

1-17-1972

Charter of the Town of Hampden, Maine, Amended November 6, 2007

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**C H A R T E R
O F T H E
T O W N O F H A M P D E N , M A I N E**

ADOPTED: Hampden Town Council, January 17, 1972

CERTIFIED BY: _____
Denise R. Hodsdon

Town Clerk
Title Affix Seal

AMENDED: September 24, 1973

AMENDED: December 5, 1977

AMENDED: January 8, 1979

AMENDED: March 13, 1979

AMENDED: November, 1979

AMENDED: March, 1982

AMENDED: June 8, 1982

AMENDED: November 6, 1984

AMENDED: November 5, 1985

AMENDED: November 4, 1986

AMENDED: November 6, 1990

AMENDED: November 6, 2001

AMENDED: November 5, 2002

AMENDED: November 2, 2004

AMENDED: November 6, 2007

**COUNCIL-MANAGER CHARTER
OF THE
TOWN OF HAMPDEN, MAINE**

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ARTICLE I
POWERS OF TOWN

Sec. 101 Powers of the Town - The town shall have all powers possible for a municipality to have under the Constitution and laws of Maine.

Sec. 102 Construction - The powers of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this Article.

Sec. 103 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 divisions or agencies thereof, or of the United States or any agency thereof.

ARTICLE II
TOWN COUNCIL

Sec. 201 Composition and Term of Office

(a) *Composition* - There shall be a town council of seven (7) members, four (4) of whom shall be district councilors and three (3) of whom shall be at large councilors.

(b) *Term of Office* - The term of office for councilors elected on or after the regular municipal election held in 2005 shall be three (3) years. Provided, however, that any councilor elected to fill a vacancy shall serve the unexpired term of that position. (Amended: November 2, 2004)

Sec. 202 Eligibility - Only registered voters who reside in the town shall be eligible to hold office as councilors at large. Only a registered voter and a resident of a district may be elected as councilor for the district. Any registered voter seeking office must be a resident of the town for at least one year. (Amended: June 8, 1982)

Sec. 203 Compensation - The Town Council may determine the annual salary of the chairman and councilors by ordinance, but no ordinance increasing such salary shall become effective until the commencement of the terms of councilors elected at the next regular election. Salaries of councilors shall be paid on a quarterly basis for services performed in the preceding quarter. Councilors elected in a special election shall be paid on a pro rata basis for the time they shall actually serve. Initially annual salaries shall be twenty dollars (\$20.00) per meeting for each councilor and town counselor and twenty-five dollars (\$25.00) per meeting for council mayor. (Amended: June 8, 1982)

Sec. 204 Mayor and Deputy Mayor - At the first council meeting in January of each year the town's attorney shall, after the swearing of council members, preside over the town council's election of one of its members as mayor for the ensuing year. The mayor shall preside at the meetings of the council and may vote on all matters that come before the council. The mayor shall represent the interests of his/her constituency in all matters before the council. The mayor shall be recognized as the head of the town government for all ceremonial purposes and by the Governor for the purposes of military law, but shall have no regular administrative duties. A newly elected mayor's first official act shall be to preside over the council's election of one of its members as a deputy mayor for the ensuing year. The deputy mayor shall exercise all the powers of the mayor during the temporary absence or temporary disability of the mayor. The mayor and/or the deputy mayor may resign, with or without explanation and with or without the consent of the council, their respective positions at any time. Should the office of mayor become vacant at any time other than as prescribed above, the town's attorney shall, as the next order of council business preside over the election of a mayor. Should the deputy mayor become vacant, the mayor shall,

as the next order of council business preside over the election of a deputy mayor. (*Amended: November 5, 1985, November 6, 1990, Amended: November 6, 2007*)

Sec. 205 Powers and Duties - Except as otherwise provided by state statute or this charter, all powers of the town shall be vested in the town council, which shall be the general legislative body of the town. The town council shall be the municipal officers of the Town of Hampden.

Sec. 206 Prohibitions - Except where authorized by state statute no councilor shall hold any other town office or town employment during the term for which that person was elected to the town council. Neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any administrative officials or employees whom the manager or any subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officials and employees.

