

**AGENDA**  
**Bar Harbor Town Council**  
**By Video Conference**  
**April 7, 2020**

The public can monitor by watching Spectrum channel 1303 or by live streaming on the town's website, [www.barharbormaine.gov](http://www.barharbormaine.gov)

**I. CALL TO ORDER – 4:00 P.M.**

**A. Excused Absence(s)**

**II. COMMITTEE APPOINTMENTS** - Council to consider Appointments Committee recommendations to appoint the following:

**A. Cruise Ship Committee – Tabled from 3/30/20**

1. John Kelly, ANP Representative, term expiring July 31, 2020

**B. Task Force on the Climate Emergency – moved to VII E following proposed changes to the bylaws.**

**III. PUBLIC COMMENT PERIOD** - The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person. Comments should be submitted to the Council Chair by email at [jdobbs@barharbormaine.gov](mailto:jdobbs@barharbormaine.gov) and will be read during the meeting.

**IV. APPROVAL OF MINUTES –**

**A. February 18, 2020 Regular Meeting**

**B. March 16, 2020 Special Meeting**

**C. March 20, 2020 Special Meeting**

**D. March 30, 2020 Special Meeting**

**V. ADOPTION OF AGENDA**

**VI. PUBLIC HEARINGS-** The public can call in at 288-1710 and enter code 0132895 to speak during the following public hearings.

**A. Special Amusement Permit Renewals**

1. **Holiday Inn Bar Harbor Regency**, 123 Eden St, request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Patrick Walsh.
2. **Harborside Hotel & Marina**, 55 West St, request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Patrick Walsh.
3. **Bar Harbor Inn**, 8 Newport Dr, request for Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by David C. Witham.
4. **Tailgate Sports & Pizza**, 131 Cottage St, request for Class 3a, three or more musicians with mechanical amplification as submitted by Greg Duperey.

**VII. REGULAR BUSINESS:**

- A. Charter Commission –** Final Report Presentation by Chair Michael Gurtler.
- B. Citizens’ Petition: Vacation Rentals –** Presentation of petition for final determination of sufficiency.
- C. Tabled from 3/30/20 Cruise Ship Season Status-** possible motion to extend suspension of port calls.
- D. Tabled from 3/30/20 Letter to visitors, residents and seasonal residents discouraging travel.**
- E. Tabled from 3/30/20 Task Force on the Climate Emergency –** Review changes to bylaws and possible motion to amend. Following the proposed amendment, Appointments Committee recommendations to appoint the following:
  - 1. Brian Booher, term expiring July 31, 2021
  - 2. Norman Burdzel, term expiring July 31, 2021
  - 3. Tobin Peacock, term expiring July 31, 2021
  - 4. Darron Collins, term expiring July 31, 2022
  - 5. Spencer Gray, term expiring July 31, 2022
  - 6. Tom St. Germain, term expiring July 31, 2023
  - 7. Jennifer Crandall, term expiring July 31, 2023
  - 8. Margaret Jeffery, term expiring July 31, 2023
  - 9. Sirohi Kumar, Student Representative, term expiring July 31, 2022
  - 10. Jill Goldthwait, Town Councilor, term expiring June 9, 2020
- F. Age Friendly Committee Ordinance Amendment –** Review proposed changes and possible motion to schedule a Public Hearing for May 19, 2020.
- G. Ethics Ordinance Amendment –** Review proposed changes and possible motion to schedule a Public Hearing for May 19, 2020.
- H. Cruise Ship Committee Ordinance Amendment –** Review proposed changes and possible motion to schedule a Public Hearing for May 19, 2020.
- I. Treasurer’s Warrants –** Request of Treasurer to authorize paid bills.

**VIII. TOWN MANAGER’S COMMENTS**

**IX. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS**

**X. EXECUTIVE SESSION:** (None Scheduled)

**XI. ADJOURNMENT**

**To ensure your full participation in this meeting, please inform us of any special requirements you might have due to a disability. Please call 288-4098**

## Manager's Memo

To: Bar Harbor Town Council  
cc: Department Heads  
From: Cornell Knight, Town Manager  
Date: Friday, April 3, 2020  
Re: **Town Council Meeting of April 7<sup>th</sup>**

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- I. A. Excused Absence(s)** – None that I am aware of but if there is one a possible motion: to excuse Councilor \_\_\_\_\_ as provided by Town Charter section C-12.B(1)(d).
- II. COMMITTEE APPOINTMENTS** – **You will need to make a motion to remove it from the table, roll call vote.** Nomination(s) are made, no second is needed. The Climate appointments are later in the agenda following bylaw amendments.
- VI. PUBLIC HEARINGS-** public can call in to comment.
- A. Special Amusement Permit Renewals**
- Holiday Inn Bar Harbor Regency**, 123 Eden Street, following public comments, a possible motion: to approve the special amusement permit to the Holiday Inn Bar Harbor Regency for a Class 3ad permit.
  - Harborside Hotel & Marina-** 55 West Street, following public comments, a possible motion: to approve the special amusement permit to the Harborside Hotel & Marina for a Class 3ad permit.
  - Bar Harbor Inn-** 8 Newport Drive. Following public comments, a possible motion: to approve the special amusement permit to the Bar Harbor Inn for a Class 3ad permit.
  - Tailgate Sports & Pizza-** 131 Cottage Street. Following public comments, a possible motion: to approve the special amusement permit to the Tailgate Sports & Pizza for a Class 3a permit.
- VII. REGULAR BUSINESS:**
- A. Charter Commission-** - Enclosed is the Charter Commission's final report. Mike Gurtler, Chair of the Commission will participate by video to review the report and answer questions. An Order is enclosed. However, I would recommend that you place the questions on the November ballot to allow time to educate the public about the questions especially the process to amend the Land Use Ordinance. If the questions are to be placed on the June ballot, a possible motion: to approve and sign the Order placing the Charter amendment questions on the June 9, 2020 ballot.

- B. Citizens' Petition Vacation Rentals** – Enclosed is a petition regarding vacation rentals. Sharon Linscott, Town Clerk has certified that a sufficient number of signatures has been collected. Julia Thomas, the coordinator of the petition will join the meeting to answer questions. Also enclosed are the applicable provisions of the Charter. A possible motion: to approve the Town Clerk's certification of the vacation rental petition for sufficient number of signatures and schedule consideration of the petition at the May 19, 2020 Town Council meeting.
- C. Tabled- Cruise Ship Season Status** – **You will need to make a motion to remove it from the table, roll call vote.** Charlie Phippen, Harbormaster will have an updated list of cancelations at the meeting. A possible motion: to extend the suspension of cruise ships visiting Bar Harbor to \_(date)\_.
- D. Tabled- Letter to visitors and seasonal residents.** **You will need to make a motion to remove it from the table, roll call vote.** The other island towns have posted letters discouraging travel to the island. There is language in the Order I signed Thursday and in the FAQ's, that does discourage travel for second homeowners. Bar Harbor is the only town on the island to have suspended lodging.
- E. Tabled- Task Force on the Climate Emergency.** **You will need to make a motion to remove it from the table, roll call vote.** Enclosed are proposed changes to the Task Force By-Laws that changes the number of members and that there is a student representative. A possible motion: to approve the amendments to the Task Force on the Climate Emergency Bylaws.
1. Appointments as listed, no second required.
- F. Age Friendly Committee Ordinance Amendment**-see the enclosed changes requested by the Age Friendly Committee to Chapter 31 Boards, Committees and Commissions of the Municipal Code. A possible motion: to approve the proposed changes to Chapter 31 of the Municipal Code as presented and schedule a public hearing for May 19, 2020
- G. Ethics Ordinance Amendment**- Enclosed is a draft amendment to the Ethics Ordinance Chapter 78 of the Municipal Code regarding the conflict of interest and the requirement that the person leave the room. The town attorney says the current ordinance wording conflicts with the state's open meeting law. A possible motion: to approve the proposed changes to Chapter 78 of the Municipal Code as presented and schedule a public hearing for May 19, 2020.
- H. Cruise Ship Committee Ordinance Amendment**- Enclosed are proposed amendments to the ordinance recommended by the Council's Appointments Committee that would make the Acadia National Park seat a 1-year term. A possible motion: to approve the proposed changes to Chapter 31 of the Municipal Code as presented and schedule a public hearing for May 19, 2020.
- I. Treasurer's Warrant** – A possible motion: to sign the Treasurer's Warrants for paid bills.

**Minutes**  
**Bar Harbor Town Council**  
**February 18, 2020**

- I. CALL TO ORDER** – 7:00 P.M.-In attendance were Councilors Jefferson Dobbs, Matthew Hochman, Stephen Coston, Gary Friedmann, Erin Cough, Joe Minutolo; and Town Manager Cornell Knight.
- A. Excused Absence(s)** – Mr. Hochman, with second by Mr. Minutolo, moved to excuse Councilor Goldthwait as provided by Town Charter section C-12.B(1)(d). Motion passed 6-0.
- II. COMMITTEE APPOINTMENTS** - *Council to consider Appointments Committee recommendations to appoint the following with expiration date of July 31 of their applicable year:*
- A. Housing Authority**
1. *Roger Bremekamp, term expiring 2024*
  2. *Christine Witham, term expiring 2024*
- Mr. Friedmann, on behalf of the Appointments Committee, moved the slate as listed. No second. The slate was appointed unanimously.
- III. PUBLIC COMMENT PERIOD** - *The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.* – Lauren Donnelly requested that Council provide a listening session on cruise ships to take an overall look at the whole issue and gave some recommendations.
- IV. APPROVAL OF MINUTES** –
- A. January 30, 2020 Special Meeting**  
Mr. Hochman, with second by Ms. Cough, moved to approve the January 30, 2020 Special Meeting minutes as presented. Motion passed 6-0.
- B. February 4, 2020 Regular Meeting**  
Mr. Hochman, with second by Ms. Cough, moved to approve the February 4, 2020 Regular Meeting minutes as presented. Motion passed 6-0.
- V. ADOPTION OF AGENDA** –Mr. Hochman, with second by Ms. Cough, moved to adopt the agenda as presented. Motion passed 6-0.
- VI. FINANCIAL REPORT** - *Review and possible adoption of a motion to accept the financial statements as presented.* Finance Director Stan Harmon presented his report. Mr. Hochman, with second by Ms. Cough, moved to accept the financial report as presented. Motion passed 6-0.
- VII. CONSENT AGENDA** - *A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:*

- A. **CDBG Grant** – Possible motion to apply for a CDBG grant, and accept funding if awarded, on behalf of the Bar Harbor Housing Authority to make overdue repairs to the Rodick Lorraine Apartments.

Mr. Hochman, with second by Ms. Cough, moved to approve the Consent Agenda as published. Motion passed 6-0.

**VIII. PUBLIC HEARINGS**

- A. **Special Amusement Permit Renewal: 1932 Criterion Theatre, 35 Cottage St,** request for Class 4 Other Entertainment as submitted by Richard Cleary. Councilor Hochman stated he no longer has a financial conflict of interest with the Criterion. There being no public comment, Mr. Hochman, with second by Ms. Cough, moved to approve the Special Amusement Permit for the 1932 Criterion Theatre for a Class 4 Other Entertainment as submitted. Motion passed 6-0.
- B. **Fire Prevention Ordinance Amendment #2020-02 – Public comment and possible adoption of the amendment to Chapter 85 of the Municipal Code.** There being no public comment, Mr. Hochman, with second by Ms. Cough, moved to adopt the amendments to the Fire Prevention Ordinance Chapter 85 of the Municipal Code as presented. Motion passed 6-0.

**Fire Prevention Ordinance Amendment**  
Town of Bar Harbor  
#2020-02

**An Amendment to resolve code conflicts with the Maine Uniform Building and Energy Code (MUBEC) in Chapter 36.**

The Town of Bar Harbor hereby ordains that Chapter 85, Fire Prevention, of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**CHAPTER 85 – FIRE PREVENTION**

§ 85-1 Life Safety and Fire Prevention Codes.

A. Life Safety Code adopted. ~~The Town of Bar Harbor ordains the most current~~ The 2009 edition of the NFPA 101 Life Safety Code, as amended to avoid conflict with the Maine Uniform Building and Energy Code and as published by the National Fire Protection Association, is hereby adopted as the official Life Safety Code of the Town of Bar Harbor, with the same force and effect as though set out in full herein. A copy of said code shall be kept on file in the office of the Clerk of the Town of Bar Harbor.

(1) Amendments. NFPA 101, Life Safety Code, 2009 edition, is adopted in its published form as if fully set forth herein, with the following amendments and exceptions:

- (a) Unvented fuel-fired heaters. Unvented fuel-fired heaters shall not be used in a bedroom or bathroom or in a manufactured home.
- (b) Extinguishment Requirements. The following provisions of NFPA # 101, Life Safety Code, 2009 edition, are not incorporated by reference:
  - [1] Chapter 12, section 12.3.5.3, subsections 3 & 4; and,
  - [2] Chapter 13, section 13.3.5.3, subsections 1 & 2.
- (c) Extinguishment Requirements in One- and Two- Family Dwellings. Section 24.3.5.1 of NFPA 101, Life Safety Code, 2009 edition, is not incorporated by reference.
- (d) Stair risers, guards, treads, and tread nosing. The following provisions of NFPA 101, Life Safety Code, 2009 edition, are modified as indicated: The maximum height of risers as prescribed in Chapter 24, Section 24.2.5 is modified to permit a maximum 7 ¾" riser for

newly constructed stairs in one- and two family dwellings only. The minimum height of guards as prescribed in Chapter 24, Section 24.2.5 is modified to permit a minimum guard height of 36" for newly constructed stairs in one- and two family dwellings only. The minimum tread depth as prescribed in Chapter 24, Section 24.2.5 shall be amended to permit a 10" tread depth for newly constructed stairs in one-and two family dwellings only. Tread nosing as prescribed in Chapter 7, Section 7.2.2.3.5 is modified to permit a nosing at least ¾" but not more than 1 ¼" in depth for newly constructed one-and two family dwellings.

(e) Separated Occupancies. Tables 6.1.14.4.1 a & b, "Required Separation of Occupancies (hours.)" shall be crossed referenced with Table 508.4 Required Separation of Occupancies of the 2015 International Building Code(IBC). Where separation requirements in the two tables conflict, separation requirements set forth in the IBC table control.

(f) Accessory Occupancies. Chapter 6, Section 6.1.14.1.3 of NFPA 101, Life Safety Code, 2009 edition, is not incorporated. Section 508.2 Accessory Occupancies, of the 2015 International Building Code governs.

(g) Dead End Corridors. The following provisions of NFPA 101, Life Safety Code, 2009 edition, are modified as indicated: Chapter 18, Section 18.2.5.2 is modified to require dead end corridors not to exceed 20 feet. Chapter 32, Section 32.3.2.5.4 is modified to require dead end corridors not to exceed 50 feet. Chapter 42, Table 42.2.5 is modified to require that a dead end corridor in an ordinary hazard storage occupancy protected by a sprinkler system not exceed 50 feet. A dead end corridor in an ordinary hazard storage occupancy not protected by a sprinkler shall not exceed 20 ft.

B. Fire Prevention Code adopted. In accordance with 30-A M.R.S.A. § 3003, as amended, the NFPA 1, Uniform Fire Code, 2006 edition, as published by the National Fire Protection Association, is hereby adopted as the Fire Prevention Code of the Town of Bar Harbor. A copy of said code shall be kept on file in the office of the Clerk of the Town of Bar Harbor. Said code is hereby incorporated by reference as the minimum standards for safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

(1) Amendments. NFPA 1, Uniform Fire Code, 2006 Edition, is adopted in its published form as if fully set forth herein, with the following amendments and exceptions:

(a) Chapter 13, Section 2.2.2 of NFPA 1, Uniform Fire Code, 2006 edition, is not incorporated.

(b) Chapter 20, Sections 2.3.5; 3.2.1; 4.2.6; 5.2.5.4; 6.2.6; 7.2.6; 8.2.6; 9.2.2; 10.2; and 11.2 of NFPA 1, Uniform Fire Code, 2006 edition, is not incorporated.

(c) Chapter 65, Section 11 of NFPA 1, Uniform Fire Code, 2006 edition, is not incorporated. (See Rules of the State Fire Marshal, Chapter 25, and Title 8 M.R.S.A § 236.)

(d) Chapter 66, Table(s) 66.2.3.2.1.1(a); 66.2.3.2.1.1(b); 66.2.3.2.1.4. of NFPA 1, Uniform Fire Code, 2006 edition, is not incorporated.

(e) Chapter 20, Section 11.1 shall be amended to read as follows:

Chapter 20, Section 11.1 Application. New and existing one-and two-family dwellings shall comply with Section 20.11 and NFPA 101. Chapter 24, Section 3.5.1, of NFPA 101 shall not be incorporated in this rule.

BC. Penalty. The violation of any provision of said Fire Prevention Code or Life Safety Code shall be punishable by a fine of not more than \$500 plus costs and/or imprisonment for not more than six months. This penalty shall be deemed to be exclusive of any other appropriate legal or equitable action. Each day any violation of said code occurs or continues shall constitute a separate offense.

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[End of Ordinance]

## C. FY 21 Budget

1. *Public comment on the proposed budget for fiscal year 2021 (July 1, 2020 to June 30, 2021). No public comment.*

- 2. *Possible adoption of the proposed budget as presented/amended and recommend it to the Warrant Committee.* Town Manager Knight gave a brief overview. The high school assessment originally had a 3.5% increase but is now an 11% increase. With the county increase of 7.6%, the high school increase of 9.8%, the local education budget increase of 3% and the decrease in the municipal budget of 0.6%, all those combined would increase the mil rate from 11.85 to 12.18, a 2.8% increase. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to adopt the proposed 2021 Municipal Budget and recommend it to the Warrant Committee. Motion passed 6-0.

**D. LUO Amendments June 2020 - Public comment and possible motion to sign the orders placing the following LUO amendments on the June 9, 2020 annual town meeting warrant.**

**1. Addressing Officer**

No public comment. Mr. Hochman, with second by Ms. Cough, moved to sign the Addressing Officer Order and place the amendment on the June 9, 2020 annual town meeting warrant. Motion passed 6-0.

**Order  
of the Bar Harbor Town Council  
For the June 9, 2020 Town Meeting**

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot:

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**Warrant Article**

**Article \_\_\_ LAND USE ORDINANCE AMENDMENT — Addressing Officer** – Shall an ordinance dated December 16, 2019 and entitled “An amendment to Article V, Site Plan Review, to use the term Addressing Officer in place of Municipal Tax Assessor” be enacted?

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**Addressing Officer**

**An amendment to Article V, Site Plan Review, to use the term Addressing Officer in place of Municipal Tax Assessor**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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**Chapter 125, LAND USE ORDINANCE**

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**ARTICLE V Site Plan Review**

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**§ 125-66 Submission requirements**

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- K.** Assessor's certification of street names. Written certification of the ~~Municipal Tax Assessor~~ Addressing Officer (as defined in Chapter 5, §5-5) that the proposed street names for proposed streets in the development comply with all requirements for the enhanced 911 system.

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**§ 125-67 General review standards**

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- G.** Streets, sidewalks and access.

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(4) Names.

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(b) No plan shall be approved unless the Planning Board finds that the ~~Municipal Tax Assessor~~ Addressing Officer (as defined in Chapter 5, §5-5) has issued written certification that proposed street names for proposed streets in the development comply with all requirements for the enhanced 911 system.

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**EXPLANATION:**

The replacement of the words “Municipal Tax Assessor” with the words “Addressing Officer” updates the Land Use Ordinance and aligns it with language used in Chapter 5 (Addressing Ordinance) of the town’s Municipal Code (which took effect November 14, 2019).

**2. Permitting Authority etc.**

No public comment. Mr. Hochman, with second by Ms. Cough, moved to sign the Permitting Authority Order and place the amendment on the June 9, 2020 annual town meeting warrant. Motion passed 6-0.

**Order**

Of the Bar Harbor Town Council  
For the June 9, 2020 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot:

**Warrant Article**

**Article \_\_\_ LAND USE ORDINANCE AMENDMENT – Permitting Authority for Certain Residential Uses in Certain Districts, Adding a Use in the Shoreland General Development II District, and Removing Uses in the Shoreland Maritime Activities District** – Shall an ordinance dated December 16, 2019 and entitled “An amendment to change the level of permitting for multifamily dwelling I uses from the Planning Board to Code Enforcement Officer (CEO) in 22 specific districts; address an inconsistency in the Land Use Ordinance by making the CEO the permitting authority for two-family dwellings in the Village Historic district; change the level of permitting for single-family dwellings in the Shoreland General Development II district from Planning Board to CEO; add two-family dwellings as an allowed use in the Shoreland General Development II district with permitting by CEO; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district” be enacted?

**Permitting Authority for Certain Residential Uses in Certain Districts, Adding a Use in the Shoreland General Development II District, and Removing Uses in the Shoreland Maritime Activities District**

**An amendment to change the level of permitting for multifamily dwelling I uses from the Planning Board to Code Enforcement Officer (CEO) in 22 specific districts; address an inconsistency in the Land Use Ordinance by making the CEO the permitting authority for two-family dwellings in the Village Historic district; change the level of permitting for single-family dwellings in the Shoreland General Development II district from Planning Board to CEO; add two-family dwellings as an allowed use in the Shoreland General Development II district with permitting by CEO; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**Chapter 125 LAND USE ORDINANCE**

**ARTICLE III Land Use Activities and Standards**

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**§ 125-17 Bar Harbor Gateway**

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C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio; child care family; gallery; government facility; home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); multifamily dwelling I; municipal facility; municipal school; public or private park with minimal structural development; vacation rentals; single-family dwelling and two-family dwelling.

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D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; ~~multifamily dwelling I~~; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

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**§ 125-18 Village Historic**

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C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: home occupation; public or private park with minimal structural development; multifamily dwelling I; vacation rentals; single-family dwelling, two-family dwelling; noncommercial greenhouse, and government facility/use.

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D. Uses allowed by site plan.

(1) Except for lots with road frontage on or access to Harbor Lane, and only so long as the use is located in a building constructed before June 8, 2010, the following uses shall be permitted in the district: bed-and-breakfast I; eleemosynary; private club.

(2) In addition to the above-noted uses, the following uses shall be permitted for properties with road frontage or access to the Baymeath Road, Lookout Point Road, and the Syndicate Road only: municipal schools, museums, ~~multifamily I, two-family dwellings.~~

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**§ 125-19 Mount Desert Street Corridor**

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C. Allowed uses.

(1) Principal uses allowed with a building permit or a change of use permit from the Code Enforcement Officer: art gallery, home occupation, museum, multifamily dwelling I, place of worship; public or private park, single- or two-family dwelling; vacation rentals.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

D. Uses allowed by site plan.

(1) Principal uses allowed by minor site plan approval: wind turbines, offices, all types of schools, bed-and-breakfast I and II.

(2) Principal uses allowed by major site plan: convalescent home; multifamily dwelling I and II; theaters.

(3) Principal uses allowed by conditional use permit: retail; restaurants; bed-and-breakfast III and IV.

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**§ 125-20 Village Residential**

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C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: government facility with road frontage on Route 3 or Eagle Lake Road; home occupation; municipal school; public or private park; single- and two-family dwelling; multifamily dwelling I; roadside stand; vacation rentals.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal use.

D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: ~~multifamily I~~; nursing/convalescent home in a building constructed before June 8, 2010, road construction.

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**§ 125-21 Downtown Village I**

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C. Allowed uses:

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; public information, municipal and government uses; multifamily dwelling I; restaurants and bars; theaters; galleries; services, professional offices; vacation rentals; all bed-and-breakfasts; food-processing establishment; theaters; single- and two-family dwelling units; laundry and dry cleaning; artist studio, eleemosynary institution, place of worship; farmers market; home occupation.

(2) Uses allowed by site plan review: hotel; motel; conference centers; multifamily dwelling ~~I and II~~; all types of child-care facilities, all types of schools; medical and dental clinics; banks; automobile service stations; hospitals; parking lot; parking deck; road construction; automobile sales lot; automobile repair garage; retirement community.

