

# CHARTER OF THE TOWN OF HOULTON

## ARTICLE 1 POWERS OF THE TOWN

### Sec. 101 Incorporation

The Inhabitants of the Town of Houlton shall continue to be a municipal corporation under the name of the Town of Houlton as established by and in accordance with Chapter 149, Section 1, Private and Special Laws of Maine, 1831.

### Sec. 102 Powers of the Town

The town shall have all powers possible for a municipality to have under the Constitution and laws of Maine. The powers of the town under this charter shall be construed liberally in favor of the town and no mention of particular powers in the charter shall be construed to be exclusive or as limiting in any way the general power stated in this article.

### Sec. 103 Intergovernmental Relations

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or of the United States or any agencies thereof, or of Canada, or its provinces, or other civil divisions or agencies thereof.

## ARTICLE II TOWN COUNCIL

### Sec. 201 Composition, Eligibility, Election and Terms

1. Composition. There shall be a town council of seven members nominated and elected by the qualified voters of the town at large, as provided in Article VI.

2. Eligibility. Only qualified voters of the town shall be eligible to hold the office of council member and they shall reside in the town during their term of office.

3. Election and Terms. Council members shall be elected to serve staggered three year terms. At each regular municipal election council members shall be elected to fill the position of those whose terms expire.

4. Organizational Meeting. A meeting of a newly constituted council shall be held not later than the second business day following election and it shall organize, to the extent possible, as follows:

- a. elect a council chairman in accordance with Section 203;
- b. elect a council secretary in accordance with Section 204;
- c. act on the confirmation of a town clerk to serve for the ensuing year who may, at his option and subject to council approval, appoint a deputy clerk;
- d. act on the confirmation of a town treasurer to serve for the ensuing year who may, at his option and subject to council approval, appoint a deputy treasurer;
- e. act on the confirmation of a tax collector to serve for the ensuing year who may, at his option and subject to council approval, appoint a deputy collector;
- f. act on the confirmation of a general assistance administrator;
- g. act on the confirmation of a town assessor;
- h. act on the confirmation of a town attorney in accordance with Article IV, Section 431;
- i. elect one or more authorized representatives to sign warrants for expenditure of funds;
- j. make any other necessary appointments of personnel, boards or committees.

#### **Sec. 202 Compensation; Expenses**

Except as provided in Article IX, Sec. 902(2), the Council may determine the annual salary of Council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Council members elected at the next regular election, provided that such election follows the adoption of such ordinance by at least three months.

Council members receiving temporary appointments to fill vacancies shall be paid on a pro rata basis for time served. In addition, Council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

### **Sec. 203 Chairman**

At its organizational meeting or as soon thereafter as possible, the council shall elect, by majority vote of the entire council, one of its members as chairman for the ensuing year and the council may fill, for an unexpired term, any vacancy that may occur in the office of chairman. The chairman shall preside at meetings of the council and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for purposes of military law but he shall have no regular administrative duties. In the temporary absence or disability of the chairman, the chairman may designate in writing a chairman pro tempore from among the council members or, failing this action, the council may elect a chairman pro tempore; such person shall exercise all the powers of chairman during such temporary absence or disability. The chairman shall not have a vote in council affairs except as follows:

1. In the event of a tie he may vote to break the tie;
2. In the event that any proposed council action shall receive one vote less than the number of affirmative votes required for passage, the chairman may elect to cast his vote in favor of such proposal. This provision shall apply to all council matters including emergency ordinances under Section 213 of this charter.

### **Sec. 204 Secretary**

The council shall elect one of its members who shall have the title of secretary to the council. The secretary shall give notice of regular council meetings and, where practicable, of special council meetings to its members and the public, keep the journal of proceedings and perform such other duties as are assigned to him by this charter or by the council.

### **Sec. 205 General Powers and Duties**

All powers of the town shall be vested in the council except as otherwise provided by law or this charter. The council shall provide for the exercise thereof and for the performance of all duties obligations imposed on the municipality by law. The council shall be the municipal officers of the town.

### **Sec. 206 Prohibitions**

1. Holding Other Office. Except where clearly authorized by law, no council member shall hold any other town office or town employment during the term for which elected.

2. Length of Service. No council member shall serve more than two consecutive full three-year terms. After two full years out of office, former council members may seek reelection.

