



**TOWN of NEW DURHAM
TOWN MEETING WARRANT 2011**

To the inhabitants of the Town of New Durham, in the County of Strafford, in said State of New Hampshire qualified to vote in town affairs:

You are hereby notified that the Annual Town Meeting of the Town of New Durham will be held on two days as follows:

Tuesday, March 8, 2011 in the New Durham School Gymnasium, located at 7 Old Bay Road, New Durham, NH, where there will be voting by official ballot for the election of Town Officers and voting for Article 2, amendments to New Durham's Zoning Ordinances and the New Durham Building Regulations.

Note: By law the meeting must open before the voting starts. Therefore, the meeting and polls shall open at **8:00 AM** for consideration of the ballot issues. The polls will close no earlier than 7:00 PM, when the ballots shall be counted.

Wednesday, March 9, 2011, we will reconvene in the New Durham School Gymnasium at **7:00 PM** where the votes on Articles 1 and 2 will be presented. Articles 3 through 36 will be presented, discussed and acted on.

ARTICLE 1: To choose all necessary town officers for the ensuing year:

<u>Office</u>	<u>Years</u>
Selectmen	3 Years
(2) Library Trustee	3 Years
(2) Planning Board	3 Years
Cemetery Trustee	3 Years
Trustee of the Trust Fund	3 Years

ARTICLE 2: Are you in favor of the adoption of amendments to the New Durham Zoning and Land Use Ordinance and the New Durham Building Regulations proposed by the Planning Board as follows:

Amendment 1: Are you in favor of adopting Amendment 1 as proposed by the Planning Board for the New Durham Zoning and Land Use Ordinance as follows?

*To adopt "housekeeping" amendments to **Articles VI (Water Quality Protection), IX (Shorefront Conservation Area), XII (Conservation Focus Area), and XIII (Steep Slopes)** of the New Durham Zoning Ordinance that bring standards and reference materials regarding stormwater practices into conformity with Article XI, the Stormwater Management Ordinance, that was adopted by the Town at 2010 Town Meeting. This amendment makes no substantive changes to the Zoning Ordinance.*

Amendment 2: Are you in favor of adopting Amendment 2 as proposed by the Planning Board for the New Durham Zoning and Land Use Ordinance as follows?

*To adopt amendments to **Article III** that requires all subdivision applications that exceed certain thresholds to participate in the Design Review process before submitting a formal application. This requirement currently applies to all Open Space Conservation Subdivision applications. It allows the Planning Board to give feedback and direction to the applicant before he/she invests large sums of money in engineering and survey plans. This would not affect one- or two-lot subdivisions.*

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Amendment 3: Are you in favor of adopting Amendment 3 as proposed by the Planning Board for the New Durham Building Regulations as follows?

To simplify and shorten the Building Regulations by deleting all material that duplicates the national and international codes that the Town has adopted. This amendment does not make any substantive changes to the requirements for getting a building permit or building a structure. It simply eliminates duplicated language.

ARTICLE 3: To see if the Town will vote to raise and appropriate the Budget Committee's and Board of Selectmen's recommended budget amount of **\$ 2,994,140.00** which represents the Town of New Durham's operating budget. This article does not include appropriations contained in other warrant articles.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 4: To see if the Town will vote (i) to authorize the Selectmen to enter into a five-year (5) lease/purchase agreement for \$189,000.00 for the purpose of leasing a grader with wing gear for the Highway Department, and (ii) to raise and appropriate the sum of **\$40,332** for the first year's principal payment for the lease purchase of the grader. This lease contains a non-appropriation clause.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 5: To see if the town will vote (i) to raise and appropriate the amount of **\$138,000.00** for the purchase of a highway truck with plow and wing, (ii) to approve withdrawal of **\$100,000.00** from the Highway Truck Capital Reserve Fund created for this purpose and (iii) to take the remaining **\$38,000** from the unreserved fund balance.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 6: To see if the town will vote to raise and appropriate the sum of **\$117,038** for the purpose of the Road Surface Management System for 2011. This sum is to be offset by the New Hampshire State Highway Block Grant Aid.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 7: To see if the town will vote (i) to raise and appropriate the sum of **\$36,955** for the purchase of a police cruiser and laptop computer, (ii) to approve withdrawal of **\$34,740** from the Police Cruiser Capital Reserve Fund created for this purpose and (iii) to accept a grant of **\$2,215** from Highway Safety for the purchase and installation of a laptop computer for the cruiser. This will replace the 2003 Ford Explorer.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 8: To see if the town will vote to raise and appropriate the sum of **\$15,000.00** for a historic assessment of Town Hall with such sum to be offset by a **\$7,500.00** grant from the NH Land and Community Heritage Investment Program and the rest to come from general taxation. This is a non-lapsing article under RSA 32:7VI and will not lapse until December 31st, 2016, or until the project is completed, whichever is sooner.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

