



Town of Kennebunk

Charter ~~TOWN OF~~

~~KENNEBUNK CHARTER~~

ORIGINALLY ADOPTED NOVEMBER

Originally Adopted
November 6, 1984

CHARTER REVISION ADOPTED
NOVEMBER 4, 2008

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JANUARY 27, 2009

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~~TOWN OF KENNEBUNK, MAINE~~
CHARTER

ARTICLE I — GRANT OF POWERS TO THE TOWN

Proposed Charter Revision
Effective Date July 1, 2025

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Article 1 - Grant of Powers to the Town

Preamble

We, the residents of the Town of Kennebunk, Maine, adopt this Charter in order to promote and protect our mutual community values; to facilitate productive civil discourse on issues of concern to the Town and its residents; to foster and encourage mutual respect during that discourse; and to preserve our democratic form of government.

Sec. 1.1 Incorporation

The residents of the Town of Kennebunk shall constitute a body corporate and politic by the name of the “Town of Kennebunk ~~(hereinafter referred to as.~~” As specified in 30-A M.R.S. § 2002, the Town). ~~The Town~~ shall have all the powers of a municipality under the Constitution and laws of the State of Maine.

~~Sec.~~ Sec. 1.022 Form of Government

The form of government provided by this Charter shall be ~~Town Meeting/Select Board/Town Manager.~~ a Town Council/Town Manager form of government with the two exceptions listed in Article 2.1.1., which shall be reserved exclusively for the Town’s Voters.

~~Sec.~~ 1.03 Construction

~~The~~ Sec. 1.3 Powers of the Town to be Liberally Construed

Each of the provisions of this Charter shall be liberally construed so as to enable the Town to exercise, to the fullest extent possible, any ~~power or function which~~ or all of the powers, immunities, privileges or functions that the Legislature of the State of Maine has the power to confer upon the Town, and which ~~is~~ are not denied to the Town, either expressly or by clear implication, ~~and to exercise any power or function granted to the Town by the~~ by the

Constitution, or the laws of the State of Maine, ~~or this.~~

~~Charter~~

. The

~~granting~~ grant of any specific power in ~~the~~ this Charter shall not be construed as otherwise limiting the general powers of the Town.

ARTICLE II ————— TOWN MEETINGS

~~Sec. 2.01 Membership; Purpose~~

Sec. 1.4 Charter Amendment

This Charter may only be revised pursuant to the procedures established by the Constitution and laws of the State of Maine.

Sec. 1.5 Definitions

Where words or terms use capital letters as the first letter of the word or term, those words or terms have the meaning specified in the attached Appendix of Governing Definitions.

Sec. 1.6 Effective Date

Having been duly approved by the Voters of the Town, this Charter shall go into effect at 12:01 a.m. on July 1, 2025, except that its provisions shall take effect immediately for the purpose of conducting any elections required by this Charter.

Article 2 - Municipal Government

Art. 2.1 The Town ~~Meeting~~ Council

Sec. 2.1.1 Town Council as General Legislative Body

The Town Council shall ~~be serve as~~ the general legislative body of the Town ~~and shall under this Charter with the exception of the two matters expressly reserved for approval by the Voters and set out in Sec. 2.1.2 below. Subject to those two exceptions, the Town Council is authorized to exercise those any and all legislative powers set forth in Section 2.05 and any incidental powers necessary or functions granted to effectuate the same consistent with the~~ it by: (1) Article VIII, Part Second, of the Maine Constitution; (2) the Maine Legislature; (3) Maine general law; and (4) this Charter.

Sec. 2.1.2 Matters to be Decided Exclusively by Town Voters

The Town's Voters retain exclusive legislative authority over two matters, both of which directly affect all such Voters, ~~and laws of the State of Maine, except that~~ as to which the Voters alone should have the ultimate power of decision. Those two matters are: (1) ~~approval of the annual budget, any vote to incur bonded indebtedness with a term greater than of one year and all land use~~ municipal budget prepared by the Town Manager, with the assistance and advice of the Finance Director and the Budget Board, and approved by the Town Council for submission to the Voters at the annual municipal election to be held on the second Tuesday of June; and (2) approval of all borrowings to be taken out by the Town to finance the business and operations of the Town, as recommended by the Town Council for submission to the Voters at the same annual municipal election, with the exception delineated in Secs. 2.1.8 and 3.12 of this Charter.

Sec. 2.1.3 Town Council Composition and Qualifications

The Town Council shall be composed of 7 members, each of whom shall be elected by the Voters of the Town for staggered terms of three years. The term of each new Councilor's office shall begin on July 1 following the annual municipal election in which that Councilor was elected. Town Councilors shall be qualified Voters of the Town and shall maintain their domicile in the Town throughout their terms of office. Each Town Councilor may serve for a maximum of 3 consecutive terms. After the maximum of 3 consecutive terms, a three-year break from such service shall be required before a former Town Councilor may again run for election to the Council.

Members of the Select Board elected prior to the Effective Date of this Charter shall serve as Town Councilors until the end of their current terms of office. Their titles shall be changed from "Select Board Member" to "Town Councilor" as of the Effective Date.

Sec. 2.1.4 Enumeration of Town Council's Powers

The Town Council shall have the following powers and duties:

1. To enact, amend and repeal all Town ordinances, including the Comprehensive Plan, and any amendments to the fullest extent permitted under the "Home Rule" authority granted to municipalities by the Maine Constitution and Maine statutory or general law, and to authorize all actions for the enforcement of such ordinances and Plan (hereafter ;
2. To enact, amend, or repeal Land Use Ordinances;
3. To appoint the Town Manager and Town Attorney and to remove either or both, for cause, after notice and a hearing;
4. To confirm the Town Manager's appointment of Town officials, and to set the compensation for Town Officers, Officials, and employees, with input from the Town Manager;
5. To appoint the members of Town "Binding Boards" and to create any other boards, commissions, committees, or task forces of Town Government (collectively the "land use ordinances"), shall be decided by Town Meeting at referendum. All registered voters of the Town may vote at all Annual and Special Town Meetings referred to as "Agencies"), and to appoint or remove their members, as needed, to achieve specific Town goals, pursuant to Art. 2.5 below;

~~Sec. 2.02~~ **Dates of the Annual Town Meeting (Amended 11-07-90 and 06-08-99)**

1) — The Annual Town Meeting shall convene on the second Tuesday of each June for the purpose of electing Town officials and for voting on referendum articles, including the annual budget and all land use ordinances, and other secret ballot articles, if any, and shall adjourn to the Wednesday immediately following the second Tuesday of June for the purposes of considering and acting upon the remaining business. Terms of municipal officials elected at the Annual Town Meeting will begin on the 1st of July; terms of municipal officials elected at special elections shall begin immediately upon the certification of the results of the vote; and terms for School Board Directors, including those elected to a Regional School Unit, or successor organization, will begin on the following July 1.

2) — Special Town Meetings may be called by the Select Board as provided in this Charter and the Constitution and laws of the State of Maine.

3) — The warrant for the Annual Town Meeting shall be published in the Annual Town Report. The Town Clerk shall publish, in a prominent format, any warrant for a Special Town Meeting in a newspaper having general circulation in the Town at least 5 days but not more than 15 days prior to the Special Town Meeting.

~~Sec. 2.03~~ **Procedure and Conduct of Town Meeting**

Except as otherwise limited by this Charter and the Constitution and laws of the State of Maine, each Town Meeting shall adopt rules governing the procedure for and conduct of that particular meeting. The Select Board shall hold a public hearing on all articles to be voted on at referendum at any town meeting. The public hearing shall be held no less than forty six (46) days, nor more than sixty five (65) days, before the date of the town meeting; provided, however, that changes may be made to the warrant articles discussed at the public hearing without requiring another such public hearing; provided, further, that in the event any substantive changes are made to any warrant article, the Select Board may hold another public hearing no less than ten (10) days, nor more than thirty (30) days, before the date of the town meeting. [Amended 6/14/2011]

~~Sec. 2.04~~ **Absentee Ballots**

Absentee ballots may be cast at all Annual and Special Town Meetings for all matters, which shall be voted on at referendum. Absentee voting procedure shall be as provided in the laws of the State of Maine.

~~Sec. 2.05~~ **Legislative Authority of a Town Meeting**

The following Warrant Articles shall be acted upon by the Town Meeting by secret ballot, or at

~~referendum for paragraphs (d), (e) and (h)(regarding bond issues):~~

- ~~a) Election of the members of the Select Board.~~
- ~~b) Election of quasi-municipal and district officials.~~
- ~~c) The Annual Budget, including any supplemental appropriations except as authority is otherwise provided to the Select Board under ~~Sec=3.06(4)~~.~~
- ~~d) All land use ordinances.~~
- ~~e) Initiative and referendum articles proposed under Article VI.~~
- ~~f) Any other business deemed appropriate by the Select Board.~~
- ~~g) Notwithstanding any other provision of this Charter, any article authorizing a bond issue and related expenditures where necessary to comply with the property tax levy limit over-ride provisions under State law and any vote to incur bonded indebtedness with a term greater than one year.~~

~~[Amended 11/4/2014]~~

~~ARTICLE III~~ ————— ~~SELECT BOARD~~

~~Sec=3.01~~ ————— ~~Composition~~

~~The Select Board shall consist of 7 members, elected by secret ballot at Town Meeting, for staggered terms of 3 years. To implement the one-time change to 7 members, at the Annual Town Meeting referendum in June of 2009, 4 persons shall be elected with the person receiving the fourth most votes to serve only a 2-year term; thereafter, all terms shall be for 3 years.~~

~~Sec=3.02~~ ————— ~~Eligibility; Term Limits~~

~~In order to hold the office of Select Board member, a person must be a resident of and registered voter in the Town, at least 18 years of age, and a citizen of the United States. No Select Board member shall serve more than three (3) full, consecutive terms without at least a 3-year break from such office. This restriction shall apply to incumbents on the date of adoption of this provision, except that the three-term limitation shall not commence until terms starting with the June 2009 Town meeting elections.~~

~~Sec=3.03~~ ————— ~~Compensation and Expenses~~

~~Select Board member shall be compensated at rates adopted by the Annual Town Meeting, and shall receive reasonable expenses incurred in the course of their official duties as may be approved by a majority of the Select Board.~~

~~Sec=3.04~~ ————— ~~Chair and Vice-Chair~~

- ~~1) At its first meeting in July after the Annual Town Meeting, the Select Board for the~~

~~ensuing year shall elect a Chair, a Vice Chair and a Board Secretary.~~

- ~~2) The Chair shall preside at meetings of the Select Board and shall be entitled to vote on Board matters.~~

~~3) The Vice Chair shall act as Chair during the absence of the Chair.
[Amended 11/4/2014]~~

~~Sec. 3.05 General Powers, Duties and Procedures~~

~~The Select Board, as a body, shall exercise all administrative and executive powers of the Town, except as otherwise provided by this Charter or the Constitution and laws of the State of Maine.~~

~~Sec. 3.06 Enumeration of Powers.~~

~~Select Board member shall have the following powers and duties:~~

~~1) To appoint and remove the Town Manager and the Town Attorney. All appointments shall be in writing and signed by the Select Board. No appointee shall be removed without just cause and after notice and hearing. All nomination of Town officials by the Town Manager under ~~Sec. 4.02.5~~ must be confirmed by the Select Board. (11-04-97)~~

~~2a) To appoint members of, and have control over, the following boards and commissions:~~

<u>Board or Commission</u>	<u>Number of Members</u>
Board of Assessment Review	3 (1 alternate)
Budget Board	7
Fair Hearing Authority	3
Historic Preservation Commission	5 (2 alternates)
Planning Board	5 (2 alternates)
River Committee	3 (1 alternate)
Shellfish Committee	5 (2 alternates)
Site Plan Review Board	5 (2 alternates)
Zoning Board of Appeals	5 (2 alternates).

~~b) To create, and appoint members to, such other boards or commissions as statutes, ordinances or Town vote may require, or as the Select Board in its discretion may deem necessary. Unless otherwise provided by the law creating it, the number of committee members on any new board or commission shall have no less than five regular members.~~

~~[Amended 6/8/2010]~~

~~e) — Each appointment to any board or commission shall be for a 3 year period commencing July 1 of the year in which the initial appointment is made, unless otherwise prescribed by statute.~~

~~d) — Alternate members shall be appointed to 1 year terms and shall vote in the absence of regular members. Alternate members are subject, as are regular members, to the provisions of ~~Sec. 3.11~~ of this Charter.~~

~~e) — All appointments to boards and commissions shall be in writing and signed by a majority of the Select Board. No appointee shall be removed without just cause after notice and hearing.~~

~~f) — No member of the Zoning Board of Appeals shall simultaneously be a member of the planning Board or the Historic Preservation Commission.~~

~~3) To set the pay of those officers, officials and employees of the Town who receive compensation after giving consideration to any recommendations made by the Town Manager.~~

~~4) To oversee, monitor and account for the appropriations; warrants authorizing all disbursement of Town funds must be signed by (a) the Town Manager or the Finance Director and (b) one or more Select Board members. The Select Board may, after a duly advertised public hearing, vote to carry over any unexpected year-end balance from any account previously approved by Town meeting vote from the~~

~~6. then-current To meet with each Agency, with the exception of "Binding Boards," at least once a year, or more often if requested or deemed necessary, in order to review each Agency's goals and accomplishments, and to hear from its members, and establish a plan for future activities, recognizing that, over time, the Town's needs and the number, tasks and composition of non-binding Agencies may be increased, decreased, changed, or eliminated by the Town Council.~~

~~7. To approve Warrants for the annual municipal election, and for any special elections;~~

~~8. In conjunction with the Planning Board and the Community Development and Planning Division, to adopt, modify, and direct the actions necessary for the re-planning and redevelopment of any area or district that may have been destroyed in whole or in part by any disaster;~~

~~9. To create a Housing Authority;~~

~~10. To adopt and modify the official map of the Town;~~

~~11. To work with the Town Manager, Town Finance Director, and Budget Board to collect all necessary budgetary data and to help to create the annual budget and 5-year capital improvements plan, as required by Secs. 3.5 and 3.8 of this Charter;~~

~~12. To provide for an annual audit of the Town's fiscal year to the next fiscal year in that same account, which carry over balances shall be deemed appropriated for that same account for that next fiscal year. The Select Board may operations and transactions pursuant to Sec. 3.14 below;~~

~~13. To transfer funds from accounts with positive balances to cover overdrafts in other accounts. The Select Board, by a concurring vote of at least a majority of all of its members, plus one, may, and to vote to authorize additional appropriation(s) appropriations for the then-current operating budget to be funded from either: (a) unanticipated revenues, or (b) from the Town's undesignated fund balance ("surplus") Undesignated Fund Balance, for any emergency affecting the public health, safety or welfare. The~~

sum of any or all such appropriation(s) in any single fiscal year may not exceed one-half (½) of 1% of the municipal operating budget (exclusive of the school)(See Sec. 3.12 below.)
budget) for the then current budget year. Any such vote of the Select Board shall be supported by written findings identifying the emergency; [**Amended 6/12/2012**]