Except for the purpose of inquiry, the council and its members shall deal with the administrative services solely through the manager and neither the council nor any member, thereof shall give orders to any subordinates of the manager, either publicly or privately. (*Amended: November 6, 1990*)

Sec. 207 Vacancies; Forfeiture of Office; Filling of Vacancies

(a) *Vacancies* - The office of councilor shall become vacant upon nonacceptance, resignation, abandonment, death, permanent disability, permanent incompetency, failure to qualify for the office within 10 days after written demand by the council, forfeiture of office, or failure of the municipality to elect a person for the office. (*Amended: November 6, 1990*)

(b) *Forfeiture of Office* - A councilor shall forfeit that person's office if that person (1) lacks at any time during that person's term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, (3) is convicted of a crime or offense which is, during that person's term, reasonably related to that person's ability to serve as councilor, or (4) fails to attend three (3) consecutive regular meetings or misses more than a maximum of six (6) regular meetings per year of the council without being excused by the council. (*Amended: November 5, 1985, November 6, 1990*)

(c) *Filling of Vacancies* - If a seat on the town council becomes vacant more than 6 months prior to the next regular municipal election, the council shall call a special election to fill the unexpired term within 60 days from the date that the vacancy occurred. If a seat on the council becomes vacant less than 6 months prior to the next regular municipal election, the council may call a special election. (*Amended: November 2, 2004*)

Sec. 208 Council to Judge Qualifications of Its Members - The town council shall be the judge of the election and qualifications of its members and for such purposes shall have power to subpoena witnesses and require productions of records, but the decision of the council in any such case shall be subject to review by the courts.

Sec. 209 Induction of Council Into Office - The town council shall meet at the usual time and place for holding meetings on the first regularly scheduled meeting in January and at said meeting councilors-elect shall be sworn to the faithful discharge of their duties by the town clerk or by the town counselor. For any person elected at a special election to fill a vacancy, the councilor-elect shall be sworn to the faithful discharge of the councilor-elect's duties by the town clerk or by the town counselor at the first regularly scheduled meeting of the town council after certification of the election results. (*Amended: June 8, 1982, November 6, 2007*)

Sec. 210 Investigations - The council may make investigations into the affairs of the town and the conduct of any town department, office or agency and for this purpose may enact an ordinance providing

for the compulsory attendance of witnesses, the administering of oaths, the taking of testimony and the compulsory production of evidence.

Sec. 211 Procedure –

- (a) *Meetings* - The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of five (5) or more members by causing a notification to be given or left at the usual dwelling place of each council member. If practicable, such notice shall be given not less than twelve hours before the special meeting and shall be published in a paper having general circulation in the town. All meetings shall be public; however, the council may recess for the purpose of discussing in a closed or executive session limited to its own membership, town manager and to other persons the council votes to admit, any matter which would tend to defame or prejudice the character or reputation of any person, provided that the precise subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. The foregoing action shall be governed by state law, MRSA, Title 1, §405, as amended. Any citizen at the meeting shall have the opportunity to speak upon any subject before the council. *(Amended: June 8, 1982)*
- (b) *Rules and Journal* - The council shall determine its own rules.
- (c) *Secretary* - The town clerk shall act as secretary of the town council and shall keep a record of all council proceedings including all roll call votes. The Town Clerk or designee shall act as recording secretary at town council meetings. *(Amended: December 5, 1977)*
- (d) *Voting* - The ayes and nays of any vote taken by the town council shall be entered in the record of the proceedings of the council by the Town Clerk, or designee. Five members of the council shall constitute a quorum, but a smaller number may meet from time to time and may compel the attendance of absent members prescribed by the rules of the council. No action of the council shall be binding or valid unless adopted by the majority vote of those present. *(Amended: June 8, 1982, November 6, 2007)*
- (e) *Agenda* - Any subject may be placed on the agenda for a council meeting by a councilor, the town manager or at the request of any citizen. Any subject presented by a citizen must be received at the town office at least 5 calendar days prior to the council meeting. The agenda shall be prepared and posted in the town office at least one business day prior to a scheduled council meeting.

Sec. 212 Action Requiring an Ordinance - In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of council shall be by ordinance which:

- (1) Adopt or amend an administrative code, or establish, alter or abolish any town department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Grant, renew or extend a franchise;
- (4) Regulate the rate charged for its services by a public utility;
- (5) Authorize the borrowing of money other than tax anticipation notes;
- (6) Convey or lease or authorize the conveyance or lease of any lands of the town;

- (7) Amend or repeal any ordinance previously adopted;
- (8) Amend or establish town fees; and

Acts other than those referred to in the preceding sentence may be done by ordinance, by order or by resolution. (*Amended: June 8, 1982*)