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**§ 125-21.1 Downtown Village II**

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C. Allowed uses.

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail, public information; municipal and government uses; restaurants and bars on lots with frontage on Cottage Street, Main Street, Mount Desert Street or West Street; theaters; galleries; artist studios; banks; services, vacation rentals; theaters; all bed-and-breakfasts; food-processing establishment; professional office buildings; laundry and dry cleaning; artist studio; farmers market; single-family dwelling; two-family dwelling; home occupation; multifamily dwelling I.

(2) Uses allowed by site plan review: hotel, motel; multifamily dwelling ~~I and II~~; parking lot; parking deck; all types of child-care facilities; all types of schools; hospitals, medical and dental clinics; automobile service stations; redemption centers; automobile sales lot; automobile repair garage; retirement community, veterinary clinic.

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**§ 125-21.2 Downtown Village Transitional**

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C. Allowed uses.

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; public information; municipal uses; galleries; services; professional office buildings; vacation rentals; bed-and-breakfast I, II and III; single- and two-family residential; family child-care; food-processing establishments; laundry and dry cleaning; multifamily dwelling I; artist studio; farmers market; home occupation.

(2) Uses allowed by site plan review: multifamily dwelling I and II; parking lot; all other types of child-care facilities; medical clinics; automobile sales lot; automobile repair garage; retirement community.

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**§ 125-22 Downtown Residential**

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D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Child-care center

Hospital

~~Multifamily dwelling I~~

Parking garage and parking lot

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Wireless communications facility

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E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Commercial garden, greenhouse or nursery

Driveway construction

Farmers' market

Filling/earthmoving activity of 10 cubic yards or more

Noncommercial greenhouse

Multifamily dwelling I

Public or private park with minimal structural development

Single-family dwelling

Two-family dwelling

Undertaking establishment

Uses or small structures accessory to permitted uses or structures

Vacation rentals

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**§ 125-24 Hulls Cove Business**

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D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard  
 Commercial fish pier  
 Commercial stable  
 Ferry terminal  
 Hospital  
 Light manufacturing/assembly plant  
 Marina

~~Multifamily dwelling I~~

Multifamily dwelling II

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E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
 Agriculture, avocational  
 Commercial art gallery or pottery barn  
 Commercial garden, greenhouse or nursery  
 Driveway construction  
 Farmers' market  
 Filling/earthmoving activity of 10 cubic yards or more  
Multifamily dwelling I  
 Public or private park with minimal structural development  
 Single-family dwelling  
 Two-family dwelling  
 Uses or small structures accessory to permitted uses or structures  
 Vacation rentals

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**§ 125-26 Hulls Cove Residential Corridor**

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D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Campground  
 Cemetery  
~~Multifamily dwelling I~~  
 Multifamily dwelling II  
 Place of worship  
 Road construction  
 Transient accommodations (TA-1)  
 Transient accommodations (TA-3)  
 Transient accommodations (TA-4)  
 Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
 Agriculture, avocational  
 Driveway construction

- Filling/earthmoving activity of 10 cubic yards or more
- Multifamily dwelling I
- Noncommercial greenhouse
- Noncommercial kennel
- Noncommercial stable
- Public or private park with minimal structural development
- Single-family dwelling
- Two-family dwelling
- Uses or small structures accessory to permitted uses or structures
- Vacation rentals

\*\*\*

**§ 125-31 Ireson Hill Corridor**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Bank
- Campground
- Mineral extraction
- Mineral extraction and processing
- Multifamily dwelling I
- Multifamily dwelling II
- Municipal school
- Parking lot
- Place of worship
- Road construction

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

- Accessory dwelling
- Commercial art gallery or pottery barn
- Driveway construction
- Filling/earthmoving activity of 10 cubic yards or more
- Grocery stores
- Noncommercial greenhouse
- Multifamily dwelling I
- Public or private park with minimal structural development
- Roadside stand
- Single-family dwelling
- Two-family dwelling
- Uses or small structures accessory to permitted uses or structures
- Vacation rentals

\*\*\*

**§ 125-32 Ireson Hill Residential**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Cemetery
- Eleemosynary, educational or scientific institution
- ~~Multifamily dwelling I~~
- Municipal school
- Place of worship
- Road construction
- Transient accommodations (TA-1)
- Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

- Accessory dwelling
- Agriculture, avocational
- Driveway construction
- Filling/earthmoving activity of 10 cubic yards or more
- Multifamily dwelling I
- Noncommercial greenhouse
- Noncommercial stable
- Public or private park with minimal structural development
- Roadside stand
- Single-family dwelling
- Two-family dwelling
- Uses or small structures accessory to permitted uses or structures
- Vacation rentals

\*\*\*

**§ 125-37 Salisbury Cove Corridor**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Cemetery
- Kennel, boarding
- ~~Multifamily dwelling I~~
- Multifamily dwelling II
- Place of worship
- Road construction
- Transient accommodations (TA-1)
- Transient accommodations (TA-2)
- Transient accommodations (TA-3)
- Transient accommodations (TA-4)
- Transient accommodations (TA-5)
- Transient accommodations (TA-6)
- Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

- Accessory dwelling

Agriculture, avocational  
 Commercial garden, greenhouse or nursery  
 Driveway construction  
 Farmers' market  
 Filling/earthmoving activity of 10 cubic yards or more  
 Kennel  
Multifamily dwelling I  
 Noncommercial greenhouse  
 Noncommercial kennel  
 Noncommercial stable  
 Public or private park with minimal structural development  
 Single-family dwelling  
 Two-family dwelling  
 Uses or small structures accessory to permitted uses or structures  
 Vacation rentals

\*\*\*

**§ 125-38 Salisbury Cove Residential**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Kennel, boarding  
Multifamily dwelling I  
 Road construction  
 Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
 Agriculture, avocational  
 Driveway construction  
 Filling/earthmoving activity of 10 cubic yards or more  
 Kennel  
Multifamily dwelling I  
 Noncommercial greenhouse  
 Noncommercial kennel  
 Noncommercial stable  
 Public or private park with minimal structural development  
 Single-family dwelling  
 Two-family dwelling  
 Uses or small structures accessory to permitted uses or structures  
 Vacation rentals

\*\*\*

**§ 125-40 Salisbury Cove Village**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Eleemosynary, educational or scientific institution

Marina

~~Multifamily dwelling I~~

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Agriculture, avocational

Driveway construction

Filling/earthmoving activity of 10 cubic yards or more

Multifamily dwelling I

Noncommercial greenhouse

Noncommercial kennel

Noncommercial stable

Public or private park with minimal structural development

Roadside stand

Single-family dwelling

Two-family dwelling

Uses or small structures accessory to permitted uses or structures

Vacation rentals

\*\*\*

**§ 125-43 Town Hill Business**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Automobile repair garage

Automobile sales lot

Automobile service station

Bank

Campground

Commercial boatyard

Eleemosynary, educational or scientific institution

Food processing and freezing (excluding slaughterhouse)

Food processing and freezing

Hospital

Light manufacturing/assembly plant

Mobile home park

~~Multifamily dwelling I~~

Multifamily dwelling II

Municipal school  
Newspaper or printing facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Agriculture, avocational  
Commercial art gallery or pottery barn  
Commercial garden, greenhouse or nursery  
Driveway construction  
Farmers' market  
Filling/earthmoving activity of 10 cubic yards or more  
Grocery stores  
Multifamily dwelling I  
Noncommercial greenhouse  
Noncommercial kennel  
Noncommercial stable  
Public or private park with minimal structural development

\*\*\*

**§ 125-44 Town Hill Residential Corridor**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial  
Campground  
Cemetery  
~~Multifamily dwelling I~~  
Multifamily dwelling II  
Municipal school  
Municipal facility and grounds  
Place of worship  
Road construction  
Transient accommodations (TA-1)  
Transient accommodations (TA-3)  
Transient accommodations (TA-4)  
Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Agriculture, avocational  
Commercial garden, greenhouse or nursery  
Driveway construction  
Filling/earthmoving activity of 10 cubic yards or more  
Multifamily dwelling I  
Noncommercial greenhouse

Noncommercial kennel  
Noncommercial stable  
Public or private park with minimal structural development  
Roadside stand  
Single-family dwelling  
Two-family dwelling

\*\*\*

**§ 125-45 Town Hill Residential**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial  
Campground  
Cemetery  
Commercial stable  
Marina  
Mobile home park  
~~Multifamily dwelling I~~  
Municipal facility and grounds  
Municipal school  
Place of worship  
Road construction  
Transient accommodations (TA-1)

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Agriculture, avocational  
Commercial garden, greenhouse or nursery  
Driveway construction  
Filling/earthmoving activity of 10 cubic yards or more  
Multifamily dwelling I  
Noncommercial greenhouse  
Noncommercial kennel  
Noncommercial stable

\*\*\*

**§ 125-47 Shoreland General Development I**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cocktail lounge  
Commercial fish pier  
Commercial structure  
Essential services accessory to a permitted use or structure  
Ferry terminal  
Gift shops

Marina

~~Multifamily dwelling I~~

Multifamily dwelling II

Municipal facility and grounds

Recreational boating facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Driveway construction

Filling/earthmoving activity of 10 cubic yards or more

Multifamily dwelling I

Public or private park with minimal structural development

Single-family dwelling

Two-family dwelling

Uses or small structures accessory to permitted uses or structures

Vacation rentals

\*\*\*

**§ 125-49 Shoreland General Development II**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Commercial fish pier

Commercial structure

Eleemosynary, educational or scientific institution

Essential services accessory to a permitted use or structure

Ferry terminal

Marina

~~Multifamily dwelling I~~

Multifamily dwelling II

Road construction

~~Single family dwelling~~

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Driveway construction

Filling/earthmoving activity of 10 cubic yards or more

Multifamily dwelling I

Public or private park with minimal structural development

Single-family dwelling

Small, nonresidential facility, without structures, for educational, scientific or nature interpretation purposes

Two-family dwelling

Uses or small structures accessory to permitted uses or structures

Vacation rentals

\*\*\*

**§ 125-49.1 Shoreland General Development III**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio, child care, family, gallery, government facility, home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); multifamily dwelling I; municipal facility, municipal school; public or private park with minimal structural development; all vacation rentals; single-family dwelling and two-family dwelling.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; ~~multifamily dwelling I~~; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

\*\*\*

**§ 125-49.2 Shoreland General Development IV**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: single-family dwelling, two-family dwelling, multifamily dwelling I, cabins and cottages, all vacation rentals, artist studio, home occupation, government facility and grounds, and temporary pier, dock, wharf, breakwater or other use projecting into the water.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

D. Uses allowed by site plan. The following uses shall be permitted by site plan review in any part of this district: motels accessory to cabins and cottages (with such motel providing for no more than 10 sleeping accommodations for transient uses), marina, retail (provided the structure is no greater than 5,000 square feet in floor area), gallery, ~~multifamily dwelling I~~, museum, recreational boating facility, permanent pier, dock, wharf, breakwater or other use projecting into the water, and road construction.

\*\*\*

**§ 125-49.3 Shoreland Maritime Activities**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: government facility and grounds, and temporary pier, dock, wharf, breakwater or other use projecting into the water.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure and shall include bank; farmers market; hotel; ~~multifamily dwelling I~~; ~~multifamily dwelling II~~; parking deck; parking lot; professional office building; restaurant; retail; take-out restaurant and wireless telecommunications facility.

D. The following uses shall be permitted by site plan review in any part of this district: functionally water-dependent uses, including permanent piers, wharfs and docks; commercial boat yard; commercial fish pier; passenger terminal; ferry terminal; marina; services.

E. Allowed activities.

- (1) Nonintensive recreational uses not requiring structures, such as fishing and hiking.
- (2) Emergency operations.

F. Other requirements.

- (1) ~~Multifamily I and multifamily II uses are limited to employee housing.~~

\*\*\*

**EXPLANATION:**

This amendment will change the permitting authority for all multifamily dwelling I uses from site plan review through the Planning Board process to a permit from the Code Enforcement Officer in all districts where the use is currently allowed. Multifamily dwelling I use is three or four dwelling units on one parcel. Additionally, it will do the following: address an inconsistency in the ordinance by making CEO the permitting authority for two-family dwellings in the Shoreland General Development II district from Planning Board to CEO; add two-family dwellings as an allowed use in the Shoreland General Development II district with permitting by the CEO; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district.

**3. Employee Living Quarters**

No public comment. Mr. Hochman, with second by Ms. Cough, moved to sign the Employee Living Quarters Order and place the amendment on the June 9, 2020 annual town meeting warrant. Motion passed 6-0.

**Order**

Of the Bar Harbor Town Council  
For the June 9, 2020 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot:

**Warrant Article**

**Article \_\_ LAND USE ORDINANCE AMENDMENT – Employee Living Quarters** – Shall an ordinance dated December 16, 2019 and entitled “An amendment to create and define a new use titled ‘employee living quarters’; allow for the use in 14 specific districts; provide specific standards for the use; amend the definition of ‘family’; create a new definition titled ‘floor area, ground’; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district” be enacted?

**Employee Living Quarters**

**An amendment to create and define a new use titled ‘employee living quarters’; allow for the use in 14 specific districts; provide specific standards for the use; amend the definition of ‘family’; create a new definition titled ‘floor area, ground’; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**Chapter 125. LAND USE ORDINANCE**

**ARTICLE III Land Use Activities and Standards**

\*\*\*

**§ 125-17 Bar Harbor Gateway.**

\*\*\*

- D. Uses allowed by site plan.

- (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; employee living quarters; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

\*\*\*

**§ 125-19 Mount Desert Street Corridor District.**

\*\*\*

- D. Uses allowed by site plan.

\*\*\*

- (2) Principal uses allowed by major site plan: convalescent home; employee living quarters; multifamily I and II; theaters.

\*\*\*

**§ 125-20 Village Residential.**

\*\*\*

- D. Uses allowed by site plan.

\*\*\*

- (2) Uses allowed by conditional use permit:

- (a) ~~F~~for properties with road frontage on or access to Route 3 or 233: all bed-and-breakfast designations; art gallery; cabins; farmers' market; museum; private school; professional office building; take-out restaurant; undertaking establishment; veterinary clinic or hospital.

- (b) Employee living quarters.

\*\*\*

- G. Other requirements:

- (1) Accessory structures shall be located in the side and rear yard of the property. Employee living quarters are exempt from this requirement.

\*\*\*

**§ 125-21 Downtown Village I.**

\*\*\*

- C. Allowed uses:

\*\*\*

- (2) Uses allowed by site plan review: employee living quarters; hotel; motel; conference centers; multifamily dwelling I and II; all types of child-care facilities, all types of schools; medical and dental clinics; banks; automobile service stations; hospitals; parking lot; parking deck; road construction; automobile sales lot; automobile repair garage; retirement community.

\*\*\*

**§ 125-21.1 Downtown Village II.**

\*\*\*

- C. Allowed uses.

\*\*\*

- (2) Uses allowed by site plan review: employee living quarters; hotel, motel; multifamily dwelling I and II; parking lot; parking deck; all types of child-care facilities; all types of schools; hospitals, medical and dental clinics; automobile service stations; redemption centers; automobile sales lot; automobile repair garage; retirement community, veterinary clinic.

\*\*\*

**§ 125-24 Hulls Cove Business.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard

Commercial fish pier

Commercial stable

Employee living quarters

Ferry terminal

Hospital

Light manufacturing/assembly plant

Marina

Multifamily dwelling I

Multifamily dwelling II

Municipal school

Parking lot

Recreational boating facility

Research facility

Research production facility

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Wireless communications facility

\*\*\*

**§ 125-31 Ireson Hill Corridor.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Campground

Employee living quarters

Mineral extraction

Mineral extraction and processing

Multifamily dwelling I

Multifamily dwelling II

Municipal school

Parking lot

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

- Transient accommodations (TA-6)
- Transient accommodations (TA-7)
- Transient accommodations (TA-8)
- Warehousing or storage facility
- Wholesale business establishment
- Wireless communications facility

\*\*\*

**§ 125-40 Salisbury Cove Village.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Eleemosynary, educational or scientific institution

Employee living quarters

Marina

Multifamily dwelling I

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Wireless communications facility

\*\*\*

**§ 125-43 Town Hill Business.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Automobile repair garage

Automobile sales lot

Automobile service station

Bank

Campground

Commercial boatyard

Eleemosynary, educational or scientific institution

Employee living quarters

Food processing and freezing (excluding slaughterhouse)

Food processing and freezing

Hospital

Light manufacturing/assembly plant

Mobile home park

Multifamily dwelling I

- Multifamily dwelling II
- Municipal school
- Newspaper or printing facility
- Parking garage and parking lot
- Research facility
- Research production facility
- Road construction
- Terminal yard and trucking facility
- Transient accommodations (TA-1)
- Transient accommodations (TA-2)
- Transient accommodations (TA-3)
- Transient accommodations (TA-4)
- Transient accommodations (TA-5)
- Transient accommodations (TA-6)
- Transient accommodations (TA-7)
- Transient accommodations (TA-8)
- Upholstery shop
- Warehousing or storage facility
- Wholesale business establishment
- Wireless communications facility

\*\*\*

**§ 125-45 Town Hill Residential.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Agriculture, commercial
- Campground
- Cemetery
- Commercial stable
- Employee living quarters
- Marina
- Mobile home park
- Multifamily dwelling I
- Municipal facility and grounds
- Municipal school
- Place of worship
- Road construction
- Transient accommodations (TA-1)
- Wireless communications facility

\*\*\*

**§ 125-47 Shoreland General Development I.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Cocktail lounge

- Commercial fish pier
- Commercial structure
- Employee living quarters
- Essential services accessory to a permitted use or structure
- Ferry terminal
- Gift shops
- Marina
- Multifamily dwelling I
- Multifamily dwelling II
- Municipal facility and grounds
- Recreational boating facility
- Road construction
- Ships chandlery
- Transient accommodations (TA-2)
- Transient accommodations (TA-3)
- Transient accommodations (TA-4)
- Transient accommodations (TA-5)
- Transient accommodations (TA-6)
- Transient accommodations (TA-7)
- Transient accommodations (TA-8)

\*\*\*

**§ 125-49 Shoreland General Development II (Hulls Cove).**

\*\*\*

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Commercial fish pier
- Commercial structure
- Eleemosynary, educational or scientific institution
- Employee living quarters
- Essential services accessory to a permitted use or structure
- Ferry terminal
- Marina
- Multifamily dwelling I
- Multifamily dwelling II
- Road construction
- Single-family dwelling

\*\*\*

**§ 125-49.1 Shoreland General Development III.**

\*\*\*

- D. Uses allowed by site plan.
  - (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; employee living quarters; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

\*\*\*

**§ 125-49.3 Shoreland Maritime Activities District.**

\*\*\*

C. Allowed uses.

\*\*\*

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure and shall include bank; farmers market; hotel; ~~multifamily dwelling I; multifamily dwelling II~~; parking deck; parking lot; professional office building; restaurant; retail; take-out restaurant and wireless telecommunications facility.

D. The following uses shall be permitted by site plan review in any part of this district: employee living quarters; functionally water-dependent uses, including permanent piers, wharfs and docks; commercial boat yard; commercial fish pier; passenger terminal; ferry terminal; marina; services.

\*\*\*

~~F. Other requirements.~~

~~(1) Multifamily I and multifamily II uses are limited to employee housing.~~

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**ARTICLE V Site Plan Review**

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**§ 125-67 General review standards**

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D. Parking requirements. Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

\*\*\*

(3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

\*\*\*

(x) Employee living quarters shall not be required to provide parking.

\*\*\*

**§ 125-69 Standards for particular uses, structures, or activities**

\*\*\*

W. Employee living quarters. All employee living quarters shall meet the following standards:

(1) Design: When employee living quarters are visible from the street or from an abutting property to the side or rear lot lines that is under different ownership or control, the employee living quarters shall be visually compatible with the principal building(s) and shall provide for rooflines that are similar in pitch and materials and building materials that are similar in regard to type and color scheme as the principal building(s).

(2) Setback requirements: Employee living quarters shall meet the same setback requirements as principal structures.

(3) Building footprint area: The total building footprint area of the employee living quarters shall not exceed 25% of the total building footprint area of the principal

building(s) on the lot.

(4) Density bonus.

(a) An employee living quarters (including its associated accessways and parking areas) may benefit from increased lot coverage not to exceed:

- [1] 63% in the Bar Harbor Gateway district
- [2] 44% in the Mount Desert Street Corridor district
- [3] 63% with sewers and 31% without sewers in the Village Residential district
- [4] 85% in the Hulls Cove Business district
- [5] 31% in the Ireson Hill Corridor district
- [6] 44% in the Salisbury Cove Village district
- [7] 63% in the Town Hill Business district
- [8] 19% in the Town Hill Residential district

(b) All other (non-employee living quarters, including its associated accessways and parking) uses, activities, and structures, on the lot, shall be subject to the lot coverage requirements of the district it is in, as well as all other requirements of this chapter.

(c) If an employee living quarters (including its associated accessways and parking), increases the lot coverage as allowed under section 125-69 W.(4), it may not be enlarged, expanded, or otherwise provide for any other use, unless the lot coverage is brought into compliance with the requirements of the district it is in.

(5) Change of Use. A change of use from employee living quarters to another use shall comply with all requirements of this chapter, including lot coverage requirements.

(6) Parking benefitting from the density bonus (increased lot coverage) shall be for the exclusive use of the occupants of the employee living quarters.

(7) Every bedroom in employee living quarters shall contain not less than 70 square feet of habitable floor area for each occupant excluding enclosed spaces such as closets and bathrooms, and shall not be any less than seven (7) feet in any horizontal dimension.

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**ARTICLE XII Construction and Definition**

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**§ 125-109 Definitions.**

The following terms shall have the following meanings:

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**EMPLOYEE LIVING QUARTERS**

An accessory structure, attached or detached from the principal structure, consisting of a series of rooms containing beds, where the occupants do not constitute a family or a single housekeeping unit, and the principal structure is a commercial use. It shall be used exclusively for the accommodation of employees, for more than 30 days, that are employed on- or off-site, as long as the off-site employees are employed by the same company, a parent company, or a subsidiary company that owns the parcel where the principal structure is located. Employee living quarters serving a hospital shall not be subject to the 30-day minimum requirement. Employee Living Quarters must serve another use on the lot, meaning it cannot be the only use on the lot.

\*\*\*

**FAMILY**

Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit (including a vacation rental) and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, ~~or~~ transient accommodations, or employee living quarters.

\*\*\*

**FOOTPRINT AREA, BUILDING**

The total square footage of a building or buildings if viewed from above, including areas under overhangs.

\*\*\*

**EXPLANATION:** This amendment would create and define a new use titled “employee living quarters”; allow for the use in 14 specific districts; provide specific standards for the use; amend the definition of “family”; and create a new definition titled “floor area, ground”; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities District.

**4. Shared Accommodations**

Ed Damm had a question about the definition of family that Town Planner Michele Gagnon answered. Mr. Hochman, with second by Ms. Cough, moved to sign the Shared Accommodations Order and place the amendment on the June 9, 2020 annual town meeting warrant. Motion passed 6-0.

**Order**

Of the Bar Harbor Town Council  
For the June 9, 2020 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot:

**Warrant Article**

**Article \_\_\_ LAND USE ORDINANCE AMENDMENT – Shared Accommodations** – Shall an ordinance dated December 16, 2019 and entitled “An amendment to create and define a new use titled ‘shared accommodations’ with three levels of the use based on number of occupants; allow for one or more of those three levels of the use in eight specific districts; provide specific standards for the use; make all levels of shared accommodations subject to Design Review Board approval; and amend the definition of ‘family’” be enacted?