- 5) ~~To prepare, or provide for the preparation of, and to make available for general distribution, the warrant for the Annual and Special Town Meetings and the Annual Town Report.~~
- 6) ~~To enact ordinances as authorized by the laws of the State of Maine.~~
- 7) ~~To authorize all actions for the enforcement of ordinances to be brought in the name of the Town.~~

~~8) To provide for the annual audit required by Sec. 3.07.~~

~~9) To require, as deemed necessary, a bond from a surety company for all persons trusted with the collection, custody, or disbursement of any of the monies of the Town. The premiums on said bonds shall be paid by the Town.~~

~~10) To enter into and execute contracts on behalf of the Town concerning matters authorized by this Charter, Town Meetings, or State statutes, except as otherwise delegated to the Town Manager.~~

~~11) 14. To authorize and oversee the handling of all legal activity on behalf of proceedings for the Town;~~

~~15. To review and approve contracts to be signed by the Town's purchasing agents;~~

~~16. To approve and adopt administrative and personnel procedural policies that may potentially amend the functions or duties of specific offices, divisions, or Agencies established by this Charter, unless that policy conflicts with the policies stipulated in this Charter or State statutes;~~

~~17. To inquire into the conduct of any office, division, or Agency of the Town Administration and to make all necessary or appropriate investigations as to municipal affairs;~~

~~18. To require surety bonds for those handling Town funds, including, without limitation, rules and but not limited to, the Town Clerk, Treasurer, and Finance Director, as deemed advisable by the Town Council;~~

~~12) 19. To sell, exchange, or donate surplus property of the Town, both real and personal, including property acquired through the non-payment of taxes in accordance with regulations governing the internal functioning of the Select Board except as otherwise established by the Town Council after notice and public hearings. Except as provided in the Charter; provided that such rules and regulations shall require that each Select Board member shall within one year of his or her election be required, for each term, to attend by ordinance, any sale may be preceded by a competitive bidding process, with publication and invitations to bid to be issued at least one Select Board approved training session for elected officials. 30 Calendar Days prior to the opening of bids. The Select Board shall adopt and have available for public inspection a set of written procedural rules governing the conduct of their meetings. Town Council may, at its discretion, accept or reject any such bid or bids;~~

~~Among other matters, except as may otherwise be provided by law, the rules shall provide that the public shall have the right to be heard on all items on the Board's meeting agenda.~~

~~13) To accept alewife fishing rights in the Kennebunk River pursuant to 12 M.R.S.A. §3708 and to operate such rights. The Select Board may offer for sale the right to take alewives in accordance with the requirements of State law.~~

~~14) To review and accept delivery of deeds to the Town conveying easements or any other interests interest in land, provided that such deeds impose no affirmative obligations on real property to the Town, whether as acquisition costs or otherwise.~~

~~15)20.~~ To and to review and accept ~~any~~all donations of funds ~~or,~~ equipment ~~on behalf of,~~ or other property to the Town;

~~16) To set all municipal fees, after notice and hearing, except as otherwise provided by law.~~

~~17)21.~~ To accept all Federal, State, County, or private grants, including, without limitation, Community Development Block Grants (~~“CDBG”~~) from the State of Maine Department of Economic and Community Development, on behalf of the Town; provided, however, that no such grant shall be accepted without ~~a~~ public ~~hearing~~hearings held by the ~~Select Board preceded by prior notice as~~ Town Council, and also provided for calling a special town meeting; provided, further, that the public notice of the hearings shall disclose any financial obligation that may be incurred by the Town ~~by the~~as a result of acceptance of the grant, ~~which financial obligation shall be stated expressly on the face of the Select Board’s order accepting the same. [Amended 11/6/2012];~~

- ~~18)22. To set municipal fees, tax due dates, and ~~the~~ interest rates ~~on~~for overdue tax balances and overpayment of taxes; overpayments;~~
- ~~23. To oversee and monitor all Town expenditures; and~~
- ~~24. To oversee alewife fishing rights in the Kennebunk River.~~

Sec.

- ~~19) To sell and convey, as they deem necessary, any property acquired through the nonpayment of taxes, and give therefore a quitclaim deed of the Town's interest in such property. The property shall be sold or conveyed in accordance with regulations established by the Select Board after notice and hearing. These regulations shall include procedures for the conduct of such sales and the handling of proceeds therefrom and the Select Board may amend these regulations in succeeding tax years after notice and hearing. The Select Board shall also have the authority to execute and deliver quitclaim deeds, in their discretion, for the purpose of removing from the public record tax liens that have not been discharged through inadvertence.~~
- ~~[Amended 11/2/2010]~~

~~Sec. 3.07~~ ~~Independent Annual Audit~~

~~Prior to the end of the fiscal year, the Select Board shall designate a firm of certified public accountants to make an independent audit of accounts and other evidence of financial transactions of the Town government for the current fiscal year and to submit their report to the Select Board. Such accountants shall not maintain any accounts or records of Town business, but shall post-audit the records and documents maintained by the Town and any separate or subordinate accounts maintained by another office, department, or agency of Town government. This information shall be published in the Annual Town Report.~~

~~Sec. 2.1.5~~ ~~Limitations of Powers~~

- ~~1. No Town Councilor nor a person who is part of a Town Councilor's immediate family shall hold any paid office or position of employment with the Town or any of the following entities: RSU 21, Kennebunk-Kennebunkport-Wells Water District, Kennebunk Sewer District, or Kennebunk Light & Power Company;~~
- ~~2. Except for the purposes of inquiry or communication with any employee as part of an evaluation of the Town Manager, Town Councilors shall deal with the municipal Administration solely through the Town Manager;~~
- ~~3. Neither the Town Council nor individual Town Councilors shall give orders to any subordinates of the Town Manager, either publicly or privately;~~
- ~~4. Neither the Town Council nor individual Town Councilors shall direct or request the appointment of any person to, or the removal of, any person from office by the Town Manager or by the Town Manager's subordinates;~~
- ~~5. No Town Councilor shall also serve simultaneously as a member of any other Town Agency; and~~
- ~~6. No Town Councilor shall also serve as a member of the State of Maine's Legislature throughout that Councilor's term of office.~~

~~Sec. 2.1.6~~ ~~Compensation and Reimbursement of Expenses of Elected Officials~~

~~The Town Council shall, by ordinance, determine the compensation of Town Councilors. This compensation ordinance, once enacted, shall be reviewed annually. If the Town Council determines that a cost-of-living adjustment ("COLA") is appropriate, it may, by ordinance, adjust the compensation of Town Councilors by the COLA~~

amount in accordance with Town policy. In addition, all Town Councilors shall be entitled to reimbursement of their reasonable expenses incurred during the course of performing official duties, but only after those expenses have been reviewed and approved by the Town Finance Director. The Town Council shall also, by ordinance, set the compensation payable to other Elected and Appointed Officials, and, in consultation with the Finance Director, shall review and approve, if appropriate, requests for reimbursement of expenses incurred by those Officials during the course of performing their official duties.

Ordinances approving the compensation of Elected or Appointed Officials shall not be categorized as emergency ordinances under Sec. 2.1.8 below.

Sec. 2.1.7 Town Ordinances

Proposals for the enactment of new Town ordinances, and amendments to, or repeal of, current ordinances, may be initiated by the Town Council or the Town Manager; or by residents through the use of a Voters' Petition. Proposals submitted through a Voters' Petition shall follow the procedures set out in Sec. 4.2 below.

Proposals initiated by the Town Council or Town Manager shall be placed for discussion and public hearings on the agenda of a regular or special meeting of the Town Council. The Town Clerk shall distribute a copy of each such proposal to each Town Councilor and to the Town Manager, and shall make both printed and electronic copies available to Town residents. A minimum of two public hearings on each proposal shall be conducted.

If the text of a proposed new or amended ordinance is substantively changed after the initial public hearing but prior to its enactment, at least one additional public hearing shall be held before a Town Council vote takes place on the proposal.

After notice and public hearings, the Town Council may, by majority vote, adopt the proposed new or amended ordinance or repeal the ordinance at issue.

A new or amended ordinance approved by the Town Council shall become effective 30 Calendar Days after the Council votes to approve it. At its discretion, the Town Council may vote to set an alternate effective date.

The Town Council may enact rules governing the re-introduction of defeated ordinances or ordinances proposing the same subject matter as that covered by defeated ordinances.

Sec. 2.1.8 Emergency Ordinances

The Town Council may, by a majority vote, pass emergency ordinances to address unanticipated situations such as natural disasters that affect, or have the potential to affect, life, health, property, or public safety. Emergency ordinances shall contain a written summary defining the nature of the emergency and its demonstrated or anticipated impact on the Town and its residents, and lay out a proposed plan to prevent, mitigate or eliminate any potential risk to Town residents or to Town property. No public hearing shall be required prior to the passage of an emergency ordinance. The Town Clerk shall provide electronic notice to residents as soon as the Town Council determines it is necessary to pass an emergency ordinance, and the Town Council shall include a discussion of the emergency ordinance on the agenda of its next meeting at which time residents may ask questions and be heard. Emergency ordinances approved by the Town Council shall become effective immediately, unless the Council, in its discretion, specifies a later date.

Sec. 2.1.9 Presumption of Authority

In the enactment, amendment, or repeal of any ordinance adopted pursuant to this Charter, there shall be a rebuttable presumption that any such action taken by the Town Council is a valid exercise of the Town's "Home Rule" authority.

Sec. 2.1.10 Enforcement of Ordinances

All actions for the enforcement of Town Ordinances shall be authorized by the Town Council and be brought in the name of the Town.

Art. 2.2 The Town Manager

Sec. 3.08 — 2.2.1 Town Manager Appointment and Removal of by Town Manager Council

The ~~Select Board~~ Town Council shall appoint a Town Manager who shall serve as the chief executive and administrative official of the Town, and who shall be responsible to the Town Council for the proper administration of all municipal business of the Town.

Sec. 2.2.2 Town Manager Qualifications

The Town Manager shall be appointed on the basis of demonstrated integrity of character and shall possess the necessary skills, knowledge, experience, and executive and administrative qualifications which, in the Town Council's judgment, equip the Town Manager with the ability to fulfill the duties and responsibilities of the position.

Sec. ~~for a definite term by~~ 2.2.3 Positions the Town Manager May Not Hold

The Town Manager may not, while serving as Town Manager, also serve simultaneously: (1) as an election official; (2) as a Town Councilor; (3) as a member of any Agency of the Town; or (4) as a member of the Legislature of the State of Maine.

Sec. 2.2.4 Written Contract of Employment

The Town Manager shall sign a written contract of ~~not less than 1 year or more than 3~~ employment for a term of one to three years. The term of employment may be extended by an additional term or terms of up to three years, ~~who~~. The employment contract shall specify the Town Manager's compensation, and shall also set out the terms of employment including the obligation to abide by the terms of this Charter as well as any Code of Ethics or Code of Conduct adopted by the Town Council. The written contract of employment shall also specify the circumstances under which the Town Manager's employment contract may be terminated before its expiration date, and shall incorporate the procedure set out in 30-A M.R.S. § 2633(3) if the termination is for cause.

Sec. 2.2.5 Powers and Duties of the Town Manager

1) The Town Manager shall have the ~~powers and perform the duties provided in Section 4.02 of this Charter~~ following duties and responsibilities:

2) — ~~The Select Board may, for just cause, remove the Town Manager by an affirmative vote of a majority of its members. At least 30 days before such removal shall become effective, the Select Board shall, by an affirmative vote of a majority of its members, adopt a preliminary resolution explicitly stating the specific reasons for removal. The Town Manager may reply in writing or may waive a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Select Board by an affirmative vote of a majority of its members may adopt a final resolution of removal. By the preliminary resolution, the Select Board may suspend the Town Manager from duty, but the regular salary of the Town Manager shall continue to be paid during the period of suspension. If removal is voted, the Select Board shall cause to be paid to the Town Manager forthwith any unpaid balance of salary for the next 30 days as severance pay. The Town Manager shall cease the performance of all duties upon a~~

vote of final resolution of removal.

3) ~~The Select Board may appoint an acting Town Manager to~~To serve during the absence or disability of the Town Manager.

~~Sec. 3.09~~ ~~—————~~ ~~Holding Other Office (As amended 11-08-88)~~

~~No Select Board member or his/her spouse shall hold any other compensated Town office or be employed by the Town, during the term for which he/she was elected to the Select Board. An individual may not be hired as a Town employee if his/her spouse is a Select Board member. No former Select Board member shall hold any compensated Town office or be employed in any Town department until one (1) year after the resignation or expiration of the term for which he/she was elected. No elected Town official shall hold appointed office in the Town unless the law or ordinance creating the appointed office so requires or allows; provided that this shall not prohibit an elected Town official from serving on a Town board or committee in an *ex officio* capacity. Unless otherwise required by law, or the context in which the term appears compels a contrary interpretation, whenever the term "Town official" is used in this Charter, it shall be interpreted to mean any elected or appointed Town officer, appointee or employee.~~

~~The restrictions in this section shall apply not only on a prospective basis, but shall also apply to incumbent Select Board members.~~

~~Sec. 3.10~~ ~~—————~~ ~~Interference with Administration~~

~~Except for the purpose of inquiry, the Select Board shall deal with Town employees solely through the Town Manager. Select Board members, individually, or as a Board, shall not give orders, either directly or indirectly, to any employee of the Town Manager.~~

~~Sec. 3.11~~ ~~—————~~ ~~Vacancies; Forfeitures of Office;~~
~~Filling of Vacancies~~

~~(As amended 11-07-90 and 11-04-97)~~

1) ~~A vacancy in a Town Office or on any board or commission may occur by the following means: non-acceptance, death, resignation, permanent disability, incompetency, failure to qualify for the office within 10 days after written demand by the Select Board, failure of the Town to elect a person to office, removal from office in any manner provided by law, and forfeiture of office as provided in this Charter.~~

- 2) ~~Elected officials or appointees to a board or commission shall forfeit their office if they:~~
- ~~a) Lack at any time during their term of office any qualifications for the office prescribed by the Charter or by the Constitution and laws of the State of Maine,~~
 - ~~b) Violate any express prohibition of this Charter,~~
 - ~~e) Are convicted of a crime punishable by imprisonment for more than 30 days whether or not such imprisonment actually occurs.~~
 - ~~d) (i) with respect to all boards or commissions other than the Select Board, fail to attend~~

~~the greater of three (3) consecutive regular meetings of the board or commission or more than 25% of all meetings within any 6 month period, unless such absences are determined not to be grounds for forfeiture pursuant to Section 3.11(4). Relief under Section 3.11(4) shall be available only to members of appointed boards and commissions and not to members of elected boards and commissions or to members of boards and commissions containing both elected and appointed members.~~

~~(ii) with respect to the Select Board, fail to attend more than 25% of all meetings within any six month period.~~

~~e) Fail to perform the duties of the office; or~~

~~f) Elected and appointed officials have thirty (30) days from the date of their election or notification of appointment to be sworn in to office except for good cause. Good cause shall be determined by the Select Board, other than the Board member elect, if applicable.~~