Sec. 213 Ordinances In General

- (a) *Form* - Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The Town of Hampden hereby ordains...." Any ordinance which repeals or amends an existing ordinance or part of the Hampden Code shall set out in full the ordinance 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* - An ordinance may be submitted as an agenda item by any member of the council at any regular or special meeting. Copies of the proposed ordinance are to be included with the council packet. After council discussion, the proposed ordinance may be introduced as submitted or amended for public hearing. A reasonable number of copies of said ordinance shall be filed in the town clerk's office and such other public places as the council may designate, and a notice setting out the time and place for a public hearing on same shall be published. The public hearing shall follow the publications at least seven (7) days, may be held separately or in conjunction with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have a reasonable opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or may reject it; but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a new ordinance. As soon as practicable after adoption of any ordinance, the town clerk shall publish a notice of its adoption. (11) (*Amended: June 8, 1982*)
- (c) *Effective Date* - Except as otherwise provided in this charter every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date as specified therein.
- (d) *"Publish" Defined* - As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the town; (1) the ordinance or a brief summary thereof, and (2) the place where copies of the complete text have been filed and the time when they are available for public inspection. (*Amended: June 8, 1982*)

Sec. 214 Emergency Ordinances - To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances; but said ordinances may not grant, renew or extend a franchise, regulate the rate charged by a public utility for its services or authorize the borrowing of money except where any emergency notes or renewals thereof are paid within twenty-four months of the adoption of said ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least all members present shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such

later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency notes shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Sec. 215 Authentication and Recording; Codification; and Printing

- (a) *Authentication* - All ordinances and resolutions adopted by the council shall be authenticated by the signature of the secretary of the council and recorded in full by the town clerk in a properly indexed book kept for that purpose.
- (b) *Codification* - Within three years after adoption of this charter and at least every ten years thereafter, the council shall provide for the preparation of a general codification of all ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Maine and such codes of technical regulations and other rules and regulations as the council may specify. Any codification ordinance may be published by title. This compilation shall be known as the Hampden Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.
- (c) *Printing of Ordinances and Resolutions* - The council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Hampden Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Maine, or the codes of technical regulations and other rules and regulations included in the code.

**ARTICLE III
ADMINISTRATIVE OFFICIALS AND EMPLOYEES**

Sec. 301 Titles and Appointment - The following officials and boards shall be appointed by a majority vote of the members of the town council: Town Manager, board of assessment review, planning board, board of appeals and other boards or officials when such appointment is required by state statute or municipal ordinance. The council may, where appropriate, and where not prohibited by law, vest in the town manager all or part of the duties of any office. *(Amended: November 6, 2007)*

The town manager shall appoint the town clerk, treasurer, tax collector, town assessor and department heads subject to the confirmation of the town council, and shall have the power to remove such appointees when necessary. The town manager shall appoint and remove when necessary all other administrative officials and town employees, except as the manager may authorize the head of a department or office and except as otherwise provided in this charter. *(Amended: November 6, 1990)*

Sec. 302 Creation of Department - The town council, by ordinance, may establish, change and abolish town departments, offices or agencies other than those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no functions assigned by this charter to a

particular department, office or agency may be discontinued or, unless specifically provided by this charter, assigned to any other.

Sec. 303 Merit Principle - All appointments and promotions of town officials and employees, subject to the direction and supervision of the manager, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

Personnel Appeals Board

There shall be a personnel appeals board consisting of three members appointed by the town council from among the qualified voters of the town. The first appointments to this board shall be made in the following manner: One member for three years, one member for two years and one member for one year. All succeeding appointments shall be made for terms of three years.

Personnel Rules

The town manager, or the manager's appointee, shall prepare personnel rules. The town manager shall submit such rules to the council which council shall adopt by ordinance with or without amendment. These rules shall provide: (*Amended: November 6, 1990*)

- (a) The classification of all town positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (b) A pay plan for all town positions;
- (c) Methods for determining the merit and fitness of candidates for appointment or promotion, demonstration or dismissal;
- (d) The policies and procedures regulating reduction in force and removal of employees;
- (e) A retention and retirement plan for town employees;
- (f) The hours of work, attendance regulations and provisions for sick and vacation leave;
- (g) The policies and procedures governing persons holding provisional appointments;
- (h) The policies and procedures governing relationships with employee organizations;
- (i) Policies regarding in-service training program;
- (j) Grievance procedure, including procedures for the hearing of grievances by the personnel appeals board, which may render recommendations based on its findings to the town council with a copy to the town manager and to the aggrieved employee;
- (k) Other practices and procedures necessary to the administration of the town personnel system.

