

# Conducting Public Business Guidelines for Boards, Commissions and Committees



COMPILED BY:  
Durham Town Clerk's Office

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*Information subject to change.  
Please call the Town Clerk's office at 349-3453 for updates.*

# SECTION 1

DURHAM HISTORY SYNOPSIS

PARLIAMENTARY PROCEDURES

## HISTORY OF DURHAM

The history of Durham reflects the unique spirit of the town and its people. Mr. Samuel Wyllis, Captain John Talcott, Mr. James Richard and Mr. John Allyn purchased the native rights to Coginchaug from Sachem Tarramuggas and others of the Mettabeset Indians on January 24, 1672. In 1699 settlers petitioned the General Court of Connecticut for the grant of land known as Coginchaug "Long Swamp;" the land was granted in November 1699. On May 11, 1704, the Court granted permission to change the name of the land from Coginchaug to Durham, and on May 13, 1708 the town officially received its patent as the "Town of Durham." The official seal of the town, adopted September 16, 1975, bears the symbol of an ox as a reminder of Durham's support of Washington's troops during the Revolution.

The early citizens of Durham were enterprising and energetic; strongly attached to the institution of religion; men of deep reflection; and devoted to the public welfare. In 1702, when Yale was located in Saybrook, the institution granted its first diploma to Nathaniel Chauncey of Durham. The first lending library in the colonies, the Book Company of Durham, was created in October 1733. In 1866 Durham was the first town in the United States to publish its own history at state expense; William Chauncey Fowler wrote this history. The words of Fowler, written well over a century ago, still ring true today:

"As we in this generation are surrounded by our comforts and conveniences, our County lines, our Town lines, our titles to our lands recorded, our farms separated from others by fences, our religious, our literary, our civil institutions all established, - we can hardly appreciate the amount of our obligations to our fathers, who obtained and transmitted these advantages to us. They labored, and we have entered into their labors. They sowed the seed, and we are now reaping the abundant harvest, abundant beyond our brightest visions. They looked forward to us with hope, let us look back upon them with gratitude."

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History compiled from

"The Birth of Durham" published in the Town Times, April 1999.

Welcome Packet, compiled by Town Clerk's Office

Ruth Ann C. Davis, Some Findings on the Early History of the Durham School Society and of the Academy on the Green. 1964

## PARLIAMENTARY PROCEDURE:

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Source News Digest, International Institute Municipal Clerks, March, Monthly Magazine, 1999  
Used: Is Parliamentary Procedure Your Friend or Foe? Make Meetings Work for You and Your Community

Parliamentary procedure is not meant to be restrictive or prevent free expression of opinion, but rather to serve as a protection of the rights of all - the majority, the minority, individual members, absent members, and all of these together. For a governmental body, that also includes the public, your constituency. The purpose is to expedite business, maintain order, ensure justice, and make sure that the will of the organization is accomplished properly and fairly. In other words, these procedures are designed to help, not hinder, the process.

In a message to Congress in 1961, President John F. Kennedy stated, "The basis of effective government is public confidence." As a member of your city or village council, you can help inspire that confidence by being professional in your duties, by having a good working knowledge of parliamentary procedure and by projecting your image as an efficient, fair-minded knowledgeable official. An orderly, smoothly run meeting, one that accomplishes the tasks at hand, should be your goal. And it shouldn't last too long either.

It all sounds so simple. A motion is made, we talk about it, and then we vote on it. How much easier can it get? Well, we have a tendency to make it much more difficult than it has to be.

Parliamentary law is composed of the rules and customs governing deliberative assemblies. The most widely used authority is Robert's Rules of Order Newly Revised, used by more than 75 percent of all deliberative assemblies, including governmental bodies. If you have adopted the current version of RONR, it should not be your first and foremost authority, but rather your basic authority and last resort if nothing else applies. National and state laws, of course, take priority, as does your charter, and any rules that you have adopted regarding procedure. These may include if the mayor or president is entitled to speak in debate or to vote, any restrictions on abstentions, limitation on speeches, basically, anything having to do with how you procedurally conduct your meetings.

There are some basic concepts that are common to all organizations: a quorum must be present to take legal action; only one main proposition can be on the floor at a time; only one member can speak at a time; the issue and not the person is always what is under discussion; and usually, a majority vote decides.

A motion is handled in the following manner:

1. A member is recognized and makes a motion by stating "I move..." Never use "I want to..." or "I think we should..." or "I motion..." or "So moved."
2. Another member "seconds" the motion, without waiting for recognition. This means that another person thinks the subject is important enough for discussion and vote. (To expedite business and avoid confusion when no second is offered, you might want to adopt a rule that eliminates the requirement for a second.)
3. The chair states the question: "It is moved and seconded that..."  
  
The motion now belongs to the assembly for discussion.
4. The chair asks, "Is there any discussion?" or "Are you ready for the question?" The meeting is opened for debate, and the member who made the motion has first priority in speaking to

the question. According to RONR, each member has the right to speak twice in debate, but may not speak the second time until everyone has had a chance to speak the first time.

5. The chair states "The question is on the adoption of the motion to..." The vote is taken by whatever means is established in your community. If by voice vote, "All those in favor say "aye." All those opposed, say "no."
6. The chair announces the results of the vote. "The ayes have it and the motion is adopted." Or "The noes have it, and the motion is lost."

The chair must be comfortable not only with procedures in handling motions, but also showing impartiality, keeping discussion focused, soliciting opinions from members, not allowing blame-oriented statements protecting staff and colleagues from verbal abuse or attack, encouraging alternate solutions, making sure everyone knows what is being voted on, and even what a yes and a no vote mean.

Individual members should respect their colleagues and the chair, obtain the floor by being recognized by the chair before speaking, use correct terminology, limit remarks to the issue under consideration, raise concerns and objections during debate, and actively listen to citizen input and discussion.

Also remember, silence gives consent. Some communities have a restriction on the ability of members to abstain from voting or they may need approval of a majority, or even unanimous approval, of the other members, in order to abstain from voting. If you have no such rule, you may abstain, but the abstention is not counted as a "Yes" or a "No" vote. In essence, you have given your permission to the will of the majority, whatever that might be.

**Following are the five classes of motions and some examples of when to use them:**

1. **Main Motion**
  - a. To introduce a subject, make a main motion.
2. **Subsidiary Motions assist the members in treating or disposing of a main motion.**
  - a. To kill or reject a main motion without a direct vote on it, move to postpone indefinitely.
  - b. To change a pending motion, move to amend.
  - c. To send a pending question to a small group for further study, move to commit or refer.
  - d. To put off action or a decision until later in the same or next meeting, move to postpone definitely.
  - e. To change the rules of debate, move to limit or extend limits of debate.
  - f. To close debate, move the previous question.
  - g. To set aside the pending question temporarily in order to take up more pressing business, move to lay on the table.
3. **Privileged Motions deal with rights and privileges of members and do not directly affect the main motion.**
  - a. To return to the printed agenda, call for the orders of the day.
  - b. To secure a privilege, such as ensuring your ability to see or hear, raise a question of privilege.
  - c. To take a short break in the meeting, move to recess.
  - d. To close a meeting, move to adjourn.
  - e. To set a time to continue the business without adjourning the current meeting, move to fix the time to which to adjourn.
4. **Incidental Motions are incidental to the business at hand.**
  - a. To enforce the rules, rise to a point of order.

- b. To reverse or question the decision of the chair, appeal.
  - c. To question the correctness of a voice vote as announced by the chair, call for a division of the assembly (rising vote).
- 5. Motions that bring a question again before the assembly allow the assembly to reopen a completed question.**
- a. To consider again a motion already decided that is not impossible to undo, if you voted on the prevailing side (yes, if was adopted, no, if it was lost), move to reconsider.
  - b. To change what was adopted at a previous meeting, move to amend something previously adopted.
  - c. To change the outcome of an affirmative vote, move to rescind.

Each of these motions, of course, has its own rules regarding when it is in order, if it must be seconded, if debatable or amendable, and what vote is required for adoption, even if it can be reconsidered. Make it your business to become as knowledgeable as you can, and then share your knowledge with others.

As you perform your duties as an elected official in the public meetings in your community, keep in mind the wisdom of General Henry Robert who wrote the following:

"In enforcing the rules there is a need for the exercise of tact and good sense. In small assemblies, and especially when the members are unfamiliar with parliamentary procedure, a strict enforcement of the rules is unwise. It is usually a mistake to insist upon technical points, so long as no one is being defrauded of his rights and the will of the majority is being carried out. The rules and customs are designed to help and not to hinder business."