**Shared Accommodations**

**An amendment to create and define a new use titled ‘shared accommodations’ with three levels of the use based on number of occupants; allow for one or more of those three levels of the use in eight specific districts; provide specific standards for the use; make all levels of shared accommodations subject to Design Review Board approval; and amend the definition of ‘family’**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**Chapter 125, LAND USE ORDINANCE**

**ARTICLE III Land Use Activities and Standards**

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**§ 125-17 Bar Harbor Gateway.**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio; child care family; gallery; government facility; home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); municipal facility; municipal school; public or private park with minimal structural development; shared accommodations (SA-1); vacation rentals; single-family dwelling and two-family dwelling.

\*\*\*

D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; road construction; services; shared accommodations (SA-2 and SA-3); take-out restaurant; wind turbines, and wireless communication facilities.

\*\*\*

**§ 125-19 Mount Desert Street Corridor District.**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed with a building permit or a change of use permit from the Code Enforcement Officer: art gallery, home occupation, museum, place of worship; public or private park, shared accommodations (SA-1); single- or two-family dwelling; vacation rentals.

\*\*\*

D. Uses allowed by site plan.

(2) Principal uses allowed by major site plan: convalescent home; multifamily I and II; shared accommodations (SA-2 and SA-3); theaters.

\*\*\*

**§ 125-21 Downtown Village I.**

\*\*\*

C. Allowed uses:

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; public information, municipal and government uses; restaurants and bars; theaters; galleries; services; shared accommodations (SA-1); professional offices; vacation rentals; all bed-and-breakfasts; food-processing establishment; theaters; single- and two-family dwelling units; laundry and dry cleaning; artist studio, eleemosynary institution, place of worship; farmers market; home occupation.

(2) Uses allowed by site plan review: hotel; motel; conference centers; multifamily dwelling I and II; all types of child-care facilities, all types of schools; medical and dental clinics; banks; automobile service stations; hospitals; parking lot; parking deck; road construction; automobile sales lot; automobile repair garage; retirement community; shared accommodations (SA-2 and SA-3).

\*\*\*

**§ 125-21.1 Downtown Village II.**

\*\*\*

C. Allowed uses.

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail, public information; municipal and government uses; restaurants and bars on lots with frontage on Cottage Street, Main Street, Mount Desert Street or West Street; theaters; galleries; artist studios; banks; services; shared accommodations (SA-1); vacation rentals; theaters; all bed-and-breakfasts; food-processing establishment; professional office buildings; laundry and dry cleaning; artist studio; farmers market; single-family dwelling; two-family dwelling; home occupation.

(2) Uses allowed by site plan review: hotel, motel; multifamily dwelling I and II; parking lot; parking deck; all types of child-care facilities; all types of schools; hospitals, medical and dental clinics; automobile service stations; redemption centers; automobile sales lot; automobile repair garage; retirement community, veterinary clinic; shared accommodations (SA-2 and SA-3).

\*\*\*

**§ 125-24 Hulls Cove Business.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard  
Commercial fish pier  
Commercial stable  
Ferry terminal  
Hospital  
Light manufacturing/assembly plant  
Marina  
Multifamily dwelling I  
Multifamily dwelling II  
Municipal school  
Parking lot  
Recreational boating facility  
Research facility  
Research production facility  
Road construction  
Shared accommodations (SA-2)  
Shared accommodations (SA-3)  
Transient accommodations (TA-1)  
Transient accommodations (TA-2)  
Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Agriculture, avocational  
Commercial art gallery or pottery barn  
Commercial garden, greenhouse or nursery  
Driveway construction  
Farmers' market  
Filling/earthmoving activity of 10 cubic yards or more  
Public or private park with minimal structural development  
Shared accommodations (SA-1)  
Single-family dwelling  
Two-family dwelling  
Uses or small structures accessory to permitted uses or structures  
Vacation rentals

\*\*\*

**§ 125-31 Ireson Hill Corridor.**

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Commercial art gallery or pottery barn  
Driveway construction  
Filling/earthmoving activity of 10 cubic yards or more

Grocery stores  
Noncommercial greenhouse  
Public or private park with minimal structural development  
Roadside stand  
Shared accommodations (SA-1)  
Single-family dwelling  
Two-family dwelling  
Uses or small structures accessory to permitted uses or structures  
Vacation rentals

\*\*\*

**§ 125-43 Town Hill Business.**

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Agriculture, avocational  
Commercial art gallery or pottery barn  
Commercial garden, greenhouse or nursery  
Driveway construction  
Farmers' market  
Filling/earthmoving activity of 10 cubic yards or more  
Grocery stores  
Noncommercial greenhouse  
Noncommercial kennel  
Noncommercial stable  
Public or private park with minimal structural development  
Roadside stand  
Shared accommodations (SA-1)  
Single-family dwelling  
Two-family dwelling  
Undertaking establishment  
Uses or small structures accessory to permitted uses or structures  
Vacation rentals  
Veterinary clinic

\*\*\*

**§ 125-44 Town Hill Residential Corridor.**

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling  
Agriculture, avocational  
Commercial garden, greenhouse or nursery  
Driveway construction  
Filling/earthmoving activity of 10 cubic yards or more  
Noncommercial greenhouse

- Noncommercial kennel
- Noncommercial stable
- Public or private park with minimal structural development
- Roadside stand
- Shared accommodations (SA-1)
- Single-family dwelling
- Two-family dwelling
- Undertaking establishment
- Uses or small structures accessory to permitted uses or structures
- Vacation rentals

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**ARTICLE V Site Plan Review**

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**§ 125-67 General review standards**

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D. Parking requirements. Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

\*\*\*

(3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

\*\*\*

(y) Shared accommodations

[1] Shared accommodations (SA-1): Based on maximum occupancy, parking shall be provided at a rate of 0.5 parking space per occupant in the Bar Harbor Gateway, Mount Desert Street Corridor, Hulls Cove Business, Ireson Hill Corridor, Town Hill Business, and the Town Hill Residential Corridor districts. Parking spaces may be allowed in tandem with a maximum of two vehicles in a row. The minimum area per parking space shall be 136 square feet.

[2] Shared accommodations (SA-2 and SA-3): Based on maximum occupancy, parking shall be provided at a rate of 0.2 parking spaces per occupant in the Bar Harbor Gateway and the Hulls Cove Business districts and 0.1 parking spaces per occupant in the Mount Desert Street Corridor District.

\*\*\*

**§ 125-69 Standards for particular uses, structures, or activities**

\*\*\*

X. Shared accommodations. Every bedroom in shared accommodations shall contain not less than 70 square feet of habitable floor area for each occupant, excluding enclosed spaces such as closets and bathrooms, and shall not be any less than seven (7) feet in any horizontal dimension.

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**ARTICLE XII Construction and Definition**

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**§ 125-109 Definitions.**

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**FAMILY**

Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit (including a vacation rental) and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, or transient accommodations, or shared accommodations.

\*\*\*

#### **SHARED ACCOMMODATIONS**

Any group of three or more rooms, other than lodging or vacation rental, where for direct or indirect compensation the occupants live in furnished rooms with shared kitchens for more than 30 days. The occupants do not constitute a family or a single housekeeping unit. The makeup of the occupants is determined by the landlord, property manager, or other third party and not by the occupants themselves. A shared accommodation serving a hospital shall not be subject to the 30-day minimum requirement. There are three different types of shared accommodations:

- A. SA-1: 3 to 8 people per structure
- B. SA-2: 9 to 32 people per structure
- C. SA-3: 33 or more people per structure

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#### **ARTICLE XIII Design Review**

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##### **§ 125-112 Applicability of design review.**

- A. Design Review Overlay Districts.
  - (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
  - (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Village I District; Downtown Village II District; the Shoreland General Development I District; Shoreland General Development II District; the Village Historic District; and the Town Hill Business District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes all bed-and-breakfast uses, all shared accommodations uses, and individual properties with the following uses, regardless of their district location: TA-1, TA-3, TA-4, and TA-6. The district also includes properties listed in Appendix A and/or Appendix B of this chapter.

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**EXPLANATION:** This amendment would create and define a new use titled "shared accommodations" with three levels of the use based on number of occupants; allow for one or more of those three levels of the use in eight specific districts; provide specific standards for the use; make all levels of shared accommodations subject to Design Review Board approval; and amend the definition of "family".

#### **5. Boundary Map Amendment & New Uses in Hulls Cove**

Dennis Bracale and Mike Handwerk spoke against this amendment. Planning Board Chair Tom St. Germain also spoke. Eben Salvatore from Ocean Properties answered Council questions. Councilor Dobbs identified a conflict of interest because he does business with Ocean Properties. Mr. Hochman, with second by Ms. Cough, moved to recuse Councilor Dobbs for the appearance of conflict of interest. Motion passed 5-0-1 (Recused: Dobbs).

Ms. Cough, with second by Mr. Coston, moved to sign the Boundary Map and New Uses in Hulls Cove Order and place the amendment on the June 9, 2020 annual town meeting warrant. Motion passed 5-0-1 (Recused: Dobbs).

Order  
of the Bar Harbor Town Council  
For the June 9, 2020 Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot:

**Warrant Article**

**Article \_\_\_ LAND USE ORDINANCE AMENDMENT — Official District Boundary Map Amendment For Hulls Cove Business and Shoreland General Development II districts, and Amendments to Create and Define a New TA Use with a Parking Standard and to Add Two New Uses to the Shoreland General Development II District** – Shall an ordinance dated December 16, 2019 and entitled “An amendment to the Official Neighborhood District Map by extending a portion of the boundary of the Shoreland General Development II district to encompass all or part of the following parcels: Tax Map 223, Lots 011 and 014 and Tax Map 224, Lots 001 and 022 (all four of which presently have portions in both Hulls Cove Business district and Shoreland General Development II district); additionally, to create and define a new level of transient accommodation use (proposed as “TA-9”) in §125-109 and to establish a parking standard for that use in §125-67 D.(3)(b)[2]; and lastly, to amend §125-49 D. of the Land Use Ordinance (Shoreland General Development II) to allow “TA-9” and “campground (shoreland districts)” as uses permitted with site plan/Planning Board approval in the Shoreland General Development II district” be enacted?

**Official District Boundary Map Amendment for Hulls Cove Business and Shoreland General Development II districts, and Amendments to Create and Define a New TA Use with a Parking Standard and to Add Two New Allowed Uses to the Shoreland General Development II District**

**An amendment to the Official Neighborhood District Map by extending a portion of the boundary of the Shoreland General Development II district to encompass all or part of the following parcels: Tax Map 223, Lots 011 and 014 and Tax Map 224, Lots 001 and 022 (all four of which presently have portions in both Hulls Cove Business district and Shoreland General Development II district); additionally, to create and define a new level of transient accommodation use (proposed as “TA-9”) in §125-109 and to establish a parking standard for that use in §125-67 D.(3)(b)[2]; and lastly, to amend §125-49 D. of the Land Use Ordinance (Shoreland General Development II) to allow “TA-9” and “campground (shoreland districts)” as uses permitted with site plan/Planning Board approval in the Shoreland General Development II district**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**Chapter 125, LAND USE ORDINANCE**

**ARTICLE III Land Use Activities and Standards**

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**§ 125-49 Shoreland General Development II (Hulls Cove).**

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Campground (Shoreland Districts)

Commercial fish pier

Commercial structure

Eleemosynary, educational or scientific institution

Essential services accessory to a permitted use or structure

Ferry terminal

Marina

Multifamily dwelling I

Multifamily dwelling II

Road construction

Single-family dwelling

TA-9

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**ARTICLE V Site Plan Review**

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**§ 125-67 General Review Standards**

\*\*\*

D. Parking requirements. Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

\*\*\*

(3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

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(b) Transient accommodations:

[2] Hotels, motels, TA-9 and conference centers: one parking space for each guest room.

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**ARTICLE XII Construction and Definitions**

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**§ 125-109 Definitions.**

The following terms shall have the following meanings:

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**TRANSIENT ACCOMMODATIONS**

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I. TA-9 A building or buildings where for compensation lodging and meals are provided (four to 75 rooms). Accessory uses subject to site plan review include restaurant, conference room, retail establishment, recreational facilities, such as swimming pool, game courts, and recreational rooms or similar uses.

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**EXPLANATION:**

This amendment would amend the Official Neighborhood District Map by extending a portion of the boundary of the Shoreland General Development II district to encompass all or part of the following parcels: Tax Map 223, Lots 011 and 014 and Tax Map 224, Lots 001 and 022 (all of which presently have portions in both Hulls Cove Business district and Shoreland General Development II district); additionally, would create and define a new level of transient accommodation use (proposed as "TA-9") in §125-109 and establish a parking standard for that use in §125-67 D.(3)(b)[2]; and lastly, would amend §125-49 D. of the Land Use Ordinance (Shoreland General Development II) to allow "TA-9" and "campground (shoreland districts)" as uses permitted with site plan/Planning Board approval in the Shoreland General Development II district.



and park housing and solar panels. Solar panels on that property could power ¼ of the island when the sun is shining in the shoulder seasons. Mr. Knight stated there was a meeting scheduled in January that was postponed due to a snowstorm. It has been re-scheduled for Wednesday, 2/26 and he can report back to Council after the meeting.

**Mr. Dobbs** read a letter he received from King Roberts in Ontario, Canada requesting a pen and t-shirt. He will discuss it with the Chamber of Commerce on how to fulfill this wish.

**XII. EXECUTIVE SESSION:** (none)

**XIII. ADJOURNMENT** – Mr. Hochman, with second by Ms. Cough, moved to adjourn at 8:05 p.m. Motion passed 6-0.

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Sharon M Linscott, Town Clerk

**Minutes**  
**Bar Harbor Town Council**  
**Special Meeting**  
**March 16, 2020**

**I. CALL TO ORDER** – 4:30 P.M.-In attendance were Councilors: Jefferson Dobbs, Matthew Hochman, Gary Friedmann, Erin Cough, Jill Goldthwait, Joe Minutolo; and Town Manager Cornell Knight, Fire Chief Matt Bartlett.

**II. REGULAR BUSINESS:**

**A. Pandemic Emergency Ordinance** – *possible motion to adopt the Pandemic Ordinance as presented.* The town manager reviewed the emergency ordinance that declares a pandemic emergency and closes public access to municipal buildings and lists how each department will function during the closure. There was discussion about banning cruise ships. The ordinance was amended to include the CDC recommendation of not going on cruise ships and a ban of cruise ships in port until at least April 30, 2020. Motion by Councilor Hochman, seconded by Councilor Cough, to approve the emergency ordinance as amended. Vote 6-0.

**Whereas**, the Governor has declared a civil emergency, and

**Whereas**, the Emergency Management Director has recommended to the Town Council that a pandemic emergency exists, and

**Whereas**, the Town Council has the authority to take control measures to reduce the spread of the Covid-19 virus, and

**Whereas**, the Town Council has the authority to enact emergency ordinances under section 16 of the Town Charter, and

**Whereas**, the town is following guidelines established by the Maine CDC, and

**Whereas**, the safety of our residents, especially the seniors and those residents with underlying health issues which make them particularly vulnerable to illness, and

**Whereas**, to reduce the potential of any viral transmission within our community, and

**Whereas**, reducing social interaction will help flatten the curve and reduce the spread of Covid-19,

**Whereas**, the CDC guidelines recommend against cruise ship travel, and

**Now Therefore Be It Ordained**, that the Town Council declares a pandemic emergency and directs staff to take the following actions:

a.) close public access to the Municipal Building offices, Highway Garage and grounds, Wastewater Plant, Police Station, Fire Station and the Harbormaster's office until March 30, 2020.

b.)Cancel all non-emergency municipal meetings until March 30, 2020,

c.) Set up an expense account for pandemic response costs and utilize the Council Contingency fund for that purpose.

d.) suspend all deadlines for the processing or consideration of applications, permits of any type and budget review etc. as required under the Town Charter Section -31

e.) suspend cruise ship visitations thru at least April, 30,2020.

Services provided by town departments until March 30, 2020 shall be as follows:

**Planning & Codes-** (288-3329)- Staff will continue with permitting and inspection. The Planning Board and Design Review Board meetings will be canceled. The Administrative Assistant will come in daily to check messages, mail, enter permits, etc. Inspections will be done on a case-by-case basis. Some staff will work from home and conduct meetings via Zoom.

**Finance-** a rotating town staff will process payments through a drop box set up in the main lobby and take calls @ 288-5096, residents are encouraged to utilize the online services available through the Town of Bar Harbor website: [www.barharbormaine.gov](http://www.barharbormaine.gov):

Through the Official Payments portal link:

- Pay Town of Bar Harbor bills (taxes, water, sewer, parking tickets, ambulance charges)

Through the Maine.gov portal link:

- Re-register motor vehicles, boats / ATV's, trailers, get a duplicate vehicle registration

Through the Bar Harbor maine.gov website:

- Inspect property tax records, tax maps, assessment information, current taxes owed

Through the IPS portal or Citation link:

- Re-register or newly register all 2020 parking permits or pay citations

**Fire** –(288-5554)- Personnel are split between the Fire Station and Town Hill sub-station 24/7. Fire and vacation rental inspections are suspended, burn permits can be obtained on-line.

**Police-** (288-3391) The Bar Harbor and Mount Desert Police Departments will maintain 24/7 operations for both communities. We have prepared continuing operations guidelines with reliance on mutual aid agreements if necessary. We are developing protocols to which are intended to allow us to operate 24/7 dispatching from one dispatch center for both towns if staffing levels dictate it as a necessity. We will always respond to emergencies and have asked our Police Officers to utilize discretion when handling non-urgent matters by talking with people on the phone rather than meeting them in person when appropriate. The lobby will remain open to the public.

**Public Works-** 288-1026- The Transfer Station will be open but staff will practice social distancing and not assist customers with disposal. Highway will continue operations and practice social distancing. Wastewater and Water Departments will respond to emergency service calls. Water bill payments may be dropped in mailbox located outside the gate. Call ahead at 288-4028 for water meter assistance.

Given under our hands and seal at Bar Harbor this sixteenth day of March 2020.

**III. ADJOURNMENT** – Mr. Hochman, with second by Ms. Cough, moved to adjourn at 5:32 p.m. Motion passed 6-0.

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Cornell Knight, Town Manager

**Minutes**  
**Bar Harbor Town Council**  
**Special Meeting by video conferencing**  
**March 20, 2020**

**I. CALL TO ORDER – 12:00 PM** - In attendance were Councilors Jefferson Dobbs, Matthew Hochman, Stephen Coston, Gary Friedmann, Joe Minutolo, Jill Goldthwait, Erin Cough; and Town Manager Cornell Knight, Fire Chief Matt Bartlett.

**II. REGULAR BUSINESS:**

**A. Update – Matt Bartlett, Fire Chief** - Chief Bartlett provided an update on his department's response and actions.

**B. Emergency Ordinance issues discussion**

Mr. Hochman with second by Ms. Goldthwait moved that we extend the tax deadline to April 30, 2020. Roll Call Vote:

<u>Dobbs</u>	<u>Y</u>
<u>Hochman</u>	<u>Y</u>
<u>Friedmann</u>	<u>Y</u>
<u>Cough</u>	<u>Y</u>
<u>Coston</u>	<u>Y</u>
<u>Minutolo</u>	<u>Y</u>
<u>Goldthwait</u>	<u>Y</u>

Motion passed 7-0.

Following a lengthy discussion, Mr. Friedmann, with second by Mr. Minutolo, moved that the Town Council issue a public statement as follows: The Town of Bar Harbor appreciates our visitors and tourist based businesses but at this time we reinforce the CDC's guidelines that everyone stays home and avoids unnecessary travel.

Ms. Goldthwait, with second by Ms. Cough, moved to table this item until later in this meeting. Roll Call Vote:

<u>Dobbs</u>	<u>Y</u>
<u>Hochman</u>	<u>Y</u>
<u>Friedmann</u>	<u>Y</u>
<u>Cough</u>	<u>Y</u>
<u>Coston</u>	<u>Y</u>
<u>Minutolo</u>	<u>Y</u>
<u>Goldthwait</u>	<u>Y</u>

Motion passed 7-0.

Additional discussion resulted in no action.

**C. Posting of Pandemic Information on website**

Mr. Hochman, with second by Ms. Cough, moved to remove the previous item from the table. Roll Call Vote:

Dobbs            Y

Hochman       Y

Friedmann    Y

Cough           Y

Coston          Y

Minutolo       Y

Goldthwait    Y

Motion passed 7-0.

Following discussion, Mr. Friedmann, with second by Mr. Minutolo, moved that the Town Council issue the statement that the Town of Bar Harbor appreciates its visitors and tourist based businesses but at this time we recommend that everyone stay home and avoids unnecessary travel. Tourist services in Bar Harbor such as food and bathrooms are very limited. Roll Call Vote:

Dobbs            Y

Hochman       Y

Friedmann    Y

Cough           Y

Coston          Y

Minutolo       Y

Goldthwait    Y

Motion passed 7-0.

Additional discussion ensued but no further action taken.

**III. ADJOURNMENT**

Mr. Coston, with second by Mr. Friedmann, moved to adjourn at 1:38pm. Roll Call Vote:

Dobbs            Y

Hochman       Y

Friedmann    Y

Cough           Y

Coston          Y

Minutolo       Y

Goldthwait    Y

Motion passed 7-0.

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Sharon M. Linscott, Town Clerk

**Minutes**  
**Bar Harbor Town Council**  
**Special Meeting by video conferencing**  
**March 30, 2020**

- I. **CALL TO ORDER – 1:00 p.m.** In attendance were Councilors Jefferson Dobbs, Matthew Hochman, Stephen Coston, Gary Friedmann, Joe Minutolo, Jill Goldthwait, Erin Cough; and Town Manager Cornell Knight.

Also participating were MDI Hospital CEO Art Blank, Hospital Infection Preventionist Barbara MacPike, Chamber of Commerce Executive Director Alf Anderson, Police Chief Jim Willis, Fire Chief Matt Bartlett and Town Clerk Sharon Linscott.

II. **REGULAR BUSINESS:**

Briefings:

1. *Art Blank, President/Chief Executive Officer, MDI Hospital*  
Mr. Blank and Ms. MacPike provided an update and addressed Council comments and questions. No action taken.
2. *Town emergency team*  
Mr. Knight, Chief Willis and Chief Bartlett provided updates. No action taken.
3. *Food and other essential supplies*  
Mr. Knight provided an update. No action taken.
4. *Possible motion to extend Public Closure of municipal facilities thru April 13, 2020.*  
Mr. Friedmann, with second by Mr. Hochman, moved to extend the Public Closure of municipal facilities, playgrounds and public restrooms thru April 13, 2020. Roll Call Vote:  
Dobbs            Y  
Hochman       Y  
Coston         Y  
Friedmann     Y  
Minutolo      Y  
Goldthwait    Y  
Cough         Y  
Motion passed 7-0.

Ms. Cough, with second by Mr. Hochman, moved to extend the services as documented in the Emergency Ordinance through April 30 and strike the sentence under Planning and Codes regarding Planning Board and Design Review Board meetings being cancelled. Roll Call Vote:

Dobbs            Y  
Hochman       Y  
Coston         Y  
Friedmann     Y  
Minutolo      Y  
Goldthwait    Y

Cough            Y  
Motion passed 7-0.

Discussion items:

1. *Influx of visitors - impact on local supplies/services - any action needed?*

Mr. Anderson, Mr. Knight and Chief Bartlett participated in the discussion. Mr. Friedmann, with second by Mr. Hochman, moved that In the interest of public safety and in an effort to preserve the success of our summer season, the Town Council suspends all occupancy for transient accommodations, vacation rentals and campgrounds for non-essential travel effective April 8 thru April 30. Roll Call Vote:

Dobbs            Y

Hochman        N

Coston          N

Friedmann     Y

Minutolo        Y

Goldthwait    Y

Cough           N

Motion passed 4-3.

2. *Cruise ships - need to extend the April ban? Or give a date by which we will decide?*

Mr. Hochman, with second by Mr. Friedmann, moved to table this item to April. Roll Call Vote:

Dobbs            Y

Hochman        Y

Coston          Y

Friedmann     Y

Minutolo        Y

Goldthwait    Y

Cough           Y

Motion passed 7-0.

