

2000

Council-Manager Charter of the Town of Yarmouth

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STATE OF MAINE

**IN THE YEAR OF OUR LORD
NINETEEN HUNDRED SIXTY-FIVE**

**H. P. 519 – L. D. 672
AN ACT to Grant a New Charter for the Town of Yarmouth.**

Be it enacted by the People of the State of Maine, as follows:

**COUNCIL – MANAGER CHARTER OF THE TOWN OF
YARMOUTH**

ARTICLE 1

Grant of Powers to the Town

Sec. 1. Incorporation. The inhabitants of the Town of Yarmouth shall continue to be a body politic and corporate by the name of the Town of Yarmouth and 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 bylaws, 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, not exceeding \$100 in any one case, to be recovered for such uses as said bylaws, regulations or ordinances shall provide.

Sec. 2. Powers and Duties. The administration of all the fiscal, prudential and municipal affairs of said town, with the government thereof, except the general management, care, conduct and control of the schools of said town which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this charter, shall be and are vested in one body of 7 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.

The members of the town council shall be and constitute the municipal officers of the Town of Yarmouth for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers under the laws of this State.

All other powers now or hereafter vested in the inhabitants of said town, and all powers granted by this charter, except as herein otherwise provided, shall be vested in said town council.

ARTICLE II

Town Council

Sec. 1. Number, Election, Term. The town council shall be composed of 7 members, each of whom shall be elected by the registered voters of the entire town. Each member shall be elected for a term of 3 years and until his successor is elected and qualified, except that, at the first election after the adoption of this charter, the 3 members-elect receiving the most votes shall serve 3 years, the 2 members-elect, receiving the next highest number of votes shall serve for 2 years, and the 2 members-elect receiving the next highest number of votes shall serve for one year. In case of an equal number of votes, the relative position of the members-elect shall be determined by lot.

Sec. 2. Qualifications. Councilmen shall be qualified voters of the town and shall reside in the town during their term of office. They shall hold no office of emolument or profit under the town charter or ordinances. In case of a vacancy caused by death, resignation, removal from the town, or removal from office as hereinafter provided, of any member of the town council more than 6 months prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired portion of the term. In the event such vacancy occurs less than 6 months prior to the next regular municipal election, the vacancy may be filled by a special election for the unexpired portion of the term. Such election shall be called and held and nominations made as in regular municipal elections.

Any member of the town council who shall be convicted of a felony or a misdemeanor involving moral turpitude while in office shall, after due notice and hearing before the town council and the production of the records of such conviction, forfeit his office.

Sec. 3. Enumeration of Powers. Without limitation of the foregoing, the council shall have power to:

- I. Appoint and remove the town manager and the town attorney, both of whom shall serve at the will of the appointing power.
- II. Appoint the members of the board of assessment reviews, the planning board and the board of zoning appeals.
- III. By ordinance create, change and abolish offices, departments, and agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.
- IV. Make, alter and repeal ordinances, including the power to enact ordinances providing for the grant of licenses and permits for the conduct of any business as set forth in the statutes of the State of Maine, for such periods of time and in accordance with such rules and regulations not inconsistent with law and upon payment by the licensee of such fees as the town council may establish in such ordinance.
- V. Inquire into the conduct of any office, department or agency of the town and make investigation as to municipal affairs.
- VI. Recommend the annual budget to the town meeting.
- VII. Provide for an annual audit.

Sec. 4. Compensation: Councilmen shall receive \$10 for each council meeting upon attendance not to exceed in the aggregate \$300 per year in full for their services. Such compensation may be changed by vote on an article contained in a warrant for said purpose at the annual town meeting. The town council by order shall fix the salaries of officials appointed by the town council, including the salary of the town manager for his services as such and for all other services rendered by him. Salaries of the appointees of the town manager shall be fixed by the town manager, subject to approval of the council.

(Note: At the Annual Town Meeting held on May 26, 1977, the town voted in Article No. 3 to change the salary of council members to \$1,000 per year for attendance at meetings of the Council or its subcommittees.)

Sec. 5. Induction of Council into Office. The town council shall meet at the usual place for holding meetings within 5 days following the regular town election, and at said meeting councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk.

Sec. 6. Council to Judge of Qualifications of its Members. The 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 productions of records, but the decision of the council in any such case shall be subject to review by the courts.

Sec. 7. Regular Meetings. The town council shall, at its first meeting or as soon thereafter as possible, establish by resolution a regular place and time for holding its regular meetings, and shall meet regularly at least once a month. It shall also provide a method for calling special meetings.

Sec. 8. Rules of Procedure Journal. The council shall determine its own rules and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection.

Sec. 9. Chairman. At its first meeting, or as soon thereafter as practicable, the council shall