

CHARTER COMMISSION PROCEDURES

(provided by Natalie Burns of Jensen Baird 11/18/22)

1. The Select Board determines that revision of the Charter should be considered and adopts an order to establish a Charter Commission to do so.
2. Within 30 days after the adoption of the order, the Select Board adopts an order submitting the question for establishment of a Charter Commission at the next regular or special municipal election. The election must be held at least 90 days after the vote. 30-A M.R.S. § 2102(5) establishes the required substance for the ballot question: “Shall a Charter Commission be established for the purpose of revising the Municipal Charter?”
3. The election of the Commission members must be either at the same election as the vote on the Charter Commission question or at the next scheduled regular or special municipal or State election. If they are done at the same election, the candidate’s names must appear immediately below the question for the Commission, with names arranged alphabetically. 6 members are to be elected.
4. The Select Board appoints three members. The appointed members are not required to be residents of the Town, but no more than one member of the Select Board may be an appointed member. These appointments must be made within 30 days after the election to establish a Charter Commission.
5. As soon as the Board appoints the three members, the Town Clerk must notify all elected and appointed members of the Commission of the date, time and place of the Commission’s organizational meeting. The notice must be given at least 7 days prior to the meeting.
6. The Commission may adopt regulations concerning the conduct of the meeting. There is an ability to employ necessary legal, research, clerical or other employees within the budget, but typically the municipality provides support staff, particularly a recording secretary, and legal counsel as needed. In addition, the Select Board must credit \$100 to a Charter Commission account within 20 days after the appointment of the members. If the Commission spends money, it must keep a full account of its receipts and expenditures for public review. Any remaining balance would go into the unassigned funds balance.
7. The Commission must hold a public meeting to receive “information, views comments and other material relating to its functions” within 30 days after the organization meeting.
8. When the Commission holds hearings, it must give at least 10 days’ notice in the newspaper. Hearings can be continued without further public notice.

9. The Commission is to prepare a preliminary report within 9 months after its election, which is to include the proposed revisions and such explanatory material as the Commission considers appropriate. The report must be printed and circulated and the Town Clerk must distribute a copy to any voter requesting one. This time period can be extended, which will be discussed in #11.

10. Within 12 months after its election, the Commission must submit its final report to the Select Board. The report includes the full text and an explanation of the revisions, comments if desired by the Commission, an indication of the major differences (typically this includes a redlined version of the Charter showing the proposed revisions) and a written opinion from an attorney that the proposed revision does not contain anything prohibited by the U.S. or Maine Constitutions or by statute. A minority report may also be filed as long as it does not exceed 1,000 words.

11. If the Commission determines that it needs additional time to complete the reports, have them circulated or obtain the attorney opinion, the Select Board may extend the time for the submission of the preliminary and final reports as long as they are done within 24 months after the election of the Commission.

12. The Select Board must order the proposed charter revision to be submitted at the next regular or special municipal election, which must be held at least 35 days after the final report is filed. The Commission can propose the revision in a single question or multiple questions. Multiple questions are then voted as a Charter modification. If the Select Board determines that it isn't practical to submit the proposed modification, it can substitute a summary as long as it fairly represents the subject matter.

13. There is a requirement that the total number of votes cast in the election on the Charter revision equal or exceed 30% of the total number of votes cast in Town at the last gubernatorial election, so timing of the vote can be important. Charter revisions or Charter modifications take effect on the first day of the next succeeding municipal (not calendar) year. If any of the new provisions require new elections, the revisions or modifications take effect immediately for the purpose of conducting those elections.

14. The Town Clerk must prepare and sign three certificates setting forth a Charter revision or modification and send one to the Secretary of State, one to the Law and Legislative Reference Library and retain one in the Clerk's office.

15. The Charter Commission continues in existence for 30 days after submission of its final report so that it can wind up its affairs. The statute provides that 10 voters in the Town may seek judicial review of the procedures by which the revision or modifications were adopted. This challenge must be filed within 30 days after the election. If there is a challenge, the Commission continues in effect until the challenge is resolved and can intervene as a party. The statute also provides that the Attorney General or 10 voters can seek declaratory relief for any violation of the statutes.