The following is taken from: ***Simplified Rules of Order Principles of Parliamentary Procedure***

1. The purpose of parliamentary procedure is to make it easier for people to work together effectively and to help groups accomplish their purposes. Rules of procedure should assist a meeting, not inhibit it.
2. A meeting can deal with only one matter at a time. The various kinds of motions have therefore been assigned in order of precedence.
3. All members have equal rights, privileges and obligations. One of the chairperson's main responsibilities is to use the authority of the chair to ensure that all people attending a meeting are treated equally – for example, not to permit a vocal few to dominate the debates.
4. A majority vote decides an issue. In any group, each member agrees to be governed by the vote of the majority. Parliamentary rules enable a meeting to determine the will of the majority of those attending a meeting.
5. The rights of the minority must be protected at all times. Although the ultimate decision rests with a majority, all members have such basic rights as the right to be heard and the right to oppose. The rights of all members – majority and minority – should be the concern of every member, for a person may be in a majority on one question, but in a minority on the next question.
6. Every matter presented for decision should be discussed fully. The right of every member to speak on issue is as important as each member's right to vote.

7. Every member has the right to understand the meaning of any question presented to a meeting, and to know what effect a decision will have. A member always has the right to request information on any motion he or she does not thoroughly understand. Moreover, all meetings must be characterized by fairness and by good faith. Parliamentary strategy is the art of using procedure legitimately to support or defeat a proposal.

## **ORDER OF BUSINESS**

1. Call to order
2. Opening exercises (optional)
3. Roll Call
4. Minutes
5. Correspondence
6. Treasurer's Report
7. Reports of Standing Committees
8. Reports of Special Committees
9. Unfinished Business
10. New Business
11. Program (optional)
12. Announcements
13. Adjournment

LAY ON THE TABLE	S	ND	NA	M
PREVIOUS QUESTION	S	ND	NA	2/3
LIMIT, EXTEND DEBATE	S	ND	A	2/3
POSTPONE DEFINITELY	S	D	A	M
REFER TO COMMITTEE	S	D	A	M
AMEND	S	D	A	M
POSTPONE INDEFINITELY	S	D	NA	M
MAIN MOTION	S	D	A	M

## **CHART OF SUBSIDIARY MOTIONS**

Key: S – Second required                      A - Amendable  
 D – Debatable                                  NA – Not amendable  
 ND – Not debatable                          M – Majority vote required  
 2/3 – 2/3 vote required



**PARLIAMENTARY RULES AND CUSTOMS (SIMPLIFIED)**  
**On How To Run A Meeting**

1. Usual Order of Business
  - A. Chairman: Calls meeting to order
  - B. Chairman: The clerk will call the roll
  - C. Chairman: Will the Secretary please read the minutes of the previous meeting?
    1. Secretary reads minutes:
      - a. Name of Organization
      - b. Date of meeting, called to order by whom, place of Meeting, minutes approved. Respectfully submitted John Doe, Secry.
  - D. Chairman: Are there any corrections or additions?
1. Members may make any. If they do so the Chairman says, "The Secretary will make the necessary corrections." If there are no corrections, Chairman says, "The minutes will stand approved as read."
2. Treasurer's Report.
3. Reports of Committees: At conclusion of each report, members may question the report.
4. Discuss Old Business
5. Discuss New Business
6. Special Program, if any
7. Adjournment: A member may say, "I move the meeting be adjourned." This would be seconded and passed by majority vote. Chairman may also move for adjournment.

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1. Only one question can be considered at a time.
  2. No one can make a motion or speak in debate until he has risen, addressed the presiding officer by his proper title and has been "recognized" by him, and thus "obtained the floor."
  3. No one can speak unreasonably long.
  4. No one can speak more than twice on the same question at the same meeting, without permission of assembly.
  5. No member can speak a second time on the same question if any one who has not spoken to that question desires to speak.
  6. No one in speaking can address remarks to another member or use another member's name when it can be avoided. Remarks must be addressed to the presiding officer.
  7. When a question is once before the assembly, it must be adopted or rejected by vote or be disposed of in some other way.

**PRINCIPLES**

Courtesy to all  
Justice to all  
Rule of Majority  
Right of Minority

**OBJECTIVES**

Expedite business  
Maintain order  
Insure Justice and Equality to all  
Accomplish the objections



# HOW TO CLOSE THOSE ENDLESS DEBATES?

By Eli Mina, P.R.P.

[This article taken from the IIMC News Digest, April 2002 Issue]

The information in this article is drawn from the author's book *The Complete Handbook of Business Meetings* and from *Robert's Rules of Order Newly Revised* (RONR, 2000 edition). Keep in mind that provisions from your governing documents (statute, procedure bylaw) supersede any book on rules of order (which would apply only in cases where the statute and procedure bylaw are silent).

Here is a situation for you to consider: During a Council meeting, debate on a resolution becomes prolonged and repetitive. "Question!" shouts a member with impatience and frustration. Other members join in the chorus, but others still wish to debate the resolution. What should the presiding officer do? Does the call "Question" mean that debate is automatically closed?

Despite prevailing practices to the contrary, the answer to the above question is a clear and resounding "NO." The decision to close debate should not be made unilaterally by the presiding officer, nor should a few vocal members shouting "Question" force it!

On page 373, RONR states: "...every member of the assembly has the right to speak to every debatable motion before it is finally acted upon; and subject only to general limitations on debate established by parliamentary law or the rules of the body..., this right cannot be interfered with except by a two-thirds vote." And, on page 204, RONR states: "Calls of 'Question' by members from their seats are not motions for the Previous Question and are disorderly if another member is speaking or seeking recognition."

The above provisions are intended to protect the rights of members to debate proposals. Properly applied, these provisions will prevent a few vocal members or a bare majority from suppressing the rights of a minority. The organization will also be served since the likelihood of hasty and ill-advised decisions will be reduced.

Consider this example of an extreme abuse of "calling the question," which took place in one organization a few years ago: A contentious resolution was introduced, and the chair recognized the mover to speak on it first. The mover, interested in getting the resolution off the floor quickly said, "I call the question." The chair erroneously took it to mean that debate was over (before it even began) and – despite protests from other members – quickly took the vote and proceeded to the next resolution. Was justice served? Were the best interests of the organization advanced? Hardly.

In the above example, the fundamental right to debate resolutions was flagrantly taken away. It was not the assembly that forced the closure of debate. Rather, it was a single member who forced closure, with the chair's compliance. The situation was made worse by other members' ignorance of their rights, which caused them to accept this violation and not pursue the matter via a point of order.

So what is the proper way to close debate? What if there has been sufficient debate and – in the interests of concluding the business of the assembly – it is desired to close debate, even if some members still want to speak?

#### **A MOTION TO CLOSE DEBATE**

If some members want to close debate and others don't, a formal motion to close debate on the pending resolution can be made, "I move to close debate and vote now," or "I move the previous questions," and "I call the question," are equivalent terms and should be treated the same way.

In order to move to close debate, a member must wait for his or her turn to speak (rather than – as is often done – shout, "Question" without receiving permission to speak). The motion to close debate requires a seconder, is not debatable. Although RONR requires a two-thirds vote to adopt the motion to close debate (see section 16), your statute may require a simple majority for all procedural motions. Your statute or procedure bylaw supersedes any book on rule of order.

When taking the vote on the motion to close debate, the chair should make it abundantly clear that, "We are now voting on whether or not to close debate. If the assembly decides to close debate, we will proceed immediately to take a separate vote on the resolution itself."

#### **INFORMAL WAYS OF CLOSING DEBATE**

The motion to close debate, as described above, is a formal way of closing debate. This formality is needed when some members still wish to debate a pending motion, while others wish to move on. However, there are times when a formal motion to close debate serves no useful purpose and can be foregone. For example:

- If debate appears to have ended, the chair can say: "There being no further discussion, we will proceed to the vote. The resolution is:\_\_\_\_, etc.
- If a member calls "Question" and there appear to be no members who wish to speak, the chair can ask: "Are the members ready for the vote?" and, hearing no objection, can proceed to take the vote on the pending resolution: "We will now vote on the resolution to \_\_\_\_\_. Those in favor please raise your hands. Thank you. Those opposed please raise your hands. Thank you. The resolution is adopted (or defeated)."

In the above examples, the formality of a motion to close debate is foregone, but the principles on closing debate are preserved: The assembly is still involved in making the decision to close debate (by being asked if it is ready for the vote).