3. *Response to citizen inquiries - most common/recent questions*

It was agreed this was covered previously. No action taken.

4. *Mandating social distancing inside buildings. If there is a line, people must be 6' apart in all directions.*

Since many businesses are doing this, no action taken.

5. *Stop new essential services from opening for the season including restaurants, lodging, and food prep. Set a date of March 24, 2020 they would have had to be open for the season.*

Clarification was provided by Ms. Cough on this item because it generated a lot of emails.

No action taken.

6. *Discuss what we can do about non-essential businesses using loopholes in the state closure mandate to stay open.*

Per Mr. Hochman this situation has changed. No action taken.

7. *Discuss and review the Emergency Operations Plan.*

This is posted online. No action taken.

8. *Discuss whether to hold a regular Council meeting on April 7<sup>th</sup>.*  
Council agreed to hold a regular meeting by video conference on April 7<sup>th</sup> at 4pm.
9. *Acadia National Park Closure*  
Since the park is now closed, no action taken. Council expressed thanks to the Superintendent.
10. *A letter to visitors, residents and seasonal residents discouraging travel.*  
Mr. Coston, with second by Ms. Goldthwait, moved to table item 10 to April 7. Roll Call Vote:
- |                   |          |
|-------------------|----------|
| <u>Dobbs</u>      | <u>Y</u> |
| <u>Hochman</u>    | <u>N</u> |
| <u>Coston</u>     | <u>Y</u> |
| <u>Friedmann</u>  | <u>Y</u> |
| <u>Minutolo</u>   | <u>Y</u> |
| <u>Goldthwait</u> | <u>Y</u> |
| <u>Cough</u>      | <u>Y</u> |
- Motion passed 6-1.

11. *Task Force on the Climate Emergency – Review changes to bylaws and possible motion to amend. Following the proposed amendment, Appointments Committee recommendations to appoint the following:*
- i. *Brian Booher, term expiring July 31, 2021*
  - ii. *Norman Burdzel, term expiring July 31, 2021*
  - iii. *Tobin Peacock, term expiring July 31, 2021*
  - iv. *Darron Collins, term expiring July 31, 2022*
  - v. *Spencer Gray, term expiring July 31, 2022*
  - vi. *Tom St. Germain, term expiring July 31, 2023*
  - vii. *Jennifer Crandall, term expiring July 31, 2023*
  - viii. *Margaret Jeffery, term expiring July 31, 2023*
  - ix. *Sirohi Kumar, Student Representative, term expiring July 31, 2022*
  - x. *Jill Goldthwait, Town Councilor, term expiring June 9, 2020*

12. *Cruise Ship Committee Appointment- John Kelly, ANP Representative term expiring July 31, 2020.*

Mr. Hochman, with second by Mr. Coston, moved to table items 11 and 12 to our April 7 meeting. Roll Call Vote:

<u>Dobbs</u>	<u>Y</u>
<u>Hochman</u>	<u>Y</u>
<u>Coston</u>	<u>Y</u>
<u>Friedmann</u>	<u>N</u>
<u>Minutolo</u>	<u>Y</u>
<u>Goldthwait</u>	<u>Y</u>
<u>Cough</u>	<u>Y</u>

Motion passed 6-1.

Mr. Coston, with second by Mr. Hochman, moved to add Council Comments. Roll Call

Vote:

Dobbs            Y

Hochman       Y

Coston           Y

Friedmann     Y

Minutolo       Y

Goldthwait    Y

Cough           Y

Motion passed 7-0.

**Mr. Coston** spoke about Ellsworth hotels accepting visitors and the increase in the number of interactions a person will have making multiple trips on/off the island. The decision felt right but unintended consequences are still consequences.

**Ms. Cough** expressed feedback shared with her that this happened during our shoulder season rather than July and August. She expressed concerns about flattening the curve now but a potential spike afterwards and the need to give guidelines to businesses on how to properly sanitize and proactively address this later this season.

**Mr. Minutolo** expressed a multitude of thanks.

**Mr. Hochman** added his list of thanks and encouraged people to continue to comment as ask questions, it is appreciated. Also to be kind to each other.

**Mr. Dobbs** echoed thanks, adding that the message we are sending is we're thoughtful to everyone's feelings regardless of how we vote.

**III. ADJOURNMENT**

Mr. Hochman, with second by Mr. Friedmann, moved to adjourn at 5:05pm. Roll Call Vote:

Dobbs            Y

Hochman       Y

Coston           Y

Friedmann     Y

Minutolo       Y

Goldthwait    Y

Cough           Y

Motion passed 7-0.

---

Sharon M. Linscott, Town Clerk



# Town of Bar Harbor Application for Special Amusement Permit

VI A I

Permit Fee  
\$129

Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.

Date: 2/6/2020 Application Type: New  Renewal  Permit Number: \_\_\_\_\_  
(assigned by Town)

Applicant Name: BAR HARBOR REGENCY HOTEL, INC. Business Name: HOLIDAY INN BAR HARBOR REGENCY

Business Address: 123 EDEN STREET Mailing Address: 1000 MARKET STREET, BLDG ONE, PORTSMOUTH, NH 03801  
Physical Address in Bar Harbor If different

Type of Business: FULL SERVICE HOTEL Location to be used: ANY BANQUET OR RECEPTION SPACE LOCATED ON PROPERTY  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place?  
Use back of page if necessary.

Phone: 207-288-3089

Has a liquor license or special amusement permit for this business ever been denied or revoked? Yes  No   
If yes, describe the circumstances in the space below.

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? Yes  No   
If yes, describe the circumstances in the space below.

**The Town Council requests all applicants or their representatives attend the public hearing to answer any questions.  
Please be advised that the absence of your representative may delay the Council's decision.**

Application is hereby made for a Special Amusement Permit for one of the following:

**Without Mechanical Amplification**

- Class 1 – Single musician
- Class 2 – Two musicians
- Class 3 – Three or more musicians

**With Mechanical Amplification**

- Class 1a – Single musician
- Class 2a – Two musicians
- Class 3a – Three or more musicians

**With Mechanical Amplification and Dancing\***

- Class 1ad – Single musician
- Class 2ad – Two musicians
- Class 3ad – Three or more musicians

**Other Entertainment or Amusement**

- Class 4 – any other type of entertainment,  
as provided by 28A MRSA 1054.1.C

\*Dancing also requires a state permit & Fire Marshall inspection

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Applicant's Signature

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_  
Date

Sharon M Linscott, Town Clerk

VIA2



# Town of Bar Harbor Application for Special Amusement Permit

Permit Fee  
**\$129**

**Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.**

Date: 2/6/2020 Application Type: New \_\_\_\_\_ Renewal X Permit Number: \_\_\_\_\_  
(assigned by Town)

Applicant Name: GOLDEN ANCHOR, LC Business Name: THE HARBORSIDE HOTEL & MARINA

Business Address: 55 WEST STREET Mailing Address: 1000 MARKET STREET, BLDG ONE, PORTSMOUTH, NH 03801  
Physical Address in Bar Harbor If different

Type of Business: FULL SERVICE HOTEL Location to be used: ANY BANQUET OR RECEPTION SPACE LOCATED ON PROPERTY  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place? Use back of page if necessary.

Phone: 207-288-5033

Has a liquor license or special amusement permit for this business ever been denied or revoked? Yes \_\_\_\_\_ No X  
If yes, describe the circumstances in the space below.

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? Yes \_\_\_\_\_ No X  
If yes, describe the circumstances in the space below.

**The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.**

Application is hereby made for a Special Amusement Permit for one of the following:

**Without Mechanical Amplification**

- Class 1 – Single musician
- Class 2 – Two musicians
- Class 3 – Three or more musicians

**With Mechanical Amplification**

- Class 1a – Single musician
- Class 2a – Two musicians
- Class 3a – Three or more musicians

**With Mechanical Amplification and Dancing\***

- Class 1ad – Single musician
- Class 2ad – Two musicians
- Class 3ad – Three or more musicians

**Other Entertainment or Amusement**

- Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

\*Dancing also requires a state permit & Fire Marshall inspection

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Applicant's Signature

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_  
Date

Sharon M Linscott, Town Clerk

Revised 07/08/2019

VI A3



# Town of Bar Harbor Application for Special Amusement Permit

Permit Fee  
\$129

Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.

Date: 2/26/2020 Application Type: New  Renewal  Permit Number: \_\_\_\_\_  
(assigned by Town)

Applicant Name: David C. Witham Business Name: Bar Harbor Inn

Business Address: \_\_\_\_\_ Mailing Address: 215 High St Ellsworth 04605  
Physical Address in Bar Harbor different

Type of Business: Full Service Hotel/Rest. Location to be used: 8 Newport drive  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place?  
Use back of page if necessary

Phone: 664-1641 x105

Has a liquor license or special amusement permit for this business ever been denied or revoked? Yes  No   
If yes, describe the circumstances in the space below.

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? Yes  No   
If yes, describe the circumstances in the space below.

The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.

Application is hereby made for a Special Amusement Permit for one of the following:

### Without Mechanical Amplification

- Class 1 - Single musician
- Class 2 - Two musicians
- Class 3 - Three or more musicians

### With Mechanical Amplification and Dancing\*

- Class 1ad - Single musician
- Class 2ad - Two musicians
- Class 3ad - Three or more musicians

\*Dancing also requires a state permit & Fire Marshall inspection

### With Mechanical Amplification

- Class 1a - Single musician
- Class 2a - Two musicians
- Class 3a - Three or more musicians

### Other Entertainment or Amusement

- Class 4 - any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_  
Date

Sharon M Linscott, Town Clerk



# Town of Bar Harbor Application for Special Amusement Permit

VIA4

Permit Fee  
\$129

Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.

Date: 3-3-2020 Application Type: New  Renewal  Permit Number: \_\_\_\_\_  
(assigned by Town)

Applicant Name: Grey Duperey Business Name: Tailgate Sports + Pizza

Business Address: 131 Cottage St Mailing Address: PO Box 364  
Physical Address in Bar Harbor If different

Type of Business: Restaurant Location to be used: Bar Area / Dining Room / Outside  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place? Use back of page if necessary.

Phone: 781 710 1556

Has a liquor license or special amusement permit for this business ever been denied or revoked? Yes  No   
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony? Yes  No   
If yes, describe the circumstances in the space below:

The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.

Application is hereby made for a Special Amusement Permit for one of the following:

### Without Mechanical Amplification

- Class 1 – Single musician
- Class 2 – Two musicians
- Class 3 – Three or more musicians

### With Mechanical Amplification

- Class 1a – Single musician
- Class 2a – Two musicians
- Class 3a – Three or more musicians

### With Mechanical Amplification and Dancing\*

- Class 1ad – Single musician
- Class 2ad – Two musicians
- Class 3ad – Three or more musicians

### Other Entertainment or Amusement

- Class 4 – any other type of entertainment, as provided by 28A MRSa 1054.1.C

\*Dancing also requires a state permit & Fire Marshall inspection

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Applicant's Signature

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_  
Date

Sharon M Linscott, Town Clerk

# Final Report



**Charter Commission for the Town of Bar Harbor**

February 28, 2020

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## Introduction:

To the Town Council and Citizens of Bar Harbor:

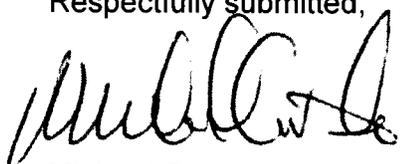
This report represents the recommendations of your elected/appointed Charter Commission. The Commission has endeavored to review, discuss and suggest updates to the current Charter of the town. Members appreciate the history of this document, its traditions and spirit, and the importance of it to the core foundation of our Town. We have looked to maintain citizen involvement while suggesting areas for increased efficiencies in our system of governance for the town. Our recommendations for amendments have been discussed, contemplated and represent our vision for the future of our town's governance. This vision has been developed through a year-long process for considering current and future challenges, regular citizen input, review of other municipal practices in Maine and an understanding of the traditions of our town. The Commission has recommended changes to 19 areas within the current structure of the Charter. Our recommendations are presented to the people of the Town of Bar Harbor for their consideration and adoption.

We recognize, appreciate and encourage the Council to continue with its efforts of transparency for the Town's processes, increased citizen engagement and thoughtful reflection on input received through these practices.

The Commission recommends that the Council consider having a grammatical review completed of the Charter in order to provide a consistent form for and language that allows for clear understanding of the document. It has become clear to the Commission that as the Charter has been edited and changed over time the document has become less than completely fluid and consistent in form.

I would like to thank all the Commission members for their hard work and dedication, for the community for their thoughtful input and everyone for the opportunity to serve the community as a member of this group. I encourage everyone to read and thoughtfully consider this report as they prepare to vote on the proposed changes.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Gurtler". The signature is fluid and cursive, written over a white background.

Michael Gurtler  
Chairperson

## **Background:**

The Charter Commission was established through a ballot vote in November of 2018. Members were elected (6) by the citizens and appointed (3) by the Town Council.

### Charter Commission Members:

Julie Berberian  
Joseph Cough  
Anna Durand  
Jill Goldthwait, Vice-Chair  
Michael Gurtler, Chair  
Patricia Samuel, Secretary  
Martha Searchfield  
Peter St. Germain  
Christopher Strout

An organizational meeting was held on December 17, 2018 where members were sworn in and an election of officers was held. The Commission set a schedule of regular meetings for twice a month beginning in January 2019. Agendas were communicated prior to each meeting and public comment periods were offered at the beginning of each meeting. Two Public Hearings were conducted, in January and June of 2019, in addition to the regular comments at meetings and the review of submitted letters and email. The Commission requested an extension for submission of its report in August which was approved by Town Council. A draft of proposed changes was submitted to the Town Attorney for review in September 2019 and a draft report was presented to Town Council in October 2019. A Public Hearing was held in November 2019 to hear citizen comment on the draft report. The Commission again requested an extension in December 2019 in order to accommodate requests for an additional Public Hearing. The Public Hearing was scheduled for January 13, 2020 to review the Commission's final recommendations. The Commission submitted its final report to Town Council in March 2020 to be placed on the Warrant for June 2020 Town Meeting.

Agendas, minutes and other Commission documents have been posted on the Town of Bar Harbor website at: <https://www.barharbormaine.gov/460/Charter-Commission> or are available by contacting the Town Clerk.

## Summary of Proposed Changes with rationale

**CHARTER MODIFICATION # 1:** Shall the Town of Bar Harbor approve the charter modification to 1. Clarify the recording of recommendations on Town Warrants and Ballots, 2. Change the Warrant Committee's responsibilities to consideration of the Municipal Budget and Land Use Ordinance amendments, and 3. Remove review and recommendations of Citizen Initiative and Referendum from the Town Council, Warrant Committee, School Committee and Planning Board, as presented in the Town Meeting Warrant?

---

### Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

#### ARTICLE II: Town Meetings: § C-5. Annual and Special Town Meetings.

- (1) Contents of ballots: In addition to the provisions of the Revised Statutes of the State of Maine, the ballots for all Town Meetings shall include:
  - (a) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, including in the form of the number of Committee members and number of Committee members voting for and against the recommendation;
  - (b) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, including in the form of the number of Board members and the number of Board members voting for and against the recommendation;
  - (c) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, including in the form of the number of Committee members and the number of Committee members voting for and against the recommendation;
  - (d) For each ballot article except Land Use Ordinance amendments, ~~and~~ election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
- (2) Warrant: The Town Meeting warrant shall be prepared as required by law and be posted in the Municipal Building. Further, the warrant shall include:
  - (a) A brief statement outlining the intent of the proposed article;

- (b) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, including in the form of the number of Committee members and number of Committee members voting for and against the recommendation;
- (c) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, including in the form of the number of Board members and the number of Board members voting for and against the recommendation;
- (d) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, including in the form of the number of Committee members and the number of Committee members voting for and against the recommendation;
- (e) For each ballot article except Land Use Ordinance amendments, ~~and~~ election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
- (f) Such other explanatory material as, in the opinion of the Town Council, would help the voters better understand the issues at hand.

**ARTICLE VII: Warrant Committee: § C-36. Duties and responsibilities.**

- A. It shall be the duty of ~~any duly elected~~ the Warrant Committee, meeting as a full body, to consider, investigate and report upon, with recommendations or comments, all articles except those dealing with election of candidates, revisions or modifications to this charter, the school budget, and citizen initiatives or referendums included in the Warrant of all Town Meetings, whether annual or special. ~~When requested to do so,~~ It shall be the duty of Town officers and committees to meet with the full body of the Warrant Committee or any of its subcommittees and to furnish, to all members, all information relative to matters being considered by the Warrant Committee.
- B. The Warrant Committee shall submit its recommendations on municipal budget articles to the Town Council as provided by Charter § C-31, Preparation and submission of the budget.

**Rationale:**

- The recommended amendments for Article II clarify the method of recording elected bodies' recommendations on Warrant Articles
- The recommended amendments clarify that the Warrant committee will review the Municipal Budget, and LUO amendments but will no longer review or make recommendations on the school budget. The School Budget is currently presented by staff, reviewed by the School Committee and the Town Council before being placed on the Town Warrant for adoption by vote at the Town Meeting. This process provides two reviews by elected bodies. Removing a third review by Warrant Committee will allow that committee to focus efforts on the Municipal Budget and proposed Land Use Ordinance amendments.
- The recommended amendments establish that neither the Town Council or Warrant Committee will provide recommendations on revisions or modifications to this charter
- The recommended amendments remove possible review or written recommendations of any citizen initiative or referendum from any elected or appointed body of the town. Citizen initiatives and referendums originate directly from voters and must be included on the Town Warrant unless immediately adopted by Town Council such a process should supersede review and recommendation by elected or appointed bodies of the town. Article \_\_\_\_ proposes to create a mandatory public hearing process for all initiatives and referendums so that voters may be informed, weigh their merits and express opinions in an open forum

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 7 to 2.*

**CHARTER MODIFICATION #2:** Shall the Town of Bar Harbor approve the charter modification to allow for the use of electronic voting as presented in the Town Meeting Warrant?

---

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE II: Town Meetings: § C-5. Annual and Special Town Meetings.**

- C. (3) Method of voting at Open Town Meeting. Except where required otherwise by state law the town may use any means of manual or electronic voting approved by the Town Council to ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.

**ARTICLE II: Town Meetings: § C-6. Powers and responsibilities.**

- B. (3) Act on those ordinances placed on the warrant ~~pertaining to the Town's Land Use Ordinance~~ and on any initiative or referendum questions as provided for by this Charter;
- D. Any Town Meeting amendment made to the budget published in the Warrant or Town Report, shall be voted only by written or electronic ballot.

---

**Rationale:**

- The recommended amendments for Article II will allow for the use of electronic voting technology at Open Town Meeting which can expedite voting on budgetary articles not requiring written vote by State statute, help to increase participation in Town Meeting and mitigate social pressure on controversial items.
- This recommendation does not mandate the use of electronic voting at Town Meetings but allows its use providing it can ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.
- The use of electronic voting technology can also assist in providing better accessibility for voting at Open Town Meeting.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

**CHARTER MODIFICATION #3:** Shall the Town of Bar Harbor approve the charter modification to provide a process that allows the Town Council to amend the Land Use Ordinance when an amendment is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with statutes, after it has first been recommended by the Town Planner, discussed at Public Hearings and recommended by a supermajority of both the Planning Board and Town Council, as presented in the Town Meeting Warrant?

---

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

### ARTICLE III: The Town Council: § C-10. General powers and duties.

A. (9) Make, adopt, ~~alter~~ amend and repeal ordinances for any purpose permitted by statute. with the exception of those pertaining to zoning except as provided below. In addition to such ordinances, the Council shall have the power to adopt ordinances which:

(a) Adopt or amend an administrative code.

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.

~~(c) Amend or repeal any ordinance previously adopted.~~

(d) Adopt land use ordinance amendments by supermajority vote as defined in §C-14C3 when:

i. The land use ordinance change is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with state statutes pertaining to municipal zoning and;

ii. The land use ordinance change is first recommended to the Planning Board by the Planning Director and upon review and after a public hearing, the Planning board recommends it to the Town Council by a supermajority vote (as defined in §C-14C3)

### ARTICLE III: The Town Council: § C-14. Procedure.

C. (2) Each Councilor in attendance shall vote on all issues and questions presented for vote except when a valid conflict of interest ~~clearly exists~~ is stated and recognized by a majority vote of the Council. If any Councilor does abstain from a vote other than because of a recognized conflict of interest, he/she shall be considered to have cast a vote with the majority and the record shall so show.

- C. (3) Qualifying land use ordinance amendments as described in §C-10 A(9)d must be recommended to the Town Council by a supermajority of the full membership of the Planning Board and must be approved by a supermajority of the full membership of the Town Council.
- C. (3) (a) For the purpose of this charter, supermajority shall be defined as two-thirds of the full membership of the body rounded up to the nearest whole number. (e.g. 4 in a 5-member body and 5 in a 7-member body.) In the case of a body of 3-members or less a supermajority shall be defined as a unanimous vote.
- 

**Rationale:**

- This recommendation provides a method to make minor, non-substantive, changes to the Land Use Ordinance under the following conditions:
  - The change is defined as procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors, or
  - The change is to bring the land use ordinance into compliance with state statutes
  - The change is first recommended by the Town Planner
  - The change is reviewed by the Planning Board and a Public Hearing is held
  - The Planning Board recommends the amendment by a super-majority (two-thirds)
  - The change is reviewed by the Town Council and an additional Public Hearing is held
  - The amendment is then adopted by a super-majority (two thirds) of the Town Council
- This recommendation provides a mechanism to amend minor aspects of the Land Use Ordinance without the lengthy process currently in place
- This recommendation will allow the Land Use Ordinance to be more dynamic and citizen friendly
- New or substantial amendments would continue to be adopted only by voters through Town Meeting

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 7 to 2.*

**CHARTER MODIFICATION #4:** Shall the Town of Bar Harbor approve the charter modification to change the language in Articles IV and V of the Charter that would: 1. clarify the Town Manager's residency requirement; 2. ensure that human resource procedures are compliant with State and Federal laws; 3. clarify the role of a Town Planner; 4. allow for additional legal counsel for the Town, if needed, and; 5. establish rotating terms for School Committee members; as presented in the Town Meeting Warrant?

---

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE IV: The Town Manager: § C-18. Appointments; qualifications; compensation.**

The Council shall appoint a Town Manager for a term not to exceed three years and shall fix the Manager's compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a resident of the Town or state at the time of appointment and may reside outside the town while in office ~~only~~ with the approval of the Council.

**ARTICLE IV: The Town Manager: § C-21. Powers and duties of the Town Manager.**

- J. ~~Make recommendations to the Council for the more efficient operation of the municipality;~~ (Reserved)

**ARTICLE V: Administrative Organization: § C-23. Personnel administration.**

- C. Personnel policies. The Human Resources Director shall prepare draft personnel policies in compliance with all applicable State and Federal Laws. After approval by the Manager, the policies shall be proposed to the Council for adoption. The Council may adopt them with or without amendment.
- D. Planning Director. The Manager or a person appointed by the manager shall be designated as the Planning Director. The Planning Director shall administer the planning department for the town.

**ARTICLE V: Administrative Organization: § C-25. Town Attorney**

There shall be a Town Attorney, appointed by the Council, who shall serve as chief legal adviser to the Town and all of its departments, except for the Superintending School Committee. In any matter where there may be a conflict between the Town Council and any other Town officer, department, board, agency or commission, Town Attorney shall represent the Town Council only. The Town Council may appoint or authorize such additional legal counsel as the Town's interest may require

**ARTICLE V: Administrative Organization: § C-26. Superintending School Committee.**

- C. Elections and terms. Each member shall be elected for a term of three years; with terms to be staggered such that no more than two Committee members are elected to fill expired terms in any one year.

