provided, however, that, if the vacancy occurs fewer than ninety (90) days prior to the next regular election, the vacancy shall not be filled by appointment, but shall be filled at the next regular election.

### **§ 3.5 Compensation, Expenses**

The Council shall establish an annual salary and expense allowance for its members, subject to the following:

- A. No Increase in such salary or expense allowance shall be effective unless it shall have been adopted by a majority vote of all the members of the Council and appear on the official ballot as a separate warrant article and approved by the voters.
- B. The new salary and expense schedule shall be included in the next Town budget process and shall take effect in the fiscal period to which that budget applies.

## **§ 3.6 Exercise of Powers - Meetings - Rules of Procedure**

### **§ 3.6.1 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.

### **§ 3.6.2 Quorum**

A quorum of the Council for the transaction of any business shall be five (5); however, a smaller number may adjourn the meeting to another date, time, and place for which notice shall be posted as a new meeting if the meeting is to be held on a later day.

### **§ 3.6.3 Meetings**

All meetings of the Council shall be public to the extent required by State Law. Regular meetings shall be held at such time, date and place 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 Manager or at least three (3) Councilors, and upon such request, the Chair of the Council shall call such special meeting. Written notice of said meeting shall be posted in accordance with general law and shall be delivered to each Councilor at least twenty- four (24) hours prior to the call of the meeting, excluding Saturdays, Sundays, and legal holidays. The method of delivery of notice for special meetings shall be by established Council rule. An emergency meeting may be called by the Chair when immediate undelayed action is deemed necessary for the protection of health, safety, welfare, or protection of property, who shall employ whatever means are reasonably available to inform the public and all council members that an emergency meeting is to be held and shall, via such notice, describe the nature of the emergency that necessitates the meeting.

### **§ 3.6.4 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 recorded. The vote of each member of the council shall be recorded in the minutes.

## **§ 3.7 Ordinances**

The council may adopt ordinances in accordance with its legislative authority, except that ordinances and questions on matters listed in §3.7.1 and other matters as required by New Hampshire general laws, must be adopted by Official Ballot.

### **§ 3.7.1 Matters that must Be Acted on By Official Ballot**

The following matters must be placed on the Official Ballot. All official ballot requirements shall apply to both regular and special elections.

- A. The annual operating budget and amendments thereto.
- B. Bond articles and issuance of debt, in accordance with RSA 33:8-d, II.
- C. Expenditure of surplus funds from any general fund, or from any surplus in utility accounts exceeding \$100,000 in any year, or any amount for new sewer or water systems other than replacement of existing elements thereof, such as may be required to maintain service.
- D. Sale, lease, transfer, mortgaging, pledging or conveyance by any other means, of any real property or fixed improvements to said property, or conveyance of any right or exclusive franchise associated with such property, to any party under terms that are not available to every other party that may apply for such right if the value of said property exceeds \$10,000. This excludes any tax sales.
- E. Sale, or conveyance by any other means, of any right to collect or charge any fee or rent, related to any part of the publicly-owned utility system, public property, or any street or road system or any part thereof, or to grant any such right that is not available without charge to every citizen of Salem.
- F. Adoption or rescinding the adoption of provisions of general laws which are optional for towns.
- G. Charter amendments, and other subjects required by general law to be placed on the official ballots for towns; procedures and schedules which shall not be affected by this charter.
- H. Increase in salaries of councilors.

### **§ 3.7.2 Council Ordinances**

An ordinance may be introduced by any member of the council at any regular or special meeting of the Council. Ordinances to be considered, except emergency ordinances, shall have been submitted to all members of the Council, the Town Clerk, and the Manager not later than the seventh day prior to the meeting, and a copy of the proposed ordinance shall be posted at the public places along with the required notice of the meeting.

- A. 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 Salem 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. After the 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 posting shall precede the date of said hearing by at least five (5) working days. Posting for purposes of this section shall mean the posting of a notice at Town Hall, on the Town's Official Website (Internet), and any other location as recommended by State statute or action of the town, 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.

- B. Every ordinance, including zoning ordinances and ordinances adopted by official ballot, shall take effect upon its passage, or as required by statute or the text of the ordinance. However, no ordinance shall have a retroactive effect. No ordinance shall be introduced and adopted during the same meeting.
- C. 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 via internet access. Printed copies shall be available and the Clerk may charge a fee to defray the printing costs.

### **§ 3.8 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 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, or take any other permanent actions that must otherwise be adopted by Official Ballot. 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 a two-thirds majority vote of the councilors present 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 shall automatically stand repealed as of the sixty-first (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 the adoption of a repealing ordinance in the same manner specified in this section for the adoption of emergency ordinances.

### **§ 3.9 Emergency Expenditures**

The council may make emergency expenditures by transferring funds within an approved budget in accordance with charter provisions for such transfers.

### **§ 3.10 Codification of Ordinances**

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

### **§ 3.11 Existing Ordinances**

All by-laws, ordinances, rules, restrictions and regulations of the Town of Salem which are in effect as of the date of adoption of the Charter, and not inconsistent with this Charter, shall remain in effect after the adoption of this Charter until they expire by their terms or are repealed, modified or amended.

### **§ 3.12 Powers and Duties**

Except as herein otherwise provided, the Council shall have all the powers conferred upon and discharge all the duties imposed upon town councils, town meetings, boards of mayor and aldermen, and selectmen of towns by law, except as restricted by the Official Ballot provisions of this charter. All officers and members of all boards, commissions and committees, and vacancies thereto shall be appointed by the Council from among Town residents except unless otherwise provided by this Charter.

### **§ 3.13 Delegation of Powers**

The Council may delegate to one or more Town agencies, the powers to grant and issue licenses and permits, as vested in the Council by this Charter and State and Federal Law, and may regulate the granting and issuing of licenses and permits by any such Town agency, and may in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

### **§ 3.14 Inquiries and Investigations**

Notwithstanding the provisions of RSA 37:6, I V, the Council by majority vote may require any appointed Town official, department head or employee, an official appointed or confirmed by

the Council, or member of an appointed Town board or commission, to appear before it, and give such information as it may require in relation to this office, its function, and performance. The Council shall give at least forty-eight (48) hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section. The Council and/or the Ethics Committee may investigate the affairs of the Town and into the conduct of any Town agency or department, and for this purpose may administer oaths and require the production of evidence.

### **§ 3.15 Board Procedures**

Except as expressly prohibited by State Law, the Council shall adopt rules of attendance and forfeiture of office for all Town appointed boards and commissions.

## **ARTICLE 4 - Administration of Government**

### **§ 4.1 Town Manager**

The chief administrative officer of the Town shall be the Town Manager (hereinafter called the "Manager"). The Council shall appoint a person especially qualified by experience and training, who receives the votes of at least five (5) of the Council, to be Manager. The Manager shall serve at the pleasure of the Council in accordance with NH RSA 37.

### **§ 4.2 Qualifications**

The Manager shall be appointed solely on the basis of qualification for that office, with special reference to education, training and previous experience in public or private office. The Manager shall devote full time to the office and shall not hold any other public office, elective or appointive, except as authorized by this Charter, nor engage in any other business or occupation unless the terms of such occupation are fully disclosed to the Council and the provision is approved by at least five (5) members of the Council.

### **§ 4.3 Performance Review of Manager**

During the budgetary process following the first anniversary of the Manager's service to the Town, and during each subsequent budgetary process, the Council shall conduct an evaluation of the Manager's performance in office. After such evaluation, the Council shall determine whether the Manager's overall performance in office has been satisfactory or unsatisfactory. The Council shall also establish the Manager's compensation for the ensuing year.