Still on the informal side: If debate on a motion is repetitive and no one suggests that it be closed, the chair can informally expedite the debate through a phrase like this: "In the interests of saving time, I would suggest that members speak only if they have something new to add to the discussion," with the hope that members will be persuaded to be more efficient with their comments.

## OTHER WAYS OF CLOSING DEBATE

There are still other methods of closing or expediting debate:

- By approving a timed agenda, with items scheduled to be taken up at specific times. For example, if a resolution is scheduled for 9:00 p.m., the preceding business must be disposed of at that time, unless the assembly agrees to extend the debate.
- By approving time limits on resolutions, for example: “up to 30 minutes per debatable motion,” or “up to 45 minutes on the resolution covering the budget.” When the time expires, a vote on the pending motion must be taken, unless the assembly agrees to extend the debate.
- By approving rules on the length and number of speeches that members are allowed on each debatable motion. Typical limits allow each member up to two speeches on each debatable motion, with each speech limited between three and five minutes.

## CONCLUSION

The decision to close debate on a resolution should not be taken lightly, since it can affect the quality of the decisions made by the assembly. Formal or less formal procedures may be used to close or expedite debate, as long as the members (as a collective decision making body) are involved in making these decisions.

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Editor's Note: Eli Mina M.Sc., P.R.P. is a professional meeting chairman, seminar leader, book author, and registered parliamentarian. He specializes in chairing contentious meetings, demystifying and humanizing the rules of order, and leading interactive training programs. Eli can be reached at (604/730-0377, or by e-mail a [eli@elimina.com](mailto:eli@elimina.com).)

Mina is the author of *The Complete Handbook of Business Meetings*, published by the American Management Association (AMACOM Books) as its definitive guide to meetings and rules of order. For book highlights visit [www.elimina.com](http://www.elimina.com).

## SECTION 2

TIME FRAME FOR NOTICING MEETINGS  
(AGENDA & MINUTES)

FREEDOM OF INFORMATION (FOI)

# Time Frame for Noticing Meetings Filing of Votes & Minutes

## REQUIREMENTS FOR MEETINGS UNDER THE FOIA

Type	Notice	Agenda/Notice	Adding to Contents	Filing Record Agenda/Notice	Filing Minutes of Vote
<b>Regular</b>	File yearly schedule with Town Clerk By Jan 31 <sup>st</sup> .	Agenda available at least 24 hrs. before meeting.	Agenda items may be added by 2/3 vote of those members present and voting.	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 7 days after meeting
<b>Special</b>	At least 24 hrs. before meeting, file at Town Clerk's office.	At least 24 hrs. before meeting. Time, place & business must be included in notice.	Not permitted.	Within 48 hrs. after meeting (if minutes not available withing 48 hours) *	Within 7 days after meeting. *
	Written notice to agency members.				
<b>Emergency</b>	None required If emergency is justified.	None required if emergency is justified.	Only emergency matters may be considered.	Within 48 hrs. after meeting (if minutes not available within 48 hours.) *	Within 72 hrs. after meeting. * Must state reason for emergency.

\* Exclude Saturdays, Sundays, legal holidays and any day on which the agency office is closed.

**ADJOURNED & CONTINUED MEETINGS:** Notice requirements same as those for SPECIAL MEETINGS, except that a notice of adjournment must be posted at the meeting room within 24 hours of the adjournment or continuance (if a meeting is continued to a time less than 24 hours later, the notice must be posted on or near the door immediately. Notify Town Clerk).

**EXECUTIVE SESSION REQUIREMENTS:** Only agency members may attend, except for persons invited to testify or give opinion (attendance limited to time persons are providing testimony or opinion). The agency must vote, by at least 2/3rds of those present and voting, to convene in executive session in public, and must state the purpose. Permitted executive session purposes are: 1) discussion of appointment, performance, evaluations, health & dismissals of an employee (the employee must be notified and can require a public meeting); 2) strategy & negotiations with respect to pending claims and litigation; 3) security matters; 4) real estate acquisition by a political subdivision (if openness is likely to increase the price); and 5) discussions that would disclose records that are exempt from disclosure.

# *Freedom of Information Commission*

## **HIGHLIGHTS OF THE FREEDOM OF INFORMATION ACT (Be Sure To Consult Statutes)**

### **PUBLIC AGENCIES**

YOU HAVE THE RIGHT TO OBTAIN RECORDS AND ATTEND MEETINGS OF ALL PUBLIC AGENCIES - WITH CERTAIN LIMITED EXCEPTIONS.

This applies to

-State and local government agencies, departments, institutions, boards, commissions and authorities and their committees.

-Executive, administrative or legislative offices, and the judicial branch and the Division of Criminal Justice with respect to their administrative functions.

-Certain other entities based on the following criteria: (1) whether the entity performs a governmental function; (2) the level of government funding; (3) the extent of government involvement or regulation; and (4) whether the entity was created by the government.

### **PUBLIC MEETINGS**

I. MEETINGS, INCLUDING HEARINGS AND OTHER PROCEEDINGS, MUST BE OPEN TO THE PUBLIC - EXCEPT IN LIMITED SITUATIONS.

A public meeting is any hearing or other proceeding of a public agency, or gathering of, or communication by or to a quorum of a multi-member agency, to discuss or act on any matter over which it has authority.

The following are not public meetings: meetings of certain personnel search committees; collective bargaining strategy and negotiating sessions; caucuses; chance or social gatherings not intended to relate to official business; administrative or staff meetings of a single-member agency (e.g., mayor); and communications limited to notice of agency meetings or their agendas.

No registration or other requirements may be imposed on a member of the public seeking attendance at a public meeting.

The public, as well as the news media, may photograph, record or broadcast meetings, subject to prior reasonable rules regarding non-interference with the conduct of the meeting.

## II. ONLY THREE KINDS OF MEETINGS ARE RECOGNIZED UNDER THE FREEDOM OF INFORMATION ACT: REGULAR, SPECIAL AND EMERGENCY.

A state agency must file each year a schedule of its regular meetings with the Secretary of the State. A town or city agency must file each year a schedule of its regular meetings with the clerk of the town or city. A multi-town district or agency must file each year a schedule of its regular meetings with the clerk of each municipal member of the district or agency. A special meeting may be called up to 24 hours (excluding weekends, holidays, and days on which the office of the Secretary of the State or municipal clerk, as the case may be, is closed) before the time set for the meeting. A special meeting is called by filing a notice stating the time, place and business to be transacted.

A state agency files this notice with the Secretary of the State; a local agency files this notice with the municipal clerk; a multi-town district or agency files this notice with the clerk of each municipal member of the district or agency.

An emergency meeting may be held without complying with the preceding notice requirements. However, the agency must file its minutes, including the reason for the emergency, within 72 hours (excluding weekends and holidays) of the meeting with the Secretary of the State if a state agency; or with the municipal clerk if a local agency; or with the clerk of each municipal member if a multi-town district or agency.

## III. YOU ARE ENTITLED TO RECEIVE A COPY OF THE NOTICE AND AGENDA OF A MEETING.

An agency is required to send a notice of its meetings, where practicable at least 1 week prior to the meeting date, to any person who has made a written request. The agency may establish a reasonable charge for this service.

Each agency must make available its agenda for each regular meeting at least 24 hours before the meeting to which it refers. New business not on the agenda may be considered and acted on only on a 2/3 vote of the members of the agency.

## IV. AGENCY MINUTES AND RECORD OF VOTES MUST BE AVAILABLE TO THE PUBLIC.

The minutes of each agency meeting must be made available to the public within 7 days of the session to which they refer in the agency's office if it has one; or, if



none, in the office of the Secretary of the State for state agencies or in the municipal clerk's office for local agencies. In the case of special meetings, the 7 day period excludes weekends and holidays. The minutes must contain the record of each member's vote on any issue before the agency.

The votes of each member on any issue must be put in writing and made available to the public within 48 hours, excluding weekends and holidays, of the meeting at which the votes were taken.

The minutes of a meeting at which an executive session occurs must indicate all persons who were in attendance at the closed session, except for job applicants who were interviewed.

## **EXECUTIVE SESSIONS**

I. AN AGENCY MAY CLOSE CERTAIN PORTIONS OF ITS MEETINGS BY A VOTE OF 2/3 OF THE MEMBERS PRESENT AND VOTING. THIS VOTE MUST BE CONDUCTED AT A PUBLIC SESSION.

