

Charles L. Waite, III, Chair
Madeline S. Mooney, Vice Chair
John M. Daley
Lindsey M. Perry
Robert N. Winn, Jr.



**Special Meeting
Ogunquit Select Board
Tuesday, September 24, 2019
Dunaway Community Center
23 School Street
6:00 p.m.**

AGENDA

- 1.0 Call to Order**
- 1.1 Roll Call
- 1.2 Pledge of Allegiance

2.0 Unfinished Business

- 2.1 **Municipal Officers Certification of Official Text of Proposed Charter Amendment to be voted on at the November 5, 2019 Special Town Meeting**
Article VIII Section 804.1 Recall of Elected Officials

- 2.2 **Special Town Meeting Warrant, November 5, 2019**
Select Board Action on the November 5, 2019 Annual Town Meeting Warrant

- 2.3 **Order to the Town Clerk for Placement of Secret Ballot Referendum Questions on the Ballot for the November 5, 2019 Special Town Meeting**
Select Board Action on the Order for the November 5, 2019 Annual Town Meeting

3.0 Adjournment

Page 2

Page 40

Page 44

**MUNICIPAL OFFICERS' CERTIFICATION OF OFFICIAL TEXT OF A PROPOSED
ORDINANCE**
[30-A M.R.S.A. § 3002(2)]

To the Town Clerk of the Town of Ogunquit, Maine:

We hereby certify to you that the documents to which we have affixed this certificate is a true copy of the official text of an amendment to the Town of Ogunquit Charter entitled:

Shall the Municipality approve the "**Amendment to the Town Charter, Article VIII, Boards, Committees and Commissions, Section 804, Recall of Elected Officials**" as follows: *[Note: the proposed amendment is bold and underlined]*

Any elected official may be recalled and removed from office by the registered voters of the Town as herein provided, if the official has been convicted of a crime, the conduct of which occurred during the official's term of office.

Which is to be presented to the voters for their consideration on November 5, 2019.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: September 24, 2019

Charles L. Waite, III, Chair

Madeline S. Mooney, Vice Chair

John M. Daley

Lindsey M. Perry

Robert N. Winn, Jr.

Ogunquit Select Board



Office of the Town Manager

To: Select Board
From: Pat Finnigan
Date: September 22, 2019

**Re: Select Board Certification of Proposed Charter Amendment to Article VIII
Section 804 Recall of Elected Officials**

The Town Meeting Warrant has two questions related to the Charter: Article 4 asks if voters want to establish a Charter Commission; Article 5 asks voters if they want to amend Article VIII Section 804 regarding recall of elected officials.

The Select Board discussed that the Charter needed to be fully reviewed, including the issue of the criteria for calling a recall election. The purpose of the amendment is to have something in place until a Charter Commission can thoroughly review the issue.

The Select Board held a public hearing on August 6, 2019 to consider a Charter amendment based on the same wording found in the State law (Title 30-A section 2505.9) which allows elected officials to be recalled only "if the official is convicted of a crime, the conduct of which occurred during the official's term of office and the victim of which is the municipality."

There was some concern by Select Board Members and others that the State law was too restrictive since the only way an elected official could be recalled was if he/she was convicted of a crime *against the municipality during his/her term in office*. At the Aug. 6 meeting the Select Board voted to have a Charter amendment to change the recall provision on the ballot at the Special Town Meeting on November 5. The Select Board asked Town Attorney Mary Costigan to provide examples of recall provisions that have been adopted in other towns.*

The Select Board considered a revised amendment at the September 17 Select Board meeting. It is less restrictive than the State law; it allows elected officials to be subject to recall if the elected official is convicted of a crime while in office, not just a crime against the municipality. If a person has been convicted of a crime prior to his/her election, the voters can decide if they want to vote for that candidate

The proposed amendment reads:

"Any elected official may be recalled and removed from office by the registered voters of the Town as provided herein, **if the official has been convicted of a crime, the conduct of which occurred during the official's term of office.**"

This is the only change in the Recall section of the Charter. The remainder of the Recall section remains the same.

* There are 490 municipalities in Maine; few municipalities have recall provisions. Most of the recall provisions are very similar, boiler plate. Attached to this memo are Recall Charters provisions or ordinances from the following communities. Those with dates have had recall elections.

Bangor (2010)

Berwick (2012)

Clinton

Falmouth

Kennebunk

Mechanic Falls (in process)

Old Orchard Beach (2013)

Waterville (2018)

Wells

York (2018)

A few notable provisions:

Kennebunk's Charter has the criteria that the official "has caused a loss of confidence in that official's judgment or ability to perform the duties and responsibilities of the office."

Wells' Charter requires a minimum voter turnout of 40% and limits recall by not allowing an elected official to be subject to a recall election more than twice in any term.

Waterville's Charter allows for recall, but it also clearly lays out behavior that if an elected official is found to have done that, he/she forfeits the office. Interestingly, the City Clerk has to inform the City Council if he/she thinks the elected official has violated the provisions in the Charter.

**City of Bangor, Maine
Charter**

Art. VI. Sec. 11

Recall.

A member of the Bangor City Council or School Committee may be recalled and removed from elected office by the voters of the City as herein provided.

(a)

Procedure. Any 100 registered voters of the City may begin the recall procedure by signing and filing with the City Clerk a Request for Recall containing the name of the member of the City Council or School Committee whose removal is sought, together with a statement with the reason for the recall.

The City Clerk shall then prepare recall petition forms with a copy of the Request for Recall attached thereto. Thereafter, the Clerk shall, during regular business hours, for the following 30 days, keep the petition open for signature by registered voters of the City. In addition, the City Clerk shall also cause petition forms to be prepared and made available for circulation during said 30 days by registered voters of the City. The number of petition forms and attached Request for Recall copies shall be made available by the clerk in increments of 10 pages, up to 100 total pages for an official sought to be recalled. No voter may sign the petition more than once.

At the expiration of said 30 days, or upon the Clerk ascertaining that the required number of signatures have been presented to the Clerk, whichever occurs first, the Clerk shall declare the petition closed. The circulating of petition forms and filing of the same with the Clerk must be accomplished prior to the expiration of said 30 days. The Clerk shall not accept any petition form circulated without also receiving an affidavit from said circulator stating that all of the signatures were affixed in the circulator's presence; that the circulator believes them to be genuine signatures of the persons they purport to be; and that every signor had an opportunity before signing to read the full text of the recall petition and attachment.

(b)

Certification of recall petition. Within 10 days after the closing of the petition, the Clerk shall ascertain whether or not the number of valid signatures on the petition is equal to at least 10 percent of the number of all registered voters at the time the Request for Recall was filed with the Clerk. The Clerk shall attach to said petition, a certificate showing the results of such examination. If the petition is found to have insufficient valid signatures, the Clerk shall notify the Council Chair of the results and the petition will be considered to be null and void. Similar recall petitions against the same official for substantially the same reason shall not be filed for one year from the date of the Clerk's certification.

(c)

Calling of recall election. If the petition shall be certified by the Clerk to have sufficient valid signatures, the Clerk shall submit the petition with the Clerk's certificate to the City Council at its next regular meeting and shall notify the member of the City Council or School Committee whose recall is sought by such petition. The City Council shall thereupon, within ten days after the receipt of the City Clerk's certificate, order an election to be held not less than 40 nor more than 60 days thereafter; provided that if a scheduled election is to occur within 90 days after the receipt of said certificate, the City Council may, in its discretion, provide for the holding of a recall election on the same date. In the event the individual named in a successful recall petition chooses to resign, the Council will declare the office vacant and no Recall election will be held. Vacancies will be filled in the manner prescribed in Section 2 of this Article for filling vacancies occurring at times other than expiration of terms

Within 10 days after the City Council orders a recall election, the Clerk shall make available nomination petitions to candidates for a possible subsequent election to fill any vacancies created by the recall election. Such petitions shall require the number of signatures specified in Section 3 of this Article and shall be returned to the Clerk within five days after the recall election and only if a vacancy then exists.

(d)

Form of ballot in recall elections. The form of the ballot shall, as nearly as possible be: "Shall (name and title of official) be recalled?" The reason for the recall as presented in the Request for Recall shall be included in the statement following the Yes or No indicator.

