

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:

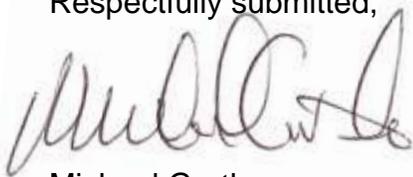
This report represents the recommendations of your elected/appointed Charter Commission. The Commission has endeavored to review, discuss and suggest updates to the current Charter of the town. Members appreciate the history of this document, its traditions and spirit, and the importance of it to the 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 light gray rectangular 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.
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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.

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?

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.

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?

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 4th 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 ~~22nd 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~~ 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.

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?

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?

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?

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. Bearor
E-Mail: ebearor@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

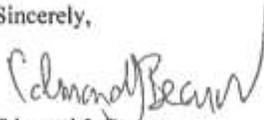
Re: Charter Commission Final Report and Charter Revisions

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,

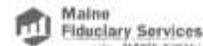


Edmond J. Bearor
EJB/leb

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P.O. BOX 1401 • BANGOR, ME 04402-1401
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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 sheep¹. 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.

¹ Mount Desert Island Historical Society, “Town Records of Mount Desert - Eden” (April, 2013) 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 ejected 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 4th 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 22nd 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.

§ 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.