Meetings to discuss the following matters may be closed: specific employees (unless the employee concerned requests that the discussions be open to the public); strategy and negotiations regarding pending claims and litigation; security matters; real estate acquisition (if openness might increase price); or any matter that would result in the disclosure of a public record exempted from the disclosure requirements for public records.

Any business or discussion in a closed session must be limited to the above areas.

The agency may invite persons to present testimony or opinion in the executive session, but their attendance must be limited to only the time necessary for that testimony or opinion.

## **PUBLIC RECORDS**

I. MOST RECORDS OR FILES OF STATE AND LOCAL AGENCIES, INCLUDING MINUTES OF ALL THEIR MEETINGS, ARE AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING.

This includes

-Information or data which is typed, handwritten, tape recorded, printed, photographed or computer-stored.

-Most inter-agency and intra-agency memoranda or letters.

## II. RECORDS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL LAW OR STATE STATUTE ARE NOT AVAILABLE TO THE PUBLIC.

In addition, the following records may not be available to the public: some preliminary drafts or notes; personnel or medical files; certain law enforcement records, including arrest records of juveniles and some witness and victim identification information; records relating to pending claims and litigation; trade secrets and certain commercial or financial information; test questions used to administer licensing, employment or academic examinations; real estate appraisals and construction contracts until all of the property has been acquired; personal financial data required by a licensing agency; records relating to collective bargaining; tax returns and communications privileged by the attorney-client relationship; names and addresses of public school students; information obtained by illegal means; certain investigation records of reported misconduct in state government or names of state employees who report such misconduct to the state Attorney General or Auditors; certain adoption records; election, primary, referenda and town meeting petition pages, until certified; certain health authority complaints and records; certain educational records; certain records, when there are reasonable grounds to believe disclosure may result in a safety risk; and certain records, if disclosure would compromise the security or integrity of an information technology system. Also, records of personnel search committees need not be disclosed if they would identify executive level employment candidates without their consent.

## III. YOU MAY INSPECT PUBLIC RECORDS DURING REGULAR OFFICE HOURS, BUT COPIES, PRINT-OUTS OR TRANSCRIPTS SHOULD BE REQUESTED IN WRITING.

The fee for a copy of a public record from a state agency must not exceed 25¢ per page. The fee for a copy of a public record from a non-state agency must not exceed 50¢ per page. The fee for a computer disk, tape, printout or for a transcript, or a copy thereof, must not exceed the actual cost to the agency involved. The agency may also require the prepayment of these fees if their estimated cost is \$10.00 or more. No sales tax may be imposed for copies of the public records requested under this Act.

The agency is required to waive any fee for copies if the person requesting the copies is poor and cannot afford it; or if the agency determines that the request benefits the public welfare.

There is an additional charge for a certified copy of a public record.

You are entitled to prompt access to inspect or copy public records. If an agency fails to respond to a request within four business days, such failure can be treated as a denial of the request.

## **THE FREEDOM OF INFORMATION COMMISSION**

I. YOU MAY APPEAL THE DENIAL OF ANY RIGHT CONFERRED BY THIS ACT TO THE FREEDOM OF INFORMATION COMMISSION.

You do not have to hire a lawyer to appeal to the Commission.

You must, however, appeal to the Commission within 30 days of the denial of any right conferred by this Act.

II. IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS UNDER THE FREEDOM OF INFORMATION ACT, INCLUDING HOW TO APPEAL, CONTACT:  
FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT  
18-20 TRINITY STREET  
HARTFORD, CONNECTICUT 06106  
TELEPHONE: (860) 566-5682  
TOLL-FREE (CT ONLY): (866) 374-3617  
FAX: (860) 566-6474  
EMAIL: [FOI@PO.STATE.CT.US](mailto:FOI@PO.STATE.CT.US)  
[HTTP://WWW.STATE.CT.US/FOI/](http://WWW.STATE.CT.US/FOI/)

## **Section 3**

### **Durham's Charter**

# **TOWN OF DURHAM TOWN CHARTER**

## **PREAMBLE**

We, the electors of the Town of Durham, acting pursuant to the applicable statutes of the State of Connecticut relating to the adoption of town charters, in order to provide a basic organic law defining the powers, duties, rights and obligations of the citizens, officers and administrative bodies of the Town of Durham, do hereby approve this Charter for the Town of Durham.

## **CHAPTER 1: INCORPORATION AND GENERAL POWERS**

### **Section 1.1 Incorporation**

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

### **Section 1.2 Rights and Obligations**

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

### **Section 1.3 General Grant of Powers**

In addition to all powers granted to towns under the Constitution and General Statutes, the town shall have all powers specifically granted by this Charter and all powers fairly implied in or incident to the powers expressly granted herein and all other powers incident to the management of the property, government and affairs of the town, including the powers to enter into contracts with the United States, any federal agency, the State of Connecticut or any political subdivision thereof for services and the use of facilities, the exercise of which is not expressly forbidden by the federal and state

constitutions and General Statutes of the State of Connecticut. In the event that the functions of existing offices and/or agencies are transferred under such contract or agreement, such offices and/or agencies may, by ordinance, be abolished.

#### **Section 1.4 Hiring of Staff**

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

### **CHAPTER 2. OFFICERS AND ELECTIONS**

#### **Section 2.1 General Town Elections**

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

- (1) A Board of Selectmen consisting of a First Selectmen and two (2) additional members; a Town Clerk; a Tax Collector; a Town Treasurer, and two (2) Registrars of Voters, all for terms of four (4) years each.
- (2) Two (2) members of the six-member Board of Finance for the term of six (6) years each.
- (3) One (1) member of the three-member Board of Assessment Appeals for the term of six (6) years each.
- (4) Two (2) or three (3) regular members and one (1) or two (2) alternate members of the five (5) member Zoning Board of Appeals for terms of four (4) years.
- (5) Four (4) or five (5) regular members and one (1) or two (2) alternate members of the nine (9) member Planning and Zoning commission, for terms of four (4) years.
- (6) Sufficient members to maintain a full delegation to represent the town on the Regional District 13 Board of Education, for terms of four (4) years each.

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

#### **Section 2.2 State Election**

Nomination and election of state and federal officers and other elective officers of the town, including two (2) registrars of voters shall be conducted in the manner prescribed in the Constitution of the United States and the General Statutes. The nomination or appointment of (18) Justices of the Peace shall also be conducted in this manner. The

Registrars of Voters shall prepare lists of electors qualified to vote in accordance with said laws.

**Section 2.3 Minority Representation**

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

Total Membership	Maximum From One Party
3	2
4	3
5	4
6	4
7	5
8	5
9	6
More than 9	No more than two-thirds of total membership

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

**Section 2.4 Breaking a Tie**

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

**Section 2.5 Eligibility**

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

**Section 2.6 Vacancies Other Than Expiration of Term**

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

Vacancies created by the demise or resignation of a board member shall be reported by the chairman or resigning board member, in writing, to the Town Clerk and to the Board

of Selectmen as soon as such information becomes available and before the first meeting of the Board of Selectmen following the reporting of said vacancy.

Such impending or actual vacancies shall be publicized. The Board of Selectmen shall make such appointment no sooner than five (5) days nor later than thirty (30) days after the Board of Selectmen's meeting at which the vacancy is announced.

Such vacancies shall be filled as follows:

(1) **Selectman**. Such vacancy shall be filled by appointment by the remaining Selectmen, and such appointee shall be a member of the same political party as the person vacating the office. Should the remaining Selectmen be unable to agree on the appointment within thirty (30) days after the office is vacated, the procedure prescribed in the General Statutes shall be followed.

(2) **Office filled by General Town Election or Appointment**. When a person vacating the office shall have been elected or appointed as a member of a political party, such vacancy shall be filled by appointment of a member of the same political party.

(3) **Office filled by Election at Annual Town Meeting or Annual Budget Meeting**. Such vacancy shall be filled by appointment not in conflict with Section 2.3 (minority representation) of this Charter and the General Statutes.

(4) The First Selectman or his/her appointed representative, shall provide each person appointed to a board, commission or other position, a copy of the ordinance, General Statute or other source clearly defining the appointee's duties.

### **Section 2.7 [New] Vacancies: Expiration of Terms**

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

### **Section 2.8 [Formerly 2.7] Officers of Boards**

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

### **Section 2.9 General Powers, Duties and Remuneration**

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



### **Section 2.10 Minutes of Meetings**

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

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

### **Section 2.11 Referendum**

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

### **Section 2.12 Regional Districts**

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

## **CHAPTER 3. TOWN MEETING**

### **Section 3.1.1 Legislative Powers**

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

### **Section 3.1.2 Annual and Special Meetings**

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

### **Section 3.1.3 Call of Special Meetings**

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

### **Section 3.1.4 Legal Notice**

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

Warnings must contain place, date, and hour of meeting and list all articles to be acted upon.