~~[Amended 11/2/2010]~~

~~3) The determination of when a vacancy exists shall be made by the Select Board no later than its next regularly scheduled meeting. Upon such determination, a vacancy shall be deemed to 'occur' for purposes of filling such vacancy pursuant to Section 3.11(5). The determination of whether a forfeiture has occurred shall be made by the Select Board by appropriate proceedings of a judicial nature and after written notice and hearing. After receipt of such written notice, where the reason of alleged forfeiture is failure to attend the requisite number of meetings, the six month period for determining whether the member failed to attend the requisite percentage of all meetings shall end on the date of such written notice, and no subsequent meetings may be included in determining whether a forfeiture has occurred. When the forfeiture involves a member of an elected or appointed board or commission, notice of the hearing shall be given to all other individuals who are members of the board or commission at the time the alleged grounds for forfeiture occurred.~~

~~4) a) The failure of an appointed board or commission member to attend the greater of three consecutive regular meetings of the board or commission or more than 25% of all meetings within any six month period shall not result in forfeiture of office if the Select Board determines that the absences were justified and that forfeiture is not in the best interests of the Town. In making this determination, the Select Board shall consider all relevant evidence, including but not limited to the following:~~

~~i) whether the reason for the absence was within or beyond the board/commission member's control;~~

~~ii) whether the absence interfered with the efficient operational functioning of the board;~~

~~iii) whether the board/commission member could have given advance notice;~~

~~iv) the attendance history of the board/commission member.~~

~~b) The board/commission member shall have the burden of establishing by a preponderance of the evidence that the absences were justified and forfeiture is not in the best interests of the Town.~~

~~5) When a vacancy occurs in any appointed Town office or position, the original appointing authority shall appoint a qualified person to fill the vacancy within 60 days. When the vacancy~~

~~occurs in any elected Town office or position and the vacancy occurs more than 120 days prior to the next Annual Town Meeting, the vacancy for the unexpired portion of the term shall be filled by a Special Town Meeting to be held within 75 days of the vacancy. If such a vacancy occurs 120 days or less prior to the next Annual Town Meeting, the vacancy shall be filled for the unexpired portion of the term at the next Annual Town Meeting.~~

~~Sec. 3.12~~ **Conflicts of Interests; Ethical Standards**

~~No elected or appointed Town official shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before his/her collective body in which he/she or a member of his/her immediate family has a financial or special interest of a pecuniary nature, other than an interest held by the public generally.~~

~~Any elected or appointed Town official who believes that he/she or a member of his/her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body, shall disclose the nature and possible extent of such interest. Similarly, any elected or appointed Town official of that board or committee who believes that a fellow member of the collective body or a member of the fellow member's immediate family has a financial or special interest, other than an interest held by the public generally, shall raise the issue with the collective body and request disclosure of the nature and possible extent of such interest by the Town official. Once the issue of conflict has been initiated relative to an individual Town official, and disclosure has been made as provided above, such individual's remaining fellow Town officials of that board or committee shall vote on whether such individual shall be excused from participating in the deliberation or vote, which determination shall control.~~

~~as the Town's chief~~

~~If it is found that there is reasonable cause to believe that an official has failed to disclose an actual or possible financial or special interest, other than an interest held by the public generally, that official shall be informed of such belief and afforded an opportunity to disclose the interest. If, after hearing the response, it is determined by such individual's remaining fellow Town officials that the official did fail to disclose an actual or possible financial or special interest, appropriate and corrective action shall be taken, including, without limitation, a vote of censure. In all such instances, a written report shall be forwarded to the Select Board indicating the nature of the conflict, the official's position and its resolution by his or her fellow Town officials; provided, however, only the Select Board may remove a Town official in such an instance and only after first providing the official with appropriate notice and an opportunity to be heard.~~

~~No elected or appointed Town official shall, to the detriment of the Town, disclose confidential information concerning the property, government or affairs of the Town; nor shall he/she use such information to advance the financial or private interest of him/herself or others. For purposes of this Section, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town official only because of his or her position with the Town, and is not a matter of public record. Information received and discussed during an executive session of a collective body of the Town called pursuant to 1 M.R.S.A. §§ 405 et seq. shall be considered within the constraints of this Section, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.~~

~~No elected or appointed Town official, shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any elected or appointed municipal official: accept any gift, favor or thing of value that tends to influence or could reasonably be expected to influence him/her in the performance of official duties or that is intended as a reward for any official action.~~

~~The standards of conduct established in this section shall apply to Town employees as well as other Town officials, but any inquiry or disciplinary action shall be conducted solely under the terms of the applicable personnel law.~~

~~ARTICLE IV~~ ~~TOWN MANAGER~~

~~Sec. 4.01~~ ~~Qualifications~~

- ~~1. The Town Manager shall be chosen by the Select Board on the basis of character and executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of the office as hereinafter set forth.~~ Official;

To ensure that ~~Sec. 4.02~~ ~~Powers and Duties of the Town Manager~~

~~The Town Manager shall:~~

- ~~1) Be the chief administrative official of the Town.~~
- ~~2) Be responsible to the Select Board for the supervision and administration of all departments and offices for which the Board confirms the appointment of the department head or director.~~
- ~~3) 2. _____ Implement all laws and ordinances of the Town. are faithfully executed, implemented, and enforced;~~
- ~~4) Serve as the head of any department for which the Select Board appoints the department head or director when so directed by the Board.~~
- ~~23 5) _____ Nominate, subject to confirmation by the Select Board, To appoint and to supervise and control the following Town officials:~~
 - ~~• Assessor~~
 - ~~• Building Inspector~~

- ~~Civil Emergency Preparedness Director~~
- ~~Code Enforcement Office~~
- ~~Constable~~
- ~~Finance Director (also serves as Treasurer and Tax Collector)~~
- ~~Fire Chief~~
- ~~Harbor Master~~
- Health Officer
- ~~Historian~~
- ~~Parks & Recreation Director~~
- ~~Planner~~
- ~~Plumbing Inspector~~
- ~~Police Chief~~
- ~~Public Works Director (also serves as Road Commissioner)~~
- ~~Sealer of Weights and Measures~~
- ~~Social Services Director;~~
- ~~Town Clerk~~
- ~~Youth Services Director; and~~

3. , the division heads of any other departments created by the Select Board or the Town Manager. The Town Manager shall also appoint, supervise and control all other officials, subordinates and assistants, except the Town Manager may delegate this authority to the appropriate department head, and report all appointments to the Select Board. ~~[Amended 11/4/2014]the Town's Administration;~~

6)4. ~~Have~~To have exclusive authority to remove, for just cause, and after due notice and a hearing, any persons whom the Town Manager is authorized to appoint, and to report all such removals to the ~~Select Board.~~Town Council;

7)5. ~~Act~~To act as the purchasing agent for all Town ~~departments, boards, or commissions~~agencies, provided that the Town ~~or the Select Board~~Council may require that all purchases ~~of~~above a designated amount must be ~~submitted to~~conducted through the competitive bid; ~~and except that the Select Board may submit any purchase to competitive bid when deemed feasible.~~ process;

8) ~~Attend~~To attend all meetings of the ~~Select Board~~Town Council unless excused by the ~~Board.~~

24 9)6. ~~Attend all Annual~~Council, and ~~Special Town Meetings, and to attend any public~~ hearings ~~of~~held by the Town ~~which~~that are initiated by the Town Manager or ~~as~~are required by the ~~Select Board.~~Town Council;

10) ~~Keep~~To keep the ~~Select Board~~Town Council and ~~the~~Town

residents ~~informed as to~~ advised of the financial condition and future needs of the Town-

~~11)7. Make, and to make any necessary or desirable recommendations to the Select Board for the more efficient operations of the Town, on those subjects;~~

~~8. Make application for State, Federal, and To make recommendations to the Town Council for greater efficiencies in the Town's fiscal or other operations;~~

~~12)9. To make all applications for Federal, State, or other aid grants for the benefit of the Town, as approved by the Select Board. Town Council, including applications to the Federal Emergency Management Agency or equivalent State body, and to secure any available emergency relief funds following the occurrence of any Federally-declared or State-declared natural disaster or equivalent emergency;~~

~~13)2) Perform such other duties as may be prescribed by this Charter or required by the Select Board, not inconsistent with this Charter.~~

~~ARTICLE V~~ ————— ~~BUDGET PROCESS~~

~~To authorize division heads or designated staff to communicate with Sec=5.01 Fiscal Year (As amended 11-07-90)~~

~~The fiscal year of the Town shall begin on the first day of each July and end on the last day of each June, except as may otherwise be established, from time to time, by the Town Meeting.~~

~~Council or Sec=5.02 ————— Budget Board~~

~~1) — There shall be a Budget Board consisting of 7 members, appointed by the Select Board. The Budget Board shall provide annually a written report to the Select Board, separate from its recommendations on individual warrant articles, detailing its annual budget recommendations for inclusion in the Town Report; provided, however, the failure of the Budget Board to file such a report shall not prevent the Annual Town Meeting from acting on the budget and shall not prevent the budget as voted upon from taking effect.~~

~~2) — The Budget Board shall meet periodically to review Town finances and the administration of the budget.~~

~~3) — The Budget Board shall review and recommend to the Town Meeting annual and~~

~~long range budget proposals and any changes in the levels of municipal services.~~

- ~~4) The Budget Board shall meet with and assist Town Councilors if the Town Manager, Select Board and department heads in preparing a long range capital expenditure plan for the Town which shall be reviewed and updated annually.~~
- ~~5) The Budget Board may propose budget articles for consideration by the Annual Town Meeting, which articles shall be included in the warrant issued for the Annual Town Meeting.~~

~~Sec. 5.03~~ **Budget Process (As amended 11-07-90)**

- ~~1) Not later than 120 days before the Annual Town Meeting, the Town Manager shall submit, to the Select Board and the Budget Board, his/her recommendations and a proposed budget for the ensuing fiscal year.~~
- ~~2) The Select Board shall review the proposed budget and prepare a final budget for submission to the Annual Town meeting.~~
- ~~3) The Budget Board shall, at a minimum, meet together with the Select Board, to review the final budget in a joint session and may make its recommendations to the Annual Town Meeting. The failure of the Budget Board to make a recommendation on any particular budget article(s) shall not prevent the Annual Town Meeting from acting on the same.~~
- ~~4) The Select Board shall hold at least two public informational meetings on the budget, the first of which shall be noticed and conducted as a public hearing and held no less than seventy (70) days and no more than ninety (90) days before the Annual Town Meeting referendum vote and in time for the Budget Board and the Select Board to take into account comments from the public hearing before finalizing the Annual Town Meeting referendum ballot, and the second of which shall be held no less than seven (7) days and no more than twenty (20) days before the Annual Town Meeting. **[Amended 6/14/2011]**~~

~~5)10. The Annual Town Meeting shall adopt the final budget for the Town. If the budget is not approved by the beginning of the new fiscal year, then the final budget figure(s) for the immediately preceding fiscal year for on-going municipal services only shall be deemed~~ determines that such communications will facilitate the

~~efficient or effective to permit expenditures until the final budget is adopted and then to be charged against the new budget, but only to the extent reasonably sufficient to cover necessary expenses to protect the public health, safety and welfare; provided, however, beyond the initial Town meeting vote on the annual budget, there may be, if necessary, up to, but not more than, two additional votes on the proposed annual budget, or the final budget figure(s) for the immediately preceding fiscal year for on-going municipal services only shall be deemed adopted.~~administration of the affairs of the Town;

~~Sec. 5.04~~ **Form of the Budget Articles**

~~Each budget article presented to the Town Meeting shall set forth a specific sum to be raised or appropriated for a specific purpose, such sum to be the greater of the amounts recommended by the Select Board or the Budget Board. Each such article shall be accompanied by recommendations as to amount from the Select Board and the Budget Board, which recommendations shall be printed in the Warrant. The sum raised or appropriated shall be determined by the vote of the Town Meeting but shall not exceed the sum set forth in the article.~~

~~Sec. 5.05~~ **Fiscal Cooperation**

~~Each year, the Budget Board shall appoint one of its members to serve as its formal liaison with the Board of Trustees of the Kennebunk Free Library and a different member to serve as its formal liaison with the governing board of the Regional School Unit, or its successor organization, to promote coordinated financial planning and fiscal cooperation among all municipal and quasi-municipal agencies and organizations within the Town and to provide the Budget Board and the Select Board with a detailed review of the annual budgetary and capital needs of the library and the public schools; provided, however, that no Budget Board member who serves on the Board of Trustees of the Kennebunk Free Library or on the governing board of the Regional School Unit, or its successor organization, may serve as such liaison~~

~~ARTICLE VI INITIATIVE AND REFERENDUM~~

~~Sec. 6.01~~ **Petitioners' Rights**

- 27 ~~11. The qualified voters of the Town shall have the right to propose ordinances by petition and to petition for reconsideration of adopted ordinances, pursuant to~~ To collect all necessary budgeting or other data and to prepare, in consultation with the Town Council, Town Finance Director, and Budget Board, the annual budget, and to submit it to the Town Council for review, amendment and approval prior to submission to Town Voters;

12. To prepare, in consultation with the Town Finance Director, an annual end-of-Fiscal Year report on the finances and municipal activities of the Town for the preceding year, to submit that report to the Town Council, and to have the report published and made available to the public as promptly as possible after the close of the Fiscal Year;
13. To assist residents and taxpayers, insofar as possible, in discovering their lawful remedies in cases involving complaints of unfair vendor, administrator, or governmental practices; and
14. To perform any other duties that may be prescribed by this Charter or by the Town Council, and that are not inconsistent with this Charter or the Constitution and laws of the State of Maine and the procedures set forth in this Article.

Sec.

~~Sec. 2.2.6.02~~ **Citizens Petition for Ordinances**

~~On the written ordinance initiative petition **Absence or Disability** of a number of voters equal to at least 7% of the number of votes cast in the **the Town** for the office of Governor at the last gubernatorial election, but in no case less than 100, the Select Board shall either insert a particular article in the next warrant issued or shall, within 60 days, call a Special Town Meeting for its consideration, whichever occurs first.~~**Manager**

The Town Council shall adopt a succession plan to be used in the event of the Town Manager’s temporary absence, incapacity, or disability. The succession plan shall designate a qualified administrative official of the Town to act temporarily as interim Town Manager, and to perform the Town Manager’s duties until the Town Manager is able to resume performance of all duties and responsibilities. Should a Town Manager be unable to return to the position, the Town shall appoint a new Town Manager, subject to the requirements of Sec. 2.2.2 above.

Sec. 2.2.7 No Town Councilor May Also Serve, Simultaneously, as Town Manager

In conjunction with the prohibitions listed in Sec. 2.1.5 above, no Town Councilor may be appointed to the position of Town Manager or Interim Town Manager, nor shall any Town Councilor act in that capacity *de facto*. In addition, no former member of the Town Council may be appointed to the position of Town Manager until at least one year has passed after expiration of that Councilor’s term of office, whether served or not.

Sec. 2.2.8 Removal of Town Manager from Office

The Town Manager may be removed from office by the Town Council for cause, in accordance with the provisions of 30-A M.R.S. § 2633 and the Town Manager’s written contract of employment required by Sec. 2.2.4 above.