3. Appointments and Removals. Neither the council nor any of its members shall in any manner, dictate the appointment or removal of any administrative officers or employees whom the manager or any of his subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

4. Interference with Administration. Except for the purpose of inquiry under Section 209, the council or its members shall deal with town officers and employees who are subject to the direction and supervision of the town manager solely through the manager. Neither the council nor its members shall give orders to any such officer or employee either publicly or privately.

### **Sec. 207 Vacancies; Forfeiture of Office; Filling of Vacancies**

1. Vacancies. Office of council member shall become vacant upon failure to qualify for office within 10 days after written demand by council, nonacceptance, resignation, death, permanent disability, removal in any manner authorized by law or this charter for forfeiture of office.

2. Forfeiture of Office. A council member shall forfeit his office if he (1) lacks at any time during his term of office any qualifications for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, (3) is convicted of a crime or offense which is reasonably related to his ability to serve as council member, or (4) fails to attend three consecutive regular council meetings without being excused by the chairman.

3. Filling of Vacancies. A vacancy in the council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than 30 days upon the occurrence of the vacancy, but the council by a majority vote of all of its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. Notwithstanding the requirement of a quorum in Section 210 (3), if at any time the membership of the council is reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required for a quorum; such appointed members shall serve until succeeded by a person elected to fill the vacancy as specified above.

## **Sec. 208 Judge of Qualifications**

The council shall be the judge of the election and qualification of all officers elected by the voters under this charter and of the grounds for forfeiture of their office and for that purpose shall have the power to enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths, and the compulsory production of evidence. An officer charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on request and notice of such hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advance of the hearing. Decisions made by the council under this section may be subject to review by the courts.

## **Sec. 209 Investigations**

The council may make investigations into the affairs of the town and the conduct of any town department, office or agency and for this purpose may enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths and the compulsory production of evidence.

## **Sec. 210 Procedure**

1. Meetings. The council shall, at its organizational meeting or as soon thereafter as possible, establish a time and place for holding its regular meetings and shall meet regularly at least twice a month. Special meetings may be held on the call of the chairman or of three or more council members. All meetings of the council shall be open to the public; however, the council may by majority vote recess for the purpose of discussing in closed or executive session any matter considered to be of a confidential or personal nature. Final action on any matter taken up in such closed session shall not be taken by the council until such matter is placed on the agenda of a regular or special meeting.

2. Rules and Journal. The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

3. Voting. Voting, except on procedural motions, shall be by roll call and the votes of each council member shall be recorded in the journal. Four members of the council, exclusive of the chairman, shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed by council rules. No action of the council, except as provided in the preceding sentence or other sections of this charter, shall be binding or valid unless adopted by affirmative vote of four or more members.

## **Sec. 211 Action Requiring an Ordinance**

In addition to other acts required by law or by specific provisions of this charter to be done by ordinance, those acts of the council shall be by ordinance which:

1. Adopt or amend an administrative code or establish, alter or abolish any town department, office or agency;
2. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
3. Grant, renew or extend a franchise;
4. Authorize the borrowing of money, except tax anticipation borrowing;
5. Convey or lease or authorize the conveyance or lease of any lands of the town, except "tax acquired" property;
6. Amend or repeal any ordinance previously adopted. Acts other than those referred to in the preceding sentence may be done either by ordinance, by order or by resolution.

## **Sec. 212 General Ordinances**

1. Form. Every proposed ordinance shall be introduced in writing. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be: "The Town of Houlton ordains...".

2. Procedure. An ordinance may be introduced by any member of the council at any regular or special meeting of the council. At the next succeeding regular meeting, such proposed ordinance, or a summary thereof, shall be read, provision made for publication of the ordinance, or a summary thereof, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council, said publication and notice to be within ten days of the reading. The public hearing shall follow publication by at least seven days, may be held separately or in connection with any regular or special council meeting and may be adjourned from time to time. After the hearing, the council may adopt the ordinance with or without amendment or may reject it. However, any amendment as to any matter of substance may not be adopted by the council until the revised ordinance is newly introduced and has been subjected to all ordinance procedures. Following adoption, the ordinance, or a summary thereof, shall be published together with a notice of its adoption and the effective date.