### **Section 3.2 Organization and Procedure**

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

#### **Section 3.2.1 Voting Qualifications**

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

### **Section 3.3 Annual Budget**

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

#### **Section 3.3.1 Annual Budget Meeting**

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

### **Section 3.4. Special Appropriations**

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

### **Section 3.5 Ordinances**

### **Section 3.5.1 Petition For Enactment of Ordinances**

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

### **Section 3.5.2 Action on Ordinances**

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

### **Section 3.6 Sale or Purchase of Real Estate**

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

### **Section 3.7 Actions Requiring Referendum**

Any action of the town requiring 1) a special appropriation or the borrowing of one hundred thousand dollars (\$100,000.00) or more, or 2) the acquisition or taking of any property through Eminent Domain proceedings shall be the subject of a referendum conducted according to the General Statutes.

## **CHAPTER 4: BOARD OF SELECTMEN**

### **Section 4.1 Number of Selectmen**

There shall be a Board of Selectmen consisting of a First Selectman and two (2) additional Selectmen, hereinafter referred to as the Selectmen, who shall be compensated in such manner and amount as set by vote of the Annual Budget Meeting, upon recommendation of the Board of Finance.

The candidate receiving the largest number of votes for First Selectman at the General Town Election shall be declared elected to the office of First Selectman. The two (2) candidates receiving the next highest number of votes at the General Town Election shall be declared elected to the Board of Selectmen.

## **Section 4.2 Procedures**

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

## **Section 4.3 General Powers and Duties**

### **Section 4.3.1 Affairs of the Town**

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

### **Section 4.3.2 Capital Expenditures**

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

### **Section 4.3.3 Joint Meeting With Other Town Agencies**

The Board of Selectmen shall be responsible for holding joint meetings at least two (2) times a year with one or more members of all boards, commissions, and agencies to coordinate the planning and action of such. The items discussed shall be appropriately recorded.

### **Section 4.3.4 Town Budget**

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

### **Section 4.3.5 Financial Planning**

The Board of Selectmen shall be responsible for reviewing the current and projected administrative and fiscal needs of the town and shall develop, maintain and update

annually a long-range comprehensive financial plan. Said plan shall be filed with the Town Clerk.

#### **Section 4.3.6 Town Procurement Policy**

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

#### **Section 4.4 Appointments**

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

#### **Section 4.5 Powers With Respect to Ordinances**

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

#### **Section 4.6 Additional Powers and Duties of Board of Selectmen**

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

- (1) To incur indebtedness in the name of the town, and to provide for the due execution of contracts and evidences of indebtedness issued by the town;
- (2) To purchase, lease, sell, or convey real or personal property of or for the town; and also with the approval of the Planning and Zoning Commission under General Statutes, or any successor statute of similar import, the Selectmen may accept any of the following without town meeting approval: new roads constructed to town standards and interests in land reserved as open space or otherwise protected from development pursuant to a development plan approved by the Planning and Zoning Commission.
- (3) To institute, prosecute, defend, or negotiate any legal action or proceeding by or against the town;
- (4) To enter into contractual arrangements with other municipalities to obtain needed services provided such arrangements meet with provisions set forth in Section 5.1.9 of this Charter;
- (5) To put out to public bid all contracts in amounts in excess of (\$5,000.00); in accordance with the Town Procurement Policy;
- (6) To pay all town bills and record all town expenditures against appropriations.

### **Section 4.7 Other Powers and Duties**

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

### **Section 4.8. The First Selectman**

The First Selectman shall be:

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

### **Section 4.9 Duties of the First Selectman**

The First Selectman shall be responsible for:

- (1) Executing and carrying out all ordinances, resolutions, policies and other action approved by the Board of Selectmen or a town meeting;
- (2) Coordinating administration of the agencies, boards, and commissions of the town, except those functions expressly reserved or delegated to such agencies by law;
- (3) Guiding the Board of Selectmen in the discharge of all the Board's duties and responsibilities;
- (4) Directing and supervising the activities of town employees, and where the First Selectman deems advisable, working with town employees, except employees of the Board of Education and employees whose employment is otherwise provided by law;
- (5) Keeping full and complete records of the activities of this office;
- (6) Providing monthly written financial reports and analysis to the Board of Selectmen and the Board of Finance; such report shall be filed with the Town Clerk by the end of the following month;
- (7) Keeping or causing to be kept complete books of account showing the financial transactions of the town, and all other accounts and records as may be prescribed by the Board of Selectmen, the General Statutes, this Charter, and a town meeting.

#### **Section 4.9.1 Delegation of Duties**

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

## **CHAPTER 5: FINANCE AND TAXATION**

### **Section 5.1 Board of Finance**

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

**Section 5.1.1 Qualifications -- Meetings**

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

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

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

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

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

**Section 5.1.2 Vacancies**

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

**Section 5.1.3 Quorum**

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

**Section 5.1.4 Annual Audit**

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

**Section 5.1.5 Preparation of the Budget**

At such time and in such manner as the Board of Finance may require, but not later than January 15, every agency and office of the town supported wholly or in part by town revenues, or for which a specific town appropriation is or may be made, shall present to the Board of Selectmen and to the Board of Finance an itemized estimate of the expenditures to be made by that agency/office and all revenues other than town appropriations to be received by it for its use during the ensuing fiscal year. The estimates shall be accompanied by such other reports and data as the Board of Finance or the Board of Selectmen may require. Each agency/office may also be required to submit a statement of its program or programs showing services, activities, and work to be accomplished during the ensuing year. These data and reports will be compiled into a preliminary proposed general town budget.

At such time and in such a manner as the Board of Finance may by regulation require, but not less than forty-five (45) days prior to the annual budget meeting, the Board of Selectmen shall present the proposed preliminary budget, with its recommendations, to the Board of Finance for review and final preparation. After reviewing the budget as

presented by the Board of Selectmen and Education, the Board of Finance shall prepare the final proposed town budget for presentation at a public hearing. The Board of Finance may require any agency or office, including the Board of Selectmen, to meet with it and explain the requests for funds. Any agency/office shall be entitled to be heard by the Board of Finance in respect to the estimates of proposed expenditures submitted by that agency or office.

#### **Section 5.1.6 Public Hearing on Proposed Budget**

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

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

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

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

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

#### **Section 5.1.7 Annual Budget Meeting**

The Annual Budget Meeting shall be held at least thirty (30) days prior to the end of the fiscal year, as provided for in Section 3.3.1 of this Charter. At the meeting the Board of Finance shall recommend its proposed budget to the town. Sufficient copies of the said annual budget shall be made available for general distribution in the office of the Town Clerk at least five (5) days prior to said budget meeting. The budget shall become official when approved by the Annual Budget Meeting, provided no appropriation shall be made exceeding that for the same purpose recommended by the Board of Finance, and no appropriation shall be made for any purpose not recommended. By a majority or more of the qualified voters present and voting at such meeting, an amount of money less than that recommended may be appropriated. The appropriations recommended by the Board of Finance and the amendments thereto, if any, shall be construed as having been appropriated when approved as herein above prescribed. An official copy of the budget, as finally approved, shall be filed with the Town Clerk.

#### **Section 5.1.8 Laying Taxes**

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



**Section 5.1.9 Special Appropriations**

The Board of Finance, on request by town agencies or officials, may make special appropriations from surplus revenue or from an approved contingency fund. Such a special appropriation in excess of \$20,000.00 shall require approval by a vote of town meeting. Not more than one special appropriation for any town agency, official, or any department may be made by the Board of Finance in each fiscal year, without approval of town meeting.

**Section 5.2 Tax Assessor**

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

**Section 5.3 Board of Assessment Appeals**

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

**Section 5.4 Tax Collector**

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

**Section 5.5 Treasurer**

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

**CHAPTER 6. BOARDS, COMMISSIONS, COMMITTEES AND OFFICERS****Section 6.1 Regional Board of Education**

At each General Town Election there shall be elected sufficient members to maintain a full delegation to represent the town of Durham on the Regional District 13 Board of Education. Terms of office shall be four (4) years beginning on the first Monday in December following said election, in accordance with Section 2.1 of this Charter, except as provided in the following paragraph.