ARTICLE IV TOWN MANAGER

Sec. 401 Town Manager; Qualifications - The town council shall appoint a town manager for a definite term and fix the amount of compensation. The manager shall be appointed on the basis of executive and administrative qualifications. The manager need not be a resident of the town or state at the time of

appointment but may reside outside the town while in office only with approval of the council. No councilor shall receive such appointment during the term for which that person shall have been elected, nor within one year after the expiration of that person's term, nor shall any member of the town council act in the capacity. (*Amended: November 4, 1986, November 6, 1990*)

Sec. 402 Removal - The council may remove the manager from office in accordance with the following procedures:

- (1) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal, and may suspend the manager from duty which may be effective immediately for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.
- (2) Within 10 days after receiving a copy of the resolution, the manager may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than 15 nor later than 30 days after the request is filed. The manager may file with the council a written reply not later than five days before the hearing.
- (3) The council may adopt a final resolution of removal which may be made effective immediately, by affirmative vote of a majority of all its members at any time after 10 days from the date when a copy of the preliminary resolution was received by the manager, if the manager has not requested a public hearing, or at any time after the public hearing if the manager has requested one. (*Amended: November 6, 1990*)

Sec. 403 Powers and Duties of the Town Manager - The manager shall be the chief administrative official of the town. The manager shall be responsible to the town council for the administration of all town affairs placed in that person's charge by or under this charter. The manager shall have the following powers and duties:

- (1) *Administration.* The manager shall direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this charter or by law.
- (2) *Attend Council Meeting.* The manager shall attend council meetings, except when the manager's removal is being considered, and shall have the right to take in discussions but may not vote.
- (3) *Enforcement.* The manager shall see that all laws, provisions of this charter and acts of the council, subject to enforcement by the manager or by officials subject to the manager's direction and supervision, are faithfully executed.
- (4) *Annual Budget.* The manager shall prepare and submit the annual budget and capital program to the council.
- (5) *Report on Finances, Etc.* The manager shall submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year.
- (6) *Other Reports.* The manager shall make such other reports as the council may require concerning the operations of town departments, offices and agencies subject to that person's direction and supervision.
- (7) *Advise and Make Recommendations to Council.* The manager shall keep the council fully advised as to the financial condition and future needs of the town and make such recommendations to the council concerning the affairs of the town as deemed desirable.

(8) *Administrative Code.* The manager shall prepare an administrative code or amendments to an existing administrative code as required, to be proposed to the council, and the council may by ordinance adopt them with or without amendment.

(9) *Other Duties.* The manager shall perform such other duties as are specified in this charter or may be required by the council. (Amended: November 6, 1990)

Sec. 404 Absence of Town Manager - By letter filed with the town clerk the manager shall designate, subject to approval of the town council, a qualified town administrative official to exercise the powers and perform the duties of manager during any temporary absence or disability. During such absence or disability the council may revoke such designation at any time and appoint another official of the town to serve until the manager shall return or the disability shall cease. In the event of failure of the manager to make such designation, the council may by resolution appoint any administrative official of the town to perform the duties of the manager until the manager shall return or the disability shall cease. (Amended: November 6, 1990)

ARTICLE V TAX ADMINISTRATION

Sec. 501 Assessment Administration, Assessor - There shall be a single assessor appointed by the manager subject to the approval of the town council. The assessor shall perform all duties and responsibilities provided for assessors under general law. The salary, hours and working conditions shall be determined by the town manager, subject to the approval of the town council. Cause shall not include any disagreement with respect to an assessing practice employed by the assessor where such practice is generally accepted and lawful. (Amended- June 8, 1986, November 6, 1990)

Sec. 502 Board of Assessment Review, Appointments; Vacancies - There shall be a Board of Assessment Review to consist of five members who will be appointed by the town council for a term of three years, except of those first appointed, one shall be for a term of two years and one for a term of one year. Two alternates serving staggered terms, shall also be appointed. Three (3) members will constitute a quorum and they shall elect their own chairman. Vacancies in the membership of such board shall be filled by appointment by the council for the unexpired term. (Amended: March 13, 1979)

Sec. 503 Board of Assessment Review Duties - The Board of Assessment Review shall have the powers and duties conferred upon such boards by the laws of the State of Maine.

ARTICLE VI ZONING BOARD OF APPEALS AND PLANNING BOARD

Sec. 601 Composition and Terms - There shall be a zoning board of appeals whose composition and term of office shall be in accordance with state law. Further reference is made to the Town of Hampden Zoning Ordinance. (Amended: June 2, 1982)

Sec. 602 Planning Board: Appointment

(1) Appointment to the board shall be made by the municipal officers.

(2) The board shall consist of seven members and two associate members.

(3) The term of each member and associate member shall be five years.