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**Rationale:**

- This recommended change clarifies that the Town Manager may reside outside of Bar Harbor with Town Council approval.
- This recommended change updates the Human Resource Director's responsibilities to ensure that all procedures are compliant with State and Federal laws
- This change does not require that the Town hire a Planner but rather emphasizes the importance of the planning function. Town Council can choose to allocate funds in the municipal budget for this position. The Charter will require that the function is assigned to staff at the Manager's direction if funding is not available.
- This recommended change institutes staggered terms for the School Committee to maintain continuity, reduce the impact of turnover and ensure consistency with other elected bodies of the Town.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

**CHARTER MODIFICATION #5:** Shall the Town of Bar Harbor approve the charter modification to remove specific salaries for Town Council and School Committee listed in the Charter and provide for annually establishing salaries as part of the budget voted on at Town Meeting as presented in the Town Meeting Warrant?

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## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

### ARTICLE III: **The Town Council: § C-8. Salary.**

Each member of the Town Council shall be paid an annual salary ~~of \$1,500, except the Chair, whose annual salary shall be \$1,800.~~ to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 30-A M.R.S.A. § 2602(1), as amended, the member's salary shall be prorated based on the number of months that member has held office, to the nearest full month.

### ARTICLE V: **Administrative Organization: § C-26. Superintending School Committee.**

- D. Compensation. Each member of the School Committee shall be paid an annual salary ~~of \$400, except the Chair, whose annual salary shall be \$500~~ to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 20-A M.R.S.A. § 2305(4), as amended, his/her salary shall be prorated based on the number of months that member has held office, to the nearest full month

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#### **Rationale:**

- This recommended change allows for the Town Council compensation to be decided annually by the Town through the budget process.
- This recommended change allows for the School Committee compensation to be decided annually by the Town through the budget process.

#### **Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

**CHARTER MODIFICATION #6:** Shall the Town of Bar Harbor approve the charter modification to establish a new process for the development and adoption of the annual budget that provides for both the Town Council and Warrant Committee to conduct their reviews concurrently as presented in the Town Meeting Warrant?

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## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE VI: Financial Procedures: § C-31. Preparation and submission of the budget.**

- A. Departmental CIP and operating budget requests. Fifty-six days before the Town Manager is required to submit the budget to the Town Council, all department heads and board or committee chairs, except for the School Committee, shall submit their CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C(2) through (4). shall be prepared according to a timeline set by the Town Manager to allow for submission of the budget by the last Tuesday in January each year. Budget submissions shall be in accordance with the provisions set forth in § C-29 and § C-30.
- ~~B. Departmental operating budget requests. Forty-two days before the Town Manager is required to submit the budget to the Town Council, the department heads, board or committee chairs, except for the School Committee and cooperating agencies shall submit their budget requests to the Town Manager. Said requests shall include the information required in § C-29B through D.~~
- B. School Committee budget request. Fourteen days before the Town Manager is required to submit the budget to the Town Council, the School Committee shall submit its operating budget and CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C (2) through (4), as well as § C-29B through D.
- C. Submittal of budget to the Council and Warrant Committee. The Town Manager shall compile the budget information submitted, prepare the budget as provided in this section, and submit the operating budget and CIP to a joint meeting of the Town Council and Warrant Committee on or before the ~~third Tuesday in January~~ last Tuesday in January each year. The Town Warrant Committee and Town Council shall then jointly meet with town staff for detailed presentation of the municipal budget by town staff before proceeding to independent review.

- D. Warrant Committee and Town Council Review. The Warrant Committee shall review the municipal budget and submit its recommendations to the Council at a joint meeting of those bodies on or before the 4<sup>th</sup> Tuesday in February. The Council shall review the municipal and school budgets and the recommendations of the Warrant Committee.
- E. Tentative adoption of budget by Council. The proposed budget prepared by the Manager shall be reviewed by the Town Council which shall tentatively adopt the budget as presented and reviewed shall be tentatively adopted by the Council with or without amendments on or before ~~the seventh day of February~~ the 1st Tuesday of March of each calendar year and Council shall fix a time and a place for holding a public hearing on the budget prior to the ~~22<sup>nd</sup> of February~~ 4th Tuesday of March of each calendar year.
- F. Notice of hearing. The Town Clerk shall give public notice of such hearing in a newspaper of general circulation in the Town. Said notice shall contain as a minimum the date, time and place of the meeting, the locations where copies of the budget may be reviewed, the total appropriations requested for both the municipal and education budgets and an estimate of the ~~affect~~ effect on the tax rate. Full copies of the detailed budget shall be made available for public review at the office of the Town Clerk.
- G. Adoption of budget by Council. The Town Council shall hear public comment at the budget hearing, review the budget, adopt it with or without change and recommend it to ~~the Warrant committee on or before February 22:~~ Town Meeting on or before the 4th Tuesday in March.
- ~~H. Submittal to Warrant Committee. No later than seven days following the date of adoption, the Town Manager shall submit to the Town Warrant Committee the complete detailed budget as adopted by the Town Council~~
- H. ~~Warrant Committee review. The Town Warrant Committee shall review the budget and submit its recommendations to the Council prior to April 1. The Council shall review the recommendations as submitted by the Warrant Committee and submit the budget to Town Meeting with or without changes. The recommendations of the Warrant Committee pertaining to the municipal and education budgets~~ budget shall be provided as a commentary to the Town Meeting as set forth in §C-5 1A and §C-5 2B.

**ARTICLE VII: Warrant Committee: § C-36. Duties and responsibilities.**

- C. No later than ~~60~~ 30 days prior to each Annual or 10 days prior to each Special Town Meeting, the report of the Warrant Committee shall be submitted to the Town Clerk, who shall have it printed and made available for distribution to the voters. The report of the Warrant Committee shall be with respect to all articles submitted to it and shall include its recommendations with respect to each article and contain any commentary which the Warrant Committee elects to have included in said report.

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**Rationale:**

- These recommended changes introduce a new budget development timeline that encourages a more streamlined approach for the development, review and comment on the annual Town budget.
- These recommended changes allow for an effective use of time and human resources.
- These recommended changes provide a process where the Warrant Committee and Town Council will have the same and simultaneous access to budget information and staff time so that each full body may review, comment and make recommendations on the annual Town budget.
- Town staff will present the draft budget to both the Town Council and Warrant Committee at a joint meeting and their respective reviews will take place within the same timeframe.

***Recommendations:***

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

**CHARTER MODIFICATION #7:** Shall the Town of Bar Harbor approve the charter modification to establish an election process for the Warrant Committee that is consistent with the other elected bodies of the Town and set the Warrant Committee membership number at 15 from 22 as presented in the Town Meeting Warrant?

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## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE VII: Warrant Committee: § C-34. Nomination Composition, eligibility, terms, and election**

- A. ~~At least 75 days prior to each Annual Town Meeting, the person who held the office of Moderator at the most recent Annual Town Meeting (hereinafter referred to as the "Retired Moderator") shall call and chair a meeting or meetings to select 22 voters to be nominated for election by the Annual Town Meeting to serve as Warrant Committee members.~~
- B. ~~The Nominating Committee shall be composed of five members: said Retired Moderator, the Chair and Secretary of the Warrant Committee and two other registered voters to be appointed by the Retired Moderator. The Chair of the Nominating Committee may vote on motions coming before the Committee only in the event of a tie.~~
- C. ~~Should the Retired Moderator or Warrant Committee Chair or Secretary be unable, refuse or fail to fulfill their duties as provided above, the Town Clerk shall appoint a registered voter to fill their seat.~~
- D. ~~The Nominating Committee shall report the names of its intended nominees to the Town Clerk for inclusion in the Annual Town Report at least 60 days prior to the Annual Town Meeting.~~
- E. ~~At each Annual Town Meeting, a member of the Nominating Committee shall nominate the 22 voters selected pursuant to this section to serve as the Warrant Committee for the ensuing year. The Town Meeting shall thereupon proceed with the election of the Warrant Committee.~~
- A. Composition: There shall be a Warrant Committee of 15 members elected by the qualified voters of the Town in accordance with Article VIII.

- B. Eligibility. Only persons who are qualified to vote in elections in the Town of Bar Harbor and have been registered to vote for one year prior to their election to office shall be eligible to hold the office of Warrant Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Warrant Committee Member shall hold any other Town office or Town employment while serving as a Warrant Committee Member.
- C. Terms: Each member shall be elected to a term for three years, with terms to be staggered such that no more than 5 Warrant Committee members are elected to fill expired terms in any one year.

**ARTICLE VII: Warrant Committee: § C-35. Organization.**

- A. The Warrant Committee, upon the call of the Town Clerk, shall meet and organize with the election of a Chair, a Vice Chair and a Secretary within three weeks of its election. It shall have the power to ~~fill vacancies in its number by vote of its members and shall~~ establish its own rules of procedure and bylaws.
- B. Filling of vacancies. A vacancy in the Warrant Committee shall be filled for the remainder of the unexpired term, if any, at the next regular election held more than 60 days after the occurrence of the vacancy. The Committee 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, if at any time the membership of the Committee is reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

**ARTICLE VIII: Elections and Nominations: § C-39. Elections.**

- A. Conduct of elections. The regular municipal election shall be held on the second Tuesday of June. Except as otherwise provided for by this Charter, the provisions of the Revised Statutes of the State of Maine, as amended, shall govern elections of all Town officials required by this Charter, except the Moderator ~~and the members of the Warrant Committee~~, and said elections shall be conducted by the election officials accordingly.

**ARTICLE VIII: Elections and Nominations: § C-40. Nominations.**

- A. (1) Candidates for election to the Town Council, Warrant Committee, and the Superintending School Committee shall be nominated by petition. Any person who is qualified to vote in elections in the Town of Bar Harbor may be nominated for election as a Councilor, Warrant Committee member, or School Committee member by a petition signed by not less than the number of qualified voters of the Town that is required by state law.

**Rationale:**

- These recommended changes ensure that Warrant Committee members are individually nominated by petition and elected by ballot at Town Meeting in a manner consistent with both the Town Council and School Committee.
- These recommended changes ensure that the Warrant Committee members' terms are rotating in order to maintain continuity of the committee.
- These recommended changes establish eligibility requirements for the Warrant Committee that are consistent with other elected bodies of the Town.
- The recommended new budget development process will allow for the whole Warrant Committee to work with the whole Town Council and staff as a group so that each individual member has access to the same information as they deliberate and make recommendations to the voters of the Town.
- These recommended changes reduce the Warrant Committee membership from 22 to 15 to reflect the recommended reduction in duties and to encourage full involvement of the Committee as it fulfills its duties to consider, investigate and report upon Warrant Articles. Much of the Committee's current work relies heavily on subcommittee work by small groups of individuals rather than full review by the whole Committee.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 8 to 1.*

**CHARTER MODIFICATION #8:** Shall the Town of Bar Harbor approve the charter modification to establish that the due date for filing of nomination papers be not less than 60 days before the election in order to be consistent with the State of Maine as presented in the Town Meeting Warrant?

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## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

### ARTICLE VIII: Elections and Nominations: § C-40. Nominations

- B. Filing and acceptance of nomination petitions. All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as one instrument not less than ~~45~~ 60 days prior to the day of 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 the nomination.
- 

#### Rationale:

- This recommended change ensures that the Town Charter is consistent with the procedures of the State of Maine for the filing of nomination papers by candidates for elected office.

#### Recommendations:

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

**CHARTER MODIFICATION #9:** Shall the Town of Bar Harbor approve the charter modification to require that a Public Hearing be held for any proposed Initiative or Referendum as presented in the Town Meeting Warrant?

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## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

### ARTICLE IX: Initiative and Referendum: § C-48. Action on petitions.

- A. Public Hearing: When an initiative or referendum has been finally determined sufficient the Council shall set a date no later than 30 days from the final determination of sufficiency to hold a public hearing for the purpose of presentation and information on the proposed initiative ordinance or resolution and to receive public comment.
- B. Action by Council. When an initiative or referendum petition has been finally determined sufficient, and after holding a public hearing, the Council shall promptly consider the proposed initiative ordinance or resolution or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance or resolution without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.
- C. (1) (a) The vote on a proposed or referred ordinance shall be by secret ballot at a Town election, ~~held not less than 45 days and not later than~~ but not less than 45 days nor more than one year from the date of the final Council vote thereon. If no scheduled regular annual 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 the regular annual 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.~~
- i. Council may provide for a special election at an earlier date within the prescribed period.
- ii. Copies of the proposed or referred ordinance shall be made available at the polls.

- C. (2) (a) Timeline for Voting. The vote on a proposed resolution shall be held at either a Town election or an open Town Meeting not less ~~then~~ than 45 days and not more than one year from the date of the final Council vote thereon. If no regular annual Town Meeting is to be held within the period prescribed in this subsection, the Council shall provide for a special Town Meeting; otherwise, the vote shall be held at the same time as the regular annual Town Meeting, except that the Council may in its discretion provide for a special Town Meeting at an earlier date within the prescribed period.
- 

**Rationale:**

- This recommended change ensures that information for proposed Initiatives or Referendums is provided to the public at a Public Hearing so citizens can gain first-hand knowledge of the proposals and their possible impacts for the Town.
- This recommended change will help voters to make effective and informed decisions and provide for transparency in communicating information about Initiatives or Referendums.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

**Attorney Review:**

**RUDMAN • WINCHELL**

Edmond J. Beaton  
E-Mail: [edbeat@rudmanwinchell.com](mailto:edbeat@rudmanwinchell.com)  
Direct Dial: (207)992-2626

February 21, 2020

Cornell Knight, Town Manager  
Town of Bar Harbor  
93 Cottage Street  
Bar Harbor, ME 04609

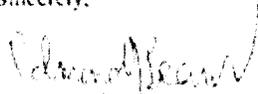
Re: Charter Commission Final Report and Charter Revisions

Dear Cornell:

The purpose of this letter is to provide the Town with a legal opinion regarding the revisions to the Town of Bar Harbor Charter recommended by the Bar Harbor Charter Commission in accordance with 30-A M.R.S.A. § 2103(5)(D)(4).

After having reviewed the proposed revisions and Final Report, it is my opinion as an attorney admitted to the practice of law in the State of Maine that the proposed revisions do not contain any provisions that are prohibited by the Constitution of the United States, the Constitution of the State of Maine, or by general law.

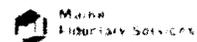
Sincerely,



Edmond J. Beaton  
EJB/leb



THE GRADUATE BUILDINGS • BAR HARBOR STREET  
P.O. BOX 1401 • BAR HARBOR, ME 04609-0401  
TEL: (207) 992-2626 • FAX: (207) 992-2626 • [www.rudmanwinchell.com](http://www.rudmanwinchell.com)



## **Minority Opinion:**

## **Report from Members in Minority**

On April 4th, 1796, the voting citizens of Eden gathered for their first Town Meeting. They elected a moderator and voted on land use - to allow cattle to "go at large" but not sheep<sup>1</sup>. These residents were exercising a new form of direct democracy and the legacy they left to us is precious. Town Meeting "... 'is the purest form of democracy' because citizens, not their representatives, participate directly in the making of laws," according to the Maine Municipal Association. It is here that the residents of Bar Harbor can decide for themselves and actively legislate on how we want our town to take shape.

This report will give context for the Charter Commission's work and also the basis for our opposing votes on questions 1, 3 and 7. Our thoughts are grounded in the values we experience as year-round residents: respect for our neighbors and the land that shapes our livelihoods.

<sup>1</sup> Mount Desert Island Historical Society, "Town Records of Mount Desert - Eden" (April, 2013) [mdihistory.org/Cultural\\_History\\_Project/htdocs/MDItownrecords/Eden.htm](http://mdihistory.org/Cultural_History_Project/htdocs/MDItownrecords/Eden.htm)

### **Background**

This Commission began its work following several years of widespread citizen involvement with important land use considerations. These included whether to allow new commercial development in the outer villages, short-term rental regulations and increasing pressure on the housing stock, and the purchase and long-term development of the Ferry Terminal.

These debates created divisions within the Town, but also encouraged citizen engagement with the issues. This Charter Commission has been working with these controversies in the background.

### **Rationales for our opposing votes on Questions 1, 3, and 7**

#### **Question 1**

Question 1 removes the Warrant Committee from reviewing citizen initiatives, referenda and the School budget. The Warrant Committee's job is to consider, investigate and make recommendations for articles on the Warrant. It is a valuable resource for residents and elected representatives to gain information on the current topics.

Julie Berberian, Anna Durand

### **Question 3**

We consider Town Meeting to be the “gold standard” of citizen participation in town decision-making. In Bar Harbor, all land use changes must be voted upon at Town Meeting. If Question 3 is adopted, the resulting changes would add public hearings to the process but ultimately give the power to “modify” what is considered “minor” to 4 appointed Planning Board members and 5 elected Town Councilors. Our current system allows the Planning Department to bring multiple minor changes as a single warrant article to the voters at Town Meeting. We feel confident that this method can continue to be used to make these recommended changes.

Julie Berberian, Anna Durand

### **Question 7**

The 22-member Warrant Committee is a diverse representative body with members from across the political spectrum. The larger number encourages the widest possible input in its duties to investigate and make recommendations on the Warrant.

Julie Berberian

### **For the Future**

Our town faces many challenges including how to balance appropriate development and private property rights, affordable housing, and environmental protections. To tackle these issues, citizen involvement and input is crucial. The voters of 1796 established a solid framework that endures to serve our citizens. Our hope is that we can continue to work together to prioritize an inclusive, active, and informed citizenry.

Respectfully submitted,  
Julie Berberian  
Anna Durand

Chapter C

CHARTER

ARTICLE I

Grants of Power to the Town

**§ C-1. Incorporation.**

The inhabitants of the Town of Bar Harbor shall continue to be a municipal corporation by the name of the Town of Bar Harbor, pursuant to its incorporation by law and amendments thereof.

**§ C-2. Powers.**

The Town shall have all the powers possible for a municipality to have under the Constitution and laws of the State of Maine.

**§ C-3. Construction.**

The powers of the Town under this Charter shall be construed liberally in favor of the Town and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

**§ C-4. 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 other municipality of the State of Maine, public agency of this state or of the United States.

ARTICLE II

Town Meetings

**§ C-5. Annual and Special Town Meetings.**

Except as otherwise provided by the provisions of this Charter, the legislative authority of the Town of Bar Harbor shall continue to be vested in the inhabitants of the Town of Bar Harbor acting by means of Town Meetings. The Annual Town Meeting shall be held on the first Tuesday in June and the second Tuesday in June.

- A. Open Town Meeting. Such articles of the warrant as the Town Council may choose shall be acted upon on the first Tuesday of June.
- B. Secret ballot. All articles of the warrant with respect to the election of officials, such other articles as the Town Council shall choose and all articles required by law to be on the printed ballot shall be acted upon on the second Tuesday in June.
- C. State law controlling; exceptions. The provisions of the Revised Statutes of the State of Maine, as amended, shall govern the manner in which all Annual and Special Town Meetings shall be called and conducted, except that:
  - (1) Contents of ballots: In addition to the provisions of the Revised Statutes of the State of Maine, the ballots for all Town Meetings shall include:
    - (a) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, including in

- the form of the number of Committee members and number of Committee members voting for and against the recommendation;
- (b) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, including in the form of the number of Board members and the number of Board members voting for and against the recommendation;
  - (c) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, including in the form of the number of Committee members and the number of Committee members voting for and against the recommendation;
  - (d) For each ballot article except Land Use Ordinance amendments, and election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
- (2) Warrant: The Town Meeting warrant shall be prepared as required by law and be posted in the Municipal Building. Further, the warrant shall include:
- (a) A brief statement outlining the intent of the proposed article;
  - (b) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, including in the form of the number of Committee members and number of Committee members voting for and against the recommendation;
  - (c) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, including in the form of the number of Board members and the number of Board members voting for and against the recommendation;
  - (d) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, including in the form of the number of Committee members and the number of Committee members voting for and against the recommendation;
  - (e) For each ballot article except Land Use Ordinance amendments, and election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
  - (f) Such other explanatory material as, in the opinion of the Town Council, would help the voters better understand the issues at hand.
- (3) Method of voting at Open Town Meeting. Except where required otherwise by state law the town may use any means of manual or electronic voting approved by the Town Council to ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.

**§ C-6. Powers and responsibilities.**

- A. The Annual Town Meeting shall have the exclusive power and responsibility to:
  - (1) Elect all necessary Town officers and committees;
- B. The Annual and Special Town Meetings shall have the exclusive power and responsibility to:

- (1) Act on the issuance of bonds and notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued;
  - (2) Raise by taxation and appropriate monies so raised.
  - (3) Act on those ordinances placed on the warrant pertaining to the Town's Land Use Ordinance and on any initiative or referendum questions as provided for by this Charter;
  - (4) Act on the sale of Town-owned real estate other than that acquired through matured tax mortgage liens;
  - (5) Act on any amendments to this Charter pursuant to law;
  - (6) Approve Town budgets, except proprietary budgets for revenue producing facilities as defined by M.R.S.A. Title 30-A, Chapter 213, the Revenue Producing Municipal Facilities Act;4
  - (7) Transact other Town business presented to it by warrant articles or required by law.
- C. Town Meeting shall act only on matters presented to it as warrant articles or as required by law.
- D. Any Town Meeting amendment made to the budget published in the Warrant or Town Report, shall be voted only by written or electronic ballot.

### ARTICLE III

#### The Town Council

##### § C-7. Composition, eligibility, election and terms.

- A. Composition. There shall be a Town Council of seven members elected by the qualified voters of the Town in accordance with Article VIII.
- B. Eligibility. Only persons who are qualified to vote in elections in the Town of Bar Harbor and have been registered to vote for one year prior to their election to office shall be eligible to hold the office of Councilor.
- C. Elections and terms. Each member shall be elected for a term of three years; with the seats to be staggered such that no more than three Councilors are elected to fill expired terms in any one year.

##### § C-8. Salary.

Each member of the Town Council shall be paid an annual salary of \$1,500, except the Chair, whose annual salary shall be \$1,800. to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 30-A M.R.S.A. § 2602(1), as amended, the member's salary shall be prorated based on the number of months that member has held office, to the nearest full month.

##### § C-9. Chair and Vice Chair.

The Council shall elect from among its members a Chair and a Vice Chair, each of whom shall serve at the pleasure of the Council. The Chair shall preside at meetings of the Council, shall be entitled to vote on all questions and shall be recognized as head of the Town government for all ceremonial purposes but shall have no administrative duties. The Vice Chair shall act as Chair during the absence or disability of the Chair.

**§ C-10. General powers and duties.**

A. The Council shall have the power to:

- (1) Appoint:
  - (a) The Town Manager for a term not to exceed three years;
  - (b) The Town attorney and an Auditor who shall serve at the will of the Council.
  - (c) The members of the Planning Board, Board of Appeals, and such other boards and committees for such terms of office with such powers and duties as are provided for by this Charter, Town ordinances and state statutes.
- (2) Remove for cause during the term of office after hearing any person appointed pursuant to the provisions of this Charter except those persons who serve at the will of the Council.
- (3) By ordinance create, change and abolish offices, departments and agencies, other than offices, departments and agencies established by this Charter. The Council by resolution may assign additional functions or duties to officers, departments or agencies established by this Charter but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office under this Charter, with the exception of that of the Town Clerk, Town Assessor or Town Attorney.
- (4) Convey or authorize the conveyance of real estate acquired by mature tax mortgage liens and the lease or authorization for lease of Town-owned property for a term of not longer than 15 years including any renewal options.
- (5) Adopt an annual budget which shall be presented to the Warrant Committee as provided by this Charter, and cause the detailed budget to be printed in the Town Report; provided, however, that the recommendations and comments of the Warrant Committee shall be printed and made available as required by provisions in § C-36 for distribution prior to Town Meeting. At a minimum the detailed budget shall include:
  - (a) Budget message from the Town Manager explaining in narrative fashion the revenues, expenditures and fund balances;
  - (b) Calculation of the estimated tax rate;
  - (c) Budget summary by cost center;
  - (d) A narrative description of the Capital Improvement Program; and
  - (e) A spreadsheet showing five years of appropriations for the Capital Improvement Program.
- (6) Borrow funds and provide for the execution of notes thereof in anticipation of taxes, said notes to be repaid within the fiscal year in which issued.
- (7) Provide for an annual audit.
- (8) Dispose of, by sale or otherwise, surplus Town personal property.