(e)

Majority vote required; choosing of successor. In case a majority of those voting in the recall election of any official shall vote in favor of recalling such official, he or she shall thereby be removed from office, effective upon certification of the election results by the City Clerk. If the recall succeeds, the City Council shall schedule an election within 30 days of the recall election for the purpose of electing candidates to fill any vacancies created by the recall election. If a scheduled election is to occur within 90 days after the receipt of the Clerk's certificate for the recall election, the City Council may, in its discretion, provide for the holding of the election on the same date. The contents and form of the ballot shall be the same as provided in Sec. 8 of this Article.

RECALL ORDINANCE FOR THE TOWN OF BERWICK, MAINE

SECTION 1. Authority

This Ordinance is enacted pursuant to Title 30-A M.R.S. A. 2602 (6)

SECTION 2. Applicability.

Any elected municipal official of the Town of Berwick may be recalled and removed from office as herein provided for. This Ordinance does not apply to Maine School Administrative District #60 Directors.

SECTION 3. Petitions for Recall.

- a. Recall shall be initiated by petition.
- b. The petition for recall must contain only signatures if the registered voters of the Town of Berwick, equal to ten percent (10%) of the number of votes cast in the Town of Berwick in the last gubernatorial election.
- c. The petition shall be addressed to those members of the Board of selectmen having no interest in the subject matter of the petition; if petitions for the recall of all Selectmen are submitted, then the petitions shall be addressed to the Town Clerk, but the petitions shall, in all cases, be filed with the Town Clerk or Deputy Clerk.
- d. The petition shall state the name and office, or offices, of the municipal official whose removal is being sought, and a general statement of the reasons why such removal is desired.
- e. If recall of more than one municipal official is being sought there shall be a separate petition for each municipal official whose removal is being sought.
- f. Each page of the petition shall provide a space for the voter's signature, address and printed name.
- g. All petition pages thereof shall be filed as one document.

SECTION 4. Clerk's Certification.

Within ten (10) days of receipt of the petition, the Town Clerk, or Deputy Town Clerk in cases where removal of the Town Clerk is sought, shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in section 3 of this Ordinance. Should the petition be found insufficient, the petition will be filed in the Town Clerks' office and the voter who filed the petition notified.

SECTION 5. Calling the Recall Election

- a. If the petition is certified by the Town Clerk, or Deputy Town Clerk, to be sufficient, he or she will submit the same with his or her certification to the Board of selectmen at their next regular meeting and shall notify the municipal officials whose removal is being sought of such action.

- b. The Selectmen upon receipt of the certified petition, shall within ten (10) days' time of receipt order an election by secret ballot. Pursuant to 30-A MRSA 2528, to be held 45 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition, in which case, the selectmen may at their discretion provide for the holding of the recall election on the date of the regular municipal election.
- c. In the event that the Selectmen fail or refuse to order an election as herein provided, the Town Clerk shall call the election to be held 45 days following the Selectmen's failure or refusal to order the required election.
- d. The Selectmen shall schedule such a public hearing on the recall election at least ten (10) days before the date for voting on the recall.

SECTION 6. Ballots for the recall Election.

Unless the municipal official or officials whose removal is being sought have resigned within ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall read "SHALL _____ BE RECALLED?" with the name of the municipal official whose recall is being sought inserted into the blank space. If the petition seeks the recall of a municipal official from more than one office, each office must be named.

SECTION 7. Result of Election

In the event of an affirmative vote for removal by a majority of those voting thereon, such vote shall take effect as of the recording of the vote tabulation into the records.

SECTION 8. Vacancies to be filled.

Any vacancy resulting from removal from office under this Ordinance shall be filled in accordance with the provisions of Maine Law.

Adopted by the voters the 8th day of November, 2011.

Town of Clinton

Home Rule

Charter

2001

(c) At least ten (10) days before the date set for any Annual Town Meeting, the Board of Selectmen shall hold a public hearing on each article to be considered at the Town Meeting. The Board of Selectmen shall post notice of this public hearing at least seven (7) days before the public hearing in the same manner provided for posting a warrant under the laws of the State of Maine. A sample copy of the warrant, with a brief explanation of each article, shall be mailed to each household in the town at least ten(10) days before the date for the Town Meeting.

(d) At least seven (7) days before the date set for the Annual Town Meeting, the warrant for the Annual Town Meeting and a sample of the printed ballot to be voted on by secret ballot shall be posted in the same manner provided for posting a warrant under Maine law.

Section 6.06 Absentee Ballots. Absentee ballots may be cast at all town meetings and elections in accordance with provisions of 30-A M.S.R.A. § 2529.

ARTICLE VII

INITIATIVE, REFERENDUM, AND RECALL

Section 7.01 Initiative and Referendum. Nothing in this Charter shall be construed to diminish any rights of initiative and referendum granted by laws of the State of Maine.

Section 7.02 Recall Procedures. Any elected officer or official of the Town of Clinton may be recalled and removed from office by the registered voters of the Town as herein provided.

(a) **Petition Committee:** Any five (5) qualified voters of the Town may commence recall proceedings by filing with the Town Clerk a single affidavit: (1) stating that the five (5) voters will constitute the Petitioners Committee and be responsible for circulating the petition and filing it in proper form with the Town Clerk; (2) stating each Petitioners Committee member's names and address; (3) specifying the address to which all notices to the committee be sent; (4) stating the name of the person being petitioned for recall and setting out, in full, the reasons for the recall; and (5) signed under oath by each member of the Petitioners Committee. Within two (2) municipal business days after the affidavit of the Petitioners Committee is filed, the Town Clerk shall issue to the Petitioners Committee recall petition blanks prepared by the Town.

(b) **Petitions:**

(1) **Number of Signatures -** Recall petitions must be signed by qualified voters of the Town equal in number to at least fifteen percent (15%) of the total number of qualified, registered voters in the town at the time the petition is filed.

(2) **Form and Content** - All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil, shall include the signer's printed name, and shall state the legal residence of the voter with street or other description sufficient to identify the place of residence. Petitions shall contain throughout their circulation the full text of the statement of the reasons for the recall of an elected official.

(3) **Affidavit of Circulator** - Each petition shall have attached to it, when filed with the Town Clerk, an affidavit executed by the circulator of the petition stating that he/she personally circulated the attached petition; that it was at no time in the hands of any person other than the circulator; the number of signatures thereon; that all the signatures were affixed in the circulator's presence; that the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and that each signer had an opportunity before signing to read the full text of the statement of the reasons for the recall of an elected official.

(c) **Time for Filing:** Recall petitions must be completed and filed with the Town Clerk (" within thirty (30) calendar days from the date the petition was issued to the Petitioners Committee by the Town Clerk.

(d) Procedure after Filing:

(1) **Certification by the Town Clerk** - Within ten (10) municipal business days after the petition circulation period ends, the Town Clerk shall examine the petition and determine whether the petition(s) is/are signed by the required number of qualified voters and shall attach thereto the Clerk's certificate showing the results of such examination. Upon examination of the petitions, the Clerk shall certify the validity of the petition to the Board of Selectmen. If found to be sufficient, the Town Clerk shall submit the petition and the Clerk's certification to the Board of Selectmen at the Board's next meeting, and shall notify in writing the official(s) whose removal is/are being sought.

(2) **Termination of Petition** - If within thirty (30) days from the date the recall petition is issued to the Petitioners Committee the petition does not contain the required number of qualified signatures or is otherwise deemed invalid, the petition shall have no further force or effect, and all proceedings thereon shall be terminated.

(e) Action on Recall Petition

(1) **Action by Board of Selectmen** - Within ten (10) municipal business days of receipt of the Town Clerk's certification that a recall petition is valid, the Board of Selectmen shall schedule a municipal election for the purpose of submitting, to vote, the question of recall, which election shall be held not less than sixty-five (65) nor more than ninety (90) calendar days thereafter, unless a regular municipal election is to occur within one hundred and twenty (120) calendar days.

(2) Form of Ballot - The form of the ballot for the recall election shall be as follows:

“Shall (name of person being subject to recall) be recalled from the office of (name of office)?”