(4) Not more than one municipal officer may serve as a member or associate member. (Amended: June 2, 1982)

Sec. 603 Planning Board: Organization and Rules

- (1) The board shall elect a chairperson and a secretary from among its members and create and fill such other offices as it may determine. The term of offices shall be one year with eligibility for re-election.
- (2) When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an associate member to sit in that person's stead.
- (3) An associate member may attend all meetings of the board and participate in its proceedings, but may vote only when so designated by the chairperson to sit for a member.
- (4) Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- (5) The chairperson shall call at least eight regular meetings of the board each year.
- (6) No meetings of the board shall be held without a quorum consisting of four members or associate members authorized to vote.
- (7) The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings, and determinations. All records shall be deemed public and may be inspected at reasonable times. *(Amended: June 2, 1982, November 6, 1990)*

Sec. 604 Planning Board: Comprehensive Plan - The town council shall approve no changes in the comprehensive plan without the recommendation of the Planning Board. Such recommendations may be overturned by an affirmative vote of five councilors.

ARTICLE VII
FINANCIAL PROCEDURE

Sec. 701 Fiscal Year - Effective July 1, 1985, the fiscal year of the Town shall begin on the first day of July and end on the last day of June of the following year. *(Amended: November 6, 1984)*

Sec. 702 Submission of Budget and Budget Message - On or before the 1st day of May of each year the Town Manager shall submit to the Town Council a budget for the next fiscal year and an accompanying message. *(Amended: November 4, 1986)*

Sec. 703 The Budget Message - The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position and include such other material as the manager deems desirable.

Sec. 704 Budget - The budget shall begin with a clear summary of its contents. It will show in detail all estimated income and all proposed expenditures, including debt service, the actual and estimate portion of the SAD #22 Budget allocated to Hampden, the estimated and actual portion of the Penobscot County budget allocated to the Town of Hampden and the proposed tax levy. It shall provide a complete financial plan of all town funds and activities for the next fiscal year and except as required by this Charter, be in such form as the Town Manager deems desirable and the Town Council may require. It will be so arranged as to show comparative budget and expenditure figures between the proposed budget and the

prior and current fiscal year budgets. It shall indicate in separate sections as follows: *(Amended: November 5, 2002)*

- (1) Proposed expenditures for operations detailed by offices, departments and agencies for the next fiscal year; and
- (2) Proposed Capital Expenditures detailed by offices, departments, and agencies for the next fiscal year; and
- (3) Anticipated net surplus or deficit for the next fiscal year of each utility owned or operated by the Town, if any, and the proposed method of its disposition; subsidiary budgets for each utility giving detailed income and expenditure information shall be attached as appendices to the budget. *(Amended: June 2, 1982)*

THE TOTAL OF PROPOSED EXPENDITURES SHALL NOT EXCEED THE TOTAL OF ESTIMATED INCOME.

Sec. 705 Capital Program

- (a) *Submission to Council:* The manager shall prepare and submit to the council a five-year capital program at the same time as the manager submits the budget. *(Amended: November 6, 1990)*
- (b) *Contents:* The capital program shall include:
 - (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - (3) Cost estimates, methods of financing and recommended time schedules for each improvement; and
 - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 706 Council Action on Budget

- (a) *Notice and Hearing.* The council shall publish in one or more newspapers of general circulation in the town the general summary of the budget and a notice stating:
 - (1) The times and places where copies of the message and budget are available for inspection by the public, and
 - (2) The time and place of the public hearing on the budget. The public hearing shall be held no sooner than two weeks after said publication but in no case later than the third Monday in June. *(Amended: November 6, 1984)*
- (b) *Amendment Before Adoption.* After the public hearings the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt

deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

- (c) *Adoption.* On or before January 1, 1985 the town council shall adopt a budget for the period from January 1, 1985 to July 1, 1985. Thereafter the council shall adopt the budget before the first day of July each year and if it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. *(Amended: November 6, 1984)*

Adoption of the budget shall be done by council order listing a chart of accounts and shall be enumerated by appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. *(Amended: June 2, 1982)*

Sec. 707 Council Action on Capital Program

- (a) *Notice and Hearing.* The council shall publish in one or more newspapers of general circulation in the town the general summary of the capital program and notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public,
- (2) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

- (b) *Adoption.* The council by resolution shall adopt the capital program with or without amendment after the public hearing and before the 1st day of July. *(Amended: November 6, 1984)*

Sec. 708 Public Records - Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the town.