3. Effective Date. Except as otherwise provided in this charter, ordinances shall become effective seven days after publication or adoption, or at any later date specified therein.

4. Publication Defined. Publication means posting of copies of the proposed ordinance, or a summary thereof, in at least two public places in the community, and printing in one or more newspapers having general circulation in the town. A reasonable number of copies of such proposed ordinance shall be made available through the town office.

### **Sec. 213 Emergency Ordinances**

To meet a public emergency affecting life, health, property, or the public peace, the council may, by affirmative vote of at least five of its members, pass emergency ordinances to take effect at the time indicated therein. Such emergency ordinances shall contain a section in which the emergency is set forth and defined. Within two days after passage, such ordinance shall be posted at the town office and such other public places as council may designate, and as soon as possible a statement of the general subject matter shall be published in a newspaper of general circulation in the community. No public hearing or notice thereof shall be required prior to the passage of an emergency ordinance. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

### **Sec. 214 Authentication and Recording of Ordinances**

All ordinances and resolutions adopted by the council shall be authenticated by the signatures of the chairman and the secretary of the council and recorded in full by the clerk in a properly indexed book kept for the purpose.

### **Sec. 215 Codification of Ordinances**

Within three years after adoption of this charter, the council shall provide for the preparation of a general codification of all ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be in loose leaf form, together with this charter and any amendments thereto, such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known as the Houlton Code. This Houlton Code shall be maintained currently by inserting new ordinances and other pertinent material and, at least every ten years, shall be reviewed and updated. Copies of the code and of new ordinances as enacted shall be made available, on request, to officials, libraries and public offices for public reference and made available for purchase at a reasonable price fixed by the council.

## **ARTICLE III TOWN MANAGER**

### **Sec. 301 Appointment: Qualifications; Compensation**

The council shall appoint a town manager for an indefinite term and fix his compensation. The manager shall be appointed on the basis of his character and his executive and administrative qualifications. He need not be a resident of the town or state at the time of his appointment but may reside outside the town while in office only with the approval of the council.

### **Sec. 302 Removal**

The council may remove the manager from office in accordance with the following procedures:

1. The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.

2. Within 10 days after receiving a copy of the resolution the manager may reply in writing and may request a public hearing. This hearing shall be held at a council meeting not earlier than 10 nor later than 30 days after the request is filed.

3. The council may adopt a final resolution of removal which may be made effective immediately, by affirmative vote of a majority of all its members at any time after 10 days from the date when a copy of the preliminary resolution was received by the manager, if he has not requested a public hearing, or at any time after the public hearing.

4. The manager shall continue to receive his salary until the effective date of removal.

5. The action of the council in suspending or removing the manager shall not be subject to review by any court.

### **Sec. 303 Absence**

By letter filed with the secretary of the council, the manager shall designate, subject to the approval of the council, a qualified person to exercise the powers and perform the duties of the manager during his temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another person to serve until the manager shall return. In the event of failure of the manager to make such designation, the council may by resolution appoint any administrative officer of the town or other qualified person to perform the duties of the manager until he shall return.

### **Sec. 304 Powers and Duties**

The town manager shall be the chief administrative officer of the town. He shall be responsible to the town council for the administration of all town affairs placed in his charge by or under this charter. He shall have the following powers and duties:

1. He may appoint and, when he deems it necessary for the good of the municipality, suspend or remove any one or more town employees and appointive administrative officers except council appointees provided for by this charter, except as otherwise provided by law, by this charter or by personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

2. He shall direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this charter or by law.

3. He shall attend council meetings, except when his removal is being considered, and shall have the right to take part in discussion but may not vote.

4. He shall see that all laws, provisions of this charter and acts of the council subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

5. He shall prepare and submit to the council the annual budget and capital program.

6. He shall submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year.

7. He shall prepare such other reports and perform such other duties as may be required of him by the council and as prescribed in this charter.

8. He shall prepare an administrative code, or amendments to an existing code as required, to be proposed to the council and the council may by ordinance adopt them with or without amendment.

9. He shall submit to the council members and make available for public inspection at least three days in advance of each regular council meeting a proposed agenda for such meeting.