Art. 2.3 The Town Clerk

Sec. 2.3.1 Town Clerk

The Town Clerk shall be appointed by the Town Manager, and shall act as clerk of the Town Council. The Town Clerk shall keep a public record of all proceedings of the Town Council and of all Town Agencies. The Town Clerk may appoint, in writing, one or more qualified persons as assistants or deputies who shall perform any duties of the office prescribed by the Clerk, pursuant to 30-A M.R.S. § 2603. Before taking office, the Town Clerk must provide a corporate surety bond to the Town conditioned upon the faithful discharge of all of the duties of the Town Clerk’s office, and in compliance with the requirements and amounts prescribed by 30-A M.R.S. §§ 2651, 5601.

Art. 2.4 The Town Finance Director/Treasurer

Sec.

~~Sec. 6.03~~ ————— **Referendum by Secret Ballot**

~~By order of the Select Board or on the written petition of a number of voters equal to at least 7% of the number of votes cast in the Town for the office of Governor at the last gubernatorial election, but in no case less than 100, the Select Board shall require that a particular article be placed on the next ballot printed, or shall call a Special Town Meeting for its consideration. A public hearing shall be held by the Select Board on the subject of such article at least 10 days before the day for voting thereon. Notice of such public hearing shall be given by the Select Board by causing a copy of said proposed article, together with the time and place of hearing, to be posted in the same manner required for posting a warrant for a Town Meeting, at least 7 days before the date set for such hearing, and a return shall be made on the original notice by the Select Board stating the manner of notice and time when it was given.~~

~~Sec. 6.04~~ ————— **Petition Procedures**

~~Petitions filed under this Article shall be subject to the following procedural requirements and limitations.~~

~~1) — A Town Meeting vote required under either ~~Sec. 6.02~~ or ~~Sec. 6.03~~ shall be held no less than twenty (20) days nor more than 60 days after the Town Clerk's verification of the required number of signatures and, if necessary, the Select Board shall call a Special Town Meeting for its consideration within those time periods; provided, however, if either the Annual Town Meeting or a Special Town Meeting is to be held within 180 days of the Town Clerk's certification of the required number of signatures, and all other provisions of law for notice and absentee balloting can be met, then the Select Board may schedule the referendum petition article to be considered at such previously scheduled Town Meeting. A public hearing shall be held by the Select Board on the subject of such article at least 10 days before the day for voting thereon. Notice of such public hearing shall be given by the Select Board by causing a copy of said proposed article, together with the time and place of hearing, to be posted in the same manner required for posting a warrant for a Town Meeting, at least 7 days before the date set for such hearing, and a return shall be made on the original notice by the ~~Select Board~~ stating the manner of notice and the time when it was given.~~

~~2) — No matter may be the subject of a petition under this Article more than once in any single municipal year.~~

~~3) — If more than one initiative petition is submitted on the same subject,~~

~~then all such petitions shall be acted upon as otherwise prescribed in this Article, and if more than one such petition passes and is inconsistent with another that passes, then the petition that receives the most affirmative votes shall prevail with regard to any such inconsistent matters.~~

~~4) No petition submitted under this Article shall propose any matter otherwise unlawful, nor an article covering personnel matters or appointments, nor a budget article or appropriation that did not appear on the most recent Annual Town Meeting warrant, nor rules and regulations governing the internal functioning of the Select Board.~~

~~5) All referendum questions shall be drafted and appear on the ballot such that they can be voted on by a “yes” or a “no” vote.~~

~~6) The Town Clerk shall be available to assist any petitioners as to form and procedures in exercising their rights under this Article, but shall not advise them as to substantive matters.~~

~~ARTICLE VII — RECALL OF ELECTED OFFICIALS~~

~~Sec. 7.01 — Elected Officials May Be Recalled~~

~~Any elected official may be recalled and removed from office by the qualified voters of the Town as herein provided. Recall is intended to be used when, in the opinion of the number of voters hereinafter specified, an elected official, acting as such, has caused a loss of confidence in that official’s judgment or ability to perform the duties and responsibilities of the office.~~

~~Sec. 7.02 — Affidavit, Petition, Preparation and Filing~~

~~Any 25 qualified voters of the Town may file with the Town Clerk an affidavit containing the name of the official sought to be recalled and a statement of specific facts to support the grounds of recall. The Town Clerk shall forthwith transmit a copy of such affidavit to the official sought to be recalled and to the Select Board. Within 5 days from the date of the filing of the affidavit, the Town Clerk shall deliver to the 25 voters making such affidavit a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued, consecutively numbered and signed by the Town Clerk, who shall set the official seal thereto; they shall be dated and addressed to the Select Board, and shall contain the name of the official sought to be recalled, the grounds of recall as stated in said affidavit, and the names of the persons to whom issued; and they shall demand the election of the successor to such official. The recall petition shall be returned and filed with the Town Clerk within 30 days after issuance of the petition. Said petition, before being returned and filed, shall be signed~~

~~by registered voters of the Town equal to at least 10% of the number of votes cast in the Town for Governor in the last gubernatorial election, but in no case less than 100 voters, and to every signature shall be added the place of residence of the signer. The Town Clerk shall deliver the petition to the Registrar of Voters, and the Registrar of Voters shall within 5 days certify thereon the number of signatures which are names of qualified voters of the Town.~~

2.4.1 Town Finance Director

The Town Manager shall appoint a Finance Director to serve as the head of the Town's Finance and Tax Collection Division. The Finance Director shall also serve as the Town's Treasurer and Tax Collector, and may appoint, in writing, one or more qualified persons as deputies, to perform any duties of the Finance Director in the Finance Director's absence. The Finance Director is responsible, in conjunction with the Town Manager, Town Council, and Budget Board, for overseeing the planning, development, implementation, and maintenance of the Town's administrative and financial services in order to ensure the maximum efficiency and stability of the Town's overall operations. If the Finance Director also serves as the Town's Treasurer, the Finance Director shall, before assuming that office, provide a corporate surety bond that complies with the requirements and amounts prescribed by 30-A M.R.S. § 5601, to assure the faithful discharge of all duties of office.

Art. 2.5~~Sec 7.03~~ Election as to Recall and Public Hearing

~~If the petition shall be certified to be sufficient by the Town Clerk and the registrar of voters, the Town Clerk shall allow 5 days for the filing of legal challenges to the signatures on the petition. If no such challenges are filed, the Town Clerk shall forthwith certify and submit the petition to the Select Board. The Select Board shall forthwith give written notice to said official of the receipt of said certificate and, if the official sought to be removed does not resign within 5 days, shall order an election to be held on a day fixed by them not less than 50 nor more than 60 days after the date of the Town Clerk's certificate that a sufficient petition is filed. If any other Town election is to occur within 75 days after the date of said certificate, the Select Board may, at its discretion, postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as in this section provided. If the official sought to be recalled so requests, the Select Board shall make provisions for a public hearing on the matter, said hearing to take place not less than 7 days prior to said election.~~

Sec 7.04 Nomination of Candidates

~~3 Any official being recalled shall not be a candidate at the recall election. The nomination of candidates, the publication of the warrant for recall election, and the conduct of the same shall be in accordance with the provisions of the laws of the State of Maine relating to elections, unless otherwise provided in this Charter. Nomination~~

~~petitions for candidates at the recall election shall be filed with the Town Clerk within 15 days after the date of the filing of the certificate of the Town Clerk as to the sufficiency of the recall petition.~~

~~**Sec=7.05**~~ ~~—————~~ ~~**Incumbent to Continue Duties During Recall Process**~~

~~The incumbent official shall continue to perform the duties of the office until the results of the recall election are certified. If not recalled the official shall continue in office for the remainder of the unexpired term, subject to subsequent recall only as provided in Section 7.07. If recalled in the recall election, the official shall be deemed removed upon the certification of the election results.~~

~~**Sec=7.06**~~ ~~—————~~ ~~**Form of Ballots for Recall**~~

~~The ballots used in recall elections shall contain a separate question for each official whose recall is sought as follows: “Shall (name of official) be recalled from office?” and shall contain two separate boxes, one for a ‘yes’ vote and one for a ‘no’ vote. Under the question there shall appear the word ‘CANDIDATES’ and the direction ‘Vote for One’ and beneath this the names of candidates nominated as hereinbefore provided. In the event the recall petition is passed, the candidate receiving the greatest number of votes shall be deemed elected for the balance of the term of the official recalled.~~

~~**Sec=7.07**~~ ~~—————~~ ~~**Limitations on Petitions**~~

~~No recall petition shall be filed against an official within 6 months after such official takes office, nor, in the case of an official subjected to recall election and not removed thereby, until at least 6 months after that election.~~

~~**ARTICLE VIII**~~ ~~—————~~ ~~**GENERAL CONSIDERATIONS**~~

~~**Sec=8.01**~~ ~~—————~~ ~~**Interpretation of Powers**~~

~~In the event of a conflict between the powers reserved to the Town Meeting and the powers granted to other bodies by this Charter, the intent of this Charter is that the powers of the Town Meeting shall be liberally construed.~~

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~~**Sec=8.02**~~ ~~—————~~ ~~**Publication of Charter and Ordinance**~~

~~The Select Board shall, within 1 year of the adoption of this Charter and thereafter at~~

~~5-year intervals, cause to be prepared and compiled in book or pamphlet form, or to have available electronically on line, a recodification of all existing ordinances of the Town. The Code shall be enacted by one ordinance entitled “An ordinance to codify ordinances of the Town of Kennebunk.” Copies of said code and copies of this Charter shall be made available in suitable form in the office of the Town Clerk for a fee not to exceed the actual cost per copy.~~

~~Sec. 8.03~~ **Phasing of Terms of Members of Boards, Commissions, and Committees;**
Rules of Procedure

~~Elections and appointments to all boards, commissions, and committees consisting of more than 1 member and where~~

Sec. 2.5.1 Elected Officials

Other officials who are selected by Voters at a regular election or, if required, at a special election, include:

1. Kennebunk Light & Power Trustees – five members for staggered terms of five years;
2. Kennebunk, Kennebunkport and Wells Water District Trustee - one member for a three-year term (three other seats are filled by the other towns served by the District);
3. Kennebunk Sewer District Trustees – five members for staggered terms of three years; and
4. RSU 21 School Board Directors – six members for staggered terms of three years, to represent the interests of the RSU.

Sec. 2.5.2 Appointed Officials

Appointments to all other Agencies shall be staggered so that no Agency shall be comprised of an entire slate of new members in any one Calendar Year. Terms of office run from July 1 until June 30 of the following year. A list of current Agencies is available on the Town website.

1. **Binding Boards** are boards that are required to be established by State law and can only be dissolved or discontinued in accordance with State law. Binding Boards perform specific functions of Town government and their decisions are legally binding. Each Binding Board shall formulate and adopt its own by-laws using a Town-provided template. Unless otherwise specified by Maine statutory law or in the ordinance establishing the Binding Board, each such Board shall be comprised of five regular members and two alternate members, with other exceptions that may be approved by the Town Council.
2. **Other Agencies** are created as needed to achieve goals identified by the Town Council, Staff, and other Agencies. To establish a new Agency, the Town Council, Staff, or other Agency shall prepare a project statement that establishes the proposed new Agency’s purpose and function, its composition and recommended number of its members, the professional or educational qualifications expected of members, and, if applicable, the budget for the Agency’s activities. The Town Council shall vote to create such Agencies if it determines that the new Agency would be useful for the Town. The Town Council shall also solicit residents to apply for membership, shall vote to accept members, and shall meet with each Agency as necessary, but at a minimum, once per-year to discuss goals and procedure, and to hear from the Agency’s members. All standing Agencies shall have a minimum of three members, with the total number of additional members based on the function and goals of the Agency as stipulated by the Town Council.
3. **Ad Hoc Agencies** are temporary and are assigned specific tasks along with deadlines for accomplishing those tasks. These Agencies shall be established for an initial term of one year,

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but the Town Council may, at its discretion, extend the life of an *ad hoc* Agency. At the completion of an *ad hoc* Agency's task, the Agency shall be dissolved.

Sec. 2.5.3 Meetings

All Agencies, both elected and appointed, shall follow the procedures set out in the Maine Freedom of Access Act ("FOAA"). Accordingly, meetings shall be held in the Town Hall, or other public meeting places, all of which must be ADA-accessible, or by public online meetings as permitted by State law. Meetings shall be prohibited from taking place by email, private online forums, or other non-public locations.

Agencies may meet weekly, bimonthly, monthly, quarterly, or less frequently depending upon workload and need. A regular meeting day and time should be established, when possible, and posted on the Town's website calendar by the Office of the Town Clerk. The Clerk's Office shall post agendas, notices, and associated materials on the Town website for public access. There must be a quorum for any Agency meeting to proceed. Unless otherwise specified, a quorum is a majority of the members of the Agency who are entitled to vote upon matters within the Agency's jurisdiction. If a quorum is not established, a workshop meeting may be held, if desired by members, but no votes may be taken.

~~Each terms are greater than 1 year shall be made in a manner that all terms of all incumbents do not expire in the same year. Wherever possible, an equal number of members of each board, commission, and committee shall come to the end of their terms of office in each year. Each elected or appointed board, commission or committee shall adopt written rules of procedure for the conduct of its affairs and shall promptly file a copy thereof, and any amendments thereto, with the Town Clerk.~~

Agency shall keep accurate records of its meetings. Meeting minutes must include:

1. A list of members who are present and absent;
2. Names of others present, when relevant;
3. Date of meeting, time convened, location, and time adjourned;
4. All motions and votes, agreements or decisions reached by consensus, all assignments made, a brief synopsis of topics discussed; and
5. Sufficient summaries of all relevant discussions.

Sec. 2.5.4 Duties of Agency Chair, Vice-Chair and Secretary

Each Agency including the Town Council, shall elect a Chair, Vice-Chair, and Secretary at its first meeting in each Calendar Year. Agencies shall work closely with an assigned Town staff member to ensure compliance with Federal and State law and local regulations, and shall work with a Town Council liaison in order to keep the Town Council apprised of all projects upon which each Agency is engaged.

The Chair of each Agency is responsible for notifying the Office of the Town Clerk of each new slate of officers. The Chair presides at all meetings, and has the same rights as other members to introduce proposed resolutions, make motions, and vote. The Chair is responsible for ensuring that all applicable ³⁴by-laws, ordinances, statutes, and regulations are followed, and shall control proceedings before the Agency, including the order of proceedings and the time allotted to each member of the public to speak or make presentations. Each member of the public shall be treated equally in making presentations, and each member of the public shall be allotted the same amount of time to make presentations. Agencies

shall work closely with any Town Staff member who may be assigned to the Agency. The Staff member may regularly prepare and forward to the Town Clerk an Agency's meeting agendas and accompanying meeting materials and reserve meeting space with the Town Clerk. If no Staff member is assigned to an Agency for this purpose, the Chair is responsible for those tasks. The Chair is responsible for preparation of an annual report of the Agency's activities to be included in the Town's Annual Report. The Chair shall also serve as the Agency's official press spokesperson.

If the Chair is absent from a meeting, the Vice-Chair shall assume all responsibilities of the Chair. Should the Chair resign either from the position or from the Agency, the Vice-Chair shall serve as the Chair until the Agency elects a new Chair.

