

2010

Town of Mount Desert Charter Revision

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TOWN OF MOUNT DESERT CHARTER REVISION

Proposed by the Charter Commission January 29, 1996

Approved March 4-5-6, 1996

Amended March 4-5, 2002

Amended March 3 - 4, 2003

Amended March 5 - 6 - 7, 2007

Amended May 3 – 4, 2010

In March 1776, inhabitants of what would be known as the Town of Mount Desert assembled at the home of Stephen Richardson to act on articles in the warrant issued by authority of the House of Representatives of the Massachusetts Bay Colony. Such meetings became the form of local government.

In March 1789, the General Court of the Commonwealth of Massachusetts allowed the incorporation of the Town of Mount Desert. The Town Meeting has remained the form of government since it was first assembled by warrant in April 1789.

In April 1929, a charter was issued to the Town of Mount Desert by the Legislature of the State of Maine. That Charter was amended by Private and Special Laws over the ensuing years. In May 1993, the Board of Selectmen for the Town of Mount Desert appointed a Charter Committee to review the Charter. After consideration of the Committee's recommendations, the Town authorized formation of a Charter Commission and elected members to it in June 1995. The Commission was charged to present a revised Charter to the Town.

In March 1996, two hundred and twenty years after that first meeting at the home of Stephen Richardson, the inhabitants of the Town of Mount Desert assembled at the Town Hall to consider articles on the warrant. The Inhabitants of the Town adopted the following Charter which preserves the two-hundred-year tradition of the Town Meeting form of local government. The Charter sets out means of governance enabling the Town to respond and adapt to the future while retaining its unique character.

TOWN OF MOUNT DESERT CHARTER

1 THE TOWN. The Town of Mount Desert, hereinafter referred to as the Town, shall have all the rights, powers, immunities, and privileges possible for a municipality to have under the Constitution and laws of Maine. 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 with the United States or any agencies thereof to the extent permitted by law.

1.1 TOWN MEETINGS. Except as otherwise provided by this charter, the legislative authority of the Town shall be vested in the registered voters of the Town assembled in the town meeting. Town meetings shall have the exclusive power and responsibility to:

- (1) determine the Town's budget;
- (2) authorize long-term indebtedness of the Town;
- (3) enact ordinances, except as otherwise provided by statute;
- (4) authorize sale of real estate owned by the Town;
- (5) deal with such other business as may be presented to it in articles of the warrant for the meeting or as may be required by law; and
- (6) at an annual town meeting only, amend this charter in accordance with law.

1.1.1 PETITIONS FOR TOWN MEETINGS. When presented with a petition signed by registered voters numbering at least ten per cent of the votes cast at the last gubernatorial election, the Board of Selectmen, hereinafter referred to as the Board, shall, within forty-five days of receipt of the petition, either

- (1) include it in the warrant for the next town meeting or call a special meeting to be held within sixty days for its consideration; or
- (2) only if it finds the petition moot, illegal, or impossible, publish in writing its reasons for refusing to present the petitioned article to the voters.

1.1.2 WARRANT. A warrant is a required notice and warning to the voters of proposed articles of business for a town meeting; only business proposed in the warrant may be transacted. The Board shall draw up the warrant for each town meeting, stating in distinct articles the business to be acted on, and this warrant shall be posted in the town office and in all post offices in the town. Notice of annual town meetings and warrants of special town meetings shall be published in a newspaper of general circulation in the town. This posting and publication shall be accomplished no later than ten days before the date of the meeting.

1.1.2.1 WARRANT ARTICLES. The warrant shall be organized into articles for:

- (1) the election of officers and other officials as required;
- (2) the appropriation of funds;

- (3) the enactment, modification, or repeal of ordinances; and
- (4) such other business as may properly be addressed.

Each article for the appropriation of funds shall be drafted so as to fairly allow the town meeting to vote on a single category of proposed expenditures. The Board shall hold a public hearing on all articles for the appropriation of funds no later than forty-five days before an annual town meeting or twenty-one days before a special town meeting. Funds appropriated under a given article may not be expended except as described in the article. Articles concerning the enactment, modification, or repeal of ordinances shall deal with only one ordinance per article.