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ARTICLE 9: To see if the town will vote to raise and appropriate the sum of **\$10,000.00** for the purpose of purchasing and maintaining a drive on scale system at the Transfer Station. This is a non-lapsing article under RSA 32:7VI and will not lapse until December 31st, 2016, or until the project is completed, whichever is sooner.

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 10: To see if the Town will vote (i) to raise and appropriate the sum of **\$10,000.00** for the purpose of purchasing, upgrading, maintaining, cleaning and monitoring of a new fuel depot system. This is a non-lapsing article under RSA 32:7VI and will not lapse until December 31st, 2016, or until the project is completed, whichever is sooner.

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 11: To see if the town will vote to raise and appropriate the sum of **\$9,000.00** to come from the unreserved fund balance to pay Preservation Timber Framing Inc. monies owed for the dismantling of the Boodey House.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 12: To see if the town will vote (i) to raise and appropriate the sum of **\$7,500.00** for milfoil treatment and (ii) to approve the withdrawal of \$7,500 from the Milfoil Capital Reserve Fund established for that purpose.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 13: To see if the Town will vote to repeal the Ethics Ordinance.

(Majority Vote Required)

ARTICLE 14: To see if the Town will vote to change the third bullet in the Ethics Ordinance **PURPOSE** that currently reads:

- We expect town officials, board members and employees to remove themselves from decision making if they have a conflict of interest or even the appearance of one.

to:

- We expect town officials, board members and employees to remove themselves from decision making if they have a conflict of interest.

(Majority Vote Required)

ARTICLE 15: To see if the Town will vote to change the Ethics Ordinance **SECTION I. CODE PROVISIONS B.** that currently reads:

B. A Duty to Recuse in Quasi-Judicial Actions

A “quasi-judicial action” is any action where the board or committee you are a member of is acting like a judge or a jury. For example, when your board or committee has a duty to notify the potential parties, hear the parties, and can only decide on the matter after weighing and considering such evidence and arguments as the parties choose to lie before you, you are involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial. Not only do officials, board members and employees of the Town of New Durham have a duty to recuse themselves as outlined in the section above, you must recuse yourself in a

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quasi-judicial action if you would not be qualified to sit as a juror in that case. For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided, are prejudiced to any degree regarding the pending matter, or believe they cannot for any reason be totally fair and impartial. Information gained through general knowledge as a citizen of the Town, or solely as a result of the individual's service in an official capacity, does not disqualify the member unless it has biased the member to such a degree that he or she cannot be impartial. As a representative of the Town of New Durham, you are expected to hold yourself to this same standard.

to:

B. A Duty to Recuse

Conflicts of interest apply to both quasi-judicial/judicial and legislative situations and may warrant the disqualification of a board or committee member in deciding the matter. Ultimately, the decision to recuse or not to recuse is up to the individual with the alleged conflict. Information gained through general knowledge as a citizen of the Town, or solely as the result of the individual's service in an official capacity, does not disqualify the member unless it has biased the member to such a degree that he or she cannot be impartial. The type of decision (quasi-judicial/judicial vs. legislative), not the type of board, is the primary factor for possible disqualification.