~~Sec. 8.04~~ **Charter Amendment**

~~This Charter may be revised or amended only by vote of the qualified voters of the Town pursuant to procedures prescribed by the Constitution and laws of the State of Maine.~~

~~Sec. 8.05~~ **Oath of Office**

~~Subject to the requirements of ~~Sec. 3.11(2)(f)~~, all elected and appointed officials shall be~~

Sec. 2.5.5 Agency Member Responsibilities

All Elected or Appointed Officials shall be promptly sworn in by the Town Clerk following their election or appointment and. Each such elected or appointed person shall swear or affirm that they will support and protect the Constitution and laws of the United States of America, the Constitution and laws of the State of Maine, and the provisions of this Charter.

All ~~laws of the~~Agency members are required to review all of the following documents: (a) the most current Town of Kennebunk Charter; (b) the Town Committee Handbook; (c) a summary of Conflict of Interest Laws; (d) a summary of Maine's "right to know" laws, including the FOAA; (e) meeting management best practices; (f) the Town's most recent Code of Conduct; (g) the Town's Code of Ethics, if one has been approved; (h) the Town's most recent anti-harassment policy; and (i) the Agency's by-laws, all of which shall be provided by the Staff or the Town Attorney. Agencies may request in-person training by the Town Attorney on subjects that include, but are not limited to, applicable State of Maine and Federal laws, and specific case law relevant to the Agency's fulfillment of its duties. In addition, members may participate in online or in-person training applicable to specific Agencies as offered periodically by the Maine Municipal Association or other pre-approved organizations. All such training shall be provided at the Town's expense.

Town Councilors shall be required to attend at least one Town Council-approved training session for elected officials within six months of being elected.

Agency members shall also be made aware that all emails, text messages and attachments relating to a member's participation in Agency business are public records subject to public inspection under the FOAA. Members are prohibited from discussing with other members the substance of an application that requires review and approval by the Agency. Such discussions shall only occur as part of a duly-noticed public meeting. Members shall refrain from using social media or other public means to

comment on applications or projects pending before any Town Agencies. Members shall direct all press inquiries to the Chair. All correspondence from members or Agencies intended for the public shall be pre-approved by the Agency’s Town Council liaison or Town Manager.

All Elected and Appointed Officials shall take reasonable steps to preserve written communications, including letters, emails, text messages, and all attachments in order to comply with Maine’s “right to know” laws including FOAA.

Art. 2.6 Standards of Ethical Conduct

Sec. 2.6.1 Conflicts of Interest

No Elected or Appointed Officer or Official, shall, in their official capacity, participate in the decision-making process on any agenda item before their Agency when they or a member of their immediate family or a business associate have a special interest of a pecuniary nature in that agenda item, other than an interest held by the public generally. Similarly, no Elected or Appointed Town Officer, Official or employee shall accept any gift, whether in the form of money, services, loans, or other thing of financial value, from any person or entity wishing to do business or doing business with the Town or that could reasonably be expected to influence the Official, Officer, or employee in the performance of official Town duties.

If an Elected or Appointed Municipal Officer or Official has an actual or potential conflict of interest, they shall immediately disclose the nature and possible extent of any such interest to the Chair of the Agency of which they are a member. The other members of the Agency shall then vote on whether a recusal is required of the individual for all deliberations on that particular agenda item.

Sec. 2.6.2 Code of Conduct

The Town Council shall establish and adopt a Code of Conduct that specifies the rules, responsibilities, and proper practices of the Town’s Officials, Officers, and appointees in interacting with each other and with members of the public when conducting government business. The Code of Conduct shall define the proper conduct expected of all Elected and Appointed Officials and shall establish a procedure for handling breaches of the Code of Conduct. The Code shall be reviewed and updated, as necessary, by the Town Council. This Code of Conduct shall be applicable to all Town Agencies, and shall be distributed to the members of each Agency.

The Code of Conduct shall be readily available to members of the public so that there is no doubt about the way Elected and Appointed Officials shall conduct themselves when performing their official duties.

Art. 2.7 Vacancies and Forfeiture of Office

Sec. 2.7.1 Vacancy in Office

A vacancy occurs in an Agency when any of the following circumstances occur:

1. Death, resignation or a permanent physical or mental disability that results in an Elected or Appointed Official’s inability to perform the required duties of their office;
2. Failure to take the oath of office within 30 Calendar Days of a person’s election or appointment to office;
3. An Elected or Appointed Official’s ceasing to have their domicile within the Town;
4. Forfeiture of an Elected or Appointed Official’s position, as specified in Sec. 2.7.2 below; and/or

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5. Recall of an Elected Official from office pursuant to Art. 4.3 of this Charter.

When a vacancy in an appointed office has occurred for any of these reasons, the Town Council shall appoint a qualified person to fill the vacancy at its earliest opportunity. When a vacancy occurs in an elected position, that position shall be filled at the next general or special election.

Sec. 2.7.2 Forfeiture of Office

A. Grounds for Forfeiture

Public service in any elected or appointed position is a privilege that carries with it a corresponding responsibility to work honestly and diligently in the best interests of the Town and its residents, and to act, at all times, in conformity with the requirements of this Charter. Accordingly, an Elected or Appointed Official may be subject to forfeiture of office or position for any of the following reasons:

1. Conviction of a “Qualifying Crime” as defined in the Appendix of Governing Definitions attached to this Charter;
2. Malfeasance in Office;
3. A pattern of Misfeasance or Nonfeasance in Office;
4. Failure to disclose a conflict of interest, as that term is defined by Maine state law;
5. Serious violations of the ethical standards laid down in Art. 2.6 of this Charter;
6. Failure to attend three or more consecutive, regularly-scheduled meetings or 25% or more of meetings held during any six-month period of the Agency upon which the Elected or Appointed Official sits when that failure has not been previously approved or subsequently approved by that Agency.

B. Forfeiture Proceedings

If an Elected or Appointed Official is alleged to have engaged in any of the types of misconduct detailed above, a member or members of the Agency upon which the Official sits may file a motion that, as a result of the Official’s prohibited misconduct, the Official has forfeited their elected or appointed office. Each such motion shall:

1. Specify the grounds of misconduct justifying forfeiture of office under Sec. 2.7.2 (A); and
2. Set out the alleged facts relating to all alleged misconduct while in office.

The motion shall be filed with the Chair, and copies shall be sent to each member of the applicable Agency. The Chair shall first give the Official at issue the opportunity to explain the conduct if the Official requests. The Agency shall, by majority vote (not including the Official at issue, who shall not participate in the vote) determine whether that explanation is satisfactory. If it is not, the matter shall be referred to the Town Council for a public hearing on whether that Official's office or position is forfeit.

If a Town Councilor is alleged to have forfeited their office for any of the reasons stated above, that Councilor shall not cast a vote on the matter.

The public hearing shall be held within 30 Calendar Days of the referral to the Town Council by the Agency upon which the Official sits. The Official has the right to be heard and to be represented by counsel, if desired. Within 10 Business Days after the hearing has been held, the Town Council shall issue a written and dated decision: (a) explaining why the Official’s office or position is not forfeit, or (b) explaining why the Official has forfeited the office or position. If the Town Council’s decision is that forfeiture of the Official’s office is required, the Official shall have 30 Calendar Days from the date of the Town Council’s written decision within which to file an appeal to the Superior Court of York County.

Article 3 - The Annual Town Budget, 5-Year Plan and Related Fiscal Matters

Sec. 3.1 Balanced Budget Requirement

In determining the annual Town budget, the Town Council's principal obligation is to ensure that total planned expenditures shall not exceed the combined total of planned revenues including real estate taxes and planned funds from all other sources available to the Town for that year. The sole exception to this balanced budget requirement is for unplanned and unanticipated emergency expenses caused by, for example, natural disasters such as floods, fires and weather anomalies, or other extraordinary and unanticipated events or occurrences, subject to the percentage limitations imposed by 30-A M.R.S. § 5702.

Sec. 3.2 Fiscal Year

The Town's Fiscal Year shall begin on the first day of July and end on the last day of June in the succeeding year. The Town Council may, by ordinance, change the Fiscal Year to conform to prevailing municipal practice in the State.

Sec. 3.3 Financial Planning

In managing the Town's finances, the Town Manager shall, in consultation with the Town Council, Town Finance Director, and the Budget Board, prepare:

1. An annual budget for the Town which shall be developed in accordance with the procedures outlined in Secs. 3.5 and 3.6 below;
2. A five-year capital improvement plan ("5-Year Plan") plan outlining all proposed capital and other major expenditures during that 5-year period along with an explanation of the sources of revenue anticipated to cover all such expenditures. This 5-year plan shall be adjusted each year as part of the annual budget process.

Sec. 3.4 The Budget Board

1. The Town Council shall, in consultation with the Town Manager, appoint a Budget Board consisting of five regular members and two alternates. The Budget Board shall serve in an advisory capacity to the Town Council, and shall provide an alternative community perspective in the overall budget process. The goal is to produce a final budget reflective of the views of all stakeholders in the functioning of the Town.
2. Each member of the Budget Board shall be appointed for a term of three years, and the Town Council shall ensure that the terms of office for all Budget Board members are staggered to ensure continuity.
3. In making appointments to the Budget Board, the Town Council shall consider each candidate's skills, knowledge, and experience in the development, maintenance and analysis of budgets, with emphasis on applicable accounting and financial qualifications and accreditations, and any prior role the candidate may have played in the financial operations of a municipal government or private enterprise.
4. The Budget Board shall participate, along with the Town Council, Town Manager, and Finance Director, in the preparation of the annual budget and in the development and ongoing review of the Town's 5-Year Plan.

5. The Budget Board shall periodically review the Town's overall finances and operations, and shall make recommendations to the Town Council, Town Manager, and Finance Director on other longer-range budget proposals, including recommendations for any changes in the provision of municipal services.

Sec. 3.5 Preparation of Annual Budget and Budget Summary

At least 120 Calendar Days before the beginning of each Fiscal Year, the Town Manager shall submit a proposed annual budget to the Town Council and Budget Board along with a summary of the essential parts of that proposed budget. The proposed annual budget shall contain:

1. A precise and accurate statement of the financial condition of the Town, to be prepared in accordance with GAAP;
2. The total proposed appropriation for each division or Agency of the Town's Administration;
3. An itemized statement of the proposed appropriations for current municipal expenses and for permanent improvements, along with a statement of actual expenses for the past Fiscal Year, comparing the proposed expenses contained in the budget approved for the past Fiscal Year with the actual figures realized for that year;
4. An itemized statement of estimated revenues from all sources, including taxation, and a statement of the total amount of taxes required to meet the budget projections for the next Fiscal Year; and
5. A description of the Town's policy regarding the maintenance of sufficient reserves to be used in the event of unanticipated occurrences or emergencies, together with a statement of the dollar amount of reserves currently maintained by the Town, and any changes to those reserves planned in the proposed budget for the next Fiscal Year.

Along with the proposed annual budget, the Town Manager shall prepare a summary of that budget stating separately the amounts of proposed expenditures and the amount of revenues from all sources expected to be raised to cover those proposed expenditures. The summary shall also:

1. Set out, in brief, the Town's current debt position;
2. Identify which specific public projects are contemplated for the year ahead;
3. Describe any major changes from the current year in financial policies, expenditures or revenues for the upcoming fiscal year together with the reasons for those changes; and
4. Include any other relevant material that the Town Manager deems necessary or appropriate.

This summary shall be presented in a manner that is calculated to result in a simple, clear understanding of each item of proposed expenditure, the amount of that expenditure, and each item of projected revenues from all sources expected to cover those proposed expenditures.

Sec. 3.6 Review and Approval of Proposed Annual Budget by Town Council

The proposed annual budget shall be reviewed by the Town Council and by the Budget Board in joint sessions.

After giving the necessary public notice, the Town Council shall hold at least two public informational meetings on the budget. Then the Town Council may make any additional amendments it considers to be necessary or desirable before it gives its final approval of the proposed annual budget, and shall place the proposed budget on the ballot for Voters to approve or disapprove at the June Annual Municipal Election.

Should the Voters fail to approve the proposed annual budget prior to the start of the new Fiscal Year, the current or previous year's budget shall be used until a new annual budget has been approved by the Voters.

Sec. 3.7 Reserve Funds

The Town Council may establish a reserve fund consisting of one or more accounts by appropriating money or by authorizing the transfer of unencumbered surplus funds at the end of a Fiscal Year, pursuant to Sec. 3.13 below. Any such reserve fund shall be established and maintained for the purposes outlined in, and subject to the limits stated in, 30-A M.R.S. § 5801.

Sec. 3.8 Preparation and Updating of Town's 5-Year Capital Improvements Plan

In consultation with the Town Council, Budget Board, and Town Finance Director, the Town Manager shall prepare a 5-Year Plan together with a clear and concise summary of the principal points of that Plan. The 5-Year Plan shall include:

1. A list of all proposed capital improvements during the ensuing five Fiscal Years, together with supporting data, cost estimates, methods of financing, and anticipated time schedules for completion of the improvements; and
2. The estimated costs of operating and maintaining any facilities or equipment to be constructed or acquired during that 5-year period.

The 5-Year Plan shall be submitted for approval to the Town Council in conjunction with the budget process and timing requirements outlined in Sec. 3.5. It shall be approved by the Town Council, as presented or as amended, within 60 Calendar Days of its submission to the Town Council by the Town Manager. The 5-Year Plan shall be reviewed annually by the Town Council, Town Manager, Finance Director, and Budget Board. A written report of this annual review shall be prepared by the Town Manager, and shall be presented to the Town Council at a duly advertised and scheduled public hearing prior to its inclusion as a Warrant article at the Annual Municipal Election.

Sec. 3.9 Town Borrowings

All Town borrowings, except those borrowings taken out in anticipation of tax or other revenues to be collected in the same fiscal year in which the borrowing occurs, require the approval of Voters at a general or special election to be conducted in accordance with the procedures set out in Article 4.1 of this Charter. The Town Manager, in consultation with the Finance Director, shall prepare and sign the financial statement required by 30-A M.R.S. § 5772(2-A), and which shall accompany any request for Voter approval of a general obligation bond having a repayment term of greater than one year. This financial statement shall provide all of the information required by § 5772(2-A), and may be printed either on the ballot itself, or as a separate document to be made available to the Voters prior to, and at, the election in which Voter approval of the borrowing is being sought.

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After Voter approval and approval by the Town Manager, the Town Finance Director is authorized to borrow money on the Town's behalf in the form of General Obligation Bonds to be used exclusively for Town purposes, subject to the conditions outlined in 30-A M.R.S. § 5772. In addition, and with the advance written approval of the Town Council and the Town Manager, the Town Finance Director may

borrow money for previously approved expenditures in anticipation of revenues actually being received from tax assessments and collections in the future, including, but not limited to:

1. General Obligation Bond anticipation notes;
2. Revenue anticipation notes;
3. Tax anticipation notes;
4. Lines of credit;
5. Operating leases; and
6. Capital leases.

Sec. 3.10 Collections

Except as otherwise provided by Maine law, all monies and fees received by any governmental body, division, or Town Officer or Official, in connection with the operations and functions of the Town, shall be paid immediately into the Town treasury.