1.1.2.2 WARRANT COMMITTEE. A warrant committee consisting of at least twenty registered voters of the Town shall review the articles of the town-meeting warrant and publish recommendations to the Town for action on them. Unless otherwise provided by ordinance, the Board shall appoint members for three-year terms, and no member of the warrant committee shall hold any elected Town office or be a full time Town employee. The warrant committee shall choose its own officers and rules of procedure. The articles of the warrant shall be submitted to the warrant committee no later than forty-five days before annual town meeting, twenty-one days before a special town meeting.

1.1.3 ANNUAL TOWN MEETINGS. The annual town meeting shall commence the first Monday of May each year. The election of all elected officials of the Town shall be held at the annual town meeting. The Board shall present to the Town at least ten days before the annual town meeting an annual report which shall:

- (1) detail the Town's income and expenditures and the activities of the various departments and other recipients of Town funds during the previous year;
- (2) include the report of the annual audit of the Town's accounts;
- (3) enumerate actions taken at special town meetings during the year, including any ordinances enacted; and
- (4) explain as may be necessary other matters requiring adoption, amendment, or repeal at the annual town meeting.

1.1.4 SPECIAL TOWN MEETINGS. A special town meeting may be held at any time by vote of the Board or public petition in accordance with this charter. Emergency ordinances affecting life, health, property, or the public peace may be

introduced at any time as warrant articles subject to the requirements for notice provided above.

1.1.5 MODERATOR; RULES. The town clerk or, in the absence of the town clerk, the deputy town clerk, a selectman or a constable shall open the town meeting at the time and place provided in the warrant. The first article on the warrant for any town meeting shall be to elect a moderator by written ballot from nominations from the open floor. The moderator shall conduct the meeting in accordance with the most recent edition of the Maine Moderators Manual, Town Meetings and Elections Manual, published by the Maine Municipal Association.

1.1.6 QUORUMS FOR TOWN MEETINGS. A quorum of fifty voters or one tenth of the total number of registered voters, whichever is less, shall be required to do business at any town meeting, except that:

(1) a quorum is not required to open the meeting, to elect a moderator, to elect Town officials by secret ballot, or to vote by referendum pursuant to State law; and

(2) in the absence of a quorum, those voters present may adjourn the meeting to another specified time.

2 ELECTED OFFICIALS. The offices to be filled by the voters will be: Board, school board, and such other offices or officials as may be prescribed by law or ordinance. Except as may be provided by ordinance, no person shall hold more than one such office at the same time.

2.1 ELIGIBILITY. Elected officials shall be registered voters of the Town and shall reside in the Town during their term of office.

2.2 NOMINATION. Except as otherwise provided by law, the number of signatures of voters required to place the name of a candidate for any Town office on the official ballot for any Town election shall not be less than twenty-five nor more than one hundred.

2.3 VACANCY OF OFFICE. The office of an elected official shall become vacant upon death, resignation, non-acceptance, or removal from office in any manner authorized by law or by this charter. The Board may fill vacancies in any elected office occurring between annual town meetings; the term of any such appointment shall expire at the next annual town meeting. Vacancies in any elected office shall be filled for the remainder of the unexpired term at the next annual meeting.

2.4 FORFEITURE OF OFFICE (A Legal Action). An elected official shall forfeit his office if he fails to qualify for office within ten days after written demand by the town clerk; or lacks at any time during his tenure of office, any qualifications as prescribed by this charter or by law.

2.5 RECALL OF ELECTED OFFICIALS (A Political Action). Any elected official of the Town may be recalled and removed from elective office by the qualified voters of the Town as herein provided:

- (1) Any elected official in the Town shall be subject to a recall election on the written petition of a number of voters equal to at least ten per cent of the number of votes cast in the Town at the last gubernatorial election;
- (2) The grounds for a recall election shall be:
 - (a) violation of this charter or of state or federal law; or
 - (b) conduct causing a loss of confidence in the official's judgment or ability to perform the duties and responsibilities of the office;
- (3) The petition for the recall election shall set forth with particularity the conduct alleged to be the grounds for recall;
- (4) The Board shall call a special town meeting not more than forty-five days after receipt and certification of the petition by the town clerk at which the merits of the allegations in the petition shall be debated and a vote in favor of or against recall shall be taken. If a majority of those voting favor recall, the office shall become vacant.

2.6 BOARD OF SELECTMEN.

2.6.1 COMPENSATION. Elected Town officers shall be compensated according to the appropriation approved by the annual town meeting.