- (i) A **quasi-judicial action** is any action where the board or committee acts like a judge or jury to decide a matter affecting specific individuals. For example, members are involved in a quasi-judicial action when the board or committee has a duty to notify the potential parties, hear the parties, and decide the matter only after considering and weighing such evidence and arguments as the parties choose to present. Not only do the officials, board members, and employees of the Town of New Durham have a duty to recuse themselves as outlined in Section A, but they also must recuse themselves in a quasi-judicial action if they would not be qualified to sit as a juror on a case (RSA 673:14 and 46:6). Stricter standards of fairness tend to be applied by the courts in cases where a board is acting judicial and must demonstrate impartiality.
- (ii) A **legislative action** is administrative in nature and involves a matter affecting all citizens equally. For example, members are acting in a legislative capacity when they set goals, create policies, develop rules and regulations, research and write amendments, and tend to other procedural matters. Here, the need to recuse often is more the exception than the rule.

(Majority Vote Required)

ARTICLE 16: To see if the Town will vote to change paragraph 6 in the Ethics Ordinance **SECTION IV. COMPLAINTS** that currently reads:

The Board of Ethics may require, with sufficient written notice, any official, board member or employee of town government to appear before it to provide testimony regarding pending complaints. The board may for this purpose administer oaths and require the production of evidence such as documents.

to:

The Board of Ethics may request, with sufficient written notice, any official, board member or employee of town government to appear before it to provide testimony regarding pending complaints. The board may for this purpose request production of evidence such as documents. The Board only can make findings based on evidence provided.

(Majority Vote Required)

ARTICLE 17: To see if the Town will vote to move the first paragraph in the Ethics Ordinance **SECTION IV. COMPLAINTS** that currently reads:

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The Board of Selectmen shall appoint a board of no more than 5 nor less than 3 persons, with staggered terms, such board to be named Board of Ethics.

to:

a new section called **SECTION IV: BOARD OF ETHICS**, with subsequent numbering becoming **SECTION V. COMPLAINTS and SECTION VI. EFFECTIVE DATE**.

(Majority Vote Required)

ARTICLE 18: To see if the Town will vote to add the following terms and their definitions to **SECTION II. DEFINITIONS:**

- **Appearance:** The outward impression of how something seems; the way something or somebody looks or seems to other people.
- **Misuse:** The incorrect or improper use or misapplication of information, position, authority, or influence, as well as Town resources, property, or time by a public servant.
- **Official Authority:** The power delegated to an individual by nature of the position that he or she holds.

(Majority Vote Required)

ARTICLE 19: To see if the Town, for clarification and consistency purposes, will vote to make edits to the Ethics Ordinance as follows:

- Page 1 sidebar [**THE CODE**] that currently reads:

No Investments in conflicts with duties

to:

No investments that conflict with duties

- Page 1 sidebar [**THE CODE**] that currently reads:

No Nepotism

to:

No nepotism

- **SECTION I. CODE PROVISIONS I.** that currently reads:

Investments in Conflict with Official Duties

to:

Investments that Conflict with Official Duties

- **SECTION I. CODE PROVISIONS G.** that currently reads:

A Duty to Cooperate

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

to:

A Duty to Cooperate

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All officials, board members and employees of the Town of New Durham shall cooperate with the Board of Ethics regarding any request for information/guidance or complaint alleging violation of this Code of Ethics.

- **SECTION II: DEFINITIONS** that currently reads:

Firm: A sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local or economic development corporation or other similar entity as defined by the Ethics Committee.

to:

Firm: A sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local or economic development corporation or other similar entity as defined by the Board of Ethics.

- **SECTION II: DEFINITIONS** that currently reads:

Principals: Those people who are the subject of the action or application, which is before the Ethics Committee.

to:

Principals: Those people who are the subject of the action or application, which is before the Board of Ethics.

(Majority Vote Required)

ARTICLE 20: To see if the Town, for explanatory purposes, will vote to reorder the first two sections in the Ethics Ordinance such that they read **SECTION I. DEFINITIONS** and **SECTION II. CODE PROVISIONS**.