## ARTICLE IV ADMINISTRATIVE ORGANIZATION

### Part 1 General Administration

#### Sec. 401 General Provisions

1. Titles and Appointment. The following officers and boards shall be appointed by a majority vote of the members of the council: planning board, zoning board of appeals, board of assessment review, and such other boards and officers when appointment is required by state or federal law or municipal ordinance. The council may, where appropriate and where not prohibited by law, vest in the town manager all or part of the duties of any office. Such annual appointments shall be made at the organizational meeting or as soon thereafter as possible.

The town manager shall appoint department heads, town clerk, town treasurer, tax collector and town attorney, assessor, general assistance administrator, subject to confirmation of the council and shall have the power to remove such appointees when necessary. All other administrative officers and employees shall be appointed or may be removed by the town manager or his authorized subordinates except as otherwise provided in this charter.

2. Creation of Departments. The council may establish town departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, as assigned to any other.

3. Direction by Manager. All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of the council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

4. Bonds of Officials. The council shall require a bond by a reputable surety company or other acceptable sureties satisfactory to the council from all persons trusted with the collection, custody, or disbursement of any moneys of the town provided, however, that the town shall pay the costs of providing such bond.

### Part II Personnel Administration

#### Sec. 411 Merit Principle

All appointments and promotions of town officials and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

### **Sec. 412 Personnel Director**

The manager or a person appointed by him shall be designated personnel director.

### **Sec. 413 Personnel Rules**

The personnel director shall prepare personnel rules. When approved by the manager, the rules shall be proposed to the council, and the council may adopt them by ordinance with or without amendment.

## **Part III Assessment Administration**

### **Sec. 421 Assessor**

There shall be a single assessor appointed by the Town Manager. The assessor shall perform all duties and responsibilities provided for assessors under general law. The salary, hours, and working conditions of the assessor shall be determined by the Town Manager. The assessor may be removed by the Town Manager for cause after notice and hearing. Cause shall not include any disagreement with respect to an assessing practice employed by the assessor where such practice is generally accepted and lawful.

### **Sec. 422 Board of Assessment Review**

The council shall establish, by ordinance, a board of assessment review.

## **Part IV Legal**

### **Sec. 431 Town Attorney**

There shall be a town attorney appointed by the manager, subject to council confirmation. He shall serve as chief legal advisor to the council, manager, and all town departments, boards, and agencies. The town attorney shall represent the town in all legal proceedings and shall perform any other duties prescribed by ordinance and law. In addition, the council may from time to time, appoint other lawyers to assist the town attorney in matters of complexity or magnitude.

## **Part V School Administration**

### **Sec. 441 School Committee; Qualifications; Election and Term**

In the event that the town shall be required to operate its own school system, the council shall provide by ordinance for the administration of such a system.

## **Part VI Communications Center**

**Sec. 451** There shall be established a communications center for Town Government and Town Council members to receive input from the citizens of Houlton. The Town Council shall provide by ordinance for the operation and administration of said center, giving public notice of the hours and availability of the center.

## **ARTICLE V FINANCIAL PROCEDURES**

### **Sec. 501 Fiscal Year**

The fiscal year of the town shall begin the first day of January and shall end the last day of December except that the council may by ordinance change the fiscal year. Such fiscal year shall constitute the budget and accounting year as used in this charter.

### **Sec. 502 Submission of Budget and Budget Message**

On or before the first regular council meeting of the eleventh month of each fiscal year, the manager shall submit to the council a budget for the ensuing fiscal year and an explanatory message.

### **Sec. 503 Budget Message**

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline his proposed financial policies of the town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the town's debt position and include such other material as the manager deems desirable.

### **Sec. 504 Budget**

The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by this charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the estimated property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year.

## **Sec. 505 Council Action on Budget**

1. Preliminary Review and Approval. The budget prepared by the manager shall be reviewed by the Council which shall approve such proposed budget with or without amendment. The preliminary budget shall be presented for final adoption at the public hearing thereon, and may be further amended at said public hearing.

2. Notice and Hearing. The council shall publish in one or more newspapers of general circulation in the town the general summary of the budget and a notice stating the times and places where copies of the message and budget are available for inspection by the public, and the time and place, not less than two weeks after such publication, for a public hearing on the budget.

3. Amendment Before Adoption. At the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated resources from all sources.