The transition and terms of office for the Durham members of the Regional District 13 Board of Education shall be accomplished as follows: Two (2) members, whose terms expire on June 30, 2007, shall have their terms extended until the General Town Election in November 2007. At that time two (2) members shall be elected for four-year terms. Three (3) members, whose terms expire on June 30, 2008, and one member, whose term expires on June 30, 2009, shall have their terms extended until the General Town Election in November 2009. At that time, three (3) members shall be elected for four-year terms and one (1) member shall be elected for a two-year term.

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

### **Section 6.2 Regional Planning Agency**

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

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

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

### **Section 6.4 Planning and Zoning Commission**

There shall be a Planning and Zoning Commission consisting of nine (9) regular members and three (3) alternates. Each regular member shall have a vote. Members shall be elected in accordance with Sections 2.1 and 2.3 of this Charter at General Town Elections, and shall serve for a term of four (4) years, beginning on the first Monday in December after said election. At the first regular meeting of the Commission occurring after said first Monday in December, the Commission shall elect a chairman, and vice-chairman and a secretary. The chairman must receive a majority of the votes cast.

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

The membership of the Commission and the alternates shall be considered separately for the purposes of Section 2.3 of this Charter.

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

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

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

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

### **Section 6.5 Zoning Board of Appeals**

There shall be a Zoning Board of Appeals consisting of five (5) regular members and three (3) alternate members. Each regular member shall have one (1) vote.

Regular members and alternates shall be elected in accordance with Sections 2.1 and 2.3 of this Charter at the General Town Election, and shall serve for a term of four (4) years, beginning on the first Monday of December following the election. The membership of the Board and the alternates shall be considered separately for the purposes of Section 2.3 of this Charter.

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

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

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

### **Section 6.6 Director of Health**

A Director of Health shall be appointed by the Board of Selectmen, with the approval of the State Public Health Council. The Director shall have all of the powers and duties in accordance with the General Statutes and shall serve for a period of four (4) years.

#### **Section 6.6.1 Town Sanitarian**

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

### **Section 6.7 Town Clerk**

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

### **Section 6.8 Town Counsel**

The Board of Selectmen shall, by resolution at a meeting to be held not later than one (1) month after taking office, appoint a Town Counsel to serve for a term coterminous with the Board of Selectmen, or until a successor has been appointed.

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

party or in which it has an interest. He or she shall have the power, with approval of the Selectmen, to compromise or settle any claims by or against the town. In the event of a conflict of interest, the Town Counsel will report said conflict to the Board of Selectmen and disqualify him- or herself. The Board of Selectmen shall have the authority to retain other counsel.

#### **Section 6.9.1 Fire Department**

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

#### **Section 6.9.2 Fire Trustees**

There shall be a Board of Trustees consisting of three (3) voters of the town, and not members of the Durham Volunteer Fire Company, Inc., one (1) of whom shall be elected at each Annual Town Meeting for a term of three (3) years or until his replacement has been elected. These Trustees are to work with the three (3) Trustees elected by the Durham Volunteer Fire Company, Inc., in formulating rules governing the use of and maintenance of the Fire Department buildings.

#### **Section 6.10 Fire Marshal**

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

#### **Section 6.11 Animal Control Officer**

The Board of Selectmen shall appoint, for a term of two (2) years, an Animal Control Officer who shall have powers and duties in accordance with the General Statutes.

#### **Section 6.12 Durham Conservation Commission**

There shall be a Conservation Commission consisting of nine (9) members appointed by the Board of Selectmen. Terms of office shall be for a period of three (3) years, three (3) members being appointed each year. Each member's term shall begin on January 1.

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

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

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

#### **Section 6.13 Recreation Committee**

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

**Section 6.14 Building Code Board of Appeals**

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

**Section 6.15 Building Official**

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

**Section 6.16 Economic Development Commission**

There shall be an Economic Development Commission which shall operate in accordance with the General Statutes. The Commission shall consist of seven (7) electors of the town who shall be appointed by the Board of Selectmen. The term of office shall be for two (2) years. All terms shall begin on January 1.

**Section 6.17 Board of Library Directors**

The Board of Library Directors shall consist of nine (9) members elected at the Annual Town Meeting for terms of three (3) years. The Board shall have the responsibility for providing library services, library personnel, for setting hours of operation and for maintaining the buildings and grounds.

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

**Section 6.18 Compensation Review/Personnel Policy Commission**

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

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

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

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

This Commission shall have five (5) members, and members shall hold terms of five (5) years.

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

#### **Section 6.19 Inland Wetlands and Water-Courses Agency**

There shall be an Inland Wetlands and Watercourses Agency consisting of seven (7) members whose powers, duties and terms of office are as set forth in an ordinance of the town dated August 27, 1973, and in the General Statutes as either may be amended from time to time.

#### **Section 6.20 Historic District Commission**

There shall be an Historic District Commission consisting of five (5) members and three (3) alternate members whose powers, duties and terms of office are as set forth in an ordinance of the town dated June 25, 1973, and in the General Statutes as either may be amended from time to time.

#### **Section 6.21 Ethics Commission**

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

#### **Section 6.22 Department of Emergency Management**

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

#### **Section 6.23 Other Town Officials**

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

### **CHAPTER 7. MISCELLANEOUS PROVISIONS**

#### **Section 7.1 Existing Laws and Ordinances**

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

#### **Section 7.2 Continuation in Office of Officers, Boards, and Commissions**

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

### **Section 7.3 Amendment of this Charter**

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

#### **Section 7.3.1 Removal from Office (or recall) of Appointed Officials**

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

#### **Section 7.3.2 Salary or Compensation**

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

### **Section 7.4 Saving Clause**

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

### **Section 7.5 Effective Date**

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

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Boards that were formed by the adoption of an ordinance:

1. Agriculture Commission
2. Ethics Commission
3. Senior Citizen Board

**CONDUCTING PUBLIC BUSINESS  
GUIDELINES FOR BOARDS, COMMISSIONS AND COMMITTEES**

# **SECTION 4**

## Code of Ethics



## Town of Durham Code of Ethics

### **Section 1: Statement of Purpose**

The proper operation of the town government requires that public officers, officials and employees be independent, impartial and responsible to the people; that governmental decisions and policies be made in the proper channels of governmental structure; that public office and employment not be used for personal gain; and that the public has confidence in the integrity of its government.

The purpose of this code is to set forth standards of ethical conduct for those who serve or conduct business with the Town of Durham; to define those covered by the Code of Ethics; to assist those parties under the jurisdiction of the Ethics Commission by establishing guidelines for their conduct in order to maintain a tradition of responsible and effective public service; and to establish rules of procedure to be followed by the Ethics Commission in receiving, adjudicating and reporting on alleged violations of the Code of Ethics.

### **Section 2: Definitions**

As used in this document, the following words or phrases, unless a different meaning is required by the context or is specifically prescribed, shall have the meanings indicated:

**Agency**: Includes all departments, boards, commissions and committees of the Town.

**Code**: The Durham Code of Ethics as amended from time to time.

**Confidential Information**: Any information concerning the property, business or affairs of the Town not generally available to the public; personnel matters and financial matters that, if disclosed, would be of detrimental interest to the Town or a violation of trust.

**Gift**: Any thing having a monetary value, including but not limited to entertainment, food, beverage, travel, lodging, given or paid, or any thing of benefit, regardless of monetary value.

A gift shall not include:

- 1) A political contribution otherwise reported as required by law or a donation or payment as described under State of CT Statutes Code of Ethics for Public Officials subdivision (9) or (10) of subsection (b) of section 9-601a;
- 2) Goods or services provided by persons volunteering their time if provided to aid or promote the success or defeat of any political party or candidates for public office or position of convention delegate or town committee member or any referendum question;
- 3) A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;

4) A gift received from an individual's spouse (or cohabitating individual), fiancé, the parent, brother or sister of such spouse or individual, or the child of such individual or spouse of such child, or grandchildren of such individual or spouse;

5) Goods or services provided to the Town for the use on Town property or to support an event or the participation by a public officer, official or employee at an event and which facilitate Town actions or functions;

6) A rebate, discount or promotional item available to the general public;

7) Printed or recorded informational material germane to Town action or functions;

**Immediate family:** an individual's spouse (or cohabitating individual), fiancé, the parent, brother or sister of such spouse or individual, or the child of such individual or spouse of such child, or grandchildren of such individual or spouse.