2.6.2 COMPOSITION. At the adoption of this revised charter the Board shall consist of five members. Any change in the number of selectmen can be accomplished only by vote at annual town meeting and will become effective for the following year's election; however, any decrease in the number of selectmen shall not affect the term of any incumbent.

2.6.3 TERMS. Members shall be elected to serve staggered three year terms. At each regular municipal election, Board members shall be elected to fill those positions that have become vacant or have been created by the previous year's town meeting.

2.6.4 PROHIBITIONS.

- (1) No selectman shall hold any other compensated town office, be employed in any town department or be an appointed member of a town board or committee, except as follows:

(a) No more than two (2) Selectmen may be employed simultaneously in non-supervisory, non-professional positions at the Mount Desert Elementary School (e.g. bus driver, substitute teacher, custodian).

(2) Neither the Board nor any of its members shall dictate the appointment or removal of any administrative officers or employees whom the town manager or other persons in authority are empowered to appoint or employ.

2.6.5 INTERFERENCE WITH ADMINISTRATION. Except for the purpose of inquiry, the Board shall deal with the administrative services solely through the town manager. Selectmen, individually or as a Board, shall not give orders to any subordinate of the town manager, either publicly or privately.

2.6.6 LIMITATIONS OF BOARD ACTION. The Board shall act as a unit settling all questions by formal vote in an authorized meeting. Selectmen shall not act individually except as specifically authorized by the Board.

2.6.7 ORGANIZATIONAL MEETING. The members of the newly constituted Board shall meet not later than forty-eight hours after the close of annual town meeting, and they shall organize to the extent possible as follows: elect Board chairman, vice-chairman, and secretary and confirm town officers as required by state law; and elect one or more members of the Board to act as authorized representatives of the Board to sign payroll disbursement.

2.6.8 APPOINTMENTS. Said Board shall no later than thirty days after the annual town meeting

- (1) appoint a town manager or interim town manager as the situation requires;
- (2) appoint other Town officers and boards provided by statute, Town ordinance or charter; and
- (3) provide for legal counsel.

2.6.9 CHAIRMAN, VICE-CHAIRMAN, SECRETARY. The chairman, or vice-chairman in his absence, shall preside at meetings of the Board and shall be recognized as head of the Town government for all ceremonial purposes and by the governor for purposes of military law, but he shall have no regular administrative duties. The chairman shall be responsible for calling special meetings of the Board when such meetings are warranted. The secretary shall give notice of regular and special meetings to its members and to the public; shall keep an accurate record of the Board's deliberations and all actions of the Board; shall deposit with the town clerk all records which are required to be kept permanently by the Board; and shall perform such other duties as are assigned.

2.6.10 PROCEDURE. The Board shall, at its organizational meeting or as soon thereafter as possible, establish times and places for holding its meetings and shall meet regularly at least once a month. The Board shall publish an agenda for each meeting at least twenty-four hours in advance by posting a copy of the same in the town office and in all post offices in the town. All meetings of the Board shall be open to the public; however, the Board may by a majority vote discuss matters in a closed or executive session to the extent permitted by state law. Final action on any matter taken up in such closed sessions, except those matters which are permitted or required by law to be acted upon in closed session, shall not be taken by the Board until such matter is placed on the agenda of a regular or special meeting.

The Board shall determine at its organizational meeting the rules of procedure to be followed by the Board which shall be recorded and made available for public inspection and publication. Notwithstanding the rules of procedure adopted, the chair shall exercise his vote in the same manner as other members of the Board. The Board shall keep an accurate, permanent, public record of its meetings. The votes of each member shall be recorded. A quorum shall be a majority of the Board holding office.

2.6.11 GENERAL POWERS AND DUTIES. The Board

(1) shall have the power to appoint a town manager as set forth in this charter and shall appoint an interim town manager upon a vacancy in that office;

(2) shall have the power to remove from office any person appointed by the Board pursuant to state law, ordinance, and this charter, except those persons whose appointment is within the jurisdiction of the town manager as provided in Section 3.1.3, in a manner consistent with the requirements of law, ordinance, and this charter;

(3) may create, change and abolish offices, departments and agencies, except those required by state law, ordinance or this charter; it may assign additional functions or duties to officers, departments or agencies subject to the provisions of State law, ordinance and this charter;

(4) shall prepare an annual budget set out in specific warrant articles which shall be presented to the warrant committee as provided by this charter, cause the budget to be printed in the town report, providing that the recommendations and comments of the warrant committee shall also be printed and made available as required by Article 1.1.2.2 of this charter, WARRANT COMMITTEE;

(5) shall have the power to adopt or amend administrative and personnel policies;

(6) shall have the power to apply for grants and accept such grants provided that no debt or other obligation not authorized by town meeting is created; and

(7) shall exercise all other powers necessary to carry out the administration of Town affairs, subject to the requirements of state law, ordinance, and this charter.