4. Adoption. The Council shall adopt the budget not later than 90 days after the presentation as provided under Sec. 502. Failing such adoption within 90 days, the budget presented for the public hearing shall automatically become the budget for the ensuing fiscal year. In the period between the beginning of the fiscal year and the adoption of the budget, the council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year, when adopted, in amounts sufficient to cover the necessary expenses of the various departments.

Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax thereby required.

A copy of the budget as finally adopted shall be certified by the manager and filed by him with the town assessor, whose duty it shall be to levy such taxes for the corresponding tax year.

## **Sec. 506 Voter Authority**

1. Referendum. The qualified voters of the town shall have the power under this article to require reconsideration by the Council of any adopted budget item. If the council fails to accept an action so reconsidered, the qualified voters of the Town shall have the right to approve or reject such amendment at a municipal election.

2. Procedure. Referendum proceedings under this article shall be carried out in accordance with requirements of this charter as set forth in Art. VIII, Sec. 702 through Sec. 707. However, the following time schedule shall be in effect to preclude extended financial restriction on the council in the conduct of town affairs.

a. Time for filing petition. Budget referendum petitions must be filed within seven (7) calendar days after council adoption of the budget.

b. Time for certification of Clerk; Amendment. The clerk shall complete a certificate as to the sufficiency of the petition within five (5) days after filing. If determined insufficient an immediate written notice shall be given in hand to a petition committee member who shall acknowledge receipt of the notice. If intent to amend is given by the committee within one (1) day of receipt of the notice, an added two (2) days from notice of intent shall be granted for filing the amended petition. The determination of the clerk as to sufficiency shall not be subject to council review.

c. Council Action. If the referendum petition is finally determined sufficient, the Council shall adopt or reject, without amendment, the referendum article at a special Council meeting within five (5) days of the validation date. If adopted, the referendum action shall become an amendment to the budget of the Town. If rejected, the Council shall hold a special election on the referendum article within fourteen (14) days of the validation date, giving one notice in a newspaper of general circulation in the Town of the article and the time and place of the election. If adopted at the special election, the referendum action shall become an amendment to the budget of the Town.

3. Budget item defined. Budget item shall be any specific item identified and set forth in the budget as presented under Sec. 505 of this article. For an item of concern not readily identified, it shall mean the smallest monetary budget classification which includes the item under question. Each petition shall be restricted to one (1) budget item.

4. Interim Council Powers. In the period between the time of filing of notice of commencement of referendum action with the town clerk and the date of final determination by vote of council or citizens, council may, where necessary, authorize expenditures for current operational expenses chargeable to the appropriation under consideration when adopted.

### **Sec. 507 Long Range Program**

The manager shall prepare and submit to the council annually a five-year program at least three months prior to the final date for submission of his fiscal budget.

## **Sec. 508 Action on Long Range Program**

1. Notice and Hearing. The council shall publish in one or more newspapers of general circulation in the town the general summary of the long range program and a notice stating the times and places where copies of this program are available for inspection by the public, and the time and place, not less than two weeks after such publication, for a public hearing on such program.

2. Adoption. Subject to the exclusive provisions for capital financing as provided in subsection 3 of this section, the council by resolution shall adopt the long range program with or without amendment at the public hearing and on or before the first day of the eleventh month of the current fiscal year.

3. Capital Expenditures. Any proposed commitment in any yearly long range plan for capital expenditure or expenditures for any unit of time in excess of 1/10 of 1% of the last state valuation of taxable property in the town shall be voted upon at a municipal election, except emergency ordinances as defined in Art. 11, Sec. 213, and except for replacement or addition of operational equipment of the town. Any ballot submitted to the people under this section shall specifically state whether the capital funds available to the council under this section without election are committed to the funds being requested.

4. Planning Funds. Any expenditure for planning, studying and consulting pertaining to long range planning shall not be subject to subsection 3 of this Article and shall be raised in the operational budget of the town.

## **Sec. 509 Public Records**

Copies of the budget and the capital program as adopted shall be public records.