**Independent Contractor:** any contractor, subcontractor or consultant proposing to provide, currently providing or who formerly provided goods or services to the Town of Durham in exchange for compensation.

**Officer, Official or Employee of the Town:** Public officers, officials, or employees of the Town of Durham, and members of boards, committees and commissions.

**Personal Interest:** Any personal interest in any Town matter which goes beyond that of the public generally and shall include any interest arising from a blood or marriage relationship or close business association.

**Private Financial Interest:** Any actual, or potential, economic gain in excess of that expected to be, or is, derived by members of the public generally and shall include the private financial interest of a spouse or minor child of an officer, official or employee of the Town.

### **Section 3: Standards of Ethical Conduct**

#### **I. Use of Town Assets:**

No officer, official, employee of the Town of Durham or independent contractor shall use or permit the use of town funds, services, property, equipment, owned or leased vehicles, or materials for personal convenience or profit, except when such services or assets are available to the public generally or are provided in conformance with established town policies for the use by such officer, official, employee or independent contractor.

#### **II. Fair and Equal Treatment:**

No officer, official, employee of the Town of Durham or independent contractor shall grant or accept any special consideration, treatment or advantage to or from any person beyond that which is available to the general public.

#### **III. Conflict of Interest:**

No officer, official or employee of the Town of Durham shall engage in any business, employment or transaction, or shall have a private financial interest or personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or which would tend to impair his or her judgment, independence or action in the performance of official duties.

Disclosure and Disqualification in matters involving a private financial interest or a personal interest:

Any officer, official or employee of the Town of Durham who has a private financial interest or a personal interest in any matter coming before any board, commission, committee or agency of the Town of Durham shall make that interest known to such body. Such disclosure shall be included in the official record of the relevant board, commission, committee or agency.

Furthermore, if such officer, official or employee is a member of such body, he or she shall refrain from voting upon or otherwise participating in the body's consideration of the matter. No officer, official or employee of the Town of Durham shall appear for or represent any person in any matter pending before any board, commission, committee or agency of which he or she is a member.

**IV. Disclosure of confidential information:**

No officer, official, employee of the Town of Durham or independent contractor shall disclose or use any confidential information obtained in an official capacity for the purpose of advancing the private financial interest or the personal interest of themselves or others.

**V. Gifts or favors.**

No officer, official or employee of the Town of Durham or member of his or her immediate family shall solicit or accept any gift from an Independent Contractor.

**VI. Use of influence**

No officer, official or employee of the Town of Durham, in furtherance of a private financial interest or a personal interest shall solicit any business, directly or indirectly, from another officer, official or employee of the Town of Durham over whom he or she has any direct or indirect control or influence with respect to supervision, tenure, compensation or duties.

**VII. Representation of private interests.**

No officer, official or employee of the Town of Durham shall appear on behalf of private interest before any board, commission or agency of the Town, nor shall he or she represent private interests in any action, proceedings or litigation against the town when such appearance or representation would be in conflict with or impair his or her independence or judgment in the performance of the official duties of such officer, official or employee.

## **VIII. Committee service by members of the Ethics Commission**

Members of the Ethics Commission shall not concurrently serve on any other board, commission or committee of the Town of Durham.

### **Section 4: Application**

The Code shall apply to independent contractors and to all public officers, officials and employees of the Town of Durham and members of boards, committees and commissions in the performance of their duties.

### **Section 5: Receiving Complaints of Violations**

#### **A. Generally**

The Ethics Commission shall receive complaints from any person of any alleged violation of the Code. Any complaint filed must be in writing on a form prescribed by the Commission and signed under penalties of false statement by the individual making said complaint before:

- (1) A judge of a court of record;
- (2) A clerk or a deputy clerk of a court having a seal;
- (3) A Town Clerk;
- (4) A notary public;
- (5) An attorney admitted to the bar of this state; or
- (6) A justice of the peace.

No complaint may be made under the Code unless it is filed with the Commission within three years after the violation alleged in the complaint has been committed. If multiple violations are alleged, the three-year limitation shall be applied separately to each such alleged violation.

#### **B. Filing of complaint and Jurisdiction**

The complaint shall be sent by certified mail or delivered in person to the Chairman, Durham Ethics Commission C/O Durham Town Hall. The Chairman shall provide copies of the complaint to Ethics Commission members, including any exhibits attached thereto. The Ethics Commission shall consider the complaint in executive session within 30 business days after its receipt by the Chairman either at a regularly scheduled Ethics Commission meeting or at a special meeting called for that purpose.

In order to proceed to a probable cause determination, the Ethics Commission shall initially determine the following:

- 1) Whether the person who is the subject of the complaint is under the jurisdiction of the Ethics Commission;
- 2) Whether the act(s) alleged in the complaint, if proven, would constitute a violation of the Code;

- 3) Whether sufficient evidence has been provided to warrant further proceedings.

### **C. Lack of Jurisdiction**

If the Ethics Commission determines that it lacks jurisdiction to proceed with a probable cause determination, it shall so notify the complainant by certified mail and seal the case file.

### **D. Acceptance of Jurisdiction**

If the Ethics Commission accepts jurisdiction, it shall so advise both the complainant and respondent by certified mail and provide a copy of the complaint (and any other information submitted by the complainant) to the respondent. The Ethics Commission shall advise the complainant and the respondent by certified mail that it will conduct a probable cause determination and invite the respondent to provide any information the respondent deems relevant to the Commission's determination of probable cause. Such information must be submitted to the Commission within 21 days of notification.

## **6: Determining Probable Cause**

Within 30 days after the response period specified in Section 5.D, the Ethics Commission shall meet to determine if there is probable cause that a violation of the Code has occurred. In so doing, the Ethics Commission shall only consider the information submitted by the complainant and the respondent.

If the Ethics Commission does not find probable cause of a violation of the Code, it shall so notify both the complainant and the respondent. Such notification shall be made in writing within 3 business days of such determination. Upon a finding of no probable cause, the case file will be sealed and all matters pertaining thereto shall remain confidential.

If the Ethics Commission determines, by three (3) affirmative votes that there is probable cause of a violation of the Code, it shall so notify both the complainant and respondent in writing within 3 business days of such determination.

Within 30 days of a finding of probable cause, the Ethics Commission shall schedule a hearing to determine if a violation of the Code has occurred. The Ethics Commission shall notify both the complainant and the respondent of the date, time and place of such hearing. Such notification shall be made in writing within 3 business days of the scheduling of the hearing.

All notifications under this section shall be sent certified mail, return receipt requested.

## **Section 7: Hearing Complaints**

The Ethics Commission shall conduct a hearing to determine if a violation of the Code has occurred.

The complainant, respondent and, at their discretion their respective counsels, shall appear at the hearing.

All parties and witnesses shall be duly sworn under oath prior to testifying before the Commission.

The complainant shall be allowed to present evidence, including documents and witnesses.

The respondent shall be allowed to examine and cross-examine witnesses presented and be allowed to offer before the Ethics Commission any evidence or witnesses on their behalf.

The Commission shall have the right to question any witnesses appearing before it, and call any other witnesses it considers necessary for a full and complete investigation of the complaint.

The Ethics Commission shall have the power to compel the attendance of witnesses and the production of books, documents, records and papers by subpoena.

The Commission shall schedule additional hearings as needed.

Within 15 business days after the presentation of all evidence, the Ethics Commission shall deliberate and vote upon the complaint. A minimum of four (4) affirmative votes shall be required to make a finding that the respondent has committed a violation of the Code.

### **Section 8: Report of Findings**

Except as required by law to preserve rights of confidentiality, the Ethics Commission shall report to the Board of Selectmen its findings as to whether or not a violation of the Code has occurred, together with recommendations as to the disposition to be made. The Board of Selectmen shall thereupon take such action as it may deem appropriate.

The Chairman shall render the finding(s) and recommendation(s) of the Ethics Commission within 45 days after approval by the Ethics Commission of said findings. A copy of the findings shall be sent to the Board of Selectmen, the Town Clerk, the complainant and the respondent by way of certified mail return receipt requested.

### **Section 9: Advisory Opinions**

Any person subject to the Code may request an advisory opinion of the Ethics Commission with respect to the applicability of the Code. The request shall be submitted on a form prescribed by the Ethics Commission. Such request shall be sent by certified mail or delivered in person to the Chairman, Durham Ethics Commission C/O Durham Town Hall. The request shall give the name and address of the person requesting the advisory opinion. The request shall state clearly and concisely the substance and nature of the request; it shall identify the section(s) of the Code concerning which the request is made, and shall identify the particular aspect thereof to

which the request is directed. A statement of facts and any arguments that support a position taken by the person making the request shall accompany the request.