2.7 SCHOOL BOARD. A school board shall be elected as the governing body for administration of the public schools. Unless the Town shall otherwise provide by ordinance, the manner of election, the terms, the powers, and the duties of the school board shall be as provided by state law.

3 APPOINTED OFFICIALS.

3.1 TOWN MANAGER. The town manager shall be the chief executive and administrative official of the Town.

3.1.1 QUALIFICATIONS & APPOINTMENT. The town manager shall be appointed by the Board. The qualifications shall be as determined by the Board. The Board will prepare a written annual evaluation of the town manager's performance.

3.1.2 TERM. Each new town manager shall initially be appointed by the Board to serve a one-year term, and the appointment may subsequently be renewed only by written employment agreement for further terms each of which shall not exceed three years.

3.1.3 DUTIES. The town manager shall be responsible to the Board for the administration of all departments of the Town over which the Board, under this charter and the general statutes, has control; and his powers and duties, where not otherwise herein provided, shall be generally to:

- (1) see that the laws and ordinances are enforced;
- (2) prepare and administer the budget;
- (3) except as otherwise provided by ordinance, make appointments, subject to confirmation by the Board, of all officials and employees of the Town except elected officials and those whose appointment is within the exclusive jurisdiction of the Board;
- (4) have exclusive authority to remove for cause, after notice and hearing, all persons whom the town manager is authorized to appoint, and report all such removals to the Board;

- (5) fix the compensation of his appointees and designate the times of payment subject to confirmation by the Board;
- (6) act as purchasing agent for all departments of the Town;
- (7) attend the meetings of the Board and recommend for adoption such measures as he may deem expedient;
- (8) keep the Board fully informed as to the business, financial condition and needs of the Town;
- (9) act as general assistance administrator unless the Board shall appoint another official to serve in that capacity; and
- (10) perform such other duties as may be prescribed by the Board.

3.1.4 REMOVAL. The Board may remove the town manager from office during his term only in accordance with law and for just cause.

3.1.5 VACANCY. The Board shall appoint an interim town manager as soon as practicable when a vacancy occurs in the office of the town manager. It is the intent of this charter that the Town shall not be without a town manager. An interim town manager shall serve at the pleasure of the Board, which shall appoint a town manager as soon as practicable.

3.2 OTHER APPOINTED OFFICIALS.

3.2.1 QUALIFICATIONS & APPOINTMENT. All persons appointed as Town officials not otherwise described in this charter shall be at least eighteen years of age and capable of discharging the duties of their appointed office. Residency in the Town shall be required only when necessary for the effective discharge of their duties. The Board shall establish such positions for appointed town officials as required by ordinance or law. The term of office of an appointed Town official shall be one year, except as otherwise provided by law, ordinance, or this charter. Town officials appointed by the Board may be removed for just cause by the Board prior to the expiration of their term of office, except as may otherwise be required by state law or Town ordinance.

3.3 MEMBERS OF BOARDS AND COMMITTEES. At the time of enactment of this charter, there exist: the Board of Selectmen, the Planning Board, the Zoning Board of Appeals, the Board of Assessment Review, the School Board, and the Warrant Committee.

3.3.1 ESTABLISHMENT & MEMBERSHIP. The Board shall present to annual town meetings warrant articles for the establishment or modification of boards as required by law. The Town may establish or modify additional boards at annual town meeting. The Board shall have the authority to establish and appoint advisory committees to serve at the pleasure of the Board.

3.3.2 QUALIFICATIONS & APPOINTMENT. Persons appointed to boards and committees for the Town shall be capable of discharging their responsibilities as members of said boards or committees. All appointments shall be made by the Board for one year except as otherwise provided by law, ordinance, or this charter. The Board may appoint to fill vacancies.