## **Sec. 510 Amendments After Adoption**

1. Supplemental Appropriations. If during the fiscal year the manager certified that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

2. Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by emergency ordinance authorize the

issuance of temporary notes, which may be renewed from time to time, but the temporary notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

3. Reduction of Appropriations. If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

4. Transfer of Appropriations. At any time during the fiscal year the manager may transfer part or all of any unencumbered funds within an appropriation. Upon written request by the manager, the council may by ordinance transfer part or all of any unencumbered appropriation balance from one appropriation to another.

5. Limitations; Effective Date. No appropriations for debt service may be reduced or transferred and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the encumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

### **Sec. 511 Lapse of Appropriations**

General funds appropriations, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that they have not been expended or encumbered, or except as prohibited by law or prior agreement. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned; if three years pass without any disbursement from or encumbrance of the appropriation.

### **Sec. 512 Administration of Budget**

1. Work Programs and Allotments. At such time as the manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriations by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 510.

2. Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriation duly made and unless the manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the town for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making of any contract or lease providing for payment beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

3. Sealed, Competitive Bids Required. All purchases by the Town of property, services and contract rights which exceed five thousand dollars (\$5,000.00) shall be conducted by sealed, competitive bidding except the following: a) purchases by emergency ordinance under Section 213 hereof, b) purchases the procedure for which is otherwise fixed by this Charter or law including selection of the Town Attorney and Town Auditor; c) purchases of services of employees of the Town including union negotiated contracts, d) purchases the price for which is fixed by some authority authorized by law to fix prices, e) purchases which use funds other than general tax revenues and Federal Revenue Sharing funds, f) purchases or contracts when competitive bidding is dispensed with on the recommendation of the purchasing agent with the written concurrence of the Town Council. Town Council shall provide by ordinance for procedures not inconsistent herewith.

### **Sec. 513 Board of Budget Review**

1. There shall be a 9 member Board of Budget Review, except during the two year transitional period of 1975 which shall be 11 members and 1976 which shall be 10 members. The members of the Board shall serve staggered three year terms and new members shall be nominated and elected as provided in Article VI of this charter. Qualified voters of the town shall be eligible to serve as members of the Board of Budget Review.

2. The initial board shall consist of the members of the Budget Committee as established prior to the adoption of this charter. At the first annual municipal election and at each such election thereafter 3 members shall be nominated and elected for the ensuing 3-year term to replace those whose terms expire and fill vacancies on the board. The board may appoint members to fill vacancies occurring during the year and vacancies caused by the lack of nominees. The board shall elect one of its members as chairman. No person shall serve more than two consecutive three-year terms on the board.

3. The Board of Budget Review is charged with the responsibility of making such study of the proposed budget and budget message as it shall determine to be in the best interest of the town. The board shall attend the annual public hearing on the budget and may make a report to the town and the council at or prior to the public hearing and may recommend proposed changes,

additions, or deletions to the budget for consideration by the council, and in general, the board shall assist in making a full disclosure of information concerning the budget available at the public hearing. The board shall serve without salary and shall have no duties or authority except as stated in this charter.

4. The town manager and the council shall make available to the Board of Budget Review copies of the annual budget and budget message as submitted by the town manager and any changes thereto proposed by the council from time to time and shall cooperate in assisting the Board of Budget Review in accomplishing its duties and responsibilities.

5. The board shall meet within 30 days after the submission of the budget and budget message under Sec. 502 and at such other times as the board shall determine to carry out its duties and responsibilities under this charter.

#### **Sec. 514 Administrative Regulations**

The council may establish, and amend from time to time, regulations necessary or convenient to carry out the purposes and intent of Article V.

#### **Sec. 515 Mid-Year Hearing**

The council shall provide for and hold a public hearing on or before the first day of the ninth month of each fiscal year to apprise the public of the financial status of the first six months fiscal operation in terms of the adopted budget of that fiscal year.

#### **Sec. 516 Annual Post-Audit**

The council shall each year appoint a qualified public accountant for the purpose of conducting the annual post-audit of the prior fiscal year municipal finances, as authorized by law.

## ARTICLE VI NOMINATIONS AND ELECTIONS

### Sec. 601 Conduct of Elections

The regular Municipal Election, formerly and in lieu of the annual Town Meeting, shall be held in conjunction with the General and Special elections of the State of Maine in November of each year. Except as otherwise provided by this charter, the provisions of Title 21 and Title 30 of the Maine Revised Statutes Annotated (1964) and acts amendatory thereto, shall apply to elections held under this charter. All elections called for under this charter shall be conducted by the election officials established under said Title 21. For the conduct of elections, for the prevention of fraud in such elections and for the recount of ballot in cases of fraud or doubt, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter. Qualified voter shall mean any person qualified to vote under law.