### **§ 4.4 Reprimand or Removal from Office**

The Manager may be reprimanded or removed for cause by the affirmative vote of at least five (5) members of the Council as herein provided. At least thirty (30) days before the proposed reprimand or removal of the Manager, the Council shall adopt a resolution stating its intention to reprimand or remove him, the reasons therefore, and an effective date. A copy of the resolution shall be served forthwith on the Manager, who may, within ten (10) days, demand a public hearing, in which event the Manager shall not be reprimanded or removed until such public hearing has been held.

Upon or after the passage of a resolution of intent to remove, the Council may suspend the Manager from duty, but the Manager's pay shall continue until removal. In case of such suspension, the Council shall, by an affirmative vote, appoint an Acting Manager to serve at the pleasure of the Council for not more than one hundred twenty (120) days. The action of the Council in removing the Manager shall be final.

#### **§ 4.5 Acting Town Manager**

If the Manager is determined by a vote of at least six (6) members of the Council to be temporarily incapacitated or unable to act for any cause, or the office is temporarily or permanently vacant, the Council shall, within thirty (30) days from such determination, appoint an Acting Manager in the same manner as in § 4.3, who shall serve for not more than one hundred twenty (120) days or such lesser time until the disability or vacancy has been resolved. The Acting Manager shall have all the powers and perform all the duties of the Manager except to the extent that said powers and duties may be specifically restricted by Council resolution. Said Acting Manager shall be paid a salary for services hereunder as may be prescribed by the Council. The Acting Manager may be reappointed for one additional term of one hundred twenty (120) days. The Town Council may, if desired, appoint a Town Councilor to serve in this capacity.

By a vote of at least five (5) Councilors, the Council may determine from credible medical or other evidence that the Manager is incapacitated and unable to perform any or all duties, and the office may be declared vacant.

#### **§ 4.6 Powers and Duties of the Manager**

The Manager shall have all the duties, responsibilities, and authority as outlined in RSA 37:6. In addition:

- A. The Manager shall have full jurisdiction over the rental and use of all Town facilities under the Manager's control. The Manager shall be responsible for the maintenance and repair of all Town property under the Manager's control, within the limits of existing appropriation.
- B. The Manager shall keep a full and complete inventory of all property of the Town, both real and personal.



- C. The Manager shall keep the Council informed of the needs of the Town and make such reports and recommendations as the Manager may deem advisable or as the Council, as provided by this Charter or by ordinance, shall direct.

#### **§ 4.7 Non-interference with Town Administration**

The Council shall act in all matters as a body. Except as expressly provided elsewhere in this Charter, neither the Council nor any of its members shall direct or request the appointment of any person to office or employment; or direct the removal, suspension, discipline, an adjustment in pay, benefits, or working conditions of any employee by the Manager or of any of the Town department heads.

No Councilor shall give orders to, or interfere with, the performance of the duties of any of the administrative officers or employees, either publicly or privately. Nothing contained in this section shall prohibit the Council from meeting with the Manager to discuss the operation or conduct of any department head or employee and to recommend an investigation and report by the Manager of any complaint. Any violation of the provisions of this section by a Councilor shall constitute grounds for forfeiture of office under the provisions of § 3.3.

#### **§ 4.8 Departments**

- A. The Town shall have departments, divisions, boards, or committees as may be established by this Charter or as the Council may establish by Ordinance. It shall be the duty of the manager to draft and submit to the Council within nine (9) months after assuming office, an ordinance consistent with this Charter to be titled the "Administrative Code", which provides for the division of the administrative service of the Town into departments or agencies and define the functions and duties of each.
- B. The Council may, by amendment to the Administrative Code Ordinance, create, consolidate or abolish departments or agencies and define or alter their functions and duties. The head of each department or agency established by the Administrative Code shall have and exercise supervision and control of that department or agency and the employees therein, subject to the authority of the Manager, and shall have the power to prescribe rules and regulations not inconsistent with general law, this Charter, the Administrative Code and the rules and regulations of the Personnel Plan; provided that the Manager shall establish a progressive disciplinary code for all departments and agencies which shall be included under the Personnel Plan. A copy of all departmental rules and regulations shall be on file in the office of the Clerk and appropriate departments.

#### **§ 4.9 Town Attorney**

The Council shall engage the services of legal counsel when it deems it necessary to seek legal services for purposes that are necessary to avoid conflicts of interest, or to provide legal opinions beyond those provided by the Town Counsel hired by the Manager.

## **§ 4.10 Fiscal Affairs: Treasurer, Investment Advisor, Audit**

### **§4.10.1 Treasurer**

The Treasurer, in making investments of Town funds, shall follow the written investment policy pursuant to State Law.

### **§4.10.2 Audit**

The Town Council shall, after inviting requests for proposals and appropriate verification of qualifications, experience and integrity, select a certified public accountant or firm of same who shall perform an annual audit of all Town financial transactions after the close of each fiscal year. Said audit shall include all revenues, expenditures and accounts maintained by any officer, elected or appointed, agency, board, commission, or recipient of Town funds; may include a compliance audit to insure conformity with any State or Federal laws and regulations and Town work programs and policies; and shall include a management letter setting forth recommendations for changes and improvements in financial management systems as is deemed necessary. For purposes of cost and efficiency, an auditor may be retained for a period of years, but requests for proposals shall be sought at least once every three (3) years, and a new auditor shall be selected at least every six (6) years. Nothing contained herein shall prohibit the Town Council from ordering an entire audit, partial audits, or interim audits more frequently than once per year as it may deem prudent. Summaries of annual audits, when available in a timely manner, shall be printed in the annual Town Report and complete copies shall be available for public inspection and copying in the Town office during normal business hours. If a summary of an annual audit is not available for printing in the Town Report, said summary shall be made available at the Town Meeting or as soon thereafter as practicable.

### **§4.10.3 Investment Advisor**

The Town Council may, after inviting requests for proposals and appropriate verification of qualifications, experience and integrity, retain the services of an Investment Advisor to advise the Council on the adoption of a written investment policy and to make periodic recommendations to the Council on its modification. Said policy shall contain investment goals, strategies, permissible investments under State law, criteria for depository institutions, and such other matters as are deemed appropriate and necessary to maintain the security of, liquidity of, and return on invested Town funds.

### **§4.10.4 Bonding**

The Council shall provide for the bonding of officials, officers and employees, the cost of which shall be paid by the Town. The positions and persons to be bonded shall be determined by the Council and in accordance with applicable state law and administrative rules.

#### **§ 4.11 Master Plan**

The Master Plan shall be revised no less frequently than once every 10 years.

- A. If upon adoption of this charter, no such comprehensive Master Plan update has been authorized by the Town within the last 10 years, one shall take place in the first year of the Charter.
- B. Thereafter, a Master Plan review should take place every 10 years following the decennial census.
- C. The Town shall invite the School District to participate in the Master Plan update process.
- D. The Town Council, or an Initiative petition, may, at any time, order an update prior to a scheduled revision.

#### **§ 4.12 Library Trustees**

There shall be three (3) Library Trustees elected on an at-large basis, who shall serve for a three (3) year term and be responsible for carrying out all duties prescribed by the law for said Trustees. One Library Trustee shall be elected each year.

#### **§ 4.13 Appointive Officers**

- A. There shall be appointed by the Manager, subject to confirmation by a vote of the Town Council, a police chief, a fire chief, a health officer, one or more assessors, a town attorney, and such other officers as may be necessary to administer all departments which this Charter and the Town Council shall establish.
- B. Assessors shall, prior to appointment, have demonstrated knowledge of property appraisal or assessment and the laws governing the assessment and collection of property taxes.
- C. The powers and duties of appointed officers and heads of departments shall be those prescribed by state law, by the Charter, or by ordinance.