4 ARRANGEMENTS WITH OTHER GOVERNMENT ENTITIES. With respect to arrangements for joint action with other political subdivisions of the State, with agencies of the State or Federal government, or with quasi-municipal corporations such as school administrative districts, utility districts, and regional councils:

- (1) unless required to do so by law, the Town shall not, without affirmative vote in town meeting, enter into any such arrangement which would commit the Town without its specific consent to any future indebtedness or other obligation; and
- (2) the Board shall maintain a current public compilation of all such arrangements; of the statutes, ordinances, contracts, or other instruments which govern them; and of their legislative history.

5 ORDINANCES. This article shall apply only to the enactment of ordinances and shall not apply to resolves or directives of the Board in such a way as to inhibit the ability of the Board to perform its duties.

5.1 POWERS OF THE TOWN. The Town may, by the adoption, amendment, or repeal of ordinances, exercise any power or function authorized under the constitution of the State of Maine or state law. Except for ordinances required by state law to be enacted by the Board, all other ordinances shall be enacted by town meeting.

5.2 POWERS OF THE BOARD. The Board may adopt, amend or repeal ordinances as specifically provided by state law such as traffic ordinances and general assistance ordinances.

5.3 ENACTMENT AND DURATION OF EFFECT. The procedure for the enactment of ordinances, or their amendment or repeal shall be as determined by law, ordinance, or this charter; every ordinance so enacted shall state a specific finite period, which shall not exceed fifteen years, during which it shall remain in force and after which it shall cease to have effect unless enacted again.

5.4 PERIODIC REVIEWS. The Board shall review every ordinance of the Town at least every five years to determine if it remains necessary or helpful to the Town. The Board shall be responsible for maintaining a current codification of all ordinances in effect in the Town and shall make copies of said codification available for inspection at the Town office or for purchase at a reasonable price.

6 GENERAL PROVISIONS.

6.1 PERSONAL FINANCIAL INTEREST. Any officer, official or employee who has any financial interest, direct or indirect, in any contract with the Town or in the sale of any land, materials, supplies or services to the Town or to a contractor supplying the Town shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as an officer, official or employee in making of such sale or in the making or performance of such contract. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Board.

6.2 NOT GENDER SPECIFIC. This charter is not gender specific.

6.3 PROTECTIONS. Qualified persons shall not be favored or discriminated against with respect to any Town position on any basis which is not relevant to their ability to perform their duties. Persons receiving compensation from the Town shall not solicit for political purposes from any Town employee. All minutes, meetings, proceedings, documents and other records shall be open to public scrutiny to the fullest extent permitted by law.

6.4 SEPARABILITY. If any portion of this charter is held invalid or unconstitutional, this decision shall not affect the validity of the remaining portions thereof. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby. If any provision of this charter is held invalid by reason of any conflict with state or federal law, the provisions of the applicable state or federal law shall automatically govern in place of the invalid charter provision.

6.5 AMENDMENT. This charter may be revised or amended according to state law. Amendments to this charter may be proposed by the Board or by petition of the voters to the Board containing the full text of the proposed amendment and signed by voters numbering at least twenty per cent of the votes cast at the last gubernatorial election but no less than ten voters. The Board shall hold a public hearing on any amendment so proposed no later than thirty days after it has been proposed. Vote on any amendment so proposed shall be by written ballot at the next annual town meeting.

6.6 TRANSITIONAL PROVISIONS. This charter shall take effect on January 1, 1997 except as to the conduct of municipal elections. Those charter provisions relating to the conduct of municipal elections shall take effect immediately.

6.6.1 EXISTING ORDINANCES NOT AFFECTED. No ordinance in effect is repealed by the adoption of this charter. Upon the effective date of this charter, all ordinance provisions shall be subject to the provisions of this charter. For the purposes of Section 5.3 only, all ordinances in effect shall be considered as if adopted on the effective date of this charter for a period of fifteen years.

6.6.2 PENDING MATTERS. All claims, actions, and contracts entered into by the Town prior to the effective date of this charter shall continue and no legal action or proceeding, whether civil or criminal, pending on the effective date of this charter, shall be affected or abated by the adoption of the charter.

6.6.3 EFFECT ON TERMS OF OFFICE. No term of an elected official shall be abridged by the adoption of this charter.