### Sec. 602 Nomination by Long Petition Method

1. Petitions. Candidates for election to the council or other elective office must be nominated by petition. Any qualified voter of the town may be nominated for election as a council member or other elective office by a petition signed by qualified voters of the town not less in number than that equal to 2% of registered voters at the last general election of the town. The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his signature the date of his signing and the street address where he resides.

2. Filing and Acceptance of Nomination Petitions. All separate papers comprising a nominating petition shall be assembled and filed with the municipal clerk as one instrument not earlier than 90 days not later than 21 days before the election. The clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of nomination.

3. Procedure After Filing Nomination Petitions. Within five days after the filing of a nominating petition, the clerk shall notify the candidate and the person who filed the petition whether or not it satisfied the requirements prescribed by this charter. If a petition is found insufficient, the clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

### Sec. 603 Ordering Candidates Surnames

Where two or more candidates have been nominated for any office, the names of such

candidates shall appear on the ballot in the order determined by lot. The municipal clerk shall determine, by lot, the order that said candidates' names shall appear on the ballot; the proceedings shall be public and the candidates shall be given an opportunity to be present.

#### **Sec. 604 Determination of Election Results**

1. Number of Votes. Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled.

2. Plurality. Elections shall be determined by plurality vote. In case of a tie, a run off election of those tied shall be held within ten days on one notice thereof in a newspaper of general circulation in the town.

#### **Sec. 605 Ballots for Ordinances**

An ordinance to be voted on pursuant to Article VII shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described ordinance be adopted?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the left of each a square in which the voter may cast his vote.

#### **Sec. 606 Voting Machines**

The council may provide for the use of mechanical or other devices for voting or counting the votes, not inconsistent with law.

### **ARTICLE VII INITIATIVE AND REFERENDUM**

#### **Sec. 701 General Authority**

1. Initiative

a. The qualified voters shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a municipal election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of officers or employees.

b. The council may submit a proposal for the enactment, repeal or amendment of any ordinance, order or resolve to be voted upon at a municipal election.

2. Referendum. The qualified voters of the town shall have power to require reconsideration by the council of any adopted ordinance, order, resolve, or vote, except those making appointments or removals or regulating exclusively the internal procedure of the council and, if the council fails to repeal an action so reconsidered, to approve or reject it at a municipal election, provided that such power shall not extend to any emergency ordinance as defined in Article II, Section 213, or any temporary ordinance as set forth in Article IX, Section 901(3), or to the budget or capital program or to any ordinance, order, resolve or vote relating to appropriation of money, levy of taxes, or salaries of officers or employees, unless such power is expressly granted elsewhere in this charter.

### **Sec. 702 Commencement of Proceedings; Petitioners' Committee; Affidavit**

Any five qualified voters may commence initiative or referendum proceedings by filing with the clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and street addresses and specifying the mailing address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the action sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate petition blanks to the petitioners' committee.

### **Sec. 703 Petitions**

1. Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the town equal in number to at least 10 per cent of the total of qualified voters registered to vote at the last regular town election.

2. Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the street address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, unless because of length it is impractical. In such case, the intent and purpose shall be paraphrased.

3. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence or that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

4. Time for Filing Referendum Petitions. Referendum petitions must be filed within 30 days after adoption by the council of the action sought to be reconsidered.

## **Sec. 704 Procedure After Filing**

1. Certificate of Clerk; Amendment. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by mail. A petition certified insufficient may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection 2 and 3 of Section 703, and within five days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended certificate is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection 2 of this section within the time required, the clerk shall promptly present his certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

2. Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

3. Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review.

## **Sec. 705 Referendum Petitions; Suspension of Effect of Ordinance or Action.**

When a referendum petition is filed with the town clerk, the ordinance or action sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. There is a final determination of insufficiency of the petition, or
2. The petitioners' committee withdraws the petition, or
3. The council repeals the ordinance or action, or
4. Thirty days have elapsed after a vote of the town on the ordinance or action.