#### **§ 4.14 Tax Collector**

There shall be a Tax Collector who shall have all the powers and duties granted by the Charter and State Law. The Tax Collector shall be elected to a term of three (3) years at the Town Election. Vacancies in the office of the Tax Collector shall be filled pursuant to State Law.

## **ARTICLE 5 - Finance**

### **§ 5.1 Fiscal Year**

The fiscal and budget year of the Town shall begin on the first (1st) day of January and end on the thirty-first day of December.

### **§ 5.2 Budget Committee**

Notwithstanding any other provision of law, the Town of Salem, by the adoption of this charter, adopts a Municipal Budget Committee as provided by RSA 32:14, comprising seven (7) members elected at large, one (1) member of the Town Council, and one (1) member of the School Board as provided by RSA 32: 15. The provisions of Chapter 32- Municipal Budget Law shall apply to the extent that they are not in conflict with the specific provisions of the Charter, and in the event of any conflict with this Charter, the precedents of § 1.4 shall apply.

### **§ 5.3 Budget Procedure**

At such time as may be requested by the Manager or specified by the Administrative Code, each officer or director of a department shall submit to the Manager an itemized estimate of the expenditures of the next fiscal year for the departments or activities under their control. The Manager shall, based on those estimates and other data, prepare a recommended budget which shall, together with these department estimates, be submitted to the Council on such date as the Council shall establish. The Council shall review the budget and make such modifications and amendments as it desires. All anticipated expenditures, except those involving the issuance of bonds, shall be compiled into one budget appropriation.

The Budget Committee shall prepare the budget to be placed on the official ballot in accordance with the Municipal Budget Act and the procedures defined in this charter, applying the precedents of §1.4.

#### **§ 5.3.1 Default Budget**

The Council shall prepare a default budget which shall be the final budget if the general budget article in the warrant is not approved. The amount of the default budget shall be identified in the budget article on the warrant. In accordance with the Municipal Budget Act, the total value of the default budget shall be the sum of the following appropriations and adjustments of the budget of the previous year and shall not be based on any other appropriations:

- A. The annual operating budget from the previous year, based on the approved budget article or the default budget, increased or decreased based on debt service for outstanding bond issues, less any extraordinary one-time items or "ear-marked" items that were included in the operating budget that is the basis for the default budget;

- B. The amount of any appropriations by special or separate warrant articles that were identified on the ballot for purposes that will be continued in subsequent budget years;
- C. The cost effect for the budget year of previously approved collective bargaining agreements.

#### **§ 5.4 Budget Hearings**

The Budget Committee shall hold in convenient places in Salem as many public hearings on the budget as it deems necessary, but not withstanding the provisions of Municipal Budget Law, at least one public hearing on the budget shall be scheduled on dates consistent with final approval of the budget as required by §5.5 of this charter. Notice of such public hearing, together with a copy of the budget as submitted, shall be posted in two public places. A copy of the budget shall be available to the public at the office of the Clerk during regular business hours.

#### **§ 5.5 Final Date for Budget**

Notwithstanding the dates permitted in the Municipal Budget Act, the Budget Committee shall prepare the budget, hold the required hearings, and approve the final amount and form of the budget and all council articles requiring appropriation by official ballot, before the seventh Wednesday prior to the official ballot date.

#### **§ 5.6 Finalizing the Budget by Official Ballot**

- A. Notwithstanding RSA 39:3-d and RSA 40:4-e, the Town of Salem shall utilize the official ballot for voting on all budgetary issues before the voters.
- B. The warrant for any Annual Meeting shall prescribe the place, day, and hour for each of two (2) separate sessions of the meeting, and notice shall be given in accordance with RSA 39:5.
- C. The first session of the Annual Meeting, which shall be for the transaction of all business other than voting by official ballot shall be held between the second Tuesday of February and the Saturday following the second Tuesday in February, at a time prescribed by the Town Council. The second Tuesday in March shall be deemed the Annual Meeting date for purposes of all applicable statutes pertaining to hearings, notice, petitioned articles, and warrants, including, but not limited to, RSA 31:95-d, RSA 32:5, RSA 33:8-a, RSA 39:3 and RSA 39:5. RSA 39:3 shall only be used for the purpose of petitioned warrant articles for appropriations.
- D. The first session of the Annual Meeting, governed by the provisions of RSA 40:4, RSA 40:4a, RSA 40:4b, RSA 40:4f, and RSA 40:6-10, shall consist of explanation, discussion, and debate of each warrant article. Warrant articles may be amended, subject to the following limitations: (1) Warrant articles whose wording is prescribed by law shall not be amended. (2) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended. (3) No warrant article shall be

amended to eliminate the subject matter of the article. An amendment that changes the dollar amount of an appropriation in a warrant article shall not be deemed to violate this subparagraph.

- E. All budgetary warrant articles shall be placed on the official ballot for a final vote.
- F. The second session of the Annual Meeting shall be held on the second Tuesday in March to elect, by official ballot, officers of the Town and to act upon questions required by law to be inserted on said official ballot, such articles for bonds and notes as may be presented, and to vote on all appropriation warrant articles from the first session. Notwithstanding RSA 669:1, the second session shall be deemed the annual election date for purposes of all applicable election statutes including, but not limited to, RSA 669:5, 669:19, and 669:30.
- G. The Town Clerk shall prepare an official ballot, which may be separate from the official ballot used to elect officers, for all warrant articles. Wording shall be substantively the same as the main motion, as it was made or amended at the first session, with only such minor textual changes as may be required to cast the motion in the form of a question to voters.
- H. "Operating Budget" as used in this Section means a statement of recommended appropriations and anticipated revenues submitted to the Annual Meeting as an attachment to, and as part of the warrant for, an annual or special meeting, exclusive of "special warrant articles," as defined in RSA 32:3, VI.
- I. If no operating budget article is adopted, the Town either shall be deemed to have approved a "Default Budget," which shall be developed in accordance with RSA 40:13, IX (b), or the Town Council may hold a special meeting to take up the issue of a revised operating budget only; provided that RSA 31:5 shall not apply to such a special meeting. If no operating budget article is adopted, the estimated revenues shall nevertheless be deemed to have been approved.
- J. The wording of the article on the operating budget shall be as follows: "Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$ \_\_\_\_\_? Should this article be defeated, the default budget shall be \$ \_\_\_\_\_, which is the same as last year, with certain adjustments required by previous action of the Town or by law; or the Town Council may hold one (1) special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."
- K. Voting at the second session of the Annual Meeting shall conform to the procedures for the nonpartisan ballot system as set forth in RSA 669:19-29, and according to §2.6 of this charter, including all requirements pertaining to absentee voting, polling places, and polling hours.

- L. Warrant articles concerning the issuance of bonds or notes shall be placed on the official ballot for approval by the voters. Approval of all warrant articles shall be as provided by New Hampshire State Law.
- M. At least ten days prior to the second session of the Annual Meeting, the Town shall notify by mail each household of the upcoming election date, where to find a sample ballot (either online or at Town Hall), where to find information regarding Warrant Articles, polling locations and hours and where/how to register to vote.
- N. Votes taken at the second session of the Annual Meeting shall be as provided by New Hampshire State Law.
- O. Votes taken at the second session of the Annual Meeting shall not be reconsidered except by warrant article at a subsequent annual or special meeting.
- P. If no operating budget article is adopted, the Town either shall be deemed to have approved the default budget or the Town Council may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. In accordance with RSA 40:13, XVI, the warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than twenty-eight (28) days nor more than sixty (60) days following the first session. The first and second sessions shall conform to the provision of this subdivision pertaining to the first and second sessions of annual meetings. Special meetings shall be subject to RSA 31:5 and 39:3 provided that no more than one (1) special meeting may be held to raise and appropriate money in any one (1) calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to this Section shall not be subject to RSA 31:5 and shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.
- Q. The Council may make emergency expenditures in accordance with the provisions of the NH Municipal Budget Law (RSA 32) as the same may be amended from time to time.