(Majority Vote Required)

ARTICLE 21: To see if the Town will vote to change the Ethics Ordinance Section 1 Code provisions that currently reads:

A. No conflicts of interest – Specific prohibition.

(i) Public servants shall avoid conflicts of interest, or when possible, the appearance of a conflict of interest.

to:

(i) Public servants shall avoid conflicts of interest.

(Majority Vote Required)

ARTICLE 22: To see if the Town will vote to change the Ethics Ordinance Section 1 Code Provisions that currently reads: A No Conflicts of Interest – Specific Prohibitions

(ii) Public servants shall not appear on behalf of a client, close, personal friend, or family member the governmental body of which the public servant is a member.

to:

(ii) Any person who is elected or appointed to a Town Board as a regular or an alternate member who owns or is employed by a business that represents clients before the same Town Board may continue to hold his or her position on the Board, and, from time to time, represent his or her clients before the Board providing the following conditions are met:

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- a) A written public disclosure of the member's ownership and/employment with an explanation of the possible representation is provided to the Board and the Board of Selectmen, which disclosure is made a part of the record; and
- b) The member, when actually representing the client before the Board, shall step down from the Board after first publically declaring the reason for his or her stepping down.

(Majority Vote Required)

ARTICLE 23: To see if the Town will change the following statement from the Ethics Ordinance Section 1 Code Provisions that currently reads:

(viii) No public servant shall misuse his / her authority or influence for the purpose of interfering with or affecting the results of an election.

to:

(viii) No public employee, official or board member shall electioneer while in the performance of his/her duties or use government property.

(Majority Vote Required)

ARTICLE 24: To see if the Town will vote to discontinue the Sidewalk Capital Reserve Fund created by Article 15 of the March 13, 2007 Town Meeting. Said funds, with accumulated interest to date of withdrawal, are to be transferred to the Town's General Fund.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 25: To see if the Town will vote to discontinue the Addition To the New Durham Fire Station Capital Reserve Fund created by Article 10 of the March 14, 2000 Town Meeting. Said funds, with accumulated interest to date of withdrawal are to be transferred to the Town's General Fund.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 26: To see if the town will vote (i) to change the purpose of the Town Hall Computer Systems and Office Equipment Expendable Trust Fund created in Article 11 of the March 13, 1996 Town Meeting and amended in Article 20 of the March 15, 2000 Town Meeting to include all town department computer systems and office equipment, (ii) to change the name of the fund to the Computer Systems and Office Equipment Expendable Trust Fund, (iii) to raise and appropriate the sum of **\$5,000** to be deposited in the Computer Systems and Office Equipment Expendable Trust Fund, and (iv) to name the Board of Selectmen as agents to expend.

A 2/3 majority vote is required for passage.

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 27: To see if the Town will vote to rescind the provisions of RSA 31:95-c to restrict the revenues from ambulance charges to expenditures for the purpose of ambulance vehicles repairs, renovations, and new purchases. Such revenues and expenditures shall be accounted for in a special revenue fund to be known as the New Durham Special Revenue Ambulance Fund, separate from the general fund. Any surplus in said fund shall not be deemed part of the general fund accumulated surplus and shall be expended only after a vote by the legislative body to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund or source of the revenue. This article is contingent on article 28 passing.

(Majority vote required)

Special Warrant Article

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The Board of Selectmen and Budget Committee recommend this article.

ARTICLE 28: To see if the town will vote to establish a revolving fund pursuant to RSA 31:95-h for the purpose of providing ambulance services. All revenues received from ambulance fees shall be deposited into the fund and the money in the fund shall be allowed to accumulate from year to year and shall not be considered part of the town's general fund unreserved fund balance. The town treasurer shall have custody of all money in the fund and shall pay out the same only upon order of the Board of Selectmen. This revolving fund will be used primarily for the purchase of a new ambulance, and ambulance billing services. It may also be used for capital equipment in which the total cost of a single piece of equipment is over \$10,000.00 and is deemed appropriate to spend by the Board of Selectmen. Further to raise and appropriate **\$155,000** to deposit into this fund with such amount to come from the general fund balance. This article is contingent on article 27 passing.