## **Sec. 706 Action on Petitions**

1. Action by the Council. When an initiative or referendum petition has been finally determined sufficient, the council shall within 14 days, excluding Sundays and holidays, consider

the proposed initiative ordinance or reconsider the referred ordinance or action by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance or action within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.

2. Submission to Voters. The vote on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular town election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

3. Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the date when the petition is finally determined sufficient by filing with the clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

## **Sec. 707 Results of Election**

1. Initiative. If a majority of the qualified voters casting ballots on a proposed initiative ordinance, order or resolve vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. Referendum. If a majority of the qualified voters casting ballots on a referred ordinance or action vote against it, it shall be considered repealed or rejected upon certification of the election results.

## **ARTICLE VIII GENERAL PROVISIONS**

### **Sec. 801 Elected Officers; Terms**

The term of any elected officer shall begin not later than the second business day following the final determination of the election of said officer. Any officer shall serve for his prescribed term or until his successor is elected and qualified.

### **Sec. 802 Swearing in Officers**

Every town officer or official shall be sworn to the faithful discharge of the duties incumbent upon him according to the Constitution and laws of the State of Maine and the charter and ordinance of the town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

### **Sec. 803 Personal Financial Interest**

Any officer or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the town, or in the sale of any land, material, supplies or services to the town, or to a contractor supplying the town, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as an officer or employee in the making of such sale or in the making or performance of such contract. Any officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section, with the knowledge express or implied of the person or corporation contracting with or making a sale to the town, shall render the contract or sale voidable by the council.

### **Sec. 804 Prohibitions**

#### **1. Activities Prohibited**

a. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of race, sex, political or religious opinions or affiliations.

b. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

c. No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion, to, or any advantage in, a position in the municipal service.

d. No person who holds a compensated appointive town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

e. Nothing herein contained shall affect the right of any person to hold membership in, and support, a political party, to vote as he chooses, to express privately and publicly his opinions on all political subjects and candidates, to maintain political neutrality, and to attend political meetings.

2. Penalties. The council shall enact an ordinance prescribing penalties for the above. Any person found in violation of this section or any ordinance enacted pursuant to this section by a court of competent jurisdiction or by the council acting in a judicial capacity shall be ineligible for a period of three years thereafter to hold any town office or employment and shall immediately forfeit his office or position.

### **Sec. 805 Separability**

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

## **ARTICLE IX TRANSITIONAL PROVISIONS**

### **Sec. 901 Effective Date**

After adoption, this charter shall become effective for all purposes on and after the first day of the next succeeding municipal year.

### **Sec. 902 First Council**

1. Members. All members serving on the council at the effective date of this charter shall continue to hold office until their prescribed term expires and their successors are elected and qualified.

2. Salaries. Initially, each council member shall receive a salary at the existing rate on the effective date.

3. Temporary Ordinances. In adopting ordinances and resolutions necessary to effect the transition of government under this charter and to maintain effective government during that transition, the council shall follow the procedures prescribed in Article II, except that at its first meeting and any meeting held within 60 days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective municipal government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Article II for ordinances of the kind concerned.

### **Sec. 903 Officers, Employees and Board Members**

1. Right and Privileges Preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the right or privileges of persons who are town officers or employees at the time of its adoption.

2. Continuance of Office or Employment

a. Except as specifically provided by this charter, if at the time this charter takes full effect a town administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he shall continue in such office or position until the taking effect of some specific provision under this charter directing that he vacate the office or position.

b. All established boards and committees not inconsistent with this charter shall continue in effect until changed by council action and the incumbent members shall serve their appointed terms or until replaced.

3. Personnel System. An employee holding a town position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for under this charter.

## **Sec. 904 Departments, Office and Agencies**

1. Transfer of Powers. If a department, office or agency is abolished by or under this charter, the powers and duties given it by law shall be transferred to the town department, office or agency designated in this charter or, if the charter makes no provisions, designated by the council.

2. Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the council in accordance with this charter.

## **Sec. 905 Pending Matters**

All rights, claims, action, orders, contracts and legal or administrative proceeding shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the town department, office or agency appropriate under the charter.

## **Sec. 906 State and Municipal Laws**

1. In General. All town ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Maine permit, all laws relating to or affecting this town or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.