

## Explanation of 4.2.5 Ordinance Override

At the Charter Commission's information session held 9/25/2024, Chris Babcock mistakenly told resident Patricia Sass Perry that section 4.2.10 Defective Petition applies to section 4.2.5. Section 4.2.5, however, provides that some of the usual requirements applicable to voters' petitions, including section 4.2.10, do not apply to the expedited procedures applicable to land use decisions by the new Town Council. This was a mistake and bears some clarification as follows.

Section 4.2.5 of the Charter Proposal addresses the ability for residents of the town to file a special petition to override the implementation of a recently approved ordinance by the Town Council. This petition has two stipulations: (1). It must be filed within 30 calendar days of the ordinance approval by the Town Council; and (2). It must contain 500 signatures of registered voters in the town. Those are the two material conditions that are required to make the petition valid and, thereby, pause the implementation and force a municipal vote approving or denying a land use ordinance.

The speaker additionally expressed concerns that "anyone" could submit a motion to dismiss the petition as per Section 4.2.5. #3. A legal term is used in Section 4.2.5 #3, "party in interest," which is a term used to describe a person whose rights may be infringed by a potential action taken by a government institution. Therefore, someone submitting the motion cannot be "anyone" but needs to have a legal "interest" in what the ordinance is proposed to affect (likely a parcel of land), thereby mitigating the concern of "anyone" being able to file a motion to dismiss the petition for material defects.

A concrete example follows to define how a proceeding of this nature would work:

1. A land use ordinance processes through the necessary boards and public hearings as required by law.
2. The Town Council holds a public hearing and approves the land use ordinance change.
3. Within 30 Calendar days of that decision, voters submit petition(s) with a total of 500 or more signatures of registered town voters.
4. The Town Clerk certifies the signatures as genuine, and that the petition has been filed on or before the deadline.
5. The ordinance is paused and a vote is scheduled.
6. Within 10 business days of the filing of the petition, a person whose rights would be infringed by the ordinance change submits a motion to dismiss alleging that the petition is materially defective in a way not identified by the Town Clerk.
7. Within 10 business days, the Town Council schedules a hearing to review the motion.
8. The Town Council at this meeting would review the validated petition from the Town Clerk and hear the rationale behind the motion to dismiss from the party in interest.
9. If the Town Council finds that the evidence presented in the motion is valid, it could cancel the vote and implement the ordinance change. Otherwise, the motion would be denied, and the issue would proceed to the voters, who retain the ultimate authority in the land use decision.

The reason section 4.2.10 (“Defective Petitions”) doesn’t apply to this instance is because this section, and land use ordinance approval was proposed to create an efficient way for our municipal government to process land use ordinance changes. Scheduling a municipal referendum currently takes 60-80 days, according to our Town Clerk. Ordinance changes can take anywhere from 6 months to over a year from initiation to approval at a municipal vote. If the proposal allowed 4.2.10 to apply to the ordinance override petition process, a group of residents could effectively stall an ordinance change indefinitely by repeatedly submitting defective petitions, thereby effectively eliminating any efficiency gained by the proposed process change.

Hopefully this document provides the rationale and reasoning for why the Commission is proposing the land use ordinance override. The description provided at the information session was a mistake on the part of the Chair, and was not meant to mislead attendees in any way.