The Ethics Commission shall render its opinion based on the facts presented, and the advisory opinion shall be binding to the extent the representations made in the request are factually accurate.

A copy of the advisory opinion shall be provided to the requestor, who may rely on the opinion subject to the limitations noted in this section.

In the event the information contained in the request is insufficient to allow the Ethics Commission to formulate a meaningful advisory opinion, the request will be returned to the requestor without an opinion.

The Ethics Commission shall file its advisory opinions with the Town Clerk, but with appropriate redactions made in order to protect the privacy rights of the requestor, if such, in the opinion of the Ethics Commission, is necessary.

### **Section 10: Distribution**

The Town Clerk shall distribute copies of a current Code to all officers, officials' employees, and members of boards, commissions and committees of the Town of Durham. Furthermore, all the above named persons shall sign an acknowledgement of receipt of the Code and agreement to abide by its provisions. Record of such distribution and acknowledgement shall be kept on file in the Town Clerks office.

Also, a copy of the Code shall be furnished to all independent contractors to the Town, as that term is defined in Section 2.

Copies of the current Code of Ethics shall be available to the public in the Town Clerks office.

Adopted at STM 11-9-09



# TOWN OF DURHAM

## Code of Ethics Acknowledgement

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I, \_\_\_\_\_,  
Print Your Name

Please check one and fill in board/commission name, department, etc.

- Full Board Member \_\_\_\_\_  
Commission/Board Name
- Alternate Board Member \_\_\_\_\_  
Commission/Board Name
- Recording Secretary \_\_\_\_\_  
Commission/Board Name
- Elected Official \_\_\_\_\_  
Department Name (Board of Selectmen, Tax Collector, etc.)
- Employee (Town of Durham) \_\_\_\_\_  
Department Name
- Vendor \_\_\_\_\_  
Company Name
- Consultant \_\_\_\_\_  
Company Name

acknowledge that I have **received, read and agree to abide by the provisions of** the  
Town of Durham Code of Ethics.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
*Signature of Member, Employee, Vendor, or Consultant*

When complete please return form to:

Office of the Town Clerk  
30 Town House Road, PO Box 428, Durham, CT 06422

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*This area for use by Town Clerk Office*

Date: \_\_\_\_\_

Received by Office of the Town Clerk: \_\_\_\_\_  
*Signature of Town Clerk or Assistant Town Clerk*



## **SECTION 5**

### **HELPFUL HINTS FOR MEETINGS**

## **How to deal with the Media without Getting Burned (too much!)**

By Charles E. Blazek, City Clerk, Hialeah Gardens, FL

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The following is a list of “Do’s and Don’ts” when dealing with the media:

1. **Do give the impression you are trying to help the reporter.** Again, applying some basic knowledge of human relations, keep in mind that first impressions are lasting impressions. This is especially important when dealing with new reporters. A helpful attitude, such as going an extra mile to dig out or volunteer that unasked for but important piece of information, goes a long way in keeping a journalist’s perceptions about you and the job you’re doing in a positive light. Just make sure that the volunteered extra is part of your story, the one that you and the administration want to get out to the public.
2. **Do give the impression you treat everyone the same.** There is probably no quicker way to damage a hard-won good relationship with a reporter than to get caught “playing favorites” with another one. It’s only natural to like some people better than others, but being seen acting on those preferences will only cause hurt and jealousy where trust is most needed.
3. **Do avoid being outwardly hostile toward the media.** No matter what you may really think about the reporter in front of you, or the media in general, never appear hostile. They’ll return it in geometric proportions. There are really only two things at work in media relations: attitude (yours) and perception (theirs). With the right attitude toward the reporter and the story, a mediocre job can appear as good, and a good job can appear as outstanding. The opposite is also true. As public officials we are faced with the often-sad truth that the perception is the reality. We have to become adept at molding that perception.
4. **Do say it in thirty seconds.** We live in a society of “sound bytes.” If you can give a thoughtful, meaningful and concise answer to a reporter’s question in 30 seconds or less, that’s the 30 seconds that will air again and again. If you say more than you need or intend to, it will still air within 30 seconds. But in that case the reporter, or some unseen editor who doesn’t know you from Adam, will select the 30 seconds that will evoke the biggest response from the audience - no matter how stupid it makes you look. Take your time in responding to reporters’ questions. Think, condense and then think again before saying anything. The one question you should ask yourself before saying anything in a public forum is: “How’s this going to look?” Remember, in public life image is everything.

5. **Do take charge.** Be organized. Media intrusions generally cause chaos, but the members of the media hate it. They all want to know exactly what's going to happen and when. You can earn big points if you have a prearranged and pre-printed schedule of events for any newsworthy happening at city hall. It is very important that you develop a sense for what is newsworthy to be prepared for even a minor media blitz. Don't let the media take over your administrative building. Try to arrange for press conferences to be in a comfortable and spacious venue away from the place where your municipality's day – to- day operations are going on. You lead them to where they should be, keeping interruptions and contact with other staff to an absolute minimum.

*Adjunct to this piece of advice:* Never wear sunglasses during a TV interview. If the viewers can't see your eyes they will think, at least on a subconscious level, that you have something to hide. All aspects of proper dress are important to preserving the image you want to project.

6. **Do draft a media relations policy.** If you don't have one in place, go create one now. If you need to ask why this is necessary, go back and reread number five.
7. **Do avoid the appearance of a cover-up.** Ever since Watergate, this has been a hot issue among the public and the press alike. It's perfectly natural to want to help your co-workers and or/subordinates. That is generally a good thing and you should always defend them if that's a real question. But, if they have clearly violated the law or agency policy, let the chips fall where they may. These people will go down, and if you defend them and they are wrong they will take you down with them.
8. **Do get your story out first.** It is one of the unfortunate facts of life that the truth never catches up with a lie. *Addendum 1 to rule eleven:* A good statement in the original story is worth a half dozen letters to the editor. A whole lot more people will see the original story than will ever read the rebuttals. *Addendum 2 to rule eleven :* Dribbling out information keeps an embarrassing story alive.
9. **Don't (ever) give reporters your personal opinions.** Public officials should only have private opinions. Whenever you are talking within earshot of a reporter you are "on duty." Everything you say concerning your municipality is policy. It doesn't matter how good a relationship you have with a reporter, anything you say can, and will, be used against you. Remember there are two sides to every story – what you said, and what the newspaper reported you said. Related to that is our next rule:
10. **Don't make sarcastic statements – especially to newspapers.** Violation of this rule is guaranteed to get you burned. We've all been in situations where the apparent stupidity of the person we were dealing with just

- screamed for a verbal shot. Unfortunately, the brief enjoyment we might get from such an indulgence can result in a long-term pain. With broadcast media one may have a little more leeway. The audience can see your face and/or hear the inflection of your voice, possibly picking up the non-verbal clues that you're "just kidding." The statement is aired (maybe two or three times at most) along with the reporters well-thought-out reply, and it's over. With print media, however, your verbal potshot just sits there, archived for posterity in black and white – accompanied by whatever twist the reporter wants to put on it. Is it worth it?
11. **Don't fight with anyone that stores their ink in 55 gallon drums or has a microphone permanently attached to their hand.** They will reach a whole lot more people than you do, and more often. If you should ever find yourself in "disagreement" with a newspaper, be absolutely certain that you are 100% right. Seventy-five percent, or even ninety-five percent isn't close enough.
  12. **Don't ever say "No Comment."** This anti-tactic is equivalent to "taking the Fifth" in the minds of the public. Though meant to be a protection against self-incrimination, the perception toward those employing this right is always that they have something to hide. If you are not prepared to make an intelligent, advantageous comment about any situation, the better tactic is to say, I'll have a statement on that for you later, or something along those lines. Then, make darned sure that you do get back to the reporter before his/her deadline, with the promised remark. If you don't, they will print that you refused to comment, and you will have earned a negative balance in your media friendship account.
  13. **Don't be misled by "off the record."** There is no such animal. If you should feel that you have a great relationship with the person that you're dealing with and they will certainly respect your confidences, just ask yourself on thing. "Am I willing to trust my career to this reporter?" Always set your ground rules ahead of time in your dealings with the media. And if you should feel that they will respect your request that a comment be off the record, remember that the rules are never, ever retroactive. You cannot let slip a juicy tidbit and then say, "Oh, of course that was off the record." You will get burned badly.

Note:

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