### **§ 5.7 Amendments to the Budget**

The Council may, by a vote of six (6) of council members, call a special election to amend the budget or to make appropriations by separate or special warrant article. The procedures in this charter shall apply except that hearing dates and notices shall be as required by general law.

### **§ 5.8 Transfer of Appropriations**

If changes arise after approval of the budget that make it necessary to expend more than the amount appropriated for a specific purpose, the council may transfer to that appropriation an unexpended balance remaining in some other appropriation in accordance with the provisions of RSA 32:10.

## **§ 5.9 Capital Improvements Program**

The Council shall appoint a Capital Improvement Program Committee with purposes, duties and processes consistent with those described in RSA 674:5-8. The Council shall invite the School Board to send a representative to the CIP Committee to facilitate coordination between the Town and the School District. The Council shall establish such other guidelines and instructions as it shall determine.

## **§ 5.10 Lapse of Appropriations**

All appropriations shall lapse at the end of the fiscal year and any unexpended portion thereof shall not be expended without further appropriation, except as provided in RSA 32:7 as the same may be amended from time to time.

## **§ 5.11 Treasurer**

There shall be a Town Treasurer (hereinafter called "Treasurer") who shall have all the powers and duties granted by this Charter and State Law. The Treasurer shall be elected on an at-large basis to a term of three (3) years at the Town Election. Vacancies in the office of Treasurer shall be filled pursuant to State Law.

## **§ 5.12 Issuance of Bonds and Notes**

The Council shall follow the procedures set out in RSA 33:8-d for the issuance of bonds and notes. The questions shall be acted upon by official ballot in accordance with §3.7.1 and shall require an affirmative vote of 3/5 of the votes cast.

## **§ 5.13 Trust Funds**

There shall be a committee of Trustees of the Trust Funds.

- A. There shall be three (3) Trustees of the Trust Funds who shall hold office for three (3) years and until their successors are elected and qualified on a staggered basis so that one (1) Trustee is elected at each Town election. They shall have all the powers and duties granted to Trustees of Trust Funds by this Charter and State law.
- B. Investments. Trust Funds shall be invested by the Trustees in a manner consistent with RSA 31:25-30. The Trustees shall seek the advice of the Council.
- C. Vacancy. In the event of a vacancy in office, the Council shall fill such vacancy by appointment, such appointment to be effective until a successor to fill the unexpired term is elected at the next Town Election and is then qualified to serve.

## **ARTICLE 6 - Conduct of Officials/Code of Ethics**



## **§ 6.1 Preamble**

It is the policy of the Town of Salem to uphold, promote and demand the highest standards of ethics and conduct from all of its employees and officials, whether elected, appointed or hired. The Town Council, all Town employees and all members of Town boards, commissions, and committees shall maintain the highest standards of personal integrity, truthfulness, honesty and fairness in discharging their public duties, and never abuse their positions or powers for improper or personal gain.

## **§ 6.2 Purpose**

The purpose of this code is to establish guidelines for the ethical standards of conduct for Town officials, board members and employees. The citizens expect public servants and volunteers to act in the best interest of the Town. The citizens expect Town officials, board members and employees to disclose any personal, financial or other interests in matters affecting the Town that come before them for action. The citizens expect Town officials, board members and employees to remove themselves from decision making if they have a conflict of interest. The citizens expect Town officials, board members and employees to be independent, impartial, and responsible to their fellow townspeople in their actions. The citizens expect that the Town's official decisions and policies be made through the proper channels of government. The citizens expect that public office or a volunteer position in the Town not be used for personal gain. It is important that the public has confidence in the integrity of its government and that Town officials, board members, volunteers and employees have an opportunity to protect their personal reputation. This code establishes a process by which one may obtain guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair to all of the parties involved.

## **§ 6.3 Explanation of Code Provisions**

### **§6.3.1 Conditions for Holding Office:**

- A. Any person while holding a town office, convicted of a Class A Felony in New Hampshire or its equivalent under the law of any other state or federal law shall forfeit such office.
- B. No employee of the town shall be eligible to serve as a Councilor.
- C. Any person elected to the Town Council shall not serve on any other town boards, commission or trusteeships (with the exception of a Charter Commission), unless serving as a representative to that board from the Town Council.
- D. The Zoning Board of Adjustment shall not have any members (including alternates) who also serve on the Planning Board.
- E. Except as otherwise provided by this Charter, no department head or regular employee of the town shall serve on the Town Council or Budget Committee.

### **§6.3.2 No Conflicts of Interest**

Officials, board members and employees of the Town of Salem shall avoid conflicts of interest. A Town official, board member or employee, shall not participate in any matter in which they, or a member of their family, have a personal interest that may directly or indirectly affect or influence the performance of their duties. In such instances, they shall recuse themselves from discussion and decision-making. Recusal means to remove themselves completely from all further participation in the matter in question. Officials, board members or employees who have been recused shall immediately leave the room or shall seat themselves with the other members of the public who are present. When recused, they shall not participate in further discussions, unless they clearly state for the record that they are doing so only as a general member of the public. As a recused person, they shall not deliberate or vote on the matter in question.

### **§6.3.3 A Duty to Recuse in Quasi-Judicial Actions**

A "quasi-judicial action" is any action where the board or committee is acting like a judge or a jury. The work of the planning and zoning boards is largely quasi-judicial. Not only do officials, board members and employees of the Town of Salem have a duty to recuse themselves as outlined in the Section above, board members must recuse themselves in a quasi-judicial action if they would not be qualified to sit as a juror in that case. For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided, are prejudiced to any degree regarding the pending matter, or believe they cannot for any reason be totally fair and impartial.

### **§6.3.4 A Duty to Disclose**

Any official, board member or employee of the Town of Salem, shall not participate in the conduct of business on behalf of the Town or enter into discussion or deliberation of any matter without first, publicly, and on the record, stating all possible conflicts that may exist between themselves or their family, and the principals or the issue under consideration.

### **§6.3.5 No Unfair Personal Use of Town Property**

No official, board member or employee of the Town of Salem shall use Town property, services, or labor personally, or make the same available to others unless such use is available to other residents upon request on equal terms.

### **§6.3.6 No Misuse of Confidential Information**

No official, board member or employee of the Town of Salem shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information which is readily available to the general public. In addition, no official, board member or employee of the Town

of Salem shall violate the privacy of others by publicizing, gossiping, or discussing information confidentially acquired in the course of official duties without a legitimate reason to do so.

#### **§6.3.7 No Improper Gifts**

No board, committee or commission member shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to their knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town, nor shall any such official accept any gift, favor or thing of value that may tend to influence them in the discharge of their duties or grant in the discharge of their duties any improper favor, service or thing of value.

#### **§6.3.8 Disposition of Fees**

No elected or appointed officer or employee of the Town shall collect any fees, salaries or other payments in connection with official duties for personal use, except as provided for by ordinance or State Law.

#### **§6.3.9 A Duty to Cooperate**

All officials, board members and employees of the Town of Salem shall cooperate with the Ethics Committee regarding any complaint or inquiry alleging violation of this Code of Ethics.