- (9) Make, adopt, ~~alter~~ amend and repeal ordinances for any purpose permitted by statute, with the exception of those pertaining to zoning except as provided below. In addition to such ordinances, the Council shall have the power to adopt ordinances which:
- (a) Adopt or amend an administrative code.
  - (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
  - ~~(c) Amend or repeal any ordinance previously adopted. (Reserved)~~
  - (d) Adopt land use ordinance amendments by supermajority vote as defined in §C-14C3 when:
    - i. The land use ordinance change is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with state statutes pertaining to municipal zoning and;
    - ii. The land use ordinance change is first recommended to the Planning Board by the Planning Director and upon review and after a public hearing, the Planning board recommends it to the Town Council by a supermajority vote (as defined in §C-14C3)
  - (e) Provide for the compulsory attendance of witnesses, the administering of oaths and the compulsory production of evidence in connection with investigations into the affairs of the Town and the conduct of any Town department (including the School Department), office or agency or in connection with any hearing provided for by this Charter involving the forfeiture of office of any Councilor, Superintending School Committee member or Warrant Committee member, or the dismissal of any Town employee or member of any Town board.
  - (f) Adopt or amend a Code of Ethics, governing all elected and appointed Town officials, including without exception the members of the Town Council, Superintending School Committee and Warrant Committee and their appointees. Any Code of Ethics adopted under this section shall be based on the following principles: that elected officials and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that members of the Town Council, Superintending School Committee, Warrant Committee and their appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. Any Code of Ethics adopted under this section shall take precedence over §C-53 and §C-54 of the Charter, in the event that an interpretational conflict arises in regard to these sections.
- (10) Apply for grants and accept such grants, provided that no monetary or other obligation not authorized by Town Meeting is entailed or required.
- (11) Approve proprietary budgets for revenue producing facilities as defined by M.R.S.A. Title 30-A, Chapter 213, the Revenue Producing Municipal Facilities Act.
- (12) Exercise all other powers of the Town of Bar Harbor not otherwise specifically reserved to the Town Meeting.
- B. Notwithstanding the foregoing, nothing contained herein shall diminish the right of the citizens of the Town of Bar Harbor at a Town Meeting to approve or disapprove acts of the Town Council, whether such acts be by ordinance or otherwise.

**§ C-11. Prohibitions.**

- A. Holding other office. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Agreement Act, no Councilor shall hold any other Town office or Town employment or serve as an independent contractor for the Town while serving as a member of the Council. When interpreting this section "Independent contractor" shall have the same definition as contained in 39-A M.R.S.A. § 102.
- B. Appointments and removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any Town administrative officers or employees whom the Town Manager or any of the Manager's subordinates is empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment or removal of such officers or employees.
- C. Interference with administration. Neither the Council nor its members have authority over Town employees, except through the Manager. Neither the Council nor its members shall give orders to any such employee, either publicly or privately.

**§ C-12. Vacancies; forfeiture of office.**

- A. Occurrence of vacancies. The office of Councilor shall become vacant upon his/her nonacceptance, resignation, abandonment, death, permanent disability, permanent incompetency, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of the municipality to elect a person to the office.
- B. Forfeiture of office.
  - (1) A Councilor shall forfeit his/her office if the Councilor:
    - (a) Lacks at any time during the Councilor's term of office any qualification for the office prescribed by this Charter or by law;
    - (b) Violates any express prohibition of this Charter;
    - (c) Is convicted of a crime or offense which is reasonably related to his/her inability to serve as Councilor; or
    - (d) Fails to attend three regular meetings of the Council without being excused by the Council.
  - (2) Any Councilor deemed to have forfeited the office of Councilor under this section shall be notified in writing by certified mail by the Council.
- C. 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 held more than 60 days after the occurrence of the vacancy. 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 §C-14C, 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; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

**§ C-13. Judge of qualifications.**

The Council shall be the judge of the election and qualification of all officers elected by the voters under the terms of this Charter and of the grounds for forfeiture of their office and for that purpose shall have the power to provide for compulsory attendance of witnesses, the administering of oaths, and the compulsory production of evidence. An officer charged in writing with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, made within 10 days of receipt of notice of forfeiture. 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 shall be subject to review by the courts.

**§ C-14. Procedure.**

- A. Meetings. The Town Council shall convene within two days following the annual election for purposes of organizing as provided by statute and this Charter.
- B. Rules and journal. The Council shall annually determine its own rules and order of business and shall provide for keeping a record of its proceedings, which shall be kept for public record.
- C. Voting.
- (1) Voting, except on procedural motions, shall be by roll call, and the ayes and nays and abstentions shall be identified and recorded in the journal. A majority of the Council shall constitute a quorum for purposes of conducting an official meeting and transacting municipal business, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Except as otherwise provided in this Charter, the required majority to effectuate the passage, adoption or enactment of an item shall be a simple majority of a quorum.
  - (2) Each Councilor in attendance shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists is stated and recognized by a majority vote of the Council. If any Councilor does abstain from a vote other than because of a recognized conflict of interest, he/she shall be considered to have cast a vote with the majority and the record shall so show.
  - (3) Qualifying land use ordinance amendments as described in §C-10 A(9)d must be recommended to the Town Council by a supermajority of the full membership of the Planning Board and must be approved by a supermajority of the full membership of the Town Council.
    - (a) For the purpose of this charter, supermajority shall be defined as two-thirds of the full membership of the body rounded up to the nearest whole number. (e.g. 4 in a 5-member body and 5 in a 7-member body.) In the case of a body of 3-members or less a supermajority shall be defined as a unanimous vote.

**§ C-15. Ordinances in general.**

- A. Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The Town of Bar Harbor hereby ordains..." Any ordinance which repeals or amends the provisions of an existing ordinance or part of the Town of Bar Harbor Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate matter to be omitted by strikeout type and shall indicate new matter by underscoring. Any ordinance which repeals or amends an existing ordinance in its entirety need not include the provisions of the existing ordinance to be repealed.
- B. Procedure. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Manager shall distribute a copy to each Council member and to the Manager, shall file a reasonable number of copies in the office of the Town Clerk and such other public places as the Council may designate, and shall publish the ordinance together with a notice setting out the time and the place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it, but, if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required

in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Town Manager shall have it published again together with a notice of its adoption.

- C. Effective date. Except for budget ordinances or as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.
- D. "Publish" defined. As used in this section the term "publish" means post on the Town website and to print in one or more newspapers of general circulation in the Town:
  - (1) The ordinance or a summary thereof; and
  - (2) The places where copies of it have been filed.

**§ C-16. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least a majority of the Council plus one shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. 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.

**§ C-17. Authentication, recording, codification and printing.**

- A. Authentication and recording. All ordinances of the Council shall be authenticated by the signature of the Chair of the Council and recorded in full by the Town Clerk in a properly indexed book kept for the purpose.
- B. Codification. The Council shall provide for the preparation of a general codification of all ordinances. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be known and cited officially as the "Town of Bar Harbor Code." Copies of the Code shall be furnished to officials, placed in libraries and public offices for free public reference, posted to the Town website and made available for purchase by the public at a reasonable price fixed by the Council.
- C. Publishing of ordinances. Promptly following adoption, Council shall cause each ordinance and each amendment to this Charter to be posted to the Town website, printed and distributed or offered to the public at reasonable prices to be fixed by the Council. The ordinances and Charter amendments shall be published in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein.

ARTICLE IV

**The Town Manager**

**§ C-18. Appointments; qualifications; compensation.**

The Council shall appoint a Town Manager for a term not to exceed three years and shall fix the Manager's compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a

resident of the Town or state at the time of appointment **and** may reside outside the town while in office **only** with the approval of the Council.

**§ C-19. Removal.**

The Town Manager may be removed for cause by the Council in accordance with the provisions of the statutes of the State of Maine relating to the removal of a Town Manager.

**§ C-20. Acting Town Manager.**

The Town Manager may designate, subject to Council confirmation, an individual capable of performing the Manager's duties during a temporary absence or disability. In the event the Manager fails to make such designation, the Town Council may appoint an individual capable of performing the duties of the Manager during such absence or disability and until the Manager shall return or the disability shall cease.

**§ C-21. Powers and duties of the Town Manager.**

The Town Manager shall:

- A. Be the chief executive and administrative official of the municipality;
- B. Be responsible to the Council for the administration of all departments and offices over which the Council has control;
- C. Execute all laws and ordinances of the municipality;
- D. Serve in any office as the head of any department within the authority of the Council when so directed;
- E. Supervise, control and, subject to confirmation by the Council, appoint and remove the heads of departments within the authority of the Council;
- F. Appoint, supervise, control and remove all other employees, subordinates and assistants, except that the Town Manager may delegate this authority to a head of a department, and report all appointments and removals to the Council;
- G. Act as purchasing agent for all departments within the authority of the Council, provided that the Town Council may require that all purchases greater than a designated amount shall be by sealed bid;
- H. (Reserved)
- I. Attend such meetings and hearings as the Council may require;
- ~~J. Make recommendations to the Council for the more efficient operation of the municipality; (Reserved)~~
- K. Keep the Council and the residents of the municipality informed as to the financial condition of the Town;
- L. Collect data necessary for and prepare the annual municipal budget and capital improvement budget;
- M. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.
- N. Perform related work as requested by the Town Council or as may otherwise be required.

ARTICLE V

**Administrative Organization**

**§ C-22. General administration.**

- A. 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, assigned to any other.
- B. 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 head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

**§ C-23. Personnel administration.**

- A. 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.
- B. Human Resources Director. The Manager or a person appointed by the Manager shall be designated Human Resources Director. The Human Resources Director shall administer the personnel system of the Town.
- C. Personnel policies. The Human Resources Director shall prepare draft personnel policies in compliance with all applicable State and Federal Laws. After approval by the Manager, the policies shall be proposed to the Council for adoption. The Council may adopt them with or without amendment.
- D. Planning Director. The Manager or a person appointed by the manager shall be designated as the Planning Director. The Planning Director shall administer the planning department for the town.

**§ C-24. Assessor**

There shall be a single Assessor appointed by the Town Manager. The Assessor shall perform all the duties and responsibilities provided for assessors under general law.

**§ C-25. Town Attorney**

There shall be a Town Attorney, appointed by the Council, who shall serve as chief legal adviser to the Town and all of its departments, except for the Superintending School Committee. In any matter where there may be a conflict between the Town Council and any other Town officer, department, board, agency or commission, Town Attorney shall represent the Town Council only. The Town Council may appoint or authorize such additional legal counsel as the Town's interest may require

**§ C-26. Superintending School Committee.**

- A. Composition. There shall be a Superintending School Committee, sometimes referred to herein as "School Committee," of five members elected by the qualified voters of the Town in accordance with Article VIII.
- B. Eligibility. Only persons who are qualified to vote in elections in the Town of Bar Harbor and have been registered to vote for one year prior to their election to office shall be eligible to hold the office of School Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no School Committee Member shall hold any other Town office or Town employment while serving as a School Committee Member.
- C. Elections and terms. Each member shall be elected for a term of three years; with terms to be staggered such that no more than two Committee members are elected to fill expired terms in any one year.
- D. Compensation. Each member of the School Committee shall be paid an annual salary of \$400, except the Chair, whose annual salary shall be \$500 to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid

annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 20-A M.R.S.A. § 2305(4), as amended, his/her salary shall be prorated based on the number of months that member has held office, to the nearest full month

E. Powers and duties. The School Committee shall:

- (1) Have all the powers and duties prescribed for Superintending School Committees by the general laws of the State of Maine and as provided by this Charter consistent with said laws, and, notwithstanding § C-25, the power to appoint the Town Attorney or other legal counsel to represent and assist the School Committee in the performance of its duties;
- (2) Have the authority for and in behalf of the Town of Bar Harbor to sell and lease personal property and to lease real estate under its authority and control for a term of not longer than 15 years including any renewal options; and
- (3) At least 14 days before the Town Manager is required to submit the budget to the Town Council, the School Committee shall submit its operating budget and capital budget requests to the Town Manager.

F. Chair, Vice Chair and Secretary. At the first meeting annually, the School Committee shall elect by majority vote from among its members a Chair, a Vice Chair and a Secretary for the ensuing year. The Chair shall preside at all meetings of the School Committee and shall have a vote as other members of said Committee. The Vice Chair shall act as Chair during the absence or disability of the Chair. The Secretary to the Committee shall perform such duties as are assigned to him/her by this Charter or by the School Committee.

G. Procedure.

- (1) Meetings. The School Committee shall meet at such time and place as the School Committee may prescribe by rule. Special meetings may be held on the call of the Chair, Superintendent of Schools or of any two or more Committee members by causing a notification to be given in hand, sent electronically or left at the usual dwelling place of each Committee member. All meetings shall be public; however, the Committee may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Committee except in public meeting.
- (2) Rules and journal. The Committee shall annually determine its own rules and order of business and shall provide for keeping a record of its proceedings, which shall be kept for public record.
- (3) Voting.
  - (a) Voting, except on procedural motions, shall be by roll call, and the ayes, nays and abstentions shall be identified and noted in the record. A majority of the Committee shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Committee.
  - (b) Each Committee Member shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists. If any Committee Member does abstain from a vote other than because of a recognized conflict of interest, he/she shall be considered to have cast a vote with the majority and the record shall so show.

## ARTICLE VI

### Financial Procedures

**§ C-27. Fiscal year.**

The fiscal year of the Town government shall begin the first day of July and end on the 30th day of June in the following year, or such other fiscal year as the Council may decide. Such fiscal year shall constitute the budget and accounting year as used in this Charter.

**§ C-28. Budget divisions.**

The budget shall have three divisions, the municipal budget, the education budget and the proprietary budget. Each shall include all proposed expenditures thereunder, except for state and federal grants. For the ensuing fiscal year, Town Meeting shall make a single appropriation for the municipal budget. Appropriations for the education budget shall be made as required by state law. The capital improvement program of both the municipality and school shall be included within the municipal budget.

**§ C-29. Operating budget.**

The operating budget shall be defined as the entire budget of the Town, including the municipal budget and the education budget. The operating budget does not include the capital improvement program or any proprietary budgets. The operating budget shall contain the following:

- A. Introduction. The Town Manager's budget message, along with a summary of the budget prepared in such manner as to present to the taxpayers a simple and clear synopsis of the detailed estimates of the budget. It need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property taxes, and shall also contain itemized expenditures by department;
- B. Revenues. A statement of taxes required, an itemized statement of estimated revenue from all other sources, and comparative figures from the current and previous year;
- C. Expenditures. An itemized statement of appropriations recommended for the coming year with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the previous fiscal year (an unusual increase or decrease in any item shall be indicated and explained);
- D. Other. Such other information as may be required by the Town Council.

**§ C-30. Capital improvement program.**

- A. The capital improvement program (CIP) shall be defined as a program consisting of municipal and education expenditures, any one of which costs more than \$5,000 and meets one or more of the following requirements:
  - (1) Construction time extends to two or more fiscal years;
  - (2) Includes planning for, construction of or major renovation of a Town building, wharf, public way, sewer, drain or appurtenant equipment; or
  - (3) Replacement or acquisition of equipment with a life expectancy of five years or longer.
  - (4) Such other reserve accounts as the Town Council directs.
- B. CIP purpose. The purpose of the CIP is to plan the Town's capital investment needs over the ensuing five-year period. The Town should seek to avoid financing costs by setting aside funds in advance of their need, except for major capital items with life expectancies in excess of 10 years.

- C. CIP contents. The capital improvement program shall include:
- (1) A clear summary of its contents;
  - (2) A list of all capital improvements which are proposed for the municipal and education budget divisions during the five next fiscal years, with proper supporting information as to the necessities for such improvements;
  - (3) Cost estimates, methods of financing and recommended time schedules of such improvements;
  - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired, if any.
- D. CIP revision. The above information shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition. The current year's portion of the five-year capital improvement budget as approved by the Council shall be included as an item within the municipal budget presented to the Warrant Committee and to each Annual Town Meeting. The capital improvement program shall be printed in the Town's Annual Report.
- E. CIP appropriations. CIP appropriations approved by the Town shall be continuing appropriations which do not lapse at the end of the fiscal year but continue into the next fiscal year.

**§ C-30-A. Proprietary Budget.**

The proprietary budget shall include all proprietary and enterprise funds of the Town, including the sewer budget, water budget and the budgets for any other revenue producing municipal facility as defined by M.R.S.A. Title 30-A, Chapter 213, the Revenue Producing Municipal Facilities Act. The Town Council shall adopt proprietary budgets, fees and charges by ordinance.

**§ C-31. Preparation and submission of the budget.**

The municipal and education divisions of the budget shall be prepared and submitted according to the following procedure:

- A. Departmental CIP and operating budget requests. Fifty six days before the Town Manager is required to submit the budget to the Town Council, all department heads and board or committee chairs, except for the School Committee, shall submit their CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C(2) through (4). shall be prepared according to a timeline set by the Town Manager to allow for submission of the budget on or before the last Tuesday in January each year. Budget submissions shall be in accordance with the provisions set forth in § C-29 and § C-30.
- B. Departmental operating budget requests. Forty two days before the Town Manager is required to submit the budget to the Town Council, the department heads, board or committee chairs, except for the School Committee and cooperating agencies shall submit their budget requests to the Town Manager. Said requests shall include the information required in § C-29B through D.
- B. School Committee budget request. Fourteen days before the Town Manager is required to submit the budget to the Town Council, the School Committee shall submit its operating budget and CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C (2) through (4), as well as § C-29B through D.
- C. Submittal of budget to the Council and Warrant Committee. The Town Manager shall compile the budget information submitted, prepare the budget as provided in this section, and submit the operating budget and CIP to a joint meeting of the Town Council and Warrant Committee on or before by the third last Tuesday in January each year. The Town Warrant Committee and Town Council shall then jointly meet with town staff for detailed presentation of the municipal budget by town staff before proceeding to independent review.
- D. Warrant Committee and Town Council Review. The Warrant Committee shall review the municipal budget and submit its recommendations to the Council at a joint meeting of those bodies on or before the 4<sup>th</sup> Tuesday in February. The Council shall review the municipal and school budgets and the recommendations of the Warrant Committee.

- E. Tentative adoption of budget by Council. The proposed budget prepared by the Manager shall be reviewed by the Town Council which shall tentatively adopt the budget as presented and reviewed shall be tentatively adopted by the Council with or without amendments on or before the seventh day of February the 1st Tuesday of March of each calendar year and Council shall fix a time and a place for holding a public hearing on the budget prior to the 22<sup>nd</sup> of February 4th Tuesday of March of each calendar year.
- F. Notice of hearing. The Town Clerk shall give public notice of such hearing in a newspaper of general circulation in the Town. Said notice shall contain as a minimum the date, time and place of the meeting, the locations where copies of the budget may be reviewed, the total appropriations requested for both the municipal and education budgets and an estimate of the affect effect on the tax rate. Full copies of the detailed budget shall be made available for public review at the office of the Town Clerk.
- G. Adoption of budget by Council. The Town Council shall hear public comment at the budget hearing, review the budget, adopt it with or without change and recommend it to the Warrant committee on or before February 22<sup>nd</sup> Town Meeting on or before the 4th Tuesday in March.
- ~~H. Submittal to Warrant Committee. No later than seven days following the date of adoption, the Town Manager shall submit to the Town Warrant Committee the complete detailed budget as adopted by the Town Council~~
- H. Warrant Committee review. The Town Warrant Committee shall review the budget and submit its recommendations to the Council prior to April 1. The Council shall review the recommendations as submitted by the Warrant Committee and submit the budget to Town Meeting with or without changes. The recommendations of the Warrant Committee pertaining to the municipal and education budgets budget shall be provided as a commentary to the Town Meeting as set forth in §C-5 1A and §C-5 2B.

#### § C-32. Transfer of appropriations.

The Town Manager may transfer any unencumbered appropriation balance or portion thereof from line item to line item within departments but may not expend funds in excess of the department appropriation. The Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between departments.

#### § C-33. Definitions.

The accounting terms used herein shall be interpreted as defined in the latest edition of Governmental Accounting, Auditing and Financial Reporting published by the Government Finance Officers Association.

### ARTICLE VII

#### Warrant Committee

#### § C-34. ~~Nomination Composition, eligibility, terms, and election~~

- ~~A. At least 75 days prior to each Annual Town Meeting, the person who held the office of Moderator at the most recent Annual Town Meeting (hereinafter referred to as the "Retired Moderator") shall call and chair a meeting or meetings to select 22 voters to be nominated for election by the Annual Town Meeting to serve as Warrant Committee members.~~
- ~~B. The Nominating Committee shall be composed of five members: said Retired Moderator, the Chair and Secretary of the Warrant Committee and two other registered voters to be appointed by the Retired Moderator. The Chair of the Nominating Committee may vote on motions coming before the Committee only in the event of a tie.~~
- ~~C. Should the Retired Moderator or Warrant Committee Chair or Secretary be unable, refuse or fail to fulfill their duties as provided above, the Town Clerk shall appoint a registered voter to fill their seat.~~

D. The Nominating Committee shall report the names of its intended nominees to the Town Clerk for inclusion in the Annual Town Report at least 60 days prior to the Annual Town Meeting.

E. At each Annual Town Meeting, a member of the Nominating Committee shall nominate the 22 voters selected pursuant to this section to serve as the Warrant Committee for the ensuing year. The Town Meeting shall thereupon proceed with the election of the Warrant Committee.

A. Composition: There shall be a Warrant Committee of 15 members elected by the qualified voters of the Town in accordance with Article VIII.

B. Eligibility. Only persons who are qualified to vote in elections in the Town of Bar Harbor and have been registered to vote for one year prior to their election to office shall be eligible to hold the office of Warrant Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Warrant Committee Member shall hold any other Town office or Town employment while serving as a Warrant Committee Member.

C. Terms: Each member shall be elected to a term for three years, with terms to be staggered such that no more than 5 Warrant Committee members are elected to fill expired terms in any one year.

#### § C-35. Organization.

A. The Warrant Committee, upon the call of the Town Clerk, shall meet and organize with the election of a Chair, a Vice Chair and a Secretary within three weeks of its election. It shall have the power to ~~fill vacancies in its number by vote of its members and shall~~ establish its own rules of procedure and bylaws.

B. Filling of vacancies. A vacancy in the Warrant Committee shall be filled for the remainder of the unexpired term, if any, at the next regular election held more than 60 days after the occurrence of the vacancy. The Committee 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, if at any time the membership of the Committee is reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

#### § C-36. Duties and responsibilities.

A. It shall be the duty of ~~any duly elected~~ the Warrant Committee, meeting as a full body, to consider, investigate and report upon, with recommendations or comments, all articles, except those dealing with election of candidates, revisions or modifications to this charter, the school budget, and citizen initiatives or referendums, included in the Warrant of all Town Meetings, whether annual or special. ~~When requested to do so,~~ It shall be the duty of Town officers and committees to meet with the full body of the Warrant Committee ~~or any of its subcommittees~~ and to furnish all information relative to matters being considered by the Warrant Committee ~~or subcommittee~~.

B. The Warrant Committee shall submit its recommendations on municipal budget articles to the Town Council as provided by Charter § C-31, Preparation and submission of the budget.

C. No later than 60 30 days prior to each Annual or 10 days prior to each Special Town Meeting, the report of the Warrant Committee shall be submitted to the Town Clerk, who shall have it printed and made available for distribution to the voters. The report of the Warrant Committee shall be with respect to all articles submitted to it and shall include its recommendations with respect to each article and contain any commentary which the Warrant Committee elects to have included in said report.

**§ C-37. Meetings public.**

All meetings of the Warrant Committee and its subcommittees shall be open to the public and notice thereof posted on the Town Office Bulletin Board no less than two days prior thereto.