Yes _____ No _____

The voters shall indicate their choice by completing their ballot as instructed.

(3) Recall - Pending the outcome of the recall election, the elected official against whom recall proceedings have been initiated, shall continue to exercise all the privileges and duties of his/her office. If not then recalled, the Town official shall continue in office for the remainder of his/her unexpired term. The recall is effective only if the total number of votes cast in favor of the recall shall exceed two-thirds (2/3) of either the number of total votes cast for the official when elected, or the number of total votes cast in the recall, whichever is greater. The elected official of Clinton who is recalled by the voters shall immediately vacate his/her elected position upon certification of the recall election results.

(4) The Town Clerk may not accept a Petitioners Committee affidavit requesting a petition to initiate a recall of the same elected official, for substantially the same reason, until one hundred eighty (180) calendar days after the recall vote.

ARTICLE VIII

ORDINANCES

Section 8.01 Ordinances in General

(a) Form: Every proposed ordinance shall be introduced in writing and in the form required for final adoption and shall include the penalty (if any) for a violation of the ordinance. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be, “THE TOWN OF CLINTON HEREBY ORDAINS . . .” Any ordinance that repeals or amends an existing ordinance or part of the Clinton Town Code shall set out in full the sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) **Procedure:**

(1) The Board of Selectmen, on its own initiative, may by majority vote place on the Town Meeting warrant an article relating to or introducing any lawful ordinance, except those ordinances under the Laws of the State of Maine that may be adopted only by the municipal officers.

Town of Falmouth, Maine
Town Charter

Sec. 905. Procedures for Recall. Any five qualified voters may begin at any time proceedings to recall a Councilor, School Board member or other elected official by a request in writing to the Town Clerk for appropriate petition blanks. These voters shall be referred to as the recall committee. All copies of the petition shall contain a statement of the reason or reasons for recall and the names of the recall committee. Each petition shall be limited to the recall of a single individual.

905.1 The recall committee shall have 30 days from the date of issuance of appropriate petition blanks to cause the petition to be signed by 10% of the number of registered voters. The petition shall be signed in the presence of the Town Clerk or of a registered voter of the Town who shall certify to the validity of the signatures collected. Within 10 days after the circulation period ends the Town Clerk shall certify to the Town Council as to whether the petition has been signed by not less than 10% of the number of registered voters. Should less than 10% of such voters sign the petition, the petition shall have no further force or effect, and no new petition action for recall of the same person can be initiated until 180 days from the end of the previous filing period.

905.2 Upon receipt of certification the Town Council shall within sixty (60) days submit to the voters the question of recall. The Councilor, School Board member or other elected official shall be recalled when a majority of those voting thereon have voted in the affirmative. Any elected official against whom recall proceedings have been initiated may continue to hold office until recalled and shall have the privilege of seeking election to the same or any other office at any election after the date of recall.

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

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 Board of Selectmen 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 Board of Selectmen.

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 Board of Selectmen. 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 Board of Selectmen, 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 Board of Selectmen. The Board of Selectmen 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 Board of Selectmen 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 Board of Selectmen 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

**COUNCIL-MANAGER CHARTER
OF THE
TOWN OF MECHANIC FALLS**

(Adopted by Vote on November 2, 2010)
(Amended by Vote on June 11, 2019)

ARTICLE I: GRANT OF POWERS TO THE TOWN

Section 1 - INCORPORATION.

The inhabitants of the Town of Mechanic Falls, within the limits as now established or as hereafter established or as hereafter established in the manner provided by law, shall be a Municipal Corporation, by the name of the Town of Mechanic Falls.

Section 2 - POWERS AND DUTIES.

A. The Town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said Town as a Municipal Corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof.

B. The administration of all the fiscal, prudential and municipal affairs of said Town, with the government thereof, and also except as otherwise provided by this Charter, shall be and are vested in one body of five (5) members, which shall constitute and be called the Town Council, all of whom shall be inhabitants of said Town, and shall be sworn in the manner hereinafter prescribed.

C. The Town may acquire property for any Town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation and may sell, lease, mortgage, hold, manage and control such property as its interest may require.

D. In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the Town would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to State laws and to the provisions of the State Constitution.

Section 3 - INTERGOVERNMENTAL RELATIONS.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil sub-divisions or agencies thereof, or with the United States or any agency thereof, in accordance with the terms of the Interlocal Cooperation Act and other statutory provisions.

ARTICLE II: TOWN COUNCIL

Section 1 - NUMBER, ELECTION, TERM.

A. The Town Council, hereinafter called the "Council", shall be and constitute the municipal officers of the Town and shall be composed of five (5) members, each of whom shall be elected by the registered voters of the entire Town.

B. Each Councilor's term shall be for a term of three years and until his successor is elected and qualified. Councilor's terms shall be staggered with two (2) seats opening the year of this charter's adoption, two (2) the year after and one (1) seat being open in the third year. This method of staggered terms shall be construed to be a continuation of the practice initially set forth under the most recent charter.

C. No Councilor shall serve more than three consecutive terms in office except that, after a Councilor has been out of office for at least one full year following the end of the most recent term to which he or she was elected, he or she may again serve for up to three consecutive terms in office.

Section 2 - QUALIFICATIONS, VACANCIES.

A. Councilors shall be qualified voters of the Town and shall reside in the Town during their term of office.

B. Holding other office: Except where otherwise allowed by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Councilor shall hold other Town office or full-time or permanent part-time Town employment during the term for which they were elected to the Council. With the exception of the Fire and Rescue Chiefs, membership in the Mechanic Falls Fire and Rescue Departments, alone, shall not be grounds for disqualification from holding office as a Councilor.

C. Forfeiture of office:

1. A Councilor shall forfeit their office if they are found, by an affirmative vote of at least three (3) Councilors, to: (1) lack at any time during their term of office any qualification for the office prescribed by the Charter or by law, (2) have violated any express prohibition of this Charter, (3) have been convicted of a felony or other crime or offense involving moral turpitude, or (4) have failed to attend three (3) consecutive regular meetings of the Council without being excused for due cause by the Council.

2. Removal from office: At least thirty (30) days before such removal shall become effective, the Council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for the Councilor's removal. The Councilor may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing if one is requested, and after full consideration, the Council, by an affirmative vote of at least three (3) members, may adopt a final resolution, thereby permanently removing the Councilor in question from office. The Councilor under consideration for removal shall not be permitted to take part in the final resolution vote.

3. Recall

a. Procedure

Any five or more qualified voters may commence recall proceedings by filing with the Clerk an affidavit stating that they will constitute the recall committee and be responsible for circulating the recall petition and filing it in proper form, stating their names and street addresses, specifying the mailing address to which all notices to the committee are to be sent and setting out in full the name, address and office of the Town Councilor sought to be recalled and a statement detailing the reason or reasons therefore. Promptly after the affidavit of the recall committee is filed, the Clerk shall issue the appropriate petition blanks to the recall committee.

b. Signatures

Recall petitions must be signed by qualified voters of the Town at least equal in number to 15 percent of the total number of qualified voters who cast votes for Governor in the most recent gubernatorial election or, in the case of a recall of a Councilor elected from a district, signed by qualified voters of the district equal in number to at least 15 percent of the total number of qualified voters from that district who cast votes for Governor in the most recent gubernatorial election.

c. Filing

All papers of a petition shall be uniform in size and style and shall be assembled as one document for filing. Each signature shall be executed in ink and shall be followed by the street address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full name, address and office of the person sought to be recalled and a statement detailing the reason or reasons therefore.

d. Affidavit of Circulator

Each paper of a petition shall have attached to it when filed an affidavit which has been executed by the circulator. The circulator shall state in the affidavit that the circulator personally circulated the paper, the number of signatures thereon, that each signature was affixed in the circulator's presence, that the circulator believes it to be the genuine signature of the person whose name it purports to be, and that each signer had an opportunity before signing to read the full name, address and office of the person sought to be recalled and the statement detailing the reason or reasons therefore. At any time prior to the issuance of the Clerk's certificate, a signer may have his or her name removed from the petition by filing a signed written request that this be done.

e. Time for Filing

A recall petition must be filed within 30 days of the issuance of the petition blanks to the recall committee.

f. Procedure After Filing

Within 20 days after the petition has been filed, the Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, why it is defective. The Clerk shall promptly send a copy of the certificate to the

recall committee by mail. A petition certified as insufficient for lack of the required number of valid signatures may be amended once if the recall committee files a notice of intention to amend it with the Clerk within two days after receiving the copy of the Clerk's certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Within five days after it is filed, the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the recall committee by mail as in the case of an original petition. If a petition or amended petition is certified as sufficient, or if a petition or amended petition is certified as insufficient, and the recall committee does not elect to amend or request Council review within the time required, the Clerk shall promptly present the certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

g. Council Review.