#### **§6.3.10 Fair and Equal Treatment**

Acting in their official capacity, all officials, board members and employees of Town government shall give each and every person fair and equal treatment. No official, board member or employee shall in the course of their official duties give or deny any person special consideration, advantage, or treatment as a result of the person's public status, position, sex, race, religion, creed, sexual orientation, or national origin.

#### **§6.3.11 Future Employment**

No elective or appointive officer or employee of the Town shall solicit, negotiate for, or promise to accept employment with any person, firm or corporation with which the officer's or employee's department, body or agency is engaged on behalf of the Town in the transaction of business which is, or may be, affected by the officer's or employee's official action. No elective officer may become employed by the Town within one year after their term of office ends.

#### **§6.3.12 Municipal Code**

Nothing in this charter shall prohibit the Town Council from establishing more stringent or specific ethics rules in a Municipal Code.

### **§ 6.4 Definitions**

As used in this Article, the following terms shall have the meanings indicated:

**Board:** Any board, committee or commission, permanent or special, established by the Town Council under New Hampshire State Law or this Charter.

**Complainant:** A resident of the Town of Salem who has submitted a petition to the Ethics Committee requesting an inquiry or alleging a violation of the Code of Ethics.

**Conflict of Interest:** A situation, circumstance, or financial interest that has the potential to cause a private or personal interest to interfere with the proper exercise of a public duty.

**Employee:** A person who is paid by the Town of Salem for their services, but who is not an independent contractor.

**Ethics Committee:** The committee established by Article VI of this Charter.

**Family:** Any person who is related to the official, board member or employee in one of the following ways: spouse, domestic partner, parent, grandparent, child, grandchild, sibling, or similar relation to the individual's spouse. This includes all persons who are members of the same household as the official, board member or employee in question, regardless of whether or not they are related.

**Interest:** Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or claim to land.

**Official:** Any elected or appointed officer, board member, or agent of the Town of Salem.

**Principals:** Those people who are the subject of the action or application that is before the board.

**Public Servant:** A person who serves the Town of Salem in an official capacity, whether elected or appointed, paid or unpaid, any Town official, board member or employee.

**Respondent:** Board member or employee named in a petition submitted to the Ethics Committee as an inquiry or alleging a violation of the Code of Ethics.

**Resident:** A resident of the Town of Salem.

**Quasi-judicial Action:** Any action where the board or committee has a duty to notify the potential parties, hear the parties, and can only decide after weighing and considering such evidence and arguments as the parties choose to lay before them.

**Town:** The Town of Salem, including all of its departments, boards, commissions, and committees.

## **§ 6.5 Exclusions**

The provisions of this Code of Ethics shall not be interpreted so as to bar:

A. Any official, board member or employee who is a resident of the Town of Salem from fully participating in any public proceeding conducted by the Town;

B. Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws that pertain to such donations;

C. Participation in a matter that relates to a person or business from which an official, board member or employee has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;

D. Police officers, firefighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and

E. Supervisors of Town employees from appropriately carrying out personnel policies.

## **§ 6.6 Ethics Committee**

The Ethics Committee shall: Educate officials, board members and employees of the Town government regarding the provisions of the ethics code; Provide advice and counsel to officials, board members and employees regarding ethical issues with which they are confronted; and hear and resolve ethics complaints, which are filed against officials, board members and employees of Town government.

- A. Structure of the Ethics Committee: The Ethics Committee shall consist of five (5) members whose appointments must be approved by six (6) members of the Town Council for three-year terms. Such terms shall be staggered so that no more than two terms end in the same year.
- B. Duties: Committee members shall familiarize themselves with the By-Laws and Salem's Code of Ethics, and be fair and impartial in investigating all written complaints. Members of the Committee shall sign any written decisions of the Committee.
- C. Clerk: The Clerk shall be provided by the Town to maintain a record of all meetings, votes, motions, and decisions of the Committee; and shall also perform other such duties as the Committee may direct.
- D. Officers: The Committee shall elect a chair, and a vice chair, to one (1) year terms, eligible for reelection. The Chair shall preside over all meetings, hearings, and non-public sessions, establish agenda items, appoint such committees as directed by the Committee, request support from the Town, and shall perform other such duties as the Committee may direct. The Vice-Chair shall assume the duties of the Chair during the absence of the Chair, and shall swear in those who plan to give testimony before the Committee.

- E. Education: At the time that each newly elected or appointed official, board member or employee takes the oath of office, they shall receive a copy of this code, and acknowledge in writing that they have received a copy of this code. The Ethics Committee shall hold a meeting each spring for newly elected or appointed officials, board members and employees so they may familiarize themselves with the provisions of this code.
- F. Meetings: At least one regular meeting of the Committee per year shall be held at a date and time indicated in the notice of public hearing published and posted by the Committee pursuant to RSA 91-A:2. All regular meetings shall be open to the public. The following general rules of procedure shall govern the conduct of such meetings.
  - i. Nonpublic Sessions shall be called in conformity with the requirements of RSA 91-A:3.
  - ii. All investigations into complaints against members of employees, board members, or officials shall be conducted in nonpublic sessions, according to RSA 91-A:3.
- G. Inquiries: The Ethics Committee shall establish a mechanism by which officials, board members, employees and residents of the Town of Salem may obtain advice and counsel from the committee regarding ethical issues that may arise from time to time. Upon request of a Town official, board member or employee, the Ethics Committee may issue a written advisory opinion in response to such an inquiry.
- H. Complaints: The Ethics Committee shall have the power to investigate all written complaints, which are filed by citizens. They shall establish forms by which officials, board members, employees, and residents of the Town of Salem may file complaints or request that an inquiry be made. The Ethics Committee may only review complaints based on alleged violations of §6.3 (A – K) of this Article and/or any Municipal Code of Ethics adopted by the Town Council. All such requests or complaints must be in writing, shall specify the provision of the code which the complainant believes was violated, and must be signed by a resident of Salem. When signing the complaint, the complainant shall certify that he or she has read the Code of Ethics, that they believe the matter within the complaint is a fair subject of inquiry, that they have exhausted all other avenues of relief available to them within our Town government, and that they will keep the complaint confidential until the Ethics Committee has completed its work.
  - i. All investigatory proceedings of the Ethics Committee will be conducted in a Non-public session according to RSA 91-A:3.
  - ii. Any official, board member or employee against whom a written complaint is filed shall be given a copy of the complaint, and upon written request shall be afforded an opportunity to be heard and to present evidence to the Ethics Committee.
  - iii. The Ethics Committee shall have sole discretion for setting rules regarding the conduct of hearings. The Committee shall seek to make sure that both the

complainant and the respondent have an opportunity to be heard and to present evidence, but the committee may limit the testimony and evidence which is presented to it if in the opinion of the committee the testimony and evidence in question are irrelevant, unnecessary, redundant, or unreliable.

- iv. The Ethics Committee may require, with sufficient written notice, any official, board member or employee of the Town government to appear before it to provide testimony regarding pending complaints. The Ethics Committee, for this purpose, may administer oaths and require the production of evidence such as documents.
- v. The Ethics Committee may, at any time, terminate their investigation and refer the matter to law enforcement, if there is reason to believe that any criminal activity has taken place.
- vi. Within thirty (30) days of concluding an investigation into a written complaint, the Ethics Committee shall issue a written statement setting forth its findings, and recommended punishment (see §6.7). The Ethics Committee shall not have the power to impose any monetary or other penalties, only to issue a written statement as set forth above. The Ethics Committee may also find no evidence of any violations, and that shall also be reported.
- vii. The written statement setting forth the Committee's findings shall be transmitted to the Town Council. It is only at this juncture that the findings of the Committee will be read into the public record.

