

# New Hampshire Forms of Government

Presentation to: Salem Board of Selectmen

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# PLEASE NOTE:

- This presentation intends to give a general overview of the forms of government permitted under New Hampshire law.
- Language has been changed or omitted to meet the needs for a brief presentation.
- I will reference the different RSAs throughout the presentation. Should you need further information, I suggest you reference the law in its entirety in its original form.





# Background

- **Part 1, Article 39 New Hampshire Constitution**
  - Prohibits the state legislature from enacting any law changing the charter or form of government of a city or town without the approval of local voters.
  - Same constitutional provision is given to municipalities to choose their forms of government.



# Municipal Charters

- **Charters offer voters more flexibility in the configuration of their town government.**
  - Provide for many variations in the balance of power between the citizens and the government.
  - Opportunity to tailor the organization of local government to specific local circumstances.
  - A charter also safeguards the municipality from many legislative changes made to local government statutes.





# Charter Process Controlled by:

- [RSA 49-B](#)
  - Establishes the adoption and approval process
- [RSA 49-C](#)
  - Establishes the parameter of the City forms of government
- [RSA 49-D](#)
  - Establishes the parameters of the Town forms of government.



# Current Salem Charter

- **WE DON'T HAVE ONE!**
- [Previous charter](#) adopted by Town Meeting vote on March 10, 1998, under the provisions of [RSA 49-D:3](#).
  - Town meeting form of government with a Board of Selectmen.
  - Traditional town meeting style.
- **March 13, 2012 – Annual Town Meeting**
  - Adopted the provisions of RSA 40:13 (known as SB2)
  - When this was adopted, it repealed the official ballot town meeting charter, which was adopted under RSA 49-D, II-a in 1998.





# RSA 49-C

## Local Option – City Charters

- Purpose of this chapter is to enable municipalities to draft city charters without the need for action of the general court
- 13 Cities in New Hampshire
- Only two options available under this chapter:
  - Mayor – Alderman
  - Council – City Manager



# RSA 49-C

- **Mayor – Alderman**
  - Mayor, the chief administrative officer, and the head of the administrative branch.
  - Mayor has the power to appoint and remove all officers and employees of the city's administrative services.
- **Manchester**
- **Nashua**





# RSA 49-D

## Local Option – Town Charters

- **Council - City Manager**
  - City Manager is the chief administrative officer and the head of the administrative branch.
  - City Manager can appoint and remove all city administrative services officers and employees.

• Berlin	• Claremont	• Concord
• Dover	• Franklin	• Keene
• Laconia	• Lebanon	• Portsmouth
• Rochester	• Somersworth	



# RSA 49-C

- **Charter establishes rules of City**
  - Elections by ward or at-large
  - Staggered or co-terminus terms
  - May require minimum residency to qualify for office
  - Mayor to be elected by the voters, at large, or by a council vote.
  - Establishes departments, divisions, and bureaus.
  - Must include a merit plan for employees
  - Establish budget process and financial management systems





# Town Government

- There are two primary forms of town government under New Hampshire law: the traditional, board of selectmen/open town meeting form; and the town council/town manager form described in RSA Chapter 49-D
- Each form has several variations



# Board of Selectmen Open Town Meeting

- This is the traditional, "pure democracy" form of town government, where the voters themselves, acting at town meetings, are the legislative body
- Budgetary and other questions are put before the voters in the form of warrant articles, the merits of which are debated and then voted on at the meeting
- There are three variations of the board of selectmen/open town meeting form of government, two of which require specific adoption under the charter process outlined in RSA Chapter 49-B





# Board of Selectmen Open Town Meeting

- **Official Ballot Referendum Form of Meeting**
  - This official title is a bit cumbersome, which may be why this form of government is better known as "SB 2. "
  - The official ballot/SB 2 form may be adopted only by a three-fifths majority of the voters voting on the question
  - Under this form, warrant articles - either submitted by the board of selectmen or by petition - come before the voters, are debated, and may be amended at a "first session" of the town meeting