If a petition or amended petition has been certified as being insufficient, the recall committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The Council's determination shall then be a final determination as to the sufficiency of the petition.

h. Court Review

A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

i. Actions on Petitions.

The Council shall, within 30 days following a final determination that the recall petition is sufficient, hold a municipal election for the purpose of submitting the question of recall to a vote of the qualified voters of the Town. Pending the outcome of the election, the elected official who is the subject of the recall petition shall continue to exercise all of the privileges of his or her office. An official shall be recalled when a majority of those voting thereon shall have voted in the affirmative so long as the total number of votes cast for and against recall is at least equal to 30% of the total number of qualified voters who cast votes for Governor in the most recent gubernatorial election. Where the voters have recalled an official, the Council shall fill the vacancy thus created in accordance with the provisions of Article II. 2. D of this Charter.

j. Candidacy of Incumbent.

An official who is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy created by the recall by filing a notice with the Town Clerk that he or she wishes to have his or her name appear on the ballot. The request shall be filed no later than the fifteenth day preceding the election. The official shall not be required to circulate a nomination petition. Other qualified voters who seek to fill the vacancy created by the recall shall have until

the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for a regular municipal election.

k. Recall Ballot

The ballot for recall shall contain the following question: "Shall (name of person being subjected to recall) be recalled from the office of (name of office)?" Immediately below such question shall appear in the following order the words "yes" and "no" and to the left of each, a square in which the voter may indicate his or her vote.

D. Filling of vacancies: In case of a vacancy caused by death, resignation or other cause, the vacancy shall be filled at the next regular Municipal election for the unexpired term. The Council shall fill vacancies in its number occurring between regular Municipal elections by an affirmative vote of at least three (3) members, and the term of office of any member of the Council so chosen shall expire at the next Municipal election.

Section 3 - ENUMERATION OF POWERS.

Without limitation of the foregoing, the Council shall have the power to:

A. Appoint, by majority vote of its members, the Manager for a term, not to exceed three (3) years, and remove the Manager by the same vote. At least thirty (30) days before such removal shall become effective, the Council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for the Manager's removal. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing if one is requested, and after full consideration, the Council by majority vote of its members may adopt a final resolution, the Council may suspend the Manager from duty for not longer than three (3) months, but the regular salary of the Manager shall continue to be paid to him during the period of suspension. However, in no case shall the Manager receive pay while on suspension or in any form of severance agreement, that, in total, exceeds three (3) month's salary.

B. Determine by ordinance the number to serve, appoint and remove members of the various Boards and Commissions as delineated in ART II, Sec. 12.

C. By ordinance, create, change and abolish departments, other than the departments established by this Charter. The Council, by ordinance, may assign additional functions or duties to departments established by this Charter, but may not discontinue or assign any function or duty assigned by this Charter to any other department. The Council may, however, where not prohibited by law, vest in the Town Manager all or part of the duties of any office under this Charter.

D. The Council may make investigations into the affairs of the Town and the conduct of any Town department, office or agency. For this purpose the Council shall enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths, the taking of testimony and the compulsory production of evidence.

Town of Old Orchard Beach, Maine

Article III - Initiative and Referendum

Sec. 305. - Procedures for Recall.

Any seven qualified voters may begin at any time proceedings to recall a Town Councilor, Town Clerk or other elected official by a request in writing to the Town Clerk for appropriate petition blanks. These voters shall be referred to as the Recall Committee. All copies of the petition shall contain a statement of the reason or reasons for recall and the names of the members of the Recall Committee. Each petition shall be limited to the recall of a single individual.

Sec. 305.1. The Recall Committee shall have thirty (30) days from the date of issuance of appropriate petition blanks to submit them with the required number of signatures to the Town Clerk. The written petition of a number of voters equal to at least 20% of the number of votes cast in the town at the last gubernatorial election shall be the required number of signatures for recall. The petition shall be signed in the presence of the Town Clerk or of a qualified, registered voter of the Town who shall certify to the authenticity of the signatures collected. Within ten (10) days after the circulation period ends the Town Clerk shall certify to the Town Council as to whether the written petition of a number of voters equal to or greater than the required number of signatures for recall has been signed. Should less than the required number of voters sign the petition, the petition shall have no further force or effect, and no new petition asking for recall of the same person can be initiated until one hundred eighty (180) days from the end of the previous filing period.

Sec. 305.2. Upon receipt of certification by the Town Clerk that a recall petition has been signed by at least or greater than the required number of voters, the Town Council shall within forty-five (45) days submit to the voters the question of recall. The Councilor, Town Clerk or other elected official shall be recalled when a majority of those voting thereon have voted in the affirmative. Any elected official against whom recall proceedings have been initiated may continue to hold office until recalled.

Sec. 305.3. Unless the official or officials whose removal is sought shall have resigned within ten days after the receipt by the Town Council of the Town Clerk's certification, the form of the ballot at such election shall be as nearly as may be: "Shall _____ be recalled?" with the name of the official whose recall is sought being inserted in the blank. The ballot shall also contain the names of the candidates nominated in place of the person recalled, as follows: "Candidates for the place of _____, if recalled"; but the person whose recall is sought shall not be candidate upon such a ballot. The form of ballot at said election shall be the same, as nearly as may be, as the form and the arrangement in use at a regular municipal election. In the event the person sought to be recalled resigns within the ten day period, such person shall not be reappointed to his former position by the Town Council, or other appointing authority, as the case may be.

Sec. 305.4. If, of the total number of votes cast for and against the recall of the particular official, the majority cast are in favor of recall, such official, shall thereby be removed, and the candidate chosen shall hold office for the balance of the unexpired term.

CITY CHARTER



WATERVILLE, MAINE

As presented by the 2013 Charter Commission

Approved by Voters November 4, 2014
Effective Date: July 1, 2015

ARTICLE I.

GRANT OF POWERS TO THE CITY

Section 1. Incorporation.

The inhabitants of the City of Waterville in the County of Kennebec, within the corporate limits as now established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Waterville, hereinafter also referred to as "City".

Section 2. Form of government.

It is recognized that there is a division of powers of the City between those of a policy and legislative nature and those powers which are exercised administratively.

The policy and legislative functions include the development and adoption of ordinances, orders and resolutions and the establishment of policy, the purpose of which is to determine a course of conduct for City government and to formulate rules of operation consistent therewith. Policy powers shall be exercised by the Mayor and City Council, and legislative powers shall be exercised by the City Council.

The administrative powers exist for the purpose of implementing the ordinances, orders, resolutions and policies adopted through the legislative process by the Mayor and City Council and managing the operations of City government in accordance therewith. The City Manager shall exercise these administrative powers.

Neither the Mayor, the City Council, nor any City Council member shall direct or request that the City Manager appoint or remove any person from any City office or in any manner take part in the appointment or removal of Department Directors and/or employees in the administrative service of the City, except as otherwise provided in this Charter.

Except for the purpose of inquiry, the Mayor, the City Council, and any member thereof shall deal with the administrative officers and employees of the City only through the City Manager. The Mayor, the City Council, and any member thereof are prohibited from giving orders to any subordinates of the City Manager, either publicly or privately.

Section 3. General powers of City.

The City shall have and exercise all powers, functions, rights and privileges possessed by the City of Waterville prior to the adoption of this Charter; also all powers, functions, rights and privileges granted to municipal corporations by the constitution and statutes of the State of Maine together with all the implied powers necessary to carry into execution all the powers granted; also, except as prohibited by the constitution or statutes of this State or restricted by this Charter, all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The City may acquire property, real or personal, for any City purpose, in fee simple, or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require.