## **§ 6.7 Consequences**

When the Town Council has received a written statement from the Ethics Committee regarding the results of their investigation, they may choose to impose the following penalties.

- A. Censure: An official admonishment of behavior, approved by a vote of five (5) Town Councilors.
- B. Suspension: The Town Council may vote to suspend the official, employee, or board member from their duties for a period of up to ninety (90) days.
- C. Training: The Town Council may require the official, employee or board member to undergo Ethics training with an organization determined by the Council. (This penalty may be issued in conjunction with others.)
- D. Removal: In addition to the provisions of § 3.3.2, Councilors and members of standing town commissions and boards may be removed from office by a vote of six members of the Town Council, upon such a recommendation having been forwarded to the Council by the Ethics Commission.

# **ARTICLE 7 - Citizen Concerns, Initiative Petition, Referendum, Official Ballot Questions, Recall**

## **§ 7.1 Citizen Concerns**

The Council shall establish rules for residents to address the Council at regular and other meetings. The Council shall provide a minimum time for individuals to address the Council and the total time that the Council will hear concerns or proposals at each meeting. The rules shall be reviewed annually.

- A. Individual Citizen concerns may be directed to the Manager to be relayed to the appropriate department(s) or individual(s) for consideration. Acknowledgment of the concern(s) may be made to the citizen either directly or in writing. However, nothing in this section shall preclude a citizen from raising an issue directly with a Councilor.
- B. Any citizen wishing to appear before a regularly scheduled Council meeting shall present a brief statement of the concern to the Council.
- C. A citizen requesting more than five (5) minutes to present a concern shall request, in writing, to be put on the agenda of a regular Council meeting by filing with the Manager an outline of the topic to be presented. The citizen shall be notified of the time, date, and place of the meeting in which they will be heard if the request is deemed a matter in which the Council is empowered to act. Otherwise, the Manager shall respond to the citizen with the reasons why the request was not granted.

## **§ 7.2 Petitions to the Council**

### **§7.2.1 Individual Petitions, Action Discretionary**

The Town Council shall receive all petitions which are addressed to them and signed by a registered voter and may, at their discretion, take such action in regards to such petitions as they deem necessary and appropriate.

### **§7.2.2 Group Petitions, Action Required**

The Town Council shall hold a public hearing and act by taking a vote on the merits of every petition which concerns a matter in which the town is empowered to act; which is addressed to it; and which is signed by at least seventy-five (75) registered voters. The hearing shall be held by the Town Council, or by a committee or subcommittee thereof, and the action by the Town Council shall be taken not later than sixty (60) days after the petition is filed with the Town Manager. Hearings on two (2) or more petitions filed under this Section may be held at the same time and place. The Town Manager shall mail notice of the hearing to the petitioner whose name first appears on each petition at least seven (7) days before the hearing. Notice



shall be given by Publication, as defined in §3.7.2, of a summary of the contents of a petition at least seven (7) days prior to all such hearings, at public expense. No hearing shall be held upon more than one (1) petition containing the same subject matter before the next municipal election. This shall not be construed to prevent the issue from being subject to an initiative petition or a referendum within that time period. No action by the Town Council under this Section shall be required in the case of any petition to suspend the implementation of an adopted budget or enacting a land use regulation.

### **§ 7.3 Initiative Petitions**

The registered voters of the Town shall have the power to propose measures to the Council.

- A. Commencement of Proceedings: Initiative procedures shall be started by the filing of an initiative petition with the Town Manager. The petition shall be addressed to the Town Council, shall contain a request for passage of a particular measure set forth in the petition, and shall be signed by two hundred (200) voters. Signatures must be of registered Salem voters. Signatures to an initiative petition need not be all in one (1) paper. All such papers pertaining to any one (1) measure shall be fastened together and shall be filed in the office of the Town Manager as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same. With each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any. Within seven (7) days after the filing of an initiative petition, the Town Clerk shall ascertain by what number of registered voters the petition is signed, and shall attach thereto a certificate showing the result of such examination. The Town Manager shall forthwith transmit the certificate with the petition to the Town Council and at the same time shall send a copy of the certificate to the first person designated on the petition as filing the same. When such certificate establishes that the petition appears to have been signed by the requisite number of registered voters, the petition shall be deemed to contain requisite signatures unless written objections are made with regards to the signatures thereon by a registered voter within seven (7) days after such certificate has been issued, by filing such objections with the Town Council and a copy thereof with the Town Clerk. The validity of any such objection shall be determined by the Town Council at their next regular meeting.
- B. Requirements for Passage and Submission to Electorate: If the Town Council determines that the petition contains the requisite signatures of registered voters, and the petitioned initiative measure may lawfully be passed by the Town Council, the Town Council shall hold a public hearing within twenty (20) days after the petition has been finally determined to be sufficient and:
  - i. pass the measure without alteration; or

- ii. refer the matter to the ballot in the next municipal election; or
- iii. if the next municipal election is more than one hundred twenty (120) days away, and the Council is presented with a petition of five hundred (500) registered voters (verified by the same procedures as indicated in §7.3.A), schedule a special Town election. The first session of the special election shall be scheduled within thirty-five (35) days of the Council's final action and is to be conducted in accordance with the provisions of §5.6 (P) of this Charter. The ballot presenting an initiative measure shall state the nature of the measure in terms sufficient to communicate the substance thereof. The question shall be whether the initiative measure should be adopted.

## **§ 7.4 Referendum Petitions**

The registered voters of the Town shall have the power to require reconsideration by the Council of any adopted measure.

- A. Commencement of Proceedings: Referendum petitions must be filed with the Town Manager within thirty (30) days after adoption by the Town Council of the measure, or part thereof, protested by the petition. Referendum petitions shall identify specifically the measure or part thereof protested and must be signed by no less than 500 registered voters. The procedures of §7.3 (A) shall apply to referendum petitions except that the words "measure, or part thereof, protested" shall, for this purpose, replace the word "measure" in the said Section whenever it may occur; and the word "referendum" shall replace the word "initiative"; and the word "repeal" shall replace the word "passage" in said Section.
- B. Suspension of Effect of Measure or Part Thereof Protested: When a referendum petition is filed with the Town Manager, the measure or part thereof protested shall be suspended from taking effect, except for emergency ordinances adopted under §3.8 of this Charter, or ordinances adopting a budget or land use regulation, which shall not be subject to suspension. Such suspension shall terminate when:
  - i. There is a final determination of the insufficiency of the petition; or
  - ii. The filers of the petition withdraw it; or
  - iii. After certification of the Town's vote on the measure, or part thereof, being protested.
- C. Action on Petition: When a referendum petition has been finally determined to be sufficient, the Town Council shall reconsider the protested measure or part thereof by voting whether to repeal it. If the Town Council fails to repeal the protested measure or part thereof within thirty (30) days after the day the petition was finally declared sufficient, the Town Council shall submit the protested measure, or part thereof, to a vote of the Town at a special Town election to be held on a date fixed by the Town Council. The first session of the special election shall be scheduled within thirty-five (35)

days after the Town Council's final vote on repeal. The special election shall be conducted in accordance with the provisions of §5.6 (P) of this Charter. If a Town election is to be held between ninety and sixty days after the Town Council's vote on repeal, they may schedule the special election at their discretion or include it at the next Town election. However, if any other Town election is to occur within sixty (60) days after the Town Council's vote on repeal, the Town Council shall omit a special election and submit the protested measure or part thereof to a vote at such other Town election. The ballot presenting a referendum measure under this Section shall state the nature of the protested measure, or part thereof, in terms sufficient to communicate its substance. The question shall be whether the referendum measure should be repealed.