**§ C-38. Compliance.**

The failure of the Warrant Committee to comply with any of the provisions of this article shall not be deemed to render invalid any action taken by the voters of the Town of Bar Harbor at any Annual or Special Town Meeting.

ARTICLE VIII

**Elections and Nominations**

**§ C-39. Elections.**

- A. Conduct of elections. The regular municipal election shall be held on the second Tuesday of June. Except as otherwise provided for by this Charter, the provisions of the Revised Statutes of the State of Maine, as amended, shall govern elections of all Town officials required by this Charter, except the Moderator ~~and the members of the Warrant Committee,~~ and said elections shall be conducted by the election officials accordingly.
- B. Qualified voter. The term "qualified voter" as used in this Charter shall mean any person qualified and registered to vote in the Town of Bar Harbor pursuant to the laws of the State of Maine.
- C. Write-in candidates. To be considered a valid write-in candidate, a person must file a declaration of write-in candidacy with the Town Clerk, on a form approved by the Town Clerk, on or before 5:00 p.m. on the third business day prior to the election. The candidate must meet all the other qualifications for that office, and in addition, must receive a minimum of 25 votes to be declared elected.

**§ C-40. Nominations.**

- A. Petitions.
  - (1) Candidates for election to the Town Council, Warrant Committee, and the Superintending School Committee shall be nominated by petition. Any person who is qualified to vote in elections in the Town of Bar Harbor may be nominated for election as a Councilor, Warrant Committee member, or School Committee member by a petition signed by not less than the number of qualified voters of the Town that is required by state law.
- B. Filing and acceptance of nomination petitions. All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as one instrument not less than 45 60 days prior to the day of 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 the nomination.
- C. Procedure after filing nominating 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 satisfies 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 as required by state law.

**§ C-41. (Reserved)**

**§ C-42. Moderator.**

Whenever the election of a Moderator is required at any Annual or Special Town Meeting, the provisions of the Maine Revised Statutes, as amended, shall govern.

## ARTICLE IX

### Initiative and Referendum

#### § C-43. General authority.

- A. Initiative. Qualified voters shall have the power to propose ordinances and resolutions to the Council. If the Council fails to adopt an ordinance or resolution so proposed without any change in substance, the voters may vote to adopt or reject it.
- B. Referendum. The qualified voters of the Town shall have the power to require reconsideration by the Council of any adopted ordinance and if the Council fails to repeal an ordinance so reconsidered said voters shall have the power to approve or reject it.
- C. Conflicts with State Law. This article provides the sole method by which voters may undertake petitions for initiative and referendum, and supersedes the provisions of Title 30-A, §§ 2522 and 2528(5) of the Maine Revised Statutes.
- D. Definitions. As used in this article, the following terms shall have the meanings indicated:
  - ELECTION – A special or regular Town Meeting where votes are cast only by secret ballot.
  - ORDINANCE – A municipal regulation having the force of law.
  - RESOLUTION – A formal expression of opinion, will, or intent voted by Town Council or Town Meeting that does not have the force of law.

#### § C-44. 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 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 resolution or citing the ordinance 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.

#### § C-45. Petitions.

- A. Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the Town equal in number to at least 10% of the total municipal vote for Governor cast in the last gubernatorial election preceding the filing of the petition as certified by the Town Clerk.
- B. 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 address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution proposed or the ordinance sought to be reconsidered.
- C. 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/she personally circulated the paper, the number of signatures thereon, that all of the signatures were affixed in his/her presence, that he/she 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 or resolution proposed or the ordinance sought to be reconsidered.

- D. Time for filing referendum petitions. Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered.

**§ C-46. Procedure after filing.**

- A. 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 certified mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within five days after receiving the copy of the 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 § C-45B and C 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 certified mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under Subsection B within the time required, the Clerk shall promptly present the certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- B. 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 five days after receiving 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.
- C. Court review; new petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

**§ C-47. Referendum petitions; suspension of effect of ordinance.**

When a referendum petition is filed with the Town Clerk, the ordinance to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- A. There is a final determination of insufficiency of the petition; or
- B. The petitioners' committee withdraws the petition; or
- C. The Council repeals the ordinance.

**§ C-48. Action on petitions.**

- A. Public Hearing: When an initiative or referendum has been finally determined sufficient the Council shall set a date no later than 30 days from the final determination of sufficiency to hold a public hearing for the purpose of presentation and information on the proposed initiative ordinance or resolution and to receive public comment.
- B. Action by Council. When an initiative or referendum petition has been finally determined sufficient, and after holding a public hearing, the Council shall promptly consider the proposed initiative ordinance or resolution or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance or resolution without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.
- C. Submission to voters.
  - (1) Initiated or Referred Ordinances.

(a) The vote on a proposed or referred ordinance shall be by secret ballot at a Town election, held not less than 45 days and not later than but not less than 45 days nor more than one year from the date of the final Council vote thereon. If no scheduled regular annual 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 the regular annual 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.

i. Council may provide for a special election at an earlier date within the prescribed period.

ii. Copies of the proposed or referred ordinance shall be made available at the polls.

(b) An ordinance to be voted on shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but 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 in the case of an initiative: "Shall the above-described ordinance be adopted?" In the case of a referendum the question shall be: "Shall the above-described ordinance be repealed?" 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/her vote.

(2) Initiated Resolutions.

(a) Timeline for Voting. The vote on a proposed resolution shall be held at either a Town election or an open Town Meeting not less than than 45 days and not more than one year from the date of the final Council vote thereon. If no regular annual Town Meeting is to be held within the period prescribed in this subsection, the Council shall provide for a special Town Meeting; otherwise, the vote shall be held at the same time as the regular annual Town Meeting, except that the Council may in its discretion provide for a special Town Meeting at an earlier date within the prescribed period.

(b) Town Election Voting. A resolution to be voted at a Town election may be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but 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 resolution be adopted?" Immediately below the 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/her vote. Copies of the proposed resolution shall be made available at the polls.

(c) Open Town Meeting Voting. Voting on an initiated resolution at an open Town Meeting shall be by written ballot. Copies of the proposed resolution shall be made available at the Town Meeting.

**§ C-49. Results of election.**

A. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance or resolution 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 or resolutions of the same kind adopted by the Council.

B. Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE X

**General Provisions**

**§ C-50. Elected officers; term.**

The term of any elected officer shall begin the first day following election of said officer. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified.

**§ C-51. Swearing in officers.**

Every Town officer or official shall be sworn to the faithful discharge of the duties incumbent upon him/her according to the Constitution and laws of the State of Maine and the Charter and ordinances of the Town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

**§ C-52. (Reserved)**

**§ C-53. Personal financial interest.**

Any officer or employee who has a substantial financial interest, direct or indirect, 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/her capacity as an officer or employee in 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/her 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.

**§ C-54. Prohibitions.**

A. Activities prohibited.

- (1) No persons 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 solely on the basis of race, age, sex, marital status, political or religious opinions or affiliations, national origin, color, sexual orientation, physical or mental disability, religion or ancestry.
- (2) No person who holds or seeks an elective or compensated appointive Town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

- B. Penalties. 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 five years thereafter to hold any Town office or employment and shall immediately forfeit his/her office or position.

**§ C-55. 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. If any provision of this Charter is held invalid by reason of any conflict with state or federal law, the provisions of the applicable state or federal law shall automatically become incorporated in this Charter in place of the invalid Charter provision.

ARTICLE XI

**Transitional Provisions**

**§ C-56. Time of taking full effect - Charter Modification.**

This Charter modification shall be in full effect for all purposes on and after the first day of the next succeeding municipal year after adoption. As used in this Charter, "municipal year" is defined as being from July 1 to June 30.

**§ C-57. through § C-61. (Reserved)**

**§ C-62. Pending matters.**

All rights, claims, actions, orders, contracts and legal or administrative proceedings 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 this Charter.

**§ C-63. State and municipal laws.**

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.

# Order

## Of the Bar Harbor Town Council

### For the June 9, 2020 Town Meeting

It is hereby ordered that the following articles be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot.

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#### Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to 1. Clarify the recording of recommendations on Town Warrants and Ballots, 2. Change the Warrant Committee's responsibilities to consideration of the Municipal Budget and Land Use Ordinance amendments, and 3. Remove review and recommendations of Citizen Initiative and Referendum from the Town Council, Warrant Committee, School Committee and Planning Board, as presented in the Town Meeting Warrant?

#### Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

#### ARTICLE II: Town Meetings: § C-5. Annual and Special Town Meetings.

- (1) Contents of ballots: In addition to the provisions of the Revised Statutes of the State of Maine, the ballots for all Town Meetings shall include:
  - (a) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, ~~including in the form of~~ the number of Committee members and number of Committee members voting for and against the recommendation;
  - (b) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, ~~including in the form of~~ the number of Board members and the number of Board members voting for and against the recommendation;
  - (c) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, ~~including in the form of~~ the number of Committee members and the number of Committee members voting for and against the recommendation;
  - (d) For each ballot article except Land Use Ordinance amendments, ~~and~~ election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, ~~including in the form of~~ the

number of Councilors and the number of Councilors voting for and against the recommendation.

- (2) Warrant: The Town Meeting warrant shall be prepared as required by law and be posted in the Municipal Building. Further, the warrant shall include:
  - (a) A brief statement outlining the intent of the proposed article;
  - (b) For each ballot article except election of officeholders, revisions or modifications to this charter, the school budget, and citizen initiatives and referendums, the recommendation of the Warrant committee, including in the form of the number of Committee members and number of Committee members voting for and against the recommendation;
  - (c) For each Land Use Ordinance amendment article except those originating from citizen initiative or referendum, the recommendation of the Planning Board, including in the form of the number of Board members and the number of Board members voting for and against the recommendation;
  - (d) For each ballot article affecting school issues except those originating from citizen initiative or referendum, the recommendation of the School Committee, including in the form of the number of Committee members and the number of Committee members voting for and against the recommendation;
  - (e) For each ballot article except Land Use Ordinance amendments, ~~and~~ election of officeholders, revisions or modifications to this Charter, and citizen initiatives and referendums, the recommendation of the Town Council, including in the form of the number of Councilors and the number of Councilors voting for and against the recommendation.
  - (f) Such other explanatory material as, in the opinion of the Town Council, would help the voters better understand the issues at hand.

**ARTICLE VII: Warrant Committee: § C-36. Duties and responsibilities.**

- A. It shall be the duty of ~~any duly-elected~~ the Warrant Committee, meeting as a full body, to consider, investigate and report upon, with recommendations or comments, all articles except those dealing with election of candidates, revisions or modifications to this charter, the school budget, and citizen initiatives or referendums included in the Warrant of all Town Meetings, whether annual or special. ~~When requested to do so,~~ It shall be the duty of Town officers and committees to meet with the full body of the Warrant Committee ~~or any of its subcommittees~~ and to furnish, to all members, all information relative to matters being considered by the Warrant Committee.
- B. The Warrant Committee shall submit its recommendations on municipal budget articles to the Town Council as provided by Charter § C-31, Preparation and submission of the budget.

**Rationale:**

- The recommended amendments for Article II clarify the method of recording elected bodies' recommendations on Warrant Articles
- The recommended amendments clarify that the Warrant committee will review the Municipal Budget, and LUO amendments but will no longer review or make recommendations on the school budget. The School Budget is currently presented by staff, reviewed by the School Committee and the Town Council before being placed on the Town Warrant for adoption by vote at the Town Meeting. This process provides two reviews by elected bodies. Removing a third review by Warrant Committee will allow that committee to focus efforts on the Municipal Budget and proposed Land Use Ordinance amendments.
- The recommended amendments establish that neither the Town Council or Warrant Committee will provide recommendations on revisions or modifications to this charter
- The recommended amendments remove possible review or written recommendations of any citizen initiative or referendum from any elected or appointed body of the town. Citizen initiatives and referendums originate directly from voters and must be included on the Town Warrant unless immediately adopted by Town Council such a process should supersede review and recommendation by elected or appointed bodies of the town. Article \_\_\_\_ proposes to create a mandatory public hearing process for all initiatives and referendums so that voters may be informed, weigh their merits and express opinions in an open forum

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 7 to 2.*

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**Warrant Article**

**Article \_\_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to allow for the use of electronic voting as presented in the Town Meeting Warrant?

**Charter Modification**

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE II: Town Meetings: § C-5. Annual and Special Town Meetings.**

- C. (3) Method of voting at Open Town Meeting. Except where required otherwise by state law the town may use any means of manual or electronic voting approved by the Town Council to ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.

**ARTICLE II: Town Meetings: § C-6. Powers and responsibilities.**

- B. (3) Act on those ordinances placed on the warrant ~~pertaining to the Town's Land Use Ordinance~~ and on any initiative or referendum questions as provided for by this Charter;
- D. Any Town Meeting amendment made to the budget published in the Warrant or Town Report, shall be voted only by written or electronic ballot.

**Rationale:**

- The recommended amendments for Article II will allow for the use of electronic voting technology at Open Town Meeting which can expedite voting on budgetary articles not requiring written vote by State statute, help to increase participation in Town Meeting and mitigate social pressure on controversial items.
- This recommendation does not mandate the use of electronic voting at Town Meetings but allows its use providing it can ensure accuracy, efficiency, integrity, security, transparency, and voter anonymity.
- The use of electronic voting technology can also assist in providing better accessibility for voting at Open Town Meeting.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

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## Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to provide a process that allows the Town Council to amend the Land Use Ordinance when an amendment is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with statutes, after it has first been recommended by the Town Planner, discussed at Public Hearings and recommended by a supermajority of both the Planning Board and Town Council, as presented in the Town Meeting Warrant?

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE III: The Town Council: § C-10. General powers and duties.**

- A. (9) Make, adopt, ~~alter~~ amend and repeal ordinances for any purpose permitted by statute. with the exception of those pertaining to zoning except as provided below. In addition to such ordinances, the Council shall have the power to adopt ordinances which:
- (a) Adopt or amend an administrative code.
  - (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
  - ~~(c) Amend or repeal any ordinance previously adopted.~~
  - (d) Adopt land use ordinance amendments by supermajority vote as defined in §C-14C3 when:
    - i. The land use ordinance change is procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors or to bring the land use ordinance into compliance with state statutes pertaining to municipal zoning and;
    - ii. The land use ordinance change is first recommended to the Planning Board by the Planning Director and upon review and after a public hearing, the Planning board recommends it to the Town Council by a supermajority vote (as defined in §C-14C3)

**ARTICLE III: The Town Council: § C-14. Procedure.**

- C. (2) Each Councilor in attendance shall vote on all issues and questions presented for vote except when a valid conflict of interest ~~clearly exists~~ is stated and recognized by a majority vote of the Council. If any Councilor does abstain from a vote other than because of a recognized conflict of interest, he/she shall be considered to have cast a vote with the majority and the record shall so show.
- C. (3) Qualifying land use ordinance amendments as described in §C-10 A(9)d must be recommended to the Town Council by a supermajority of the full membership of the Planning Board and must be approved by a supermajority of the full membership of the Town Council.
- C. (3) (a) For the purpose of this charter, supermajority shall be defined as two-thirds of the full membership of the body rounded up to the nearest whole number. (e.g. 4 in a 5-member body and 5 in a 7-member body.) In the case of a body of 3-members or less a supermajority shall be defined as a unanimous vote.

**Rationale:**

- This recommendation provides a method to make minor, non-substantive, changes to the Land Use Ordinance under the following conditions:
  - The change is defined as procedural or minor in that it seeks to correct, modify, or reconcile inconsistencies, contradictions, and errors, or
  - The change is to bring the land use ordinance into compliance with state statutes

- The change is first recommended by the Town Planner
- The change is reviewed by the Planning Board and a Public Hearing is held
- The Planning Board recommends the amendment by a super-majority (two-thirds)
- The change is reviewed by the Town Council and an additional Public Hearing is held
- The amendment is then adopted by a super-majority (two thirds) of the Town Council
- This recommendation provides a mechanism to amend minor aspects of the Land Use Ordinance without the lengthy process currently in place
- This recommendation will allow the Land Use Ordinance to be more dynamic and citizen friendly
- New or substantial amendments would continue to be adopted only by voters through Town Meeting

***Recommendations:***

*The nine-member Charter Commission recommends adoption, by a vote of 7 to 2.*

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## Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to change the language in Articles IV and V of the Charter that would: 1. clarify the Town Manager’s residency requirement; 2. ensure that human resource procedures are compliant with State and Federal laws; 3. clarify the role of a Town Planner; 4. allow for additional legal counsel for the Town, if needed, and; 5. establish rotating terms for School Committee members; as presented in the Town Meeting Warrant?

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE IV: The Town Manager: § C-18. Appointments; qualifications; compensation.**

The Council shall appoint a Town Manager for a term not to exceed three years and shall fix the Manager's compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a resident of the Town or state at the time of appointment and may reside outside the town while in office ~~only~~ with the approval of the Council.

**ARTICLE IV: The Town Manager: § C-21. Powers and duties of the Town Manager.**

- J. ~~Make recommendations to the Council for the more efficient operation of the municipality;~~ (Reserved)

**ARTICLE V: Administrative Organization: § C-23. Personnel administration.**

- C. Personnel policies. The Human Resources Director shall prepare draft personnel policies in compliance with all applicable State and Federal Laws. After approval by the Manager, the policies shall be proposed to the Council for adoption. The Council may adopt them with or without amendment.
- D. Planning Director. The Manager or a person appointed by the manager shall be designated as the Planning Director. The Planning Director shall administer the planning department for the town.

**ARTICLE V: Administrative Organization: § C-25. Town Attorney**

There shall be a Town Attorney, appointed by the Council, who shall serve as chief legal adviser to the Town and all of its departments, except for the Superintending School Committee. In any matter where there may be a conflict between the Town Council and any other Town officer, department, board, agency or commission, Town Attorney shall represent the Town Council only. The Town Council may appoint or authorize such additional legal counsel as the Town's interest may require

**ARTICLE V: Administrative Organization: § C-26. Superintending School Committee.**

- C. Elections and terms. Each member shall be elected for a term of three years; with terms to be staggered such that no more than two Committee members are elected to fill expired terms in any one year.

**Rationale:**

- This recommended change clarifies that the Town Manager may reside outside of Bar Harbor with Town Council approval.
- This recommended change updates the Human Resource Director's responsibilities to ensure that all procedures are complaint with State and Federal laws
- This change does not require that the Town hire a Planner but rather emphasizes the importance of the planning function. Town Council can choose to allocate funds in the municipal budget for this position. The Charter will require that the function is assigned to staff at the Manager's direction if funding is not available.
- This recommended change institutes staggered terms for the School Committee to maintain continuity, reduce the impact of turnover and ensure consistency with other elected bodies of the Town.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

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Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to remove specific salaries for Town Council and School Committee listed in the Charter and provide for annually establishing salaries as part of the budget voted on at Town Meeting as presented in the Town Meeting Warrant?

Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE III: The Town Council: § C-8. Salary.**

Each member of the Town Council shall be paid an annual salary of ~~\$1,500, except the Chair, whose annual salary shall be \$1,800.~~ to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 30-A M.R.S.A. § 2602(1), as amended, the member's salary shall be prorated based on the number of months that member has held office, to the nearest full month.

**ARTICLE V: Administrative Organization: § C-26. Superintending School Committee.**

D. Compensation. Each member of the School Committee shall be paid an annual salary of ~~\$400, except the Chair, whose annual salary shall be \$500~~ to be set each year in the annual municipal budget for approval at the Annual Town Meeting, with the provision that the Chair shall be paid a sum greater than other members. Each member's salary shall be paid annually in one lump sum on or about the anniversary date of the date that he/she was sworn into office. In the event that a member vacates his/her office as provided in 20-A M.R.S.A. § 2305(4), as amended, his/her salary shall be prorated based on the number of months that member has held office, to the nearest full month

**Rationale:**

- This recommended change allows for the Town Council compensation to be decided annually by the Town through the budget process.

- This recommended change allows for the School Committee compensation to be decided annually by the Town through the budget process.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

## Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to establish a new process for the development and adoption of the annual budget that provides for both the Town Council and Warrant Committee to conduct their reviews concurrently as presented in the Town Meeting Warrant?

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE VI: Financial Procedures: § C-31. Preparation and submission of the budget.**

- A. Departmental CIP and operating budget requests. ~~Fifty six days before the Town Manager is required to submit the budget to the Town Council, all department heads and board or committee chairs, except for the School Committee, shall submit their CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C(2) through (4). shall be prepared according to a timeline set by the Town Manager to allow for submission of the budget by the last Tuesday in January each year. Budget submissions shall be in accordance with the provisions set forth in § C-29 and § C-30.~~
- ~~B. Departmental operating budget requests. Forty two days before the Town Manager is required to submit the budget to the Town Council, the department heads, board or committee chairs, except for the School Committee and cooperating agencies shall submit their budget requests to the Town Manager. Said requests shall include the information required in § C-29B through D.~~
- B. School Committee budget request. Fourteen days before the Town Manager is required to submit the budget to the Town Council, the School Committee shall submit its operating budget and CIP funding requests to the Town Manager. Said requests shall include the information required in § C-30C (2) through (4), as well as § C-29B through D.
- C. Submittal of budget to the Council and Warrant Committee. The Town Manager shall compile the budget information submitted, prepare the budget as provided

in this section, and submit the operating budget and CIP to a joint meeting of the Town Council and Warrant Committee on or before the ~~third Tuesday in January~~ last Tuesday in January each year. The Town Warrant Committee and Town Council shall then jointly meet with town staff for detailed presentation of the municipal budget by town staff before proceeding to independent review.

- D. Warrant Committee and Town Council Review. The Warrant Committee shall review the municipal budget and submit its recommendations to the Council at a joint meeting of those bodies on or before the 4<sup>th</sup> Tuesday in February. The Council shall review the municipal and school budgets and the recommendations of the Warrant Committee.
- E. Tentative adoption of budget by Council. The proposed budget ~~prepared by the Manager shall be reviewed by the Town Council which shall tentatively adopt the budget as presented~~ and reviewed shall be tentatively adopted by the Council with or without amendments on or before ~~the seventh day of February~~ the 1st Tuesday of March of each calendar year and Council shall fix a time and a place for holding a public hearing on the budget prior to the ~~22<sup>nd</sup> of February~~ 4th Tuesday of March of each calendar year.
- F. Notice of hearing. The Town Clerk shall give public notice of such hearing in a newspaper of general circulation in the Town. Said notice shall contain as a minimum the date, time and place of the meeting, the locations where copies of the budget may be reviewed, the total appropriations requested for both the municipal and education budgets and an estimate of the ~~effect~~ impact on the tax rate. Full copies of the detailed budget shall be made available for public review at the office of the Town Clerk.
- G. Adoption of budget by Council. The Town Council shall hear public comment at the budget hearing, review the budget, adopt it with or without change and recommend it to ~~the Warrant committee on or before February 22~~ Town Meeting on or before the 4th Tuesday in March.
- ~~H. Submittal to Warrant Committee. No later than seven days following the date of adoption, the Town Manager shall submit to the Town Warrant Committee the complete detailed budget as adopted by the Town Council~~
- H. ~~Warrant Committee review. The Town Warrant Committee shall review the budget and submit its recommendations to the Council prior to April 1. The Council shall review the recommendations as submitted by the Warrant Committee and submit the budget to Town Meeting with or without changes. The recommendations of the Warrant Committee pertaining to the municipal and education budgets budget shall be provided as a commentary to the Town Meeting as set forth in §C-5 1A and §C-5 2B.~~

**ARTICLE VII: Warrant Committee: § C-36. Duties and responsibilities.**

- C. No later than ~~60~~ 30 days prior to each Annual or 10 days prior to each Special Town Meeting, the report of the Warrant Committee shall be submitted to the Town Clerk, who shall have it printed and made available for distribution to the voters. The report

of the Warrant Committee shall be with respect to all articles submitted to it and shall include its recommendations with respect to each article and contain any commentary which the Warrant Committee elects to have included in said report.

