

# TOWN OF KENNEBUNK

## CHARTER

### ORIGINALLY ADOPTED

NOVEMBER 6, 1984

### CHARTER REVISION ADOPTED

NOVEMBER 4, 2008

### CHARTER REVISION APPROVED

JANUARY 27, 2009

### EFFECTIVE DATE

JULY 1, 2009

### AMENDED ON:

6/8/2010 Sec.3.06 1 (b)

1/2/2010 Sec. 3.06 13-19

11/2/2010 Sec. 3.11 2 (f)

6/14/2011 Sec. 2.03 & 5.03 4

6/12/2012 Sec. 3.06 4

11/6/2012 Sec. 3.06 17

11/4/2014 Sec. 2.05, 4.02, 3.04

**6/14/2022 Most Sections: Gender neutrality**

# **TOWN OF KENNEBUNK, MAINE CHARTER**

## **ARTICLE I GRANT OF POWERS TO THE TOWN**

### **Sec. 1.01 Incorporation**

The Inhabitants of the Town of Kennebunk shall constitute a body corporate and politic by the name of the Town of Kennebunk (hereinafter referred to as the Town). The Town shall have all powers of a municipality under the Constitution and laws of the State of Maine.

### **Sec. 1.02 Form of Government**

The form of government provided by this Charter shall be Town Meeting/Select Board/Town Manager.

### **Sec. 1.03 Construction**

The provisions of this Charter shall be liberally construed so as to enable the Town to exercise any power or function which the Legislature of the State of Maine has power to confer upon the Town, which is not denied either expressly or by clear implication, and to exercise any power or function granted to the Town by the Constitution, the laws of the State of Maine, or this Charter. The granting of any specific power in the Charter shall not be construed as limiting the general powers of the Town.

## **ARTICLE II TOWN MEETINGS**

### **Sec. 2.01 Membership; Purpose**

The Town Meeting shall be the legislative body of the Town and shall exercise those powers set forth in Section 2.05 and any incidental powers necessary to effectuate the same consistent with the Constitution and laws of the State of Maine, except that the annual budget, any vote to incur bonded indebtedness with a term greater than of one year and all land use ordinances, including the Comprehensive Plan, and any amendments to such ordinances and Plan (hereafter 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.

## **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 1<sup>st</sup> 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]

- c) 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 then-current 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 transfer funds from accounts with 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 vote to authorize additional appropriation(s) for the then-current operating budget to be funded from either (a) unanticipated revenues or (b) from the Town's undesignated fund balance ("surplus") 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 (1/2) of 1% of the municipal operating budget (exclusive of the school 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) To authorize all legal activity on behalf of the Town.
- 12) To approve and adopt administrative and personnel policies including, without limitation, rules and regulations governing the internal functioning of the Select Board except as otherwise 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 at least one Select Board approved training session for elected officials. The Select Board shall adopt and have available for public inspection a set of written procedural rules governing the conduct of their meetings. 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 Kennebec 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 accept delivery of deeds to the Town conveying easements or other interests in land, provided that such deeds impose no affirmative obligations on the Town, whether as acquisition costs or otherwise.
- 15) To accept any donations of funds or equipment on behalf of the Town.
- 16) To set all municipal fees, after notice and hearing, except as otherwise provided by law.
- 17) 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, no such grant shall be accepted without a public hearing by the Select Board preceded by prior notice as provided for calling a special town meeting; provided, further, the public notice shall disclose any financial obligation that may be incurred by the Town by the 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) To set tax due dates and the interest rates on overdue tax balances and overpayment of taxes.
- 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. 3.08 Appointment and Removal of Town Manager**

- 1) The Select Board shall appoint a Town Manager for a definite term by written contract of not less than 1 year or more than 3 years, who shall have the powers and perform the duties provided in Section 4.02 of this Charter.
- 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 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,
- c) 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.

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**

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.

### **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) Implement all laws and ordinances of the Town.
  
- 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.
  
- 5) Nominate, subject to confirmation by the Select Board, 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

the 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]**

- 6) Have exclusive authority to remove for just cause, after notice and hearing, any persons whom the Town Manager is authorized to appoint, and report all such removals to the Select Board.
- 7) Act as the purchasing agent for all Town departments, boards, or commissions, provided that the Town or the Select Board may require that all purchases of a designated amount be submitted to competitive bid; and except that the Select Board may submit any purchase to competitive bid when deemed feasible.
- 8) Attend all meetings of the Select Board unless excused by the Board.
- 9) Attend all Annual and Special Town Meetings, and hearings of the Town which are initiated by the Town Manager or as required by the Select Board.
- 10) Keep the Select Board and the residents informed as to the financial condition of the Town.
- 11) Make recommendations to the Select Board for the more efficient operations of the Town.
- 12) Make application for State, Federal, and other aid grants for the benefit of the Town, as approved by the Select Board.
- 13) 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**

### **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.

### **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 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) 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 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.

#### **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**

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 the Constitution and laws of the State of Maine and the procedures set forth in this Article.

### **Sec. 6.02                      Citizens Petition for Ordinances**

On the written ordinance initiative 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 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.

### **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.

### **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**

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.

**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 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.

**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

promptly sworn in by the Town Clerk following their election or appointment and shall swear or affirm that they will support the Constitution of the United States, the laws of the State of Maine, the provisions of this Charter and the Ordinances of the Town.

**Sec. 8.06 Severability**

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

**ARTICLE IX TRANSITIONAL PROVISIONS**

**Sec. 9.01 Continuation of Ordinances**

All ordinances, resolutions, rules and regulations of the Town and votes of the Town Meeting which are in force on the effective date of this Charter, 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 and functions until altered or abolished pursuant to this Charter.

**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.

**Sec. 9.04 Continuation of Contracts and Obligations**

All contracts or obligations entered into by the Town prior to the effective date of this Charter

shall continue in full force and effect.

**Sec. 9.05 Pending Actions and Proceedings**

No actions or proceedings, whether civil or criminal, pending on the effective date of this Charter, brought by or against the Town or any department, board, commission or other Town agency thereof, shall be affected or abated by the adoption of this Charter or by anything contained herein.

**Sec. 9.06 Continuance of Tax Obligations**

All taxes levied or assessed by the Town prior to the effective date of this Charter which have not been collected by the Town shall be collected, with any penalties thereon, by the duly established Town government and officers under this Charter.

**ARTICLE X DATE CHARTER BECOMES EFFECTIVE**

**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 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.