### **§ 7.5 Submission of Proposed Measure to Voters**

The Council of its own motion may submit any measure or proposition for repeal or amendment of a measure to the voters at any regular or special town election.

### **§ 7.6 Measures with Conflicting Provisions**

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

### **§ 7.7 Recall of Officeholders**

Any individual elected official who has completed at least six months of their term of office and has more than six months of their term remaining may be recalled from office by the voters as follows:

- A. Two thousand (2,000) of the registered voters of the Town may file a request for recall petition with the Clerk. This request shall include the name of the officer and the grounds for which the recall is sought, together with the signature and a legible name and address of each voter.
- B. The Clerk shall verify the names of the voters and promptly issue blank petitions for recall. Each petition shall be addressed to the Council, be dated, include the grounds for recall as stated in the request, the name of the voter to whom it is issued, the signature of the Clerk, and the Town Seal. The recall petitions bearing the signatures and legible names and addresses of at least five thousand (5,000) of the registered voters of the Town shall be returned to the Clerk within twenty (20) days. The Clerk shall promptly certify the number of voters who signed the petitions.
- C. If the petitions are certified to be sufficient by the Town Clerk, the Clerk shall submit them to the Council together with the Clerk's certification. The Council shall forthwith give written notice of the petition and certification to the officer whose recall is sought. If this officer does not resign within five days after

delivery of this notice, the Council shall convene a hearing on the removal of the official to be held no less than thirty (30) days nor more than sixty (60) days after the date the Clerk certified the petitions.

- D. If the hearing results in the removal of the official, the vacancy shall be filled according to this Charter and New Hampshire State Law.
- E. If the hearing results in the acquittal of the official, no other recall petition may be filed against the official during the remainder of their term in office.

## **ARTICLE 8 – General Provisions**

### **§ 8.1 Certificate of Election and Appointment**

Except as otherwise provided by law, before performing any act under this election or appointment, each person elected shall take and subscribe to an oath to qualify him to enter upon the duties of office. A record of the taking of such oath shall be made by the Clerk. Any oath required by this section may be administered by any officer authorized by law to administer oaths.

### **§ 8.2 Term Commencement, Notice of Election or Appointment.**

- A. Written notice of the election or appointment to any Town office or board shall be mailed to the individual involved by the Manager, within three (3) days, excluding weekends and holidays, after the appointment is made or the results of any vote are certified by the Board of Election Officers to the Council.
- B. Unless otherwise set forth in this Charter or State law, all elected officials in the Town shall take office within 10 days following their election and shall hold office until their successors are elected and qualified.

### **§ 8.3 Specific Provisions to Prevail**

To the extent that any specific provision contained in this Charter conflicts with any provision expressed in general terms, the specific provision shall prevail.

### **§ 8.4 Severability**

The sections of this Charter, and the parts hereof, are separable. If any portion or section of this Charter or the application thereof to any person or circumstance shall be held invalid by a court or competent jurisdiction, the remainder of the Charter shall not be affected thereby. If a clause, portion of, or section of this Charter is so held invalid, then the applicable provisions of State Law, if any, shall govern.

## **§ 8.5 Authentication of Charter**

Upon adoption, the official Charter, duly authenticated by affixing the signatures of all members of the Charter Commission and the Board of Selectmen, the Clerk, and affixing the Town Seal, shall be filed with the Clerk and remain in the Clerk's office as the official Charter of the Town of Salem. At its first meeting, the Council shall affirm the validity of the Town Charter.

## **§ 8.6 Charter Amendments**

- A. Amendments to this Charter may be initiated either by the Council or by initiative petition, public hearing, and voter election, pursuant to State Law.
- B. Charter Amendments and Revisions must be passed according to RSA 49-B:6:IV.
- C. All amendments to this Charter shall be authenticated by the Council and shall be filed with, and remain a part of, the official Charter.

## **§ 8.7 Violations and Penalties**

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

## **§ 8.8 Rules and Regulations**

A copy of all rules and regulations adopted by any Town agency, board, commission or individual shall be filed in the office of the Clerk and made available for review by any person who requests such information.

## **§ 8.9 Reorganization Plans**

Except for those agencies established by this Charter or as otherwise prohibited by State Law, the Council may reorganize, consolidate, or abolish any existing Town agency, in whole or in part; establish new Town agencies and prescribe the functions of any Town agencies; provided that such action shall not eliminate the statutory duties of Town officials.

## **§ 8.10 Proposed Reorganization Plans by the Manager**

The Manager may prepare and submit to the Council for its approval proposed reorganization plans which may, subject to applicable law and this Charter, reorganize, consolidate or abolish any Town agency, in whole or in part, or establish new Town agencies as are deemed necessary or expedient. Such reorganization plans shall be accompanied by explanatory messages when submitted.

## **§ 8.11 Indemnification of Town Officers, Board Members, and Employees**

In accordance with RSA 31:105, the Town shall undertake to indemnify and save harmless all its officers, officials, volunteers, boards, commissions and employees from personal loss and expense. Expenses may include reasonable legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of negligent acts or omissions if the indemnified person was acting in the scope of their office or employment and in good faith in accord with the provisions of State Law.

## **§ 8.12 Prohibition**

- A. No person shall be appointed to or removed from, or in any way favored or discriminated against, with respect to any Town position or appointed Town administrative office, because of age, race, gender, sexual orientation, political or religious opinions or affiliations.
- B. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment.
- C. No person who seeks appointment or promotion with respect to any Town position or appointed Town administrative office shall directly or indirectly give, render or pay any money, service or other valuable things to any person for, or in connection with, their test, appointment, proposed appointment, promotion or proposed promotion.
- D. No person who runs for Town office shall orally, by letter, or otherwise, solicit or assist in soliciting, any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated or appointed Town position.

## **§ 8.13 Procedures**

### **§8.13.1 Meetings**

All properly constituted authorities, boards, commissions, committees or other municipal bodies (hereafter called committees) of the Town, whether elected or appointed or otherwise constituted, shall meet regularly at such times and public places within the Town as they may prescribe. Except in emergencies, special meetings of these committees shall be held on the call of the respective chair, or by one-third of the members thereof, by written notice delivered to the residence or place of business of each member at least forty-eight (48) hours in advance of the time set. A copy of the said notice shall also be posted on the Town bulletin board(s). Except in cases of emergency otherwise authorized by the State Law, all meetings of these committees shall be open and public; however, these committees may meet in a closed or executive session as permitted by State Law, as amended.

### **§8.13.2 Committee Organization**

Each committee shall determine its own rules and order of business unless otherwise provided by the Charter or by law. The agenda and minutes shall be kept as required by State Law, as

amended. A chair and secretary shall be elected annually in accordance with the committee's rules of procedure.

### **§8.13.3 Quorum**

A majority of the members of a committee shall constitute a quorum, but a smaller number may adjourn from time to time until a quorum is achieved. No other action taken by a number of members smaller than the quorum shall be valid or binding.

### **§8.13.4 Council**

The provisions of §8.13 shall not apply to the Council to the extent that they are inconsistent with other provisions of this Charter.

## **§ 8.14 Land Use Ordinances**

All land use regulations and ordinances, including the adoption of the zoning ordinances and amendments by referendum, must be adopted pursuant to State Law. They shall be acted upon by Town Council, and adopted by a vote of six (6) of the Town Councilors.

## **§ 8.15 Public Records**

All records of the Town and all meetings of the Council, boards, committees, commissions, authorities, or other municipal bodies shall be open to the public, and their minutes and other records shall be available to the public in accordance with the provisions of RSA 91-A.