Sec. 3.11 Unauthorized Expenditures or Financial Obligations

During the Fiscal Year, no Officer, Official, employee or Agency of the Town shall:

1. Enter into a verbal or written agreement to expend any public money or incur any financial liability on behalf of the Town without first obtaining the written approval of the Town Manager and Finance Director; or
2. Enter into a verbal or written agreement which, by its terms, involves the expenditure of Town money or the assumption of financial liability by the Town in excess of the amounts appropriated by the Town Council in the previously-approved annual budget without first obtaining the prior written approval of the Town Manager and Finance Director.

Sec. 3.12 Emergency Appropriations

Even the most careful and prudent financial planning cannot foresee the occurrence of unanticipated events such as natural disasters requiring repairs to Town buildings, streets, or other facilities. These emergencies may impose additional financial burdens upon the Town that have not been accounted for in the Town budget. The Town Council may, in the event of such an emergency, appropriate funds from the Unassigned Fund Balance. If this would cause the Town's Unassigned Fund Balance to fall below the minimum percentage required by the Unassigned Fund Balance Policy, a written plan to restore that balance to above the minimum percentage must be approved by the Town Council before the Unassigned Fund Balance can be appropriated. A minimum of two public hearings on the need for such an appropriation shall be held.

Sec. 3.13 Unused or Unencumbered Funds at End of Fiscal Year

If any budgeted appropriation amounts remain unused or unencumbered at the end of the Fiscal Year in which they were appropriated, any such unused or unencumbered amounts shall be returned to the Town's general fund or assigned to reserve accounts subject to any situations covered by Sec. 3.12 above.

Sec. 3.14 Independent Annual Audit

The Town Council shall designate a firm of certified public accountants to perform an independent annual audit of all accounts and financial transactions of the Town Administration for the past Fiscal Year, and submit a written report of its findings and conclusions accompanied by a management letter, if necessary, to the Town Council. The written audit report shall contain an opinion that the Town's accounts and transactions have been maintained or conducted in conformity with GAAP. The written

audit report and the management letter, if one is issued, shall be published in the Annual Report required by 30-A M.R.S. § 2801, and shall be made available for inspection to the Voters by the end of the Fiscal Year.

Sec. 3.15 Public Records

The annual budgets, all independent audits of those budgets, 5-Year Plans, and any reviews or updates of those Plans are public records. A copy of them shall be maintained electronically on the Town website. An additional written copy shall be made available at the Office of the Town Clerk to members of the public, upon request. A per-page charge for copying may be applicable.

Article 4 - Elections, Voters' Petitions and Recall of Elected Officials

Art. 4.1 Elections

Sec. 4.1.1 Persons Eligible to Vote

All residents of the Town who meet the qualification requirements of 21-A M.R.S. §§ 111 and 111-A shall be entitled to vote in person or by absentee vote.

Sec. 4.1.2 Annual Municipal Election

The annual municipal election, which shall be held on the second Tuesday of each June, shall address the following matters to be determined by the Town's Voters:

1. Approval of the annual Town budget;
2. Approval of any proposal for the Town to borrow money other than notes issued in anticipation of taxes to be paid within the fiscal year in which the notes were issued;
3. Election of candidates for the Town Council, the RSU 21 School Board, and Trustees of the Kennebunk Light & Power Company, Kennebunk Sewer District, and Kennebunk-Kennebunkport-Wells Water District, all of whose terms shall begin on July 1;
4. Consideration of any valid Voters' Petitions or Petitions for the Recall of Elected Officials filed under the provisions of Articles 4.2 and 4.3 of this Charter; and
5. Any referendum questions placed on the ballot by the Town Council.

Sec. 4.1.3 Special Municipal Elections

The Town Council may call a special municipal election, if required, for any lawful purpose in accordance with the provisions of this Charter and the Constitution and laws of the State of Maine.

Officials elected at a special municipal election to fill a seat that has become vacant for any reason shall begin their duties and responsibilities upon being sworn in to office by the Town Clerk, and they shall continue in office until the conclusion of their applicable term of office.

Sec. 4.1.4 Voting Place and Method

Each municipal election shall be held at the Town Hall, or another ADA-accessible location to be designated by the Town Council if the Town Hall is unavailable for any reason. All votes shall be cast by secret ballot.

Sec. 4.1.5 Conduct of Elections

Except as otherwise provided by this Charter, the provisions of this Charter and the Ordinances of the Town the laws of the State of Maine shall apply to the conduct of all elections held under this Charter, and all elections shall be conducted by election officials duly appointed in accordance with State law. The provisions of the M.R.S. relating to the qualifications of Voters, the registration of Voters, the nominations of any candidate for any office, the manner of voting, absentee voting, the appointment and duties of election officials, and all other particulars relative to the preparation for, and the conduct and management of, elections, so far as they may be applicable, shall govern all Town elections, except as otherwise provided by this Charter.

Sec. 4.1.6 Public Hearings and Public Notice

The Town Council shall hold a public hearing on all Warrant articles to be voted on at any municipal election no fewer than 46 Calendar Days, and no more than 65 Calendar Days prior to, the date of the election. Changes made to Warrant articles in response to public comment received at any public hearing shall not require a second public hearing unless those changes are deemed by the Town Council to be substantive. In the case of substantive changes, the Town Council shall hold another public hearing no fewer than 10 Calendar Days, nor more than 30 Calendar Days, prior to the date of the municipal election.

The Warrant for any annual municipal election shall be published in the Annual Town Report. The Town Clerk shall also publish the Warrant for all municipal elections: (1) in a newspaper having general circulation in the Town, at least five Calendar Days, but not more than 15 Calendar Days, prior to the election; (2) on the Town website; and (3) using any other means deemed appropriate by the Town Council in order to reach the maximum number of Town Voters.

Sec. 4.1.7 Nominations for Office

Registered Voters of the Town who wish to serve on the Town Council as Kennebunk representatives of the RSU 21 School Board or as Trustees of the Kennebunk Sewer District, Kennebunk-Kennebunkport-Wells Water District, or Kennebunk Light & Power Company shall apply by notifying the Town Clerk and obtaining the necessary nomination papers from the Office of the Town Clerk in accordance with the applicable provisions of the M.R.S. and this Charter.

Art. 4.2 Voters' Petitions

Sec. 4.2.1 Voters' Rights

The Voters of the Town shall have the right, by petition, to propose new Town ordinances or to seek the reconsideration, amendment or repeal of existing Ordinances, pursuant to the Constitution and the laws of the State of Maine and the procedures set out in this Article.

Sec. 4.2.2 Voters' Petition to Enact, Amend, or Repeal Ordinances

All requests for the enactment, amendment, or repeal of Town Ordinances shall be made by petition ("Voters' Petition") signed by the requisite number of Voters. Each Voters' Petition shall include:

1. The complete text of the proposed new Ordinance, or of any proposed amendment to an existing Ordinance;
2. For any proposed new or amended Ordinance that is over 500 words in length, a concise summary of the proposed new or amended Ordinance that fairly and objectively describes its contents;
3. For proposed new or amended Ordinances, an explanation of why the proposed new or amended Ordinance is necessary and how it will benefit the Town. This explanation may include a summary of similar ordinances enacted in other municipalities and the benefits gained in those municipalities as a result of enactment or amendment of those ordinances;
4. For a proposal to repeal an existing Ordinance, an explanation of why repeal is necessary; and
5. The signatures of at least 500 Town Voters who support the proposal. Each signatory must be a Voter at the time of signing the Petition.

Sec. 4.2.3 Prohibited Matters

No Voters' Petition created under this Article shall propose:

1. Any matter that is unconstitutional or unlawful;
2. Measures relating to Town personnel or appointments;
3. Measures relating to the Town budget or appropriations; and/or
4. The adoption of rules or regulations governing the internal functioning of the Town Council;

Sec. 4.2.4 Automatic Stay of Effective Date of Ordinances Approved by the Town Council That Are Challenged by Voters' Petition

Upon the filing of a Voters' Petition that challenges the Town Council's enactment of an Ordinance, and that satisfies the requirements of this Article, the implementation of the Ordinance shall be automatically stayed until such time as the Town Voters approve or disapprove it.

Sec. 4.2.5 Special Provisions Applicable to Voters' Petitions Addressed to Land Use Ordinances Approved or Rejected by the Town Council

The Town Council's decision to approve or deny the enactment, amendment, or repeal of a particular Land Use Ordinance is subject to special provisions designed to expedite the resolution of such matters. In addition to the requirements prescribed by Sec. 4.2.2. above, the following additional procedures should be followed, and strict compliance with them shall also be required:

1. The Voters' Petition must contain the signatures of 500 or more Town Voters;
2. The Voters' Petition shall be filed within 30 Calendar Days of the Town Council's decision that is being challenged;
3. If the Voter's Petition is defective in any material respect, a party in interest may file a motion with the Town Council to dismiss the Voter's Petition;
4. The provisions of Sections 4.2.6 through 4.2.11 of this Article shall not apply to such a motion to dismiss. Instead, any such motion shall be filed within 10 Business Days after the filing of the allegedly defective Voter's Petition. The motion shall state concisely the nature of the alleged defect(s) and it shall be heard by the Town Council within 10 Business Days following the filing of the motion;
5. If the motion to dismiss is successful, the stay of the Town Council's decision shall be lifted and the Town Council's decision shall go into immediate effect;

6. The public hearing required by Section 4.2.12 shall be held no later than 10 Calendar Days before the election. The conduct and result of the election shall be governed by Sec. 4.2.13 of this Article; and
7. For all Voter's Petitions that are filed pursuant to these special provisions and that have not been the subject of a motion to dismiss, the Town Clerk shall be obliged to schedule the earliest possible dates for the public hearing and election required by Sections 4.2.12 and 4.2.13 of this Article.

Sec. 4.2.6 Agent's Responsibilities

Each Voters' Petition shall designate one person as the petitioners' agent (the "Agent") who shall be the principal point of contact between the petitioners and the Town. The Agent must be a Town Voter and shall be responsible for:

1. Ensuring that the proposed Voters' Petition complies with the requirements of Secs. 4.2.2 and 4.2.3 above, as applicable;
2. Seeking and obtaining any necessary legal or other advice to assure that the Petition does not contain proposals that are unconstitutional or unlawful;
3. Ensuring that the Voters' Petition uses clear language and does not contain basic typographical or grammatical errors; and
4. Ensuring that all communications from the Town or its representatives are distributed or made available to the signatories of the Voters' Petition.

Sec. 4.2.7 Circulators' Responsibilities

In gathering the signatures required by this Article, the Agent may use volunteers to assist in circulating the Voters' Petition (the "Circulators") and for collecting the signatures. The Agent shall inform each such Circulator of the obligation to ensure that each person who signs the Petition must do so in the Circulator's presence and that each signatory must currently be a Town Voter. Each Circulator (including the Agent if the Agent is engaged in collecting any signatures on the Petition) is responsible for providing to each Voter who is approached to sign the Voters' Petition the opportunity to read the full text of the proposed ordinance or amendment and, if applicable, the summary required above, prior to that Voter signing the Petition.

Sec. 4.2.8 Agent's and Circulators' Affidavits

Each Circulator, including the Agent if that person has also acted as a Circulator, must sign an Affidavit before a duly licensed Maine Notary Public, stating that:

1. The Agent or Circulator personally witnessed all signatures on the Petition that have been collected, and that the Agent or Circulator was present when the signatures were made; and
2. To the best of the Agent's or Circulator's knowledge and belief, each signature is genuine; that each signature is the signature of the person whose name it purports to be; and that the signatory was a Town Voter at the time of signing the Petition.

The Circulator's printed name and current address must appear on the Voters' Petition. By signing the Affidavit required by this section, the Agent and each Circulator expressly represent that they can be prosecuted under 21-A M.R.S. § 904 for any violation of the laws governing the circulation of Voters' Petitions, and for ensuring that the statements of fact made in their Affidavits are true to the best of the Agent's or Circulator's knowledge, information, and belief.

Sec. 4.2.9 Review and Certification of Voters' Petition by Town Clerk

After preparing the Voters' Petition and after obtaining the required number of Voters' signatures, the Agent shall file the Voters' Petition and the Affidavits required by Sec. 4.2.8 in the office of the Town Clerk. Within 20 Business Days of its filing, the Town Clerk shall review the Voters' Petition and shall certify it as complete if it complies with the requirements set out in this Article. After the Town Clerk has certified the Voters' Petition as complete, the Town Clerk shall promptly forward it to the Town Attorney for review pursuant to Sec. 4.2.11.

Sec. 4.2.10 Defective Voters' Petition

If the Voters' Petition lacks sufficient signatures or otherwise fails to comply with the requirements of this Article, the Town Clerk shall notify the Town Council and the Agent, in writing, of the defect or defects and shall give the Agent the opportunity to correct the defect or defects within 30 Calendar Days after the notification date. If the Agent fails or declines to correct any defects within the time allotted to do so, the Petition shall be treated as null and void, and the Town Clerk shall notify both the Town Council and the Agent accordingly.

Sec. 4.2.11 Town Attorney to Review Voters' Petition

Within 30 Calendar Days after a Voters' Petition has been certified as complete by the Town Clerk and forwarded to the Town Attorney, the Town Attorney shall review it to ensure that it does not propose the adoption of measures that are unconstitutional or unlawful; that it does not contain basic typographical or grammatical errors, or language that is unclear or ambiguous; and that, if the proposed ordinance or amendment language exceeds 500 words a summary has been provided that concisely, fairly and objectively describes the contents of the proposed ordinance or amendment.

In dealing with the Agent, the Town Attorney represents only the interests of the Town and not those of the Agent or the petitioners. The Town Attorney is not authorized to provide legal advice to the Agent or petitioners with regard to the content of a Voters' Petition.

A. **Typographical or Grammatical Errors, and Unclear or Ambiguous Language:**

If the Town Attorney finds any basic typographical or grammatical errors in the Voters' Petition, the Agent shall be notified of those errors, and it shall be the responsibility of the Agent to correct them. Similarly, if the Voters' Petition contains language that is unclear or ambiguous, it shall be the responsibility of the Agent to confer with the Town Attorney on ways to clarify that language and to remove any ambiguity. After the text of the Voters' Petition has been finalized, the Town Attorney shall forward it to the Town Council along with a brief summary of the discussions held between the Agent and the Town Attorney to arrive at the final wording of the Petition. If the Agent and the Town Attorney have been unable to reach agreement on the phraseology of the proposed ordinance or amendment, the Town Attorney shall inform the Town Council of this *impasse*.

B. **Proposed new or amended ordinances more than 500 words in length:**

The Town Attorney shall review the summary required by Sec. 4.2.2(2) above to ensure that it does, in fact, fairly and objectively describe the contents of the proposed new ordinance or amendment. If it does not, it shall be the Agent's responsibility to revise it so that it does provide a concise, fair, and objective summary.