ARTICLE IV.

THE CITY COUNCIL

Section 1. Number; terms.

The City Council shall have seven (7) members, one elected from each ward, as provided in Article IX of this Charter. The terms of the City Councilors shall be three years in length and varied. Wards 1 and 7 shall be elected in one year, Wards 3 and 5 in another year, and Wards 2, 4, and 6 in a third year.

Section 2. Qualifications.

City Councilors shall be inhabitants of the City and registered voters therein. They shall, at the time of and for three (3) months previous to the election, have been residents of the respective wards from which they are elected.

Section 3. Salary.

City Councilors shall be paid a salary of \$1,500 per year, paid in quarterly increments. Payment for incomplete terms shall be prorated. The salary of City Councilors may be changed by ordinance, provided that such ordinance is passed prior to the general municipal election and to take effect on January 1 following said election.

Section 4. Vacancies.

The office of a City Councilor shall be deemed vacant under one or more of the following conditions. If the City Councilor:

- A. Fails to qualify by the first meeting of the City Council in a calendar year as defined in Article IV Section 5.
- B. Dies or resigns,
- C. Has a conflict of interest as defined in Article VI, Code of Ethics, Section 2 or is found to be in violation of Article VI, Code of Ethics, Section 4, or violates the Code of Ethics Ordinance as provided for in Article VI, Section 5,
- D. Is convicted of a Class A, B or C crime, or of any crime involving moral turpitude,
- E. Establishes primary residency outside of the ward from which elected,
- F. Has violated Article I, Section 2; or
- G. Violates any of the duties of office, which by the provisions of the Charter, renders the office vacant.

When the City Clerk receives information or a written complaint suggesting that one or more of the above criteria are met, the City Clerk shall in writing inform the City Council and notify the affected City Councilor (unless deceased). Discussion of the matter shall be placed on the agenda of the next regularly

scheduled City Council meeting.

A vacancy shall be declared if the City Council determines by a two-thirds vote of the members present that one or more of the above criteria are met. A vacancy may also be declared by a two-thirds vote if a City Councilor is absent on three consecutive occasions.

Following solicitation of interested candidates, vacancies in the City Council shall be filled by the City Council through appointment of a registered voter residing in the ward in which the vacancy occurs. Appointed City Councilors shall, at the time of and for three (3) months prior to the appointment, have been residents of the ward from which they are appointed.

Councilors shall confirm any appointment for any office where there is more than one candidate by a written ballot which shall contain their name and the name of the person they wish to appoint, and shall be submitted to the City Clerk. The content of the ballot shall not be shared with other Councilors until voting has concluded. The City Clerk shall read each ballot aloud and retain the ballots as a matter of public record.

If there is no majority winner in the first round, and there are two candidates, the matter shall be postponed until the next regularly scheduled meeting unless one candidate withdraws.

If there is no majority winner in the first round, and there are three or more candidates, all candidates who received fewer votes than the top two candidates shall be eliminated and there shall be a second round of balloting unless all but one candidate voluntarily withdraws. In the event of no candidate receiving a majority vote following the second round of balloting, the matter shall be postponed until the next regularly scheduled meeting.

Said appointment is not subject to a Mayoral veto, nor can the Mayor break ties.

The appointed City Councilor shall serve until the regularly scheduled City election and a successor is elected and sworn. Said successor shall serve the balance of the term.

Section 5. Meetings of City Council.

The first meeting of the City Council for each newly elected City Councilor, for induction into office, shall be held at 7:00 p.m. on the first Tuesday of January after New Year's Day next following its election, after which the City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the City Council shall be open to the public, except as provided by state statute. The City Council shall keep a complete record of its proceedings which shall be a public record, except as limited by state statute.

Section 6. Organization; procedures.

The City Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the City Council in any such case shall be subject to review by the courts. At the first meeting of the City Council each January, the City Council shall choose a Chair, who shall serve at the pleasure of the Council. Selection of the Chair is not subject to Mayoral veto. The Chair shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor and the Chair, the City Council shall choose a Chair, pro tempore, who shall exercise the powers of a permanent Chair. The City Council shall

determine its own rules and order of business.

At any meeting of the City Council, five (5) members shall constitute a quorum, but a lesser number may adjourn from time to time. An abstaining Councilor is considered present for meeting quorum requirements. The City Council shall provide, by ordinance, a means by which a minority may compel the attendance of absent members. Special meetings of the City Council shall be called by the Mayor at the Mayor's discretion or upon petition of five (5) or more City Councilors to the Mayor. In the Mayor's absence from the City, the Chair of the City Council, upon petition of five (5) or more City Councilors, shall call such special meeting. A copy of said petition shall be filed with the City Clerk.

The City Clerk shall be secretary of the City Council. The secretary shall give notice of City Council meetings, shall keep the record of its proceedings, shall authenticate by signature and record in full, in a book kept for the purpose, all ordinances, orders and resolutions, and shall perform such other duties as shall be required by this Charter or by ordinances.

Section 7. Powers.

- A. All legislative powers of the City shall be vested in the City Council and shall be exercised by it in the manner and subject to the limitations set forth in this Charter. Without limitation to the foregoing, the City Council shall have power to:
- B. Adopt the annual budget of the City and appropriate money for all City purposes;
- C. Authorize the issuance of bonds by a bond order;
- D. Consider recommendations from the Search Committee and approve, by a majority vote of the City Councilors present, appointment of a City Manager and a City Solicitor and the contracts specifying the terms of employment. If necessary, remove the City Manager and City Solicitor in accord with provisions set forth in this Charter;
- E. Establish administrative Departments pursuant to the provisions of this Charter, establish appropriate minimum qualifications for Department Directors, and revise the administrative code by ordinance;
- F. Adopt, upon recommendation of the City Manager, a pay plan for all persons employed by the City, except those whose compensation is fixed by this Charter or by state statute, and adopt by ordinance the rules and regulations of a municipal personnel policy;
- G. Provide, by ordinance, for appropriate boards or commissions as it shall deem advisable to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances;
- H. Confirm, by a majority vote of the City Councilors present, all appointments made by the Mayor to boards or commissions;
- I. Conduct investigations of the operation of any office or Department administering the affairs of the City, or on any subject upon which it may legislate. In conducting investigations, the City Council shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers pertinent thereto;
- J. Authorize, by ordinance, executive and administrative officers of the City to issue licenses and permits;
- K. Authorize, by ordinance, executive and administrative officers of the City to make contracts pursuant to duly enacted appropriation orders. Said ordinance shall specify a threshold dollar

ARTICLE VI.

CODE OF ETHICS

Section 1. Ordinance required.

The City Council shall maintain an ordinance defining the code of ethical conduct of elected and appointed City officials, as well as all employees of the City. The ordinance shall be developed by the Ethics Committee, as provided in Section 2, and only be approved and later amended with the approval of 2/3 of City Councilors present and voting.

Section 2. Formation of Ethics Committee.

The ordinance shall direct the formation of an Ethics Committee, consisting of seven (7) members who are residents of the City, to review the code ordinance once every three (3) years. The committee shall be appointed by the Mayor with the advice and consent of the City Council. Elected officials and their immediate family members shall not be permitted to be members of the committee. The committee shall meet as needed, but no less than annually.

**Town of Wells, Maine
Town Charter**

Article IV Recall of Elected Officials

Sec. 4.01 Applicability.

Any elected official, as defined in Section 11.01, may be recalled and removed from office by the qualified voters of the Town as provided herein.

Sec. 4.02 Petition by voters.

On the written petition of a number of voters equal to at least 20% of the number of qualified voters who voted in the most recent gubernatorial election, the Board of Selectmen shall, by order, call for a Special Town Meeting for the purposes of holding a recall election as provided herein.

Sec. 4.03 Petition procedure; procedure after filing.

Petition procedures shall be those set forth in 30-A M.R.S.A. §§ 2102(3) and (4), or any successor statute, except:

(a) The required wording in Subsection 3.B(1) shall be as follows:

"Town of Wells"

"Each of the undersigned voters respectfully requests the Board of Selectmen to provide for a special election on the question of recalling and removal of (insert name and address) from the office of _____."