## **§ 8.16 Citizen Communication**

The Town shall maintain regular communication with its citizens by means of a regularly updated and maintained town website, emails, mailings, social media posts, and any other methods available. The Town may choose to employ staff for this purpose, or designate current staff for this role.

# **ARTICLE 9 - Administrative and Judicial Boards**

## **§ 9.1 Administrative Committees, Boards and Commissions**

### **9.1.1 Planning Board**

There shall be a Planning Board, whose powers and duties are provided by State Law. The Planning Board shall consist of seven (7) members, of whom six (6) are elected and one (1) is ex officio. The six (6) elected members shall be elected for staggered three (3) year terms. The one (1) ex officio member shall consist of a Councilor designated by the Council for a one-year term. There shall also be three (3) alternate appointed members appointed by the Board for terms of three (3) years, except those initial appointments shall be staggered so that no more than two

(2) appointed members shall have terms that expire in a single year. The Board shall fill any vacancy for the period of the unexpired term pursuant to the provisions of RSA 673:12, I.

### **9.1.2 Conservation Commission**

There shall be a Conservation Commission which shall consist of six (6) members, of whom five (5) shall be appointed by the Council and one (1) is ex officio. There shall also be three (3) alternate appointed members appointed in the same way as regularly appointed members, except no more than one alternate appointed member's term shall expire in a single year. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

### **9.1.3 Communications Committee**

There shall be a Communications Committee which shall consist of seven (7) members. Membership is as follows. One (1) ex officio, a member of the Town Hall staff responsible for maintaining the Town Website and the newsletter, and five (5) members appointed by the Council. The five (5) appointed members shall be appointed by the Council for terms of three (3) years, except that initial appointments shall be staggered so that no more than two (2) appointed members shall have terms that expire in a single year. The one (1) ex officio member shall consist of a Councilor designated by the Council for a one-year term.

### **9.1.4 Other Administrative Committees**

- i. The following Administrative Boards and Committees shall be created by the Town Council, with the composition and structure of said committees to be left to the discretion of the Town Council.
  1. Economic Development Committee
  2. Recreation Advisory Committee
  3. Historic District Commission
- ii. Other administrative boards and committees may be established as necessary by the Council.

## **§ 9.2 Zoning Board of Adjustment**

There shall be an elected Zoning Board of Adjustment consisting of five (5) members each serving a three (3) year term. There shall also be five (5) alternate appointed members appointed by the Board of Adjustment each serving a three (3) year term. Such terms shall be staggered. The Board of Adjustment shall fill any vacancy for the period of the unexpired term pursuant to the provisions of RSA 673: 12, I. The Zoning Board of Adjustment shall have all the powers granted to such boards under State Law.

## **§ 9.3 Vacancies in Elected Office**



Unless otherwise specified in this Charter, or as otherwise provided by State Law, in the event of a vacancy in an elected office, board or commission of the Town, it shall be filled pursuant to the provisions of RSA 673.

#### **§ 9.4 Vacancies in Appointed Offices**

Unless otherwise specified in this Charter or as otherwise provided by State Law, in the event of a vacancy in an appointed office, board or commission, the Council shall fill that vacancy for the balance of the unexpired term.

#### **§ 9.5 Committee Review**

At least annually, and more often if town affairs require, the Council shall meet with the chairs of all town committees to review significant actions taken by the committees, projects currently under discussion, and anticipated activity for the coming year.

### **ARTICLE 10 - Transitional Provisions**

#### **§ 10.1 Effective Date**

This Charter shall take effect upon the certification of the adoption of the charter. Prior to that date, the Selectmen shall prepare for the transition to the new form of government.

#### **§ 10.2 Effect on Incumbent Office Holders**

The Board of Selectmen, including Selectmen elected at the 2023 Town Election, shall continue in office with the duties and authority of Selectmen, but without any of the legislative authority reserved for the council, until the full council is elected and certified. They may, upon an affirmative vote of at least four selectmen, call a special election under the official ballot provision of this Charter.

The persons holding the following offices as a result of the 2023 Town election shall continue in those offices until the expiration of their terms and their successors are elected and certified: Moderator, Treasurer, Town Clerk, Tax Collector, Supervisors of the Checklist, Budget Committee, Planning Board, Zoning Board of Adjustment, Kelley Library Trustees and Trustees of the Trust Funds.

A person presently serving in an office or position, who would be prohibited from holding that office or position by any provision of this Charter, may resign said position or office, or may continue in said office or position until the expiration of their term. Notwithstanding the foregoing, no person shall hold any combination of offices or positions that are prohibited under provisions of this Charter.

### **§ 10.3 First Election**

The Town shall conduct the first election under this Charter on the second Tuesday of May 2023 to elect Town Councilors for the following terms:

All Selectmen currently holding office shall continue as Councilors until the expiration of their current term, including those elected in March of 2023.

The following positions will be elected: One Councilor for a one-year term, to expire in March of 2024. Two Councilors, each for a two-year term, to expire in March of 2025. And one Councilor for a three-year term, to expire in March of 2026.

All election officers holding office prior to, and at the time of, the first election held under this Charter, shall conduct such election, and shall have all the powers granted to them under New Hampshire State Law for such purposes and shall have all the powers that are granted to their successors under this Charter which are necessary to conduct properly such first election.

### **§ 10.4 Abolition of Certain Boards and Officials**

Effective immediately upon the election of a full Town Council being certified, the Board of Selectmen will be abolished.

### **§ 10.5 Continuation of Government**

All members of the Town government, elected or appointed, except those abolished by this Charter, shall continue to perform their duties until reappointed, reelected, or until successors to their respective positions are duly appointed, elected and certified, or their duties have been transferred. The Board of Selectmen and the successor Town Council shall take whatever measures are necessary to effectuate an orderly transition and shall take whatever actions are necessary to enable such transitions in office to comply with the provisions of this Charter.

The Administrative Code in effect on the date of the adoption of this Charter shall remain in effect until such time as the Town Council shall adopt a proposed Administrative Code.

### **§ 10.6 Councilor Salaries**

The salary to be paid to each Town councilor shall not exceed three thousand dollars (\$3,000.00) per annum. Such salaries shall continue until changed by the Town Council pursuant to § 3.5. of this Charter.

### **§ 10.7 Continuation and Compensation of Personnel**

Until expressly changed after the effective date of this Charter, the compensation of all officers, department heads, and employees of the Town shall be the same as that in effect on June 30, 2023.

Any person holding an office or position in the administrative service of the Town, or any person serving in the employment of the Town, shall retain such office or position and shall continue to perform their duties until provisions shall have been made in accordance with the Charter for the performance of the said duties by another person or agency; provided, however, that no person in the permanent full-time service or employment of the Town shall forfeit their pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as is practical.

Removal of personnel for such issues as inefficiency, poor performance, violation of policies and procedures, or other disciplinary reasons, in effect at the time of the adoption of this Charter, shall not be prohibited, provided that the continued or interim policies and/or contracts are followed.

### **§ 10.8 Transfer of Records and Property**

All records, property, and equipment of any Town agency, the powers and duties of which are assigned in whole or part to another Town agency, shall be transferred forthwith to the Town agency to which such powers and duties are assigned.

### **§ 10.9 Effect on Obligations, Taxes and Other Legal Acts**

All official bonds, recognizance, obligations, contracts, and other instruments entered into or executed by or to the Town before its adoption of this Charter; all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the Town shall be enforced and collected; and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the Charter; and no legal act done by or in favor of the Town shall be rendered invalid by the adoption of the Charter.

### **§ 10.10 Conflict Resolved in Favor of the Charter**

To the extent that there is any conflict between the Charter and any continued code, ordinance, policy or procedure, the Charter shall prevail.