C. **Unconstitutional or Unlawful Proposals**

If the Town Attorney concludes that the Voters' Petition contains proposals that are unconstitutional or unlawful, the Town Attorney shall notify the Town Council, and the Town Council shall inform the Agent of this and provide an opportunity to eliminate any such proposals from the Voters' Petition. If the Agent declines to do so, the Town Council may, nevertheless, permit the Voters' Petition to move

forward. In its discretion, the Town Council may inform the Agent that the Petition fails to comply with the requirements of this Article and may elect to take no further action on it.

Sec. 4.2.12 Public Hearing

After certification of a Voters' Petition by the Town Clerk and finalization of its text, if necessary, and following review by the Town Attorney, the Town Council shall hold a public hearing on the Petition at least 30 Calendar Days before scheduling any election on the Petition. Notice of the public hearing shall include the final version of the Voters' Petition, or, if that version is longer than 500 words, the summary required by Sec. 4.2.2(2) above. The full text of the proposed ordinance or amendment shall be available for inspection by members of the public at the Office of the Town Clerk, and a copy shall also be made available on the Town website.

Sec. 4.2.13 Election

After the Voters' Petition has been discussed and debated at the public hearing, a special election shall be scheduled to be held within 30 Calendar Days following the conclusion of the public hearing. If that date is within 120 Calendar Days of the next Annual Municipal Election, the Voters' Petition shall be included on the ballot for that Municipal Election.

For placement on the ballot, the proposed new or amended ordinance shall include the full text of the proposed ordinance or amendment, or, if the full text is more than 500 words in length, the summary required by Sec. 4.2.2(2) above, and shall be drafted so to appear in the form of a question that can be answered by a simple "yes" or "no" vote. Additional copies of the full text of the proposed ordinance or amendment shall also be made available for review by Voters at the election, and shall also be available online to members of the public as required by Sec. 4.2.12 above.

The proposal or proposals made by the Voters' Petition shall be decided by majority vote. In the event that more than one Voters' Petition has been submitted on substantially the same subject matter, the Petition that receives the highest number of "yes" votes, but still a majority of all votes cast, shall be adopted.

The new ordinance or the repeal or amendment of an existing ordinance shall take effect on the next Business Day after the results of the election have been recorded in the Town Records Book.

Sec. 4.2.14 Time Limitation on Filing of New Voters' Petition Covering the Same, or Substantially the Same, Subject Matter

If passed by Voters, the new, amended, or repealed ordinance shall not be the subject of another Voters' Petition covering the same, or substantially the same, subject matter, for a period of two years after the results of the election have been recorded in the Town Records Book.

Art. 4.3 Recall of Elected Officials

Sec. 4.3.1 Right to Request a Recall Election

The right of the Town's Voters to recall Elected Officials from office prior to the expiration of their term can be an important part of the democratic process in order to ensure that Elected Officials carry out their duties with honesty and integrity.

Recall elections, however, have the potential for abuse, community divisiveness and controversy, and can cause harm to individual reputations. Therefore, it is important that such elections are authorized only when an Elected Official has committed a serious act or acts of misconduct amounting to a breach of the public trust, and only after those seeking the recall have satisfied the procedural requirements for such elections.

Having carefully considered and weighed each of these factors, it shall be the policy of the Town that the right of Voters to request the recall of an Elected Official shall be reserved exclusively for extraordinary situations, and shall be available:

1. Only upon the occurrence of any of the acts of misconduct specified in Sec. 4.3.2 of this Article;
and
2. Only after strict compliance with each of the procedures outlined below.

Sec. 4.3.2 Grounds for Recall of an Elected Official

An Elected Official may be recalled from office after the Official's election, but before the expiration of that Official's term of office, for any one or more of the following reasons:

1. If, in the judgment of the Town's Voters, the Elected Official has engaged in serious misconduct amounting to a breach of the public trust. This ground for recall is not intended to be used for the frivolous harassment of an Elected Official, or to vex Elected Officials in the exercise of their public duties. Where, however, the misconduct involved has risen to such a level of dishonesty or impropriety that it amounts to a breach of the public trust, the Elected Official may lawfully be subjected to a request for recall;
2. Deliberate misrepresentation by an Elected Official of that Official's qualifications, background or criminal or work history before or after being elected;
3. Malfeasance in Office;
4. Misfeasance in Office or Nonfeasance in Office; and/or
5. A conviction of any "Qualifying Crime," as defined in the Appendix of Governing Definitions attached to this Charter, or a plea of guilty or *nolo contendere* as to any "Qualifying Crime."

Sec. 4.3.3 Invalid Grounds for Recall

Disagreements, no matter how vehement, over an Elected Official's reasonable exercise of discretion in the performance of a lawful act, or in the performance of the Official's official duties, shall not be a valid ground to request a recall election.

Sec. 4.3.4 Notice of Intention to Request a Recall Election

In order to initiate a recall election, a notice of intention ("Notice of Intention") to file a recall petition must be signed by 500 or more Town Voters ("Signatories") requesting that an election be held to determine whether a specific Elected Official should be recalled from office. Each Signatory must be a Town Voter on the date of signing the Notice of Intention. The Signatories shall designate, in the Notice of Intention, one person to act as their agent (the "Agent"), to whom all future communications from the Town Council or Town Clerk regarding the Notice of Intention should be sent. It shall be the duty of the Agent to send copies of all such communications to each of the Signatories.

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Notice of Intention forms shall be made available at the Office of the Town Clerk. These forms shall contain:

1. The name and official position of the Elected Official sought to be recalled;

2. The name, current Kennebunk address, current telephone number, and current email address of the Signatories' Agent; and
3. A statement of each of the grounds for recall as specified in 4.3.2 above, accompanied by a concise statement of the facts alleged by the Signatories to support each ground for recall.

Each Notice of Intention form filed with the Office of the Town Clerk shall name only one Elected Official who is allegedly subject to recall. The Agent shall oversee the collection of signatures of the Signatories and ensure that the information required by Sec. 4.3.2 is both accurate and complete.

It shall be the duty of the Town Clerk to verify the signatures on the Notice of Intention within two Business Days after it has been filed in the Office of the Town Clerk. If the Town Clerk determines that fewer than 500 signatures of Voters appear on the Notice of Intention, the Town Clerk shall notify the Agent of this deficiency within two Business Days of that determination, and shall take no further action with respect to the defective Notice of Intention. If the Notice of Intention does contain the required number of Voters' signatures, the Town Clerk shall certify that fact and provide a copy of that certification to the Town Council, to the Elected Official at issue, and to the Agent within two Business Days of the certification, pursuant to Sec. 4.3.4 above.

Sec. 4.3.5 The Public Forum

After receiving notice from the Town Clerk that the Notice of Intention has been certified, the Town Council shall then, in conjunction with the Town Clerk, schedule a public forum aimed at allowing Voters to understand the allegations made in the Notice of Intention. Notice of this public forum shall be promptly advertised, at a minimum, on the Town website. The advertisement shall recite the grounds for recall alleged in the Notice of Intention and shall also state the name of the Agent. This public forum shall take place within 10 Business Days after the Town Clerk's certification.

The principal purposes of the public forum are:

1. To make a reasonable effort to assure that the grounds for recall alleged in the Notice of Intention are asserted in good faith;
2. To make a reasonable effort to assure that the allegations made in the Notice of Intention are well-grounded in fact; and
3. To give Town Voters sufficient information about the issues involved in the recall effort, prior to circulation of the Petition for Recall described in Sec. 4.2.6 below, so that they can make an informed decision on whether or not to sign that Petition.

At the beginning of the public forum, a moderator shall be appointed by the Town Clerk to ensure that all persons who wish to speak are given a full and fair opportunity to do so. The moderator shall be in charge of the conduct of proceedings and shall make all decisions regarding the order of the speakers, and the length of time permitted for presentations and discussions. The Agent, or the Agent's designee, shall first be required to appear, in person, to explain the reasons for the attempted recall and the Agent shall explain each of the facts that support the grounds for recall alleged in the Notice of Intention. The Elected Official whose recall is being sought shall have the right, but not the obligation, to appear in person or through a designee, to dispute the facts alleged in the Notice of Intention. Members of the public shall have the right to question the Agent, or the Agent's designee, fully about the accuracy of the factual assertions made in the Notice of Intention. After the Agent has made this presentation and after all attendees have had their questions answered or made their comments, the public forum shall be closed. The proceedings shall be aired, live, on the Town's public streaming facilities, and a recording shall also be made available to members of the public on the Town's website.

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If the Agent, in consultation with the Signatories, decides to withdraw the Notice of Intention following the public forum, the Agent shall, within 10 Calendar Days of the closure of the public forum, notify the Town Clerk that the Notice of Intention has been withdrawn, and the Town Clerk shall note that fact in the Town Records Book along with the date of the withdrawal. The Town Clerk shall also notify the Town Council and the Elected Official named in the Notice of Intention of the withdrawal. The Agent and each of the Signatories of the withdrawn Notice of Intention shall then be prohibited from filing another Notice of Intention against the same Elected Official on the same, or substantially the same, grounds as those stated in the withdrawn Notice of Intention for a period of one year after the date of the withdrawal noted in the Town Records Book.

Sec. 4.3.6 Petition for Recall Election

After the public forum, should the Agent decide to proceed with the recall effort, the Agent shall notify the Town Clerk in writing of such decision within 10 Calendar Days after the closure of the public forum. The Town Clerk shall notify the Town Council and the Elected Official whose recall is being sought of this decision and shall deliver to the Agent, within two Business Days, a dated notice by email ("the Email Notice") that printed Petition for Recall Election ("Petition") forms are available at the Office of the Town Clerk. The date of the Email Notice is the date upon which the process of collecting the necessary number of signatures on the Petition may begin.

Signatures on the Notice of Intention cannot be used as a substitute for the signatures required for the Petition. The Notice of Intention and the Petition are two separate documents, and each must separately satisfy the signature requirements of both Sec. 4.3.4 above and this Section, as applicable.

The printed Petition shall contain, at the top of each signature page:

1. The name and office of the Elected Official whose recall is being sought;
2. The name, current Kennebunk address, current telephone number, and current email address of the Petitioners' Agent;
3. A copy of the grounds for recall and the facts alleged to support each ground that was part of the Notice of Intention required by Sec. 4.3.4; and
4. The date by which the fully completed Petition must be filed in the Office of the Town Clerk.

The Agent shall then have 30 Calendar Days from the date of the Email Notice within which to obtain the signatures of 1,000 or more Town Voters on the Petition and to file that Petition in the Office of the Town Clerk. In calculating the date upon which this 30-day period expires (the "Expiration Date"), the Town Clerk shall use the date of the Email Notice as Day One. If the Expiration Date falls upon a recognized national or State holiday or upon a weekend, the end of the next occurring Business Day shall be the Expiration Date. The Town Clerk shall determine the Expiration Date and note it on the Petition forms issued to the Agent. The Town Clerk's determination of the Expiration Date shall be final and conclusive. Under no circumstances may the Expiration Date noted on the completed Petition be extended by the Town Clerk.

After obtaining the required number of 1,000 or more Voters' signatures on the Petition, the Agent shall file it in the Office of the Town Clerk for certification, and each page of the completed Petition shall be stamped "Filed" by the Office of the Town Clerk on or before the Expiration Date. Completed Petition forms shall be filed by the Agent during Normal Business Hours, and, if they are submitted after Normal

Business Hours on a particular day, they shall be treated as having been filed at the start of the next succeeding Business Day.

Any -06 Voter who has signed a Petition and desires to withdraw that signature from the Petition before the Petition has been filed in the Office of the Town Clerk, may file a request to do so, in writing, on a pre-printed form made available at the Office of the Town Clerk for that purpose. If the Town Clerk receives such a written request before the Expiration Date, the requesting Voter's name shall be stricken from the Petition, and that signature shall not be counted as one of the 1,000 required signatures. No such written request shall be acted upon, however, after the Expiration Date.

Sec. 4.3.7 Certification of the Petition and Notification

Within two Business Days of the filing of a Petition, the Town Clerk shall determine whether the requirements of this Article have been met. If the requirements have, in fact, been satisfied, the Town Clerk shall certify the Petition in the space provided on the Petition and shall also, within two Business Days after that determination, send a notification of that certification to: (a) the Town Council; (b) the Agent; and (c) the Elected Official whose recall is being sought.

If the Town Clerk determines that the Petition is defective in any material respect, then, within one Business Day of that determination, the Town Clerk shall notify the Agent of the nature of the defect and shall send a copy of that notification to the Town Council and the Elected Official. The Agent shall then have the time remaining between the date of notification of the defect and the Expiration Date within which to file a Petition that fully satisfies the requirements of Sec. 4.3.6.

Sec. 4.3.8 The Recall Election

After a Petition that meets all of the requirements of Sec. 4.3.6 has been certified by the Town Clerk, the Town Council shall, in writing, offer an opportunity to the Elected Official to resign voluntarily from office. If the Elected Official declines to resign within five Business Days after receipt of the Town Council's written offer, the Town Council shall order a recall election to be held for the Town's Voters to decide whether that Official should be recalled. The recall election shall be held no fewer than 45 Calendar Days and no more than 75 Calendar Days, after certification of the Petition under Sec. 4.3.7 of this Article, unless the Annual Municipal Election, or a special municipal election, has been scheduled to be held within 90 Calendar Days of certification of the Petition, in which case the recall election shall be held on the same date as the Annual Municipal Election.

If the Town Council fails to schedule a recall election within 20 Calendar Days of the certification of the Petition, the Town Clerk shall do so in conformity with the timing requirements of this Section.

Ballots for the recall election shall contain a single question, which shall be phrased:
Do you authorize the recall of [name of Elected Official] from [name of their elected office]?
_____ YES _____ NO

In order for any recall election to be valid, the minimum number of Voters who actually vote in the recall election must be at least 3,000. If that threshold has been met, then the question of whether the Elected Official should be recalled shall be decided by a simple majority vote. If that threshold has not been met, the recall election is null and void, and the Elected Official shall remain in office.

Sec. 4.3.9 Incumbent to Continue Duties During Recall Process

The Elected Official who is the target of the recall effort shall continue to perform the duties of that Official's office until the results of the recall election have been recorded in the Town Records Book, unless the Official has opted to resign voluntarily. If not recalled, the Official shall continue in office for the remainder of that Official's unexpired term. If recalled, the Official shall be deemed removed from office upon the date of entry of the election results in the Town Records Book.

Sec. 4.3.10 Recount

If 3,000 or more votes are cast in the election and there is a difference of 1% or less between the total number of "YES" votes and "NO" votes, a recount shall be conducted in compliance with the provisions of 30-A M.R.S. § 2531-B.

Sec. 4.3.11 Results of Recall Election

Within two Business Days after a recall election or, if necessary, after any recount has been completed, the Town Clerk shall record the election results in the Town Records Book and shall notify the Town Council and the Elected Official at issue of the results. If a majority of the Voters have voted to recall the Elected Official, that recall shall take effect on the date that the recall election results (or any necessary recount) are recorded by the Town Clerk in the Town Records Book.