Sec. 709 Amendments After Adoption

- (a) *Supplemental Appropriations.* If during the fiscal year the manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Emergency Appropriations.* To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by emergency ordinance authorize the issuance of temporary notes which may be renewed from time to time, but the temporary notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, the manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken and a recommendation as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution or order reduce one or more appropriations. *(Amended: November 6, 1990)*

- (d) *Transfer of Appropriations.* At any time during the fiscal year the manager may transfer part or all of any unencumbered funds within an appropriation. Upon written request by the manager, the council may by affirmative vote of five members transfer part or all of any unencumbered appropriation balance from one appropriation to another.
- (e) *Limitations: Effective Date.* No appropriation for debt service may be reduced or transferred and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 710 Lapse of Appropriations - Every general fund appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any activity or encumbrance of the appropriation by the council. (Amended: June 2, 1982)

Sec. 711 Administration of Budget

- (a) *Work Programs and Budgets.* At such time as the manager shall specify, each department, office or agency shall submit the work programs for the ensuing fiscal year. The manager shall review and authorize such budgets with or without revision as early as possible in the fiscal year. The manager may revise such budget during the year if the manager deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriation made pursuant to Section 709. (Amended: June 2, 1982, November 6, 1990)
- (b) *Payments and Obligations Prohibited.* No payment shall be made or obligation except in accordance with appropriations duly made and unless the manager or designee first certified that there is a sufficient unencumbered balance in such appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal; such action shall be cause for removal of any official who knowingly authorized or made such payment or incurred such obligation, and that official shall also be liable to the town for an amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinances. (Amended: June 2, 1982, November 6, 1990)

Sec. 712 Annual Post-Audit - Council shall each year appoint a certified public accountant for the purpose of conducting the annual post-audit of the prior fiscal year municipal finances, as authorized by law. Said audit shall be received in its entirety within the first quarter of the ensuing year. (Amended: June 2, 1982)

ARTICLE VIII NOMINATIONS AND ELECTIONS

Sec. 801 Conduct of Elections - The regular municipal election shall be held on the Tuesday following the first Monday of November in each year. Except as otherwise provided by this charter, the provisions of Title 21 of the Revised Statutes Annotated shall apply to elections held under this charter. All elections called for under this charter shall be conducted by the election officials established under Title 21. For the conduct of elections, for the prevention of fraud in such elections and for the recount of ballots in case of

doubt, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter. Qualified voter shall mean any person qualified and registered to vote under law. (Amended: June 2, 1982)

Sec. 802 Officials Nominated and Elected At Large

- (a) *Names on Ballots.* The full names and street addresses of all candidates nominated for councilor at large, except those who have withdrawn, died, or become ineligible shall be printed on the official ballots under a heading reading: "Nominees of Councilor at Large". (Amended: November 6, 1990)
- (b) *Councilor Elected by District.* The full names and street addresses of all candidates nominated for membership as district councilor in the council, except those who have withdrawn, died, or become ineligible, shall be printed only on the official ballots for their respective districts under the separate heading reading: "Nominees for District Councilor".

Sec. 803 Nomination Paper for Specimen Ballot

- (a) Nomination Paper will be provided upon request from town office.
- (b) Specimen ballot will be provided upon request from town office.

Sec. 804 Ordering Candidate Surnames - When two or more candidates have been nominated for any office, the names of said candidates shall appear on the ballot in the order determined by lot. The municipal clerk shall determine, by lot, the order that said candidates' names shall appear on the ballot, provided the proceedings shall be public and the candidates shall be given an opportunity to be present.

Sec. 805 Election Provisions - Provisions of the laws of the State of Maine relating to the qualifications of voters, registration, the manner of voting, the duties of election officers and all other particulars respective to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this charter.

Sec. 806 Nomination - Any Hampden voter may be nominated for the town council in accordance with the provisions of the Charter and of the laws of the State of Maine. A candidate for district councilor must obtain the names of not less than 10, nor more than 25, Hampden voters, who must reside in the candidate's district. At large candidates must obtain the names of not less than 25, nor more than 35, Hampden voters, who may reside any place in the town. (Amended: November 2, 2004)

- (a) The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper and that the circulator believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to that person's signature the date of signing and the street address where that person resides. (Amended: November 6, 1990)

The regular election to choose members of the town council, School Administrative District 22, and the Water Board, shall be held on the Tuesday following the first Monday of November. (Amended: June 2, 1982)

- (b) **Filing and Acceptance of Nomination Petitions.** All separate papers comprising a nominating petition for district councilor shall be assembled and filed with the municipal clerk as one instrument not earlier than 90 days or later than 60 days before the election. The clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by signed acceptance of the nomination. (Amended: November 6, 1990)

- (c) *Procedure After Filing Nomination Petitions.* Within five days after the filing of a nominating petition, the clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this charter. If a petition is found insufficient, the clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

Sec. 807 District Boundaries - District boundaries are as follows:

DISTRICT I: Beginning on the shore of the Penobscot River at the Hampden/Bangor line; thence southwesterly by and along the shore of the Penobscot River to the Edythe Dyer Library; thence northwesterly by and along the centerline of the Library access road to the centerline of Route 1-A; thence northeasterly to the centerline of Daisy Lane; thence northwesterly by and along the centerline of Daisy Lane and a continuation thereof to Route 202; thence across Route 202 to a point on the northerly boundary thereof located 1200 feet northeasterly of the centerline of Coldbrook Road; thence northwesterly 1200 feet northeasterly of and parallel to the centerline of Coldbrook Road to the Hampden/Hermon town line; thence northeasterly and southeasterly by and along the Hampden town line to the point of beginning.