(b) This required wording is to be followed by a statement of the reason(s) why recall and removal is sought.

(c) Any notice required to be furnished to the petitioners' committee must also be given to the elected official whose recall is sought, by the same means and in the same time frame.

Sec. 4.04 Calling of election.

Within 20 days of receiving the Town Clerk's certificate of sufficiency, or of the Board of Selectmen's determination of sufficiency, the Board of Selectmen shall, by order, call for a Special Town Meeting for the purposes of holding a recall election. Said election shall not be held earlier than 45 days nor later than 60 days after the determination of sufficiency has been made, unless another Town Meeting is already scheduled to occur within 90 days of said determination. In such a case, the recall election may be postponed, at the Board of Selectmen's discretion, to the date of such scheduled Town Meeting.

Sec. 4.05 Form of ballot.

The question submitted to the voters shall be in substance as follows:

"Do you favor recalling and removing (name and address) from the office of _____?"

YES NO

Sec. 4.06 Count of ballot.

For any elected official to be recalled and removed from office, both the following criteria must be satisfied:

(a) The majority of valid votes cast must favor recall and removal.

(b) The total number of valid votes cast must equal or exceed 40% of the number of qualified voters who voted at the time of the most recent municipal regular election.

Sec. 4.07 Limitation on recall.

No elected official shall be subject to more than two recall elections in any term.

Sec. 305.5. In the event that the Town Council fails or refuses to order an election as herein provided, the Town Clerk or, in the absence or disability of the Town Clerk, the Deputy Town Clerk, shall call the election to be held not less than thirty (30) days nor more than sixty (60) days following the Town Council's failure or refusal to order the required election.

Sec. 305.6. In the event of a request for the recall of the Town Clerk, the Registrar of Voters shall perform all the duties and functions of the Town Clerk under this Section 305. If, however, the Town Clerk is also the Registrar of Voters, then, upon receipt of a request for the recall of the Town Clerk under Section 305, the Clerk shall issue the petition blanks, inform the Town Council of the request, and thereafter cease to perform any of the duties and functions of the Clerk with respect to the recall request. The Town Council shall promptly select a qualified person other than the Clerk to serve as a Deputy Registrar of Voters on an interim basis, the Registrar shall appoint such person as a deputy, and such person shall perform the duties and functions of the Clerk under Section 305 until the recall process concludes. This person need not be a resident of the Town.

**TOWN OF YORK HOME
RULE CHARTER**

ADOPTED NOVEMBER 5, 1991

**AMENDED NOVEMBER 7, 1995
AMENDED NOVEMBER 4, 1997
AMENDED NOVEMBER 2, 1999
AMENDED NOVEMBER 6, 2001
AMENDED NOVEMBER 4, 2003
AMENDED NOVEMBER 8, 2005
AMENDED MAY 20, 2006
AMENDED NOVEMBER 7, 2006
AMENDED MAY 18, 2013**

Section 5: PENDING ACTIONS AND PROCEEDINGS

- A. 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 committee or other Town agency thereof, shall be affected or abated by the adoption of this Charter or by anything contained herein.

Section 6: CONTINUATION OF TAX OBLIGATIONS

- A. 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.

Section 7: REPEALING CLAUSE

- A. All acts and parts of acts of the private and special laws of the State of Maine relating to the Town, inconsistent with the provisions of this Charter are repealed.

ARTICLE VII: RECALL OF ELECTED OFFICIALS

Section 1: HOLDER(S) OF AN ELECTED OFFICE MAY BE RECALLED

- A. The holder of any elected office may be recalled and removed there from by the qualified voters of the Town following the procedure defined in this Article.

Section 2: RECALL: PETITIONS, PREPARATIONS, FILING

- A. Any qualified voter of the Town may file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall. The Town Clerk shall thereupon deliver to the voter making such affidavit a sufficient number of copies of petition blanks demanding such recall, printed forms of which shall be kept on hand. The petition blanks shall be issued by the Town Clerk with his signature and official seal attached thereto, shall be dated and addressed to the Selectmen, shall contain the name of the person to whom issued, the name of the person sought to be recalled, the grounds of recall as stated within the affidavit, and shall require the election of a successor to said office, if said office becomes vacant, in a manner as provided for in Articles III and V. A copy of the petition shall be entered in a special recall record book to be kept in the office of the Town Clerk. The recall petition shall be returned and filed with the Town Clerk before 4:30 PM of the twentieth working day after filing of the

affidavit. Said petition, before being returned and filed, shall be signed by registered voters of the Town numbering not less than ten (10) percent of the number of votes cast in the previous gubernatorial election by the registered voters of the Town, and to every signature shall be added the place of residence of the signer giving the street address. The Town Clerk shall deliver the petition to the Board of Voter Registration in the Town, and the board shall forthwith certify thereon the number of signatures, which are names of registered voters in the Town.

Section 3: RESIGNATION OF OFFICER, RECALL ELECTION

- A. If the petition shall be found to be sufficient and certified by the Town Clerk and the Board of Voter Registration, the Town Clerk shall submit it with his certificate to the Board of Selectmen without delay. The Board of Selectmen shall forthwith give written notice to said officer of the receipt of said certificate and, if the officer sought to be removed does not resign within five days, shall order a recall election to be held on a day fixed by them not less than twenty-five (25) days nor more than sixty (60) days after the date of the Town Clerk's certification that a sufficient petition is filed. If a vacancy occurs in said office for any reason after a recall election has been so ordered, the recall election shall be deemed null and void.

Section 4: OFFICER BEING RECALLED MAY BE A CANDIDATE

- A. Any officer recalled may be a candidate to succeed himself at any election scheduled to choose a successor. If said election of a successor is scheduled in accordance with the provisions of Article VII, Section 9.2, and unless the incumbent requests otherwise in writing, the Town Clerk shall place his name, without nomination, on the official ballot for the election of a successor. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same shall be in accordance with the provisions of the Constitution and the laws of the State of Maine relating to elections, unless otherwise provided for in this Charter.

Section 5: CONTINUANCE IN AND REMOVAL FROM OFFICE

- A. The incumbent shall continue to perform the duties of office until the recall election. If not then recalled, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in Article VII, Section 7. If recalled, he shall be deemed removed from office immediately upon certification of the election, and the office shall be declared vacant.

Section 6: FORM OF BALLOT FOR RECALL

- A. Ballots used in a recall election shall submit the following question:

1. This question is a vote for or against the recall of the named incumbent.

VOTE FOR OR AGAINST

"For the removal of (name of officer)" _____
"Against the removal of (name of officer)" _____

- a. In the event of a tie vote, the incumbent is deemed to be not recalled.

Section 7: LIMITATIONS ON PETITIONS

- A. No recall petition shall be filed against an officer within six months after he takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least six months after said election.

Section 8: PROHIBITION AGAINST APPOINTMENT OF RECALLED OFFICER

- A. No person who has been recalled from office or who has resigned from office while recall proceedings are pending shall be appointed to any Town office or Town board, commission or committee within two years after such removal by recall or resignation.

Section 9: ELECTION OF A SUCCESSOR TO A RECALLED INCUMBENT

- A. The Board of Selectmen shall choose one of the following two procedures to fill a vacancy caused by the recall of an incumbent:
 1. Follow the procedures as provided for in Article V; or
 2. Schedule an election to occur at the same time as the recall election in order to fill the potential vacancy, using the following procedure:
 - a. Separate ballots must be used for the recall election and the potential election of a successor to a recalled incumbent;
 - b. If the incumbent is not recalled, this election is null and void;
 - c. Ballots used in election of a successor to a recalled incumbent shall submit the following question:
 - i. "This question is a vote for a successor to a recalled incumbent."
 - d. Under this question shall appear the word "Candidates" and the direction to "Vote for one", and beneath this shall be the name(s) of

candidate(s) nominated as hereinbefore provided. In the event the vote "For" recall in Section 6 receives a plurality of the votes cast, the candidate receiving a plurality of the votes cast in this question shall be deemed elected, except in the event where the incumbent is the only candidate and the vote "For" recall in Section 6 receives a plurality of the votes cast, in which case the candidate is deemed to be recalled and shall cease to hold the office in question, thus rendering the vote in this section to be null and void, and the office shall be declared vacant.