Sec. 4.3.12 New Election If Recall Occurs

If an Elected Official is recalled pursuant to this Article, or if the Elected Official has voluntarily resigned, candidates who wish to run in an election to fill the Official's seat shall file nomination papers in the Office of the Town Clerk within 14 Calendar Days of recordation of the results of the recall election in the Town Records Book, or within 14 Calendar Days of the Official's resignation. Each such nomination form shall be accompanied by a minimum of 25 signatures of Town Voters who support the nomination of the replacement candidate and shall state the last date upon which the nomination form may be filed in the Office of the Town Clerk. The Town Council shall then schedule the election of a replacement candidate within 30 Business Days after the last date upon which nomination papers must be filed in the Office of the Town Clerk. The replacement candidate who is elected shall serve out the remainder of the unexpired term of office of the recalled Official.

Sec. 4.3.13 Limitation on Repeat Recall Petitions

When an Elected Official has been the target of unsuccessful recall election proceedings, no additional recall proceedings shall be instituted against that Official for at least six months after the date that the final results of the unsuccessful recall election have been recorded in the Town Records Book. In addition, no recall proceedings shall be instituted against an Elected Official in the six months before expiration of that Official's term of office.

Article 5 - General Considerations

Sec. 5.1 Publication of Charter and Ordinance

The Municipal Officers of the Town shall, within one year of the adoption of this Charter and at five-year intervals after that, prepare a comprehensive codification of all existing Town Ordinances. Copies of this Charter and the codification of Ordinances shall be made available in the Office of the Town Clerk for a fee not to exceed the actual cost per-copy and shall also be made available online to members of the public.

Sec. 5.2 Town Policy on Equality and Non-Discrimination

All Elected and Appointed officials, officers and employees of the Town are expected and required to treat all persons equally and to refrain from discriminating against any person or persons (including a member or members of any protected group of persons) on the basis of race, color, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, age, disability, or individual medical conditions.

Sec. 5.3 Severability

If ~~any of the particular~~ provisions of this Charter are held to be invalid, ~~then none of its~~ other provisions ~~of the Charter shall not~~ be affected ~~thereby by that holding~~. If the application of ~~the~~this Charter or any of its provisions is held to be invalid as to any person or circumstance ~~is held to be invalid, the, its~~ application ~~of this Charter and its provisions to~~to all other persons and circumstances shall not be affected by that holding.
~~thereby.~~

ARTICLE IX — TRANSITIONAL PROVISIONS

Sec. ~~9.01~~ — 5.4 Meaning of Words

All words that are not specifically defined in this Charter, or in the Appendix of Governing Definitions attached to this Charter, shall have their usual and customary meanings. Words used in the present tense shall include, where the context requires, the past and/or future tenses. Words used in the singular shall also include, again where the context requires, the plural.

Article 6 - Transitional Provisions

Sec. 6.1 Continuation of Town Government

All divisions, boards, commissions, committees, and other Town Agencies existing on the effective date of this Charter, or established by this Charter, shall continue in the performance of their powers, duties, and functions until altered or abolished pursuant to this Charter.

Sec. 6.2 Continuation of Town Ordinances, Resolutions, Rules and Regulations

All ordinances, resolutions, rules, and regulations of the Town ~~and votes of the Town Meeting which that~~ are in force on the ~~effective date~~Effective Date of this Charter, ~~and~~ which are not inconsistent with the provisions of ~~this Charter, shall~~ ~~continue in force until amended or repealed.~~

Sec. ~~9.02~~ — Continuation of Government

All departments, boards and commissions and other Town bodies existing on the effective date of this Charter or established by this Charter shall continue in the performance of their powers, duties full force and functionseffect until alteredamended or abolished pursuant to this Charterrepealed.

~~Sec. 9.03~~ Continuation of Offices and Employment

~~Except as provided in this Section, all elected and appointed Town officials and members of boards and commissions who are in office on the effective date of this Charter shall continue to hold office until the expiration of the terms for which they were elected or appointed. Where this Charter requires a reduction in the number of members of a board or commission, the reduction shall be accomplished by attrition or expiration of terms of office, whichever first occurs. Where this Charter requires a reduction in the length of term of office of members of boards or commissions, the terms of existing members shall be reduced, proportionately where appropriate, to accomplish a prompt and orderly transition. All persons employed by the Town on the effective date of this Charter shall continue in such employment until their terms expire or are otherwise terminated.~~

~~6.3 Sec=9.04~~ Continuation of Contracts and Obligations

All contracts ~~or~~ including employment contracts or other legal obligations entered into by the Town prior to the ~~effective date~~Effective Date of this Charter, shall continue in full force and effect.

~~Sec. 9.05~~ 6.4 Continuation of Pending Actions and Proceedings

~~No~~All actions or judicial proceedings, whether civil or criminal, pending on the ~~effective date~~Effective Date of this Charter, and brought by or against the Town or any ~~department, board, commission or other Town agency thereof, shall~~Agency, shall not be affected or abated by the adoption of this Charter or by anything contained ~~herein~~in it.

~~Sect. 6.5 Continuation~~Sec=9.06 Continuance of Tax Obligations

All taxes levied or assessed by the Town prior to the ~~effective date~~Effective Date of this Charter ~~which and that~~ have not been collected in full by the Town shall be collected, along with any associated interest and/or penalties thereon, by the ~~duly established Town government and officers under this Charter~~.

~~ARTICLE X~~ DATE CHARTER BECOMES EFFECTIVE

~~Agencies Sec=~~10.01 Effective Date

~~The Charter shall be in full force and effect for all purposes on and after July 1, 2009, provided it shall take effect immediately for officials of the purpose of conducting any elections or other transitions required by the new provisions. All provisions of this Charter requiring implementation by the Select Board shall be implemented by the Select Board members by July 1, 2009, or as soon thereafter as possible. Town responsible for such collections.~~

Article 7 - Periodic Review

~~At least once every 10 years, the Town Council shall review the provisions of this Charter to consider whether revisions or amendments may be necessary to accommodate changed circumstances in the Town. The Town Council shall follow the requirements of Chapter 111 of 30-A M.R.S. in proposing Charter Amendments or in establishing a new Charter Commission to consider Charter Revisions or the adoption of a new Charter.~~

Appendix of Governing Definitions

~~Unless another meaning is clearly apparent from the manner in which the word is used, the following words or terms, as used in this Charter, shall have the following meanings:~~

- ~~• ADA-accessible: The term "ADA-accessible" refers to the Americans with Disabilities Act of 1990, and generally requires that all Town buildings used for elections or meetings shall be as accessible to those with physical disabilities as to those without such disabilities.~~
- ~~• Administration: For the purposes of this Charter, the term Administration refers to the municipal government of the Town, run by the Town Manager and those under the Town Manager's direction.~~
- ~~• Agency: A board, commission, committee, or task force empowered by the Town to conduct Town business.~~
- ~~• Annual Municipal Election: The annual election held by the Town on the second Tuesday of June.~~
- ~~• Annual Report: A report published each year by the Town Council containing financial records and statements, reports of the activities of the various parts of the administration, taxpayer records, and other required or appropriate information.~~
- ~~• Appointed Official: A person who is appointed to public office by an officer, official, or Agency that has the power to appoint under the terms of this Charter.~~
- 55** • Binding Boards: Town Agencies, the existence of which may be mandated by state law, having the powers described in Sec. 2.5.2(1) of this Charter.
- ~~• Budget Board: The Agency set up by the Town Council to perform the advisory functions set out in Sec. 3.4 of this Charter.~~

- Business Day: Any day that the Town Offices are open for the conduct of Town business during Normal Business Hours. Any filing made after the close of Normal Business Hours on a Business Day shall be deemed to have been filed at the commencement of Normal Business Hours on the next Business Day.
- Calendar Day: A 24-hour day from midnight to midnight on any day denoted on a calendar.
- Charter: This document, which defines the “Home Rule” powers of the Town of Kennebunk, as granted by the Constitution and laws of the State of Maine.
- Charter Amendment: A change to, or correction of, a detail or details in a Charter, and which is required follow the procedures set out in 30-A M.R.S. § 2104.
- Charter Revision: A substantive change or changes, to all or any part of a Charter, and which is required to follow the procedures set out in 30-A M.R.S. § 2102.
- Conflict of Interest: A conflict between the private interests and the official or professional responsibilities of a person in a position of trust, as defined in 30-A M.R.S. § 2605(2) and (4)-(6).
- COLA Adjustment: Means any cost-of-living adjustment to the annual compensation of any Elected or Appointed Official, including Town Councilors, and determined by the Town Finance Director in accordance with the policies used by the annual budget process in ascertaining and setting such compensation adjustments.
- Day: A Calendar Day, unless otherwise specified as a Business Day.
- Department/Division: The terms “department” and “division,” when used in reference to a unit of the Administration, are interchangeable.
- Domicile: Pursuant to 21-A M.R.S. § 1(40), that place where a person has established a fixed and principal home to which that person, whenever temporarily absent, intends to return.
- Elected Official: A person who is elected by the Voters of the Town of Kennebunk.
- Expiration Date: The date and time at which the time allowed for accomplishment of a certain act or acts expires, ends or terminates.
- Finance Director: The person appointed by the Town Manager to carry out the functions set out in Article 2.4 of this Charter.
- Fiscal Year: The 12-month accounting period that the Town uses for financial and tax reporting purposes, beginning in July 1 of one year, and ending on June 30 of the next year.
- Forfeiture: As used in this Charter, forfeiture means involuntary removal from an appointed position or elected office for any of the reasons set out, and in the manner set out, in Sec. 2.7.2 of this Charter, in circumstances where the affected individual has refused to resign voluntarily.
- GAAP: Generally Accepted Accounting Principles and, where the context requires, those principles specifically applicable to municipalities.
- Housing Authority: Generally, a governmental body that governs aspects of housing, specifically to provide housing for residents who qualify for financial assistance based on income (See 30-A M.R.S. § 4721).
- Land Use Ordinance: An Ordinance that regulates the use and development of real property within the Town.
- Law: For purposes of this Charter, the word “law” means a federal law or law of the State of Maine.
- 56 • Maine Revised Statutes: Maine Revised Statutes, as enacted or amended from time to time, to be indicated as “M.R.S.” and cited as follows: [title], M.R.S. [Section symbol or symbols] [section number or numbers].
- Malfeasance in Office: Deliberate commission of an unlawful act on the part of an Official who holds either an appointed or elected position in the Town Administration, and who commits the

act of malfeasance while in office. This includes, but is not limited to, a wrongful act that the official has no legal right to perform; conduct that adversely affects, interrupts, or interferes with performance of the Official's duties in office, or an act undertaken in an official capacity by an official who holds public office in the Administration, when there is no legal authority to perform that act.

- Misfeasance in Office: Performance of a lawful action in an illegal or improper manner.
- Majority Vote: A vote in which a candidate or legislative proposal receives more than half of the total number of votes cast.
- May: A verb connoting authorization or permission to act, but not the obligation to act.
- Municipal Officers: Town Councilors of Kennebunk.
- Municipal Official: Any elected or appointed member of the Town Administration.
- Nonfeasance in Office: When an Official, while in office, fails or neglects to perform an act that is a part of that official's duties.
- Normal Business Hours: The days and hours during which the Office of the Town Clerk is open for the conduct of official Town business.
- Ordinance: A law or decree enacted by the Town Council of Kennebunk.
- Petition: A document requiring the submission of an issue to the Voters. To be valid, a Petition must meet the requirements of Maine law and Sec. 4.2 of this Charter. This is distinct from a Petition for Recall Election, which is covered by Sec. 4.3.6 of this Charter.
- Qualifying Crime: A specified crime committed in any jurisdiction of the United States of America within 10 years from the date of any Town appointment or election, where the sentence imposed included a period of incarceration of one year or more, regardless of whether the full sentence was served or not. This definition includes sentences of one year or more imposed after a plea of guilty, or a plea of *nolo contendere*, subject to the following conditions: (a) if the conviction has been set aside, or the sentence reduced to a term of incarceration of less than one year, as a result of appeal, annulment, certificate of rehabilitation proceedings, or equivalent proceeding in the convicting jurisdiction, the conviction will not constitute a valid ground for either forfeiture of office or recall from office; (b) if an appointed or elected official was convicted as a juvenile, in proceedings that were open to the public, the fact of the conviction may be used as a ground for either forfeiture of office or recall from an elected position, but if the juvenile criminal proceedings were closed to the public, the fact of a conviction may not be used as a ground for forfeiture or recall. [Based on Maine Rule of Evidence 609 (c)].
- Quorum: The minimum number of Agency members who must be present in order to constitute a legal body that is authorized to conduct public business.
- Recall: A formal process used by Town voters to remove an elected Official from office, as set out in Sec. 4.3 of this Charter.
- Recuse: The voluntary act of refraining from participation in the discussion, or voting, on a matter: e.g., to avoid a possible conflict of interest or the appearance of such a conflict.
- Relative: An individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
- Secret Ballot: A ballot bearing the names of all the candidates for public office and election questions, handed to the Voter at the polling station, and to be marked in secret. The secret ballot must conform to the requirements of 30-A M.R.S. § 2528.

- Shall/Must: Verbs of equal weight that indicate a mandatory duty, action or requirement, as opposed to “may,” which connotes the authorization or permission to act, but not the obligation to do so.
- Staggered Terms: Terms of office which, for purposes of expiration, are arranged so that those terms shall expire in different years in order to provide continuity to the organization.
- Town: The Town of Kennebunk, Maine.
- Town Clerk: The person appointed by the Town Manager to act as the Town Clerk and Registrar of Voters. The “Town Clerk” is also the official custodian of the Town Records Book.
- Town Council: The body of elected Councilors who constitute the general legislative body of the Town.
- Town Expense Reimbursement Policy: The policy or policies employed by the Town Finance Director to determine what expenses incurred in the performance of official public duties shall be reimbursed to Elected or Appointed Officials, and what limitations apply to the nature of, and amounts of, such reimbursements.
- Town Manager: The official appointed by the Town Council to direct and oversee the Administration of the Town’s government.
- Town Official: Any elected or appointed Town appointee or employee.
- Town Records Book: The book of official records of the Town, including records relating to Town elections, that is maintained in the Office of the Town Clerk.
- Undesignated Fund Balance: The amount of money set aside by the Town in accordance with the Undesignated Fund Balance Policy.
- Unassigned Fund Balance Policy: The purpose of this policy is to establish guidelines for preserving an adequate Unassigned Fund Balance Policy to sustain financial sustainability for the Town of Kennebunk. The level of Fund Balance that the Town strives to maintain as unassigned is an amount detailed in the adopted Town of Kennebunk Fund Balance Policy.
- Voter/Registered Voter: A person who meets the qualifications to vote required by 21-A M.R.S. §§ 111 and 111-A, and who is both: (1) domiciled in the Town of Kennebunk; and (2) registered to vote in the Town.
- Voters’ Petition: A voter-led process to introduce and vote upon proposals to enact, amend or repeal ordinances, as outlined in Sec. 4.2 of this Charter.
- Warrant: The document stating the time and place of a general or special election, and the business to be acted on by Voters at each such election.

Footnote: In conformity with the principles of inclusivity and non-discrimination set out in Article 5.2 of this Charter, the Charter Commission that drafted this Charter strove to employ gender-neutral terms where possible, bearing in mind that its principal obligation is to use language that is clear, precise and unequivocal when formulating legal powers, duties and obligations. The pronouns used have been selected with these objectives in mind.