DISTRICT II: Beginning at the shore of the Penobscot River at Edythe Dyer Library; thence southwesterly by and along the shore of the Penobscot River to the Souadabscook Stream; thence northwesterly by and along the centerline of the Souadabscook Stream to the centerline of Route 1-A; thence southerly by and along the centerline of Route 1-A to the centerline of Reed's Brook; thence westerly by and along the centerline of Reed's Brook to the centerline of the railroad tracks; thence northerly by and along the centerline of the railroad tracks to the Hampden/Hermon town line; thence northeasterly by and along the town line to a point marking the northwesterly corner of District I; thence southeasterly by and along the westerly boundary of District I to the point of beginning.

DISTRICT III: Beginning at the centerline of the Souadabscook Stream at the Penobscot River; thence northwesterly along the centerline of the Souadabscook Stream to the centerline of Route 1-A; thence southerly by and along the centerline of Route 1-A to the centerline of Reed's Brook; thence westerly by and along the centerline of Reed's Brook to the centerline of the railroad tracks; thence southerly by and along the centerline of the railroad tracks to the centerline of Kennebec Road; thence westerly by and along the centerline of Kennebec Road to the Hampden/Newburgh town line; thence southerly by and along the Hampden/Newburgh town line to the Hampden/Winterport town line; thence easterly by and along the Hampden/Winterport town line to the shore of the Penobscot River; thence northerly by and along the shore of the Penobscot River to the point of beginning.

DISTRICT IV: Beginning at the intersection of the centerline of the railroad tracks and the centerline of the Kennebec Road; thence westerly by and along the centerline of the Kennebec Road to the Hampden/Newburgh town line; thence northerly by and along the Hampden/Newburgh town line to the intersection of the Hampden/Newburgh/Carmel/ Hermon town lines; thence northeasterly, northerly, southeasterly, and northeasterly by and along the Hampden/Hermon town line to the centerline of the railroad tracks; thence southerly by and along the centerline of the railroad tracks to the point of beginning. *(Amended November 6, 2001)*

ARTICLE IX
REFERENDUM AND INITIATIVE

Sec. 901 General Authority

- (a) *Referendum.* The qualified voters of the town shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal or change an ordinance so reconsidered, to approve or reject it by referendum at a town election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriations of money, levy taxes, or salaries of officers or employees.
- (b) *Initiative.* The qualified voter shall have the power to propose ordinances, resolves or orders to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at an election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of officials or employees.

Sec. 902 Referendum on Council Action - All ordinances, resolves, or orders appropriating 10% or more of the previous year's town operating budget exclusive of those funds set aside for SAD #22 and all ordinances, orders or resolves authorizing general obligation of bond issues of 10% or more of the previous year's town operating budget for capital improvements shall be submitted to referendum. *(Amended: June 2, 1982, November 6, 1990)*

Sec. 903 Commencement of Proceedings - Any 5 registered voters may begin referendum proceedings by a request in writing, to the town clerk for the appropriate petition blanks. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the ordinance, order or resolve sought to be reconsidered. The petition shall be signed only by registered voters of the town and each voter's signature shall be followed by that person's address.

Each paper of the petition, when filed, shall have attached to it an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, 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 ordinance sought to be reconsidered.

If within 20 days after the enactment of any such ordinance, order or resolve, the appropriate petition signed by not less than 10% of the registered voters of the town is filed with the town clerk requesting its reference to a referendum, the town council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall order the question of adopting such ordinance, order or resolve submitted to a referendum vote to be held at the next scheduled election, or in the case of no election being scheduled within 6 months of the date of said public hearing, the council may order a special election to be held for that purpose. Pending action by the voters of the town, the referred ordinance, order or resolve shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question. *(Amended: November 6, 1990)*

Sec. 904 Ordinances, Orders or Resolves Submitted to Popular Vote - The town council may submit on its own initiative a proposition for the enactment, repeal or amendment of any ordinance, order or resolve, except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the votes cast thereon at such election, such ordinance, order or resolve shall be enacted, repealed or amended accordingly.