# Board of Selectmen Open Town Meeting

- **Official Ballot Town Meeting**

- This is the "customized" official ballot option, as opposed to the "standard" SB 2 version
- Under this variation, also enacted by the legislature in 1995, the details of how the official ballot would be used are up to the community's discretion and must be adopted by following the charter process outlined in RSA 49
- According to RSA 49-D:3, II-a, a charter must specify with precision the following information: what types of questions will go on the official ballot; a finalization process for the budget in the event the ballot vote rejects it; the process for a public hearing, debate, and amendment of questions to be placed on the official ballot; the procedure for transferring funds among various departments and accounts during the year; and the procedure for balloting at special town meetings





# Board of Selectmen Open Town Meeting

- **Representative Town Meeting**
  - This is the third variation on the traditional open town meeting form of government and is the second of the three variations that must be adopted by means of the charter process described below
  - The charter must specify: the manner of district representation; how vacancies are filled; requirements of attendance and quorum; residency or eligibility requirements; specific procedures for annual budget adoption, including preparation, presentation and public hearing; designation of a fiscal year; an annual election date; and audit requirements
  - The charter may provide for referenda on certain issues to the registered voters of the town at large at special town meetings called for the purpose of deciding those issues



# Town Council/Town Manager

- This second form of town government allows a town to adopt a charter establishing a representative body - the town council - which has powers similar to those of a city council
- The charter must provide for the appointment of a town manager by the council, who shall have all the powers of town managers as set out in RSA Chapter 37
- The provisions of the charter adopting this form of government must comply with the requirements of RSA Chapter 49-B and RSA 49-D
- The council may have as many as 15 members and must have an odd number unless the chair's vote is reserved for breaking ties. [RSA 49-D:3, 1\(b\)](#).





# Town Council/Town Manager

- The adoption of a town council town manager charter abolishes the traditional board of selectmen/open town meeting form of government
- The adoption of the town council/town manager charter without an Official Ballot or Budgetary Town Meeting would also rescinds the budget committee. RSA 32 only allows budget committees in towns with a town meeting or deliberative session.



# Town Council/Town Manager

- **Legislative Body Options**

- Under the town council form of government, RSA 49-D: 2, II requires the establishment of a legislative body to replace the traditional open town meeting
- The charter may reserve authority, by referendum, to the town voters over amendments to land use ordinances and approval of bond issues. [RSA 49-D:2, I](#). [RSA 49-D:3](#) spells out three charter options for choosing the type of legislative body.





# Town Council/

- The charter shall specify at-large or district representation or a combination thereof.
- Other matters of local concern may be included in the charter, such as:
  - Conflict of interest
  - Citizen powers of initiative and referendum
  - Periodic review of the administrative code
  - A purchasing system
  - A town investment policy.



# Town Council Legislative Body

- Town Council - functions as both the governing and legislative bodies, as do city councils in cities. Where the town council is both the governing body and the legislative body, it generally has all the powers and duties of selectmen, city councils, and boards of aldermen. It may address all matters that general law requires to be done at town meetings, all as provided by [RSA 49-D:3, 1\(a\)](#).
- Other matters may include but are not limited to a conflict of interest provisions, citizen powers of initiative and referendum, adoption of an administrative code, merit personnel system, purchasing system, town investment policy, and tax cap provisions.
- Examples: Derry and Durham





# Town Council/Official Ballot

- Provides for voting by official ballot on “some or all matters that general law requires to be addressed at a town’s annual or a special meeting.” The Town Council has authority over all matters not voted on by official ballot.
- Charter may allow budget and non-budget items to be placed on the official ballot. Suppose the budget is to be voted on by the official ballot. In that case, the charter must specify the process for preparing the budget, hearings, amendments, transfer of funds, and applicability of the official ballot process to special meetings.
- Examples of towns with official ballot town council form: Hooksett, Londonderry, Merrimack, Newmarket. The only matter voted on by official ballot in all four municipalities is the budget. The town council has authority over all other issues.



# Town Council/Budgetary Town Meeting

- This form of government is considered a variation of an open town meeting. Still, it vests the town meeting with limited authority to vote on the annual town operating budget as presented by the governing body. [RSA 49-D:3, I-a](#)
- All other legislative authority rests with the town council.
- Example of town with budgetary town meeting: Bedford.





**Thank You**