**Rationale:**

- These recommended changes introduce a new budget development timeline that encourages a more streamlined approach for the development, review and comment on the annual Town budget.
- These recommended changes allow for an effective use of time and human resources.
- These recommended changes provide a process where the Warrant Committee and Town Council will have the same and simultaneous access to budget information and staff time so that each full body may review, comment and make recommendations on the annual Town budget.
- Town staff will present the draft budget to both the Town Council and Warrant Committee at a joint meeting and their respective reviews will take place within the same timeframe.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

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## Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to establish an election process for the Warrant Committee that is consistent with the other elected bodies of the Town and set the Warrant Committee membership number at 15 from 22 as presented in the Town Meeting Warrant?

## Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE VII: Warrant Committee: § C-34. Nomination Composition, eligibility, terms, and election**

- A. ~~At least 75 days prior to each Annual Town Meeting, the person who held the office of Moderator at the most recent Annual Town Meeting (hereinafter referred to as the "Retired Moderator") shall call and chair a meeting or meetings to select 22 voters to be~~

~~nominated for election by the Annual Town Meeting to serve as Warrant Committee members.~~

- ~~B. The Nominating Committee shall be composed of five members: said Retired Moderator, the Chair and Secretary of the Warrant Committee and two other registered voters to be appointed by the Retired Moderator. The Chair of the Nominating Committee may vote on motions coming before the Committee only in the event of a tie.~~
- ~~C. Should the Retired Moderator or Warrant Committee Chair or Secretary be unable, refuse or fail to fulfill their duties as provided above, the Town Clerk shall appoint a registered voter to fill their seat.~~
- ~~D. The Nominating Committee shall report the names of its intended nominees to the Town Clerk for inclusion in the Annual Town Report at least 60 days prior to the Annual Town Meeting.~~
- ~~E. At each Annual Town Meeting, a member of the Nominating Committee shall nominate the 22 voters selected pursuant to this section to serve as the Warrant Committee for the ensuing year. The Town Meeting shall thereupon proceed with the election of the Warrant Committee.~~

- A. Composition: There shall be a Warrant Committee of 15 members elected by the qualified voters of the Town in accordance with Article VIII.
- B. Eligibility. Only persons who are qualified to vote in elections in the Town of Bar Harbor and have been registered to vote for one year prior to their election to office shall be eligible to hold the office of Warrant Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Warrant Committee Member shall hold any other Town office or Town employment while serving as a Warrant Committee Member.
- C. Terms: Each member shall be elected to a term for three years, with terms to be staggered such that no more than 5 Warrant Committee members are elected to fill expired terms in any one year.

#### **ARTICLE VII: Warrant Committee: § C-35. Organization.**

- A. The Warrant Committee, upon the call of the Town Clerk, shall meet and organize with the election of a Chair, a Vice Chair and a Secretary within three weeks of its election. It shall have the power to ~~fill vacancies in its number by vote of its members and shall~~ establish its own rules of procedure and bylaws.
- B. Filling of vacancies. A vacancy in the Warrant Committee shall be filled for the remainder of the unexpired term, if any, at the next regular election held more than 60 days after the occurrence of the vacancy. The Committee 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, if at any time the membership of the Committee is reduced below that requirement, the remaining members may by majority action appoint

additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

**ARTICLE VIII: Elections and Nominations: § C-39. Elections.**

- A. Conduct of elections. The regular municipal election shall be held on the second Tuesday of June. Except as otherwise provided for by this Charter, the provisions of the Revised Statutes of the State of Maine, as amended, shall govern elections of all Town officials required by this Charter, except the Moderator ~~and the members of the Warrant Committee~~, and said elections shall be conducted by the election officials accordingly.

**ARTICLE VIII: Elections and Nominations: § C-40. Nominations.**

- A. (1) Candidates for election to the Town Council, Warrant Committee, and the Superintending School Committee shall be nominated by petition. Any person who is qualified to vote in elections in the Town of Bar Harbor may be nominated for election as a Councilor, Warrant Committee member, or School Committee member by a petition signed by not less than the number of qualified voters of the Town that is required by state law.

**Rationale:**

- These recommended changes ensure that Warrant Committee members are individually nominated by petition and elected by ballot at Town Meeting in a manner consistent with both the Town Council and School Committee.
- These recommended changes ensure that the Warrant Committee members' terms are rotating in order to maintain continuity of the committee.
- These recommended changes establish eligibility requirements for the Warrant Committee that are consistent with other elected bodies of the Town.
- The recommended new budget development process will allow for the whole Warrant Committee to work with the whole Town Council and staff as a group so that each individual member has access to the same information as they deliberate and make recommendations to the voters of the Town.
- These recommended changes reduce the Warrant Committee membership from 22 to 15 to reflect the recommended reduction in duties and to encourage full involvement of the Committee as it fulfills its duties to consider, investigate and report upon Warrant Articles. Much of the Committee's current work relies heavily on subcommittee work by small groups of individuals rather than full review by the whole Committee.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 8 to 1.*

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## Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to establish that the due date for filing of nomination papers be not less than 60 days before the election in order to be consistent with the State of Maine as presented in the Town Meeting Warrant?

### Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

#### ARTICLE VIII: Elections and Nominations: § C-40. Nominations

- B. Filing and acceptance of nomination petitions. All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as one instrument not less than ~~45~~ 60 days prior to the day of 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 the nomination.

#### Rationale:

- This recommended change ensures that the Town Charter is consistent with the procedures of the State of Maine for the filing of nomination papers by candidates for elected office.

#### Recommendations:

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

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## Warrant Article

**Article \_\_\_ - CHARTER MODIFICATION:** Shall the Town of Bar Harbor approve the charter modification to require that a Public Hearing be held for any proposed Initiative or Referendum as presented in the Town Meeting Warrant?

### Charter Modification

*The Town of Bar Harbor hereby ordains that the Town Charter is modified as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

**ARTICLE IX: Initiative and Referendum: § C-48. Action on petitions.**

- A. Public Hearing: When an initiative or referendum has been finally determined sufficient the Council shall set a date no later than 30 days from the final determination of sufficiency to hold a public hearing for the purpose of presentation and information on the proposed initiative ordinance or resolution and to receive public comment.
- B. Action by Council. When an initiative or referendum petition has been finally determined sufficient, and after holding a public hearing, the Council shall promptly consider the proposed initiative ordinance or resolution or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance or resolution without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.
- C. (1) (a) The vote on a proposed or referred ordinance shall be by secret ballot at a Town election, ~~held not less than 45 days and not later than~~ but not less than 45 days nor more than one year from the date of the final Council vote thereon. If no scheduled regular annual 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 the regular annual 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.~~
- i. Council may provide for a special election at an earlier date within the prescribed period.
- ii. Copies of the proposed or referred ordinance shall be made available at the polls.
- C. (2) (a) Timeline for Voting. The vote on a proposed resolution shall be held at either a Town election or an open Town Meeting not less ~~then~~ than 45 days and not more than one year from the date of the final Council vote thereon. If no regular annual Town Meeting is to be held within the period prescribed in this subsection, the Council shall provide for a special Town Meeting; otherwise, the vote shall be held at the same time as the regular annual Town Meeting, except that the Council may in its discretion provide for a special Town Meeting at an earlier date within the prescribed period.

**Rationale:**

- This recommended change ensures that information for proposed Initiatives or Referendums is provided to the public at a Public Hearing so citizens can gain first-hand knowledge of the proposals and their possible impacts for the Town.
- This recommended change will help voters to make effective and informed decisions and provide for transparency in communicating information about Initiatives or Referendums.

**Recommendations:**

*The nine-member Charter Commission recommends adoption, by a vote of 9 to 0.*

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Given under our hands and seal at Bar Harbor this seventh day of April, 2020.

**Municipal Officers of the Town of Bar Harbor**

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Jefferson G. Dobbs, Chair

---

Matthew A. Hochman, Vice Chair

---

Gary Friedmann

---

Joseph Minutolo

---

Stephen Coston

---

Erin E. Cough

---

Jill Goldthwait



# TOWN OF BAR HARBOR

## Town Clerk Office

93 Cottage Street, Suite I

Bar Harbor, Maine 04609-1400

Tel. 207-288-4098

Fax 207-288-4461

VII B  
COPY

Sharon M. Linscott, Town Clerk

email: clerk@barharbormaine.gov

March 31, 2020

Ms. Julia W. Thomas  
1171 State Hwy 3  
Bar Harbor, ME 04609

## Certificate of Sufficiency of Petition

RE: Citizens' Petition – CHANGES TO THE DEFINITION OF VACATION RENTALS IN THE LAND USE ORDINANCE.

I, Sharon M. Linscott, being the duly appointed clerk for the Town of Bar Harbor and pursuant to Bar Harbor Town Charter §C-45, do hereby certify that the Citizens' Petition "CHANGES TO THE DEFINITION OF VACATION RENTALS IN THE LAND USE ORDINANCE" filed in the Town Clerk's office on March 13, 2020 met all the requirements with a sufficient number of signatures certified (315).

The petition is tentatively scheduled to be presented to the Bar Harbor Town Council on April 7, 2020. This meeting will be by video conference beginning at 4:00 p.m. The agenda has not yet been set.

Sharon M. Linscott  
Town Clerk of Bar Harbor

**EXHIBIT A**  
**Warrant Article**  
**For the \_\_\_\_\_, 2020**  
**Bar Harbor Town Meeting**

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**Article \_\_ CITIZENS' INITIATIVE: Changes to the Definition of Vacation Rentals in the Land Use Ordinance.** – Shall the above-described ordinance be adopted?

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**To See if the Voters of the Town of Bar Harbor will adopt the following changes to the definition of Vacation Rentals in the Land Use Ordinance.**

Old language is ~~stricken~~. New language is underlined

§ 125-109 **Definitions.**

**VACATION RENTALS**

Non-Hosted Vacation Rental

The use of a dwelling unit ~~or portion thereof~~ for rent to a family for a period of less than 30 days and a minimum of five days. Time-share property, as most recently defined in 33 M.R.S.A § 591, is also included in this definition.

Hosted Vacation Rental

The use of a dwelling unit, or portion thereof, on a homestead exemption property, for rent to a family for a period of less than 30 consecutive days.

The list of attached zones it would apply to:

<b>District</b>	<b>Vacation Rental Permitting Authority</b>
Bar Harbor Gateway	CEO
Village Historic	CEO
Mount Desert Street Corridor	CEO
Village Residential	CEO
Downtown Village I	CEO
Downtown Village II	CEO
Downtown Village Transitional	CEO
Downtown Residential	CEO
Emery	CEO
Hulls Cove Business	CEO
Hulls Cove Residential Corridor	CEO
Hulls Cove Rural	CEO
Indian Point Residential	CEO
Indian Point Rural	CEO
Industrial	
Ireson Hill Corridor	CEO

Ireson Hill Residential	CEO
McFarland Hill Residential	CEO
McFarland Hill Rural	CEO
Otter Creek	CEO
Resource Protection	
Salisbury Cove Corridor	CEO
Salisbury Cove Residential	CEO
Salisbury Cove Rural	CEO
Salisbury Cove Village	CEO
Schooner Head	CEO
Scientific Research	CEO
Town Hill Business	CEO
Town Hill Residential Corridor	CEO
Town Hill Residential	CEO
Town Hill Rural	CEO
Shoreland General Dev. I	CEO
Shoreland Limited Residential	CEO
Shoreland General Dev. II	CEO
Shoreland General Dev. III	CEO
Shoreland General Dev. IV	CEO
Shoreland Maritime Activities	
Stream Protection	
Marine Research	
Educational Institution	CEO

CEO – Code Enforcement Officer

SP- Site Plan

Blank – Not allowed

EXPLANATION: The changes would differentiate between owner-occupied vacation rental properties (homestead qualified, year-round residences) and dwelling units owned by non-residents. Non-residents would be prohibited from doing more than a single vacation rental per dwelling unit and from renting for stays of fewer than five days.

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**§ C-46. Procedure after filing.**

- A. 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 certified mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within five days after receiving the copy of the 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 § C-45B and C 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 certified mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under Subsection B within the time required, the Clerk shall promptly present the certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- B. 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 five days after receiving 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.
- C. Court review; new petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

**§ C-48. Action on petitions.**

A. Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or resolution or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance or resolution without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.

B. Submission to voters.

(1) Initiated or Referred Ordinances.

(a) The vote on a proposed or referred ordinance shall be by secret ballot at a Town election held not less than 45 days and not later than one year from the date of the final Council vote thereon. If no regular annual 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 the regular annual 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.

(b) An ordinance to be voted on shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but 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 in the case of an initiative: "Shall the above-described ordinance be adopted?" In the case of a referendum the question shall be: "Shall the above-described ordinance be repealed?" 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/her vote.

(2) Initiated Resolutions.

(a) Timeline for Voting. The vote on a proposed resolution shall be held at either a Town election or an open Town Meeting not less than 45 days and not more than one year

from the date of the final Council vote thereon. If no regular annual Town Meeting is to be held within the period prescribed in this subsection, the Council shall provide for a special Town Meeting; otherwise, the vote shall be held at the same time as the regular annual Town Meeting, except that the Council may in its discretion provide for a special Town Meeting at an earlier date within the prescribed period.

- (b) Town Election Voting. A resolution to be voted at a Town election may be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but 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 resolution be adopted?" Immediately below the 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/her vote. Copies of the proposed resolution shall be made available at the polls.
- (c) Open Town Meeting Voting. Voting on an initiated resolution at an open Town Meeting shall be by written ballot. Copies of the proposed resolution shall be made available at the Town Meeting.

## **Town of Bar Harbor Task Force on the Climate Emergency Bylaws**

The mission of the Climate Emergency Task Force is to define and recommend climate goals with the objective of drawing down carbon from the atmosphere and ~~ending~~reducing community-wide greenhouse gas emissions by December 31, 2030.

### ***Appointment***

The Task Force shall consist of ~~9 residents of Bar Harbor with one member being a Town Councilor~~ 10 members: 8 residents of Bar Harbor, one student representative and one Town Councilor.

The remaining ~~members~~participants of the Task Force shall consist of representatives from local stakeholder groups including educational and nonprofit organizations, businesses, youth, and concerned citizens.

The term of each resident member shall be for three years, except the initial appointments which shall be three appointments for 1 year; ~~three~~two appointments for two years and three appointments for three years. The term of the student representative shall be for two years and the term of Town Councilor shall be for one year. All newly designated task force members are to be sworn in by the Town Clerk.

The Task Force shall elect a Chair, Vice-Chair, and Secretary at the first regular meeting of each year for a one year term. The Chair shall call a meeting at least once a month unless there are no agenda items. The secretary shall take minutes at each meeting and send approved minutes to the Town Clerk. A quorum is 5 members of the Task Force. Meeting agendas shall be posted on the bulletin board in the Municipal Building lobby and on the town's website.

### ***Compensation***

There shall be no compensation provided for the members of the Task Force.

### ***Duties and Responsibilities***

The Task Force will:

- Educate and engage Bar Harbor residents about the climate emergency and the broader ecological crisis, as well as actions they can take to address the impacts and causes of the climate emergency.
- Explore and identify the most effective and economically beneficial opportunities for emergency-speed greenhouse gas emissions reductions across the community in the following areas:
  - Renewable energy
  - Energy efficiency
  - Housing and buildings
  - Transportation
  - Land use
- Provide significant opportunities for public input into strategic planning, project development for greenhouse gas emissions reductions, and all other investigations and work of the Task Force.

## DRAFT

- Develop a comprehensive Bar Harbor “Climate Mobilization Action Plan” addressing climate mitigation, climate adaptation, and community education.
- Identify and pursue outside funding sources to advance the work of the Task Force.
- Assist the Town Manager in hiring a consultant to support these duties and responsibilities.

The recommendations of the Task Force will be presented to the Town Council and made available to the public.

### ***Amendment***

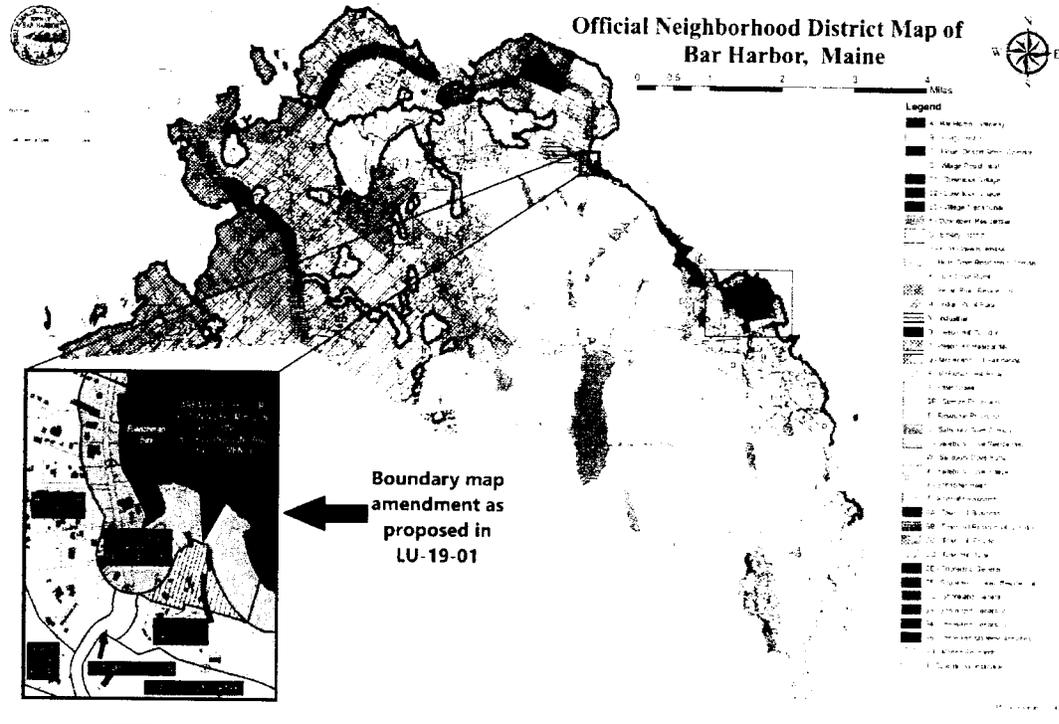
These bylaws may be amended only by action of the Town Council.

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#### LEGISLATIVE HISTORY

01/21/2020 – Adopted by Town Council

04/07/2020 – Amended by Town Council



## IX. REGULAR BUSINESS:

- A. Age Friendly Committee Report** – Annual update by Committee Member Martha Searchfield. Committee Chair Doreen Willett presented the report and spoke to future efforts. The committee is requesting to change their mission statement which requires an ordinance amendment and will be on the next agenda. Mr. Hochman, with second by Ms. Cough, moved to thank Doreen for the Age Friendly Committee’s report and place it on file. Motion passed 6-0.
- B. Vacation Rentals** – Update from Planning Director and possible motion to schedule a workshop with the Planning Board. Ms. Gagnon presented her memo and answered Council questions. Mr. Coston, with second by Mr. Hochman, moved to schedule a workshop with the Planning Board for Wednesday, March 11 at 7 pm to discuss vacation rental amendments. Motion passed 6-0.
- C. Treasurer’s Warrant** - Request of Treasurer to authorize paid bills. – Mr. Hochman, with second by Ms. Cough, moved to sign the Treasurer’s Warrants for paid bills. Motion passed 6-0.

## X. TOWN MANAGER’S COMMENTS – None.

## XI. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS

**Mr. Hochman** requested an update on where we stand with retail marijuana and processing facilities since about 60% of people from both a town vote and POLCO were interested. He also asked if we could reach out to MDOT to see if they could hasten their repair of Route 3 between Cromwell Harbor Road and Jax Lab, it is in really bad shape.

**Mr. Friedmann** asked if there was an upcoming meeting with the national park regarding uses of the parcel of land in Town Hill, including opportunities for both private

DRAFT

**Age Friendly Committee Ordinance Amendment**  
Town of Bar Harbor  
#2020-xx

**An amendment to change the mission statement.**

*The Town of Bar Harbor hereby ordains that Chapter 31, Boards, Committees and Commissions, Article I: Age Friendly Committee, of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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**CHAPTER 31 – BOARDS, COMMITTEES AND COMMISSIONS**

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**Article I: Age Friendly Committee**

**§31-1 Mission.**

~~The Age Friendly Committee is to provide services and advocacy that enable all residents of Bar Harbor to live in their homes for as long as possible as well as provide programs geared to keeping older adults active and engaged in the community~~ strives for a community where all of the residents of Bar Harbor, regardless of age, can live, grow and thrive.

\*\*\*

[End of Ordinance]

VII G

Section 78-12(C)(2) is amended as follows:

Upon determination that a conflict of interest ~~in fact~~ exists, the member concerned shall be excused from participating as a member in discussion, deliberation or vote on the relevant agenda item at that meeting and at all future meetings, unless the conflict is resolved, ~~and shall remove themselves from the meeting room as provided below.~~

Section 78-12(D) is amended as follows:

Influence Prohibited. Once a member is determined to have a conflict of interest in respect to any agenda item and once all conflict of interest questions relating to the agenda item concerned have been determined as provided above, said individual shall immediately leave his/her seat at the table and shall not vote, participate in the deliberation, or otherwise take part in the decision making process ~~remove themselves from the meeting room and the sight of the remaining members to prevent their real or apparent influence.~~ Recused members shall not return to their regular seat ~~nor to the meeting room~~ until deliberation and action on the item is completed.

DRAFT

## Ethics Ordinance Amendment

Town of Bar Harbor

#2020-xx

### An amendment to clarify conflict of interest.

*The Town of Bar Harbor hereby ordains that Chapter 78 Ethics of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

## CHAPTER 78 – ETHICS

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### Article II: Code of Ethics

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#### §78-12 Conflicts of Interest.

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C. Determination of conflict. Once the issue of conflict has been raised relative to an individual member and disclosure has been made as provided above, such individual's fellow members shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest, or the appearance of a conflict of interest, with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each member present, except the individual member who is alleged to have a conflict of interest, shall vote on all conflict of interest questions.

(1) All votes of conflict of interest questions shall be recorded. A majority of those present and voting shall determine the question.

(2) Upon determination that a conflict of interest ~~in fact~~ exists, the member concerned shall be excused from participating as a member in discussion, deliberation or vote on the relevant agenda item at that meeting and at all future meetings, unless the conflict is resolved, ~~and shall remove themselves from the meeting room as provided below.~~

(3) In the event that a majority of the agency, or subcommittee thereof, shall require disclosure of further information not immediately available or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

(4) As provided by the Maine Freedom of Access Act, an agency may enter executive session to discuss a potential conflict of interest, but only upon a motion "to go into executive session as permitted by 1 M.R.S.A. § 405.6.A for discussion or consideration of a potential conflict of interest, since open discussion could reasonably be expected to cause damage to the reputation of the individual or infringe on the individual's right to privacy."

D. Influence prohibited. Once a member is determined to have a conflict of interest in respect to any agenda item and once all conflict of interest questions relating to the agenda item concerned have been determined as provided above, said individual shall immediately leave his/her seat at the table and shall not vote, participate in the deliberation, or otherwise take part in the decision making process ~~remove themselves from the meeting room and the sight of the remaining members to prevent their real or apparent influence.~~ Recused members shall not return to their regular seat ~~nor to the meeting room~~ until deliberation and action on the item is completed.

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[End of Ordinance]

DRAFT

VII H

**Cruise Ship Committee Ordinance Amendment**  
Town of Bar Harbor  
#2020-xx

**An amendment to change the term for the representative of Acadia National Park.**

*The Town of Bar Harbor hereby ordains that Chapter 31, Boards, Committees and Commissions, Article VI: Cruise Ship Committee, of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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**CHAPTER 31 – BOARDS, COMMITTEES AND COMMISSIONS**

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**Article VI: Cruise Ship Committee**

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**§31-81 Term of office.**

The term of each member shall be three years, except the Town Council liaison and the representative of Acadia National Park, which ~~is~~ are one-year appointments. There are no limits to the number of terms served. All appointments run from August 1 to July 31.

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[End of Ordinance]