(Majority vote required)

The Board of Selectmen and Budget Committee recommend this article.

ARTICLE 29: To see if the town will vote to raise and appropriate the sum of **\$291,000** to be placed in previously established Capital Reserve Funds, as follows:

NAME	ESTABLISHED	APPROPRIATION
Expansion of the Highway Garage	March 13, 2007 Article 14	\$ 20,000.00
Highway Equipment	March 15, 2006 Article 12	\$ 30,000.00
Highway Truck	March 4, 1988 Article 9	\$ 70,000.00
Road Reconstruction	March 10, 2010 Article 5	\$171,000.00

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 30: To see if the town will vote to raise and appropriate the sum of **\$22,000** to be placed in previously established Capital Reserve Funds, as follows:

NAME	ESTABLISHED	APPROPRIATION
Solid Waste Equipment	March 13, 2007 Article 13	\$ 13,000.00
Solid Waste Facilities Improvement	March 10, 2010 Article 14	\$ 9,000.00

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 31: To see if the town will vote to raise and appropriate the sum of **\$52,500** to be placed in previously established Capital Reserve Funds, as follows:

NAME	ESTABLISHED	APPROPRIATION
Public Safety	March 10, 2010 Article 17	\$ 10,000.00
Dry Hydrant	March 14, 2001 Article 10	\$ 2,500.00
Fire Truck	March 12, 2003 Article 11	\$ 15,000.00
Police Cruiser	March 15, 2000 Article 7	\$ 25,000.00

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 32: To see if the town will vote to raise and appropriate the sum of **\$5,500.00** to be placed in previously established Capital Reserve Funds, as follows:

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NAME	ESTABLISHED	APPROPRIATION
Library Facilities	March 13, 2007 Article 7	\$ 2,000.00
Library Technologies	March 13, 2007 Article 8	\$ 2,000.00
Smith Ballfield & Equipment	March 12, 2008 Article 9	\$ 1,000.00
1772 Meeting House Restoration	March 15, 2000 Article 14	\$ 500.00

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 33: To see if the town will vote to raise and appropriate the sum of **\$28,500** to be placed in previously established Capital Reserve Funds, as follows:

NAME	ESTABLISHED	APPROPRIATION
Milfoil	March 9, 2009 Article 7	\$ 7,500.00
Revaluation	March 15, 2000 Article 12	\$ 20,000.00
JC Shirley Site Improvement	March 9, 1994 Article 11	\$ 1,000.00

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 34: To see if the town will vote to raise and appropriate the sum of **\$57,500** to be placed in previously established Expendable Trust Funds, as follows:

NAME	ESTABLISHED	APPROPRIATION
Accrued Employees Benefit	March 11, 1992 – Article 16	\$ 3,500.00
Forest Fire Control Fund	March 12, 2003 – Article 15	\$ 3,500.00
Record Management	March 23, 1999 – Article 23	\$ 500.00
Town Building Improvement	March 15, 2000 – Article 15	\$ 50,000.00

(Majority Vote Required)

Special Warrant Article

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 35: To see if the town will vote to raise and appropriate **\$2,000** towards the costs associated with the future acquisition of the 3 acre state owned land, identified on map 251 and contained within lot 21, which is surrounded by the Shirley Land Trust. This is a non-lapsing article under RSA 32:7VI and will not lapse until the project is completed or until December 31, 2016 whichever comes first.

(Majority Vote Required)

The Board of Selectmen and the Budget Committee recommend this article.

ARTICLE 36: To conduct any other business which may legally come before the town.

Given under our hands and seal, this _____ day of February in the year of our Lord Two Thousand and Eleven

Selectmen of New Durham

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We hereby certify that on the _____ day of February, 2011, we posted an attested copy of the warrant at the place of Meeting within named and a like copy at the New Durham Town Hall, a public place in said Town.

Selectmen of New Durham