ARTICLE VIII: GENERAL PROVISIONS

Section 1: RULES OF ORDER

- A. Robert's Rules of Order shall govern all Town Meetings, and Town board, commission and committee meetings.

Section 2: EXECUTIVE SESSION

A. Procedure for Calling

1. All boards, commissions and committees may meet in executive session only upon the publicly recorded vote of three-fifths (3/5) of the members present and voting. A motion to go into executive session shall indicate the precise nature of the business of the executive session, and no other matter shall be considered in that particular executive session.

B. Purposes and Restrictions

1. Executive sessions shall be held only for purposes permitted by the laws of the State of Maine as amended. No ordinances, orders, rules, resolutions, regulations, contracts, appointments or any other official actions shall be finally approved at any executive session.

Section 3: PROPOSAL OF AMENDMENT

- A. Amendments to the Charter may be amended in the manner provided by law and this Charter.

Section 4: BIDDING PROCEDURE

- A. The Board of Selectmen shall adopt a purchasing/procurement policy.
- B. The Town Manager shall act as purchasing agent and, at his discretion, may request a bidding process for all purchases over \$500.00.

Office of the Town Manager

To: Select Board
From: Pat Finnigan
Date: September 22, 2019

Re: Town Meeting Warrant

There will be a Special Town Meeting on November 5, 2019. In addition to the elections to fill vacancies on the Select Board and the Budget Review Committee, residents will be asked to vote whether to establish a Charter Commission, and consider a proposed Charter amendment.

There are 3 proposed budget questions that voters will be asked to consider at the Special Town Meeting on November 5, 2019.

Article 6: Shall the Town approve the transfer of \$75,909.64 from the Unassigned Fund Balance to the 2019 General Government budget to fund the over expenditure in that budget due to Legal Services costs.

Background: The General Government Budget was generally on track except for legal costs. Legal Services were budgeted at \$80,000 based on the contract with Bernstein Shure (a monthly retainer of \$5,533.33) plus additional funding for legal costs that could occur outside the scope of general legal services.

Due to litigation pertaining to personnel matters, the recall initiative, more activity at the Board of Assessment Review due to the revaluation, and land use litigation, the total expenditures for legal services in FY19 were: \$237,587.11.

We had a portion of the year without a Treasurer, therefore we paid the Acting Treasurer the commensurate salary for performing her duties as Town Clerk and Town Treasurer/Tax Collector, and we hired temporary staff to assist the Town Clerk during this period. At year end, the General Government Budget was exceeded by: \$75,909.64.

Action: Request that the Select Board approve this Article for the Special Town Meeting Warrant and recommend Article 6.

Note: The Budget Review Committee met on September 19 and voted 4 to 1 to recommend this Article 6

Article 7: Shall the Town appropriate a sum not to exceed \$10,919 from the Unassigned Fund Balance to the Marginal Way Committee budget for erosion control and restoration projects

Background: The Marginal Way Committee is doing a number of projects to secure the walkway and help prevent erosion. Due to the advance planning needed and the necessity to schedule the work in the "off season," the projects have not been completed. The committee has requested to carry forward these funds to continue these projects.

Action: Request that the Select Board approve this Article for the Special Town Meeting Warrant and recommend Article 7.

Note: The Budget Review Committee met on September 19 and voted 5 to 0 to recommend Article 7.

□ **Article 8:** This Article asks voters to approve a \$700,000 bond issue to complete the reconstruction and expansion of the Main Beach Bathhouse and Lifeguard Station.

Background: Renovation of the Main Beach, Footbridge, and North Beach Bathrooms has been a goal for some time. There was a Town Meeting vote in November 2017 to approve \$100,000 for engineering and architectural design work, and a Town Meeting vote in June 2018 that approved \$900,000 for construction. At the time of the June 2018 vote, the bathhouses had not been engineered and designed. The funding was intended to provide sufficient funds to get the bathhouses designed, engineered, get construction underway, and have cost estimates based on actual engineered plans. The understanding was that we likely would need additional funding to complete the project, but when we asked voters to approve additional funding it would be based on solid cost estimates.

In October 2018, the Select Board authorized the Town Manager to enter into a contract with DeStefano & Associates, Inc. of Portsmouth, New Hampshire as the Construction Manager, that included the architect, and the civil, structural, plumbing and mechanical system engineers.

Based on funding and construction time needed to accomplish the work, the project was phased: Phase I was the engineering and design of all 3 bathhouses, plus the construction of the Footbridge and North Beach Bathhouses. Phase II is the final engineering and design, and construction of the Main Beach Bathhouse and Lifeguard Station

Phase I: Construction of the North Beach and Footbridge Bathhouses commenced March 25 and they were opened to the public on Memorial Day weekend.

Phase II: As designed, the Main Beach Bathhouse and Lifeguard Station will be totally reconstructed, expanded, and improved to include:

- Men's area: current toilets/urinals: 14; proposed 14; new sinks, infant changing station
- Women's area: current toilets: 15; proposed 22; new sinks, infant changing stations
- Lifeguard/Ocean Rescue area: currently 329 sq ft; proposed 670 sq ft

New features:

- Changing rooms: 4
- Year-round unisex, family bathrooms that meet ADA standards and are heated

The existing building footprint: 1,821 sq. ft gross, including outside showers.

The proposed building footprint: 2,669 sq. ft gross including outside showers.

The estimated cost to complete the Main Beach Bathhouse and Lifeguard Station is approximately \$1.2 million. There is \$506,443 remaining of the \$1 million that was approved by Town Meeting (see page 3). To complete the Main Beach Bathhouse and Lifeguard Station building, staff is recommending a Warrant Article in the amount not to exceed \$700,000.

The bid documents are planned to be issued on Wednesday Sept. 25 with a due date of October 16. If the Select Board puts this funding question on the November 5 Warrant, and if the voters approve it, construction is planned to start the mid-November week, with a completion date on or before Memorial Day 2020.

Action: Request that the Select Board approve this Article for the Special Town Meeting Warrant and recommend Article 8.

Note: The Budget Review Committee met on September 19 and voted 3 to 2 to recommend Article 8.

Town of Ogunquit

North Beach, Footbridge Beach, and Main Beach Bathhouse and Lifeguard Station Project Funding Status

| |
|--|
| Phase I: North Beach and Footbridge |
|--|

Preconstruction

| | | |
|--|------------------|----------------------|
| Preconstruction Contract: | \$ 87,000 | \$58,777.41 (actual) |
| Concept Development Needs assessment; space analysis, concept plans | \$13,538.99 | |
| Design Development Architectural, Engineering, prepare construction documents | \$33,738.42 | |
| Bid process Specifications, bid documents, bid review | \$11,500.00 | |
| | \$58,777.41 | |

Construction

| | | |
|-----------------------------------|-------------------|--------------|
| Bid Price | \$340,264. | |
| | | \$399,041.41 |
| Construction Change Order: | | |
| Sand Trap @ North Beach: | \$10,650 | |
| Sand Trap @ Footbridge: | \$ 6,850 | |
| Underground piping | <u>\$47,028</u> | |
| | \$64,528. | |

| | | |
|--|--|--------------|
| Completed cost of Footbridge Beach and North Beach Bathhouses (Architectural, Engineering, and Construction) | | \$463,569.41 |
|--|--|--------------|

| |
|--|
| Phase II Main Beach Bathhouse and Lifeguard Station |
|--|

Preconstruction to date

| | | |
|----------------------------|-------------------|--|
| Main Beach concept designs | \$11,315.83 | |
| Meetings | \$ 6357.50 | |
| Site survey | \$11,568.40 | |
| Expenses | <u>\$ 746.187</u> | |
| | \$29,987.91 | |

| | | |
|---|--|---------------|
| Total spent to date of the \$1 million authorized: | | \$ 493,557.32 |
| Funds available to begin Phase II: | | \$ 506,442.68 |
| Estimated cost of the Main Beach Bathhouse and Lifeguard Station building: | | \$1,200,000. |
| Requested amount to complete Phase II: | | \$ 700,000 |

WARRANT
FOR THE
NOVEMBER 5, 2019
SPECIAL TOWN MEETING
OF THE
TOWN OF OGUNQUIT

TO: PATRICIA L. ARNAUDIN, Chief of Police of the Town of Ogunquit, in the County of York, State of Maine:

GREETINGS:

In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of Ogunquit in said county and state, qualified by law to vote in town affairs, to meet at the Dunaway Community Center, 23 School Street in said Town of Ogunquit on **Tuesday, the fifth (5) day of November 2019**, A.D. at eight o'clock in the morning (8:00 a.m.) until eight o'clock in the evening (8:00 p.m.) to vote by secret ballot on the following warrant articles; to wit:

Article 1: To elect a Moderator to preside at said Meeting. [*Note: This question is not intended to be acted upon as part of the official secret ballot at the Special Town Meeting.*]

Article 2: To elect **one (1) Select Board Member** to fill a vacancy for an unexpired term ending at the conclusion of 2020 Annual Town Meeting.