Sec. 905 Enactment of Ordinances by Initiative - Ordinances may be enacted by the following initiative procedure:

Any 5 registered voters may begin initiative proceedings by request in writing to the town clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. The petition shall be signed only by registered voters of the town and each voter's signature shall be followed by that person's address.

Each paper of the petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, 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 proposed ordinance.

Upon receipt by the town clerk of the appropriate petition signed by not less than 10% of the registered voters of the town, the town council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall order the question of adopting such ordinance submitted to a vote to be held at the next scheduled election, or in the case of no election being scheduled within six months of the date of said public hearing, the council may order a special election to be held for that purpose, unless such ordinance shall be enacted by the council prior to the call for said town election. Such ordinance shall be enacted and take effect when a majority of those voting thereon shall have voted in the affirmative. *(Amended: June 2, 1982)*

Sec. 906 Attorney's Examination - Any such proposed ordinance shall be examined by an attorney before being submitted to the voters. This attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy in text and references, and clearness and preciseness in its phraseology, but the attorney shall not materially change its meaning and effect and cause it to be placed upon a ballot the form of which will be determined by the Town Council.

ARTICLE X GENERAL PROVISIONS

Sec. 1001 Oath of Office - Every officer of the town shall, before entering upon the duties of office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk. "I..... do affirm, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen hereof, that I will in all respects observe the provisions of the charter and ordinances of the Town of Hampden, Maine and I will faithfully discharge all the duties incumbent upon me as..... according to the Constitution and laws of the state, so help me, God." *(Amended: June 2, 1982, November 6, 1990)*

Sec. 1002 Activities Prohibited - No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of religion, age sex, marital status, race, color, ancestry, national origin, physical or mental handicap. *(Amended: June 2, 1982)*

Sec. 1002.A Forfeiture of Office by Council Decision - Any person serving on any town board or committee shall forfeit that person's seat if that person (1) lacks at any time during the term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, (3) is convicted of a crime or offense which is, during the term, reasonably related to that person's ability to serve or (4) fails to attend three consecutive regular meetings or no more than a maximum of

six (6) regular meetings per year of the board without being excused by said board. (*Amended: November 5, 1985, November 6, 1990*)

Sec. 1003 Charter Amendment

(1) *Proposal of Amendment.* Amendments to this charter may be framed and proposed:

- (a) In the manner provided by state law, or
- (b) By ordinance of the town council containing the full text of the proposed amendment and effective upon adoption, or
- (c) By the registered voters of the town, or
- (d) By report of a charter commission created by ordinance.

Proposal of an amendment by the registered voters of the town shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article IX for initiative petitions until such time as a final determination as to the sufficiency of the petitions is made. The petition must be signed by registered voters of the town equal in number to at least 10% of the total number of registered voters.

(2) *Election.* Upon passage of an ordinance, or upon receipt of a petition finally determined sufficient, or upon receipt of the report of a charter commission, proposing an amendment pursuant to subsection I, the town council shall submit the proposed amendment to the voters of the town at an election. Such election shall be announced by a public notice that will include a brief summary of the change(s) and location(s) where the complete text is available for inspection by the general public and shall be published in one or more newspapers of general circulation in the town at least 30 days prior to the date of the election. The election shall be held at the next regular municipal election. (*Amended: November 2, 2004*)

(3) *Adoption of Amendment.* If a majority of the qualified voters of the town voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after its adoption by the voters.

(4) The town council is hereby authorized to correct typographical errors and misspelled words within the text of the charter for the purpose of accuracy in its phraseology except that there shall be no additions to or deletions from the subject matter of the charter other than by ordinance as prescribed by Section 212. (*Amended: December 5, 1977*)

Sec. 1004 Ordinances Not Inconsistent Continue in Force - All ordinances of the Town of Hampden in force at the time when this charter takes effect, not inconsistent with this charter, shall continue in force until amended or repealed.

Sec. 1005 Deleted June 2, 1982

Sec. 1006 Existing Contracts Not Invalidated - All rights, actions, proceedings, prosecutions, and contracts of the town, pending or unexecuted when this charter goes into effect, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 1007 Short Title - This charter shall be known and may be cited as the "Council-Manager Charter of the Town of Hampden, Maine". The clerk shall cause it to be printed and made available to the public promptly.

Sec. 1008 Separability Clause - If any portion of this Act shall be held to be invalid, such decision shall not affect the validity of the remaining portions hereof.

Sec. 1009 Repealing Clause - All Acts and parts of Acts of the private and special laws of Maine relating to the Town of Hampden, Maine, inconsistent with this charter, are repealed, as to their force and effect on the Town of Hampden.