Article 3: To elect **one (1) Budget Review Committee Member** to fill a vacancy for an unexpired term ending at the conclusion of the 2021 Annual Town Meeting.

Article 4: Shall a **Charter Commission** be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?

Article 5: Shall the Municipality approve the **Amendment to the Town Charter, Article VIII, Boards, Committees and Commissions, Section 804, Recall of Elected Officials** as follows: [*Note: the proposed amendment is bold and underlined*]

Any elected official may be recalled and removed from office by the registered voters of the Town as herein provided, **if the official has been convicted of a crime, the conduct of which occurred during the official's term of office.**

Article 6: Shall the Town approve the Transfer of \$75,909.64 from the **Unassigned Fund Balance** to the **2019 General Government** budget to fund the over expenditure in that budget due to Legal Services costs?

Select Board Recommends:

Budget Committee Recommends: \$75,909.64 Yes 4 No 1

Article 7: Shall the Town appropriate a sum not to exceed \$10,919 from the Unassigned Fund Balance to the Marginal Way Committee budget for the Erosion Control and Restoration Projects?

Select Board Recommends:
 Budget Committee Recommends: \$10,919.00 Yes 5 No 0

Article 8: Shall the Town (1) vote to approve the Reconstruction and Expansion of the Main Beach Bathhouse and Lifeguard Station (the "Project"); (2) appropriate a sum not to exceed \$700,000 to provide for the costs of the Project; and (3) to fund said appropriation, authorize the Treasurer and Chairperson of the Select Board to issue general obligation securities of the Town of Ogunquit, Maine (including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed \$700,000; and (4) delegate to the Treasurer and the Chairperson of the Select Board the authority to fix the date(s), maturity(ies), interest rate(s), call(s) for redemption, refunding of said securities, place(s) of payment, form, and other details of said securities, including execution and delivery of said securities on behalf of the Town of Ogunquit, and to provide for the sale thereof?

FINANCIAL STATEMENT

1. Total Indebtedness
 - a. Bonds outstanding and unpaid: \$ 6,374,489
 - b. Bonds authorized and unissued: \$ 559,100
 - c. Bonds to be issued if this Article is approved \$ 700,000

2. Costs
 - a. At an estimated interest rate of 2.9% for a ten (10) year maturity, the estimated costs of this bond issue will be:

| | |
|---------------------|-------------------|
| Principal: | \$ 700,000 |
| Interest | \$ 114,100 |
| Total Debt Service: | <u>\$ 814,100</u> |

3. Validity
 The validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/ _____
 Mandy Grenier,
 Town Treasurer

Select Board recommends:
 Budget Review Committee recommends: \$700,000.00 Yes 3 No 2

Given under our hands this 24th day of September 2019, A.D. in Ogunquit, Maine, by the
Ogunquit Select Board, acting in their capacity as the Municipal Officers:

OGUNQUIT SELECT BOARD

Charles L. Waite, III, Chair

Madeline S. Mooney, Vice Chair

John M. Daley, Member

Lindsey M. Perry, Member

Robert N. Winn, Jr., Member

State of Maine
County of York, ss

A True Copy,
Attest:

Town of Ogunquit, Maine

Dated: _____

VOTER INFORMATION: The Registrar of Voters will hold office hours while the polls are open to correct any error in or change a name or address on the voting list, to accept the registration of any person eligible to vote and to accept new enrollments. A person who is not registered to vote may not vote in any election.

RETURN OF WARRANT CERTIFICATION

In the Town of Ogunquit, County of York, State of Maine, ss.

Pursuant to the foregoing Warrant to me as directed, I notified and warned the Inhabitants of the Town of Ogunquit herein named to meet at the time and place for purpose herein stated by posting upon the _____ day of _____, 2019, A.D. a copy of said Warrant at the Dunaway Community Center, Ogunquit Post Office, Ogunquit Transfer Station and WOGT, those being four (4) conspicuous and public places in said Town.

Patricia L. Armaudin, Chief of Police
Town of Ogunquit

UNDER SEAL OF THE TOWN,

A True Copy: ATTEST:

Office of the Town Clerk

STATE OF MAINE
COUNTY OF YORK, ss

ORDER FOR THE SPECIAL TOWN MEETING
&

Municipal Officers Certification of Official Text of Secret Ballot Referendum Questions

TO: Christine L. Murphy, Town Clerk

We, the undersigned municipal officers, hereby order that the following articles be placed on the ballot as questions to be presented to the voters at the Special Town Meeting to be held on Tuesday, November 5, 2019, A.D.; whereby said questions shall be presented to the voters for their consideration by secret ballot; to wit:

- Article 1: To elect a Moderator to preside at said Meeting. [*Note: This question is not intended to be acted upon as part of the official secret ballot at the Special Town Meeting.*]
- Article 2: To elect one (1) Select Board Member to fill a vacancy for an unexpired term ending at the conclusion of 2020 Annual Town Meeting.
- Article 3: To elect one (1) Budget Review Committee Member to fill a vacancy for an unexpired term ending at the conclusion of the 2021 Annual Town Meeting.
- Article 4: Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?
- Article 5: Shall the Municipality approve the Amendment to the Town Charter, Article VIII, Boards, Committees and Commissions, Section 804, Recall of Elected Officials” as follows: [*Note: the proposed amendment is bold and underlined!*]
- Any elected official may be recalled and removed from office by the registered voters of the Town as herein provided, if the official has been convicted of a crime, the conduct of which occurred during the official’s term of office.
- Article 6: Shall the Town approve the Transfer of \$75,909.64 from the Unassigned Fund Balance to the 2019 General Government budget to fund the over expenditure in that budget due to Legal Services costs?
- Article 7: Shall the Town appropriate a sum not to exceed \$10,919 from the Unassigned Fund Balance to the Marginal Way Committee budget for the Erosion Control and Restoration Projects?
- Article 8: Shall the Town (1) vote to approve the Reconstruction and Expansion of the Main Beach Bathhouse and Lifeguard Station (the “Project”); (2) appropriate a

sum not to exceed \$700,000 to provide for the costs of the Project; and (3) to fund said appropriation, authorize the Treasurer and Chairperson of the Select Board to issue general obligation securities of the Town of Ogunquit, Maine (including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed \$700,000; and (4) delegate to the Treasurer and the Chairperson of the Select Board the authority to fix the date(s), maturity(ies), interest rate(s), call(s) for redemption, refunding of said securities, place(s) of payment, form, and other details of said securities, including execution and delivery of said securities on behalf of the Town of Ogunquit, and to provide for the sale thereof?

Given under our hands this 24th day of September, 2019, A.D. in Ogunquit, Maine, by the Select Board, acting in their capacity as the Municipal Officers:

OGUNQUIT SELECT BOARD

Charles L. Waite, III, Chair

Madeline S. Mooney, Vice Chair

John M. Daley, Member

Lindsey M. Perry, Member

Robert N. Winn, Jr., Member

State of Maine
County of York, ss

A True Copy,
Attest:

Christine L. Murphy, Town Clerk
Town of Ogunquit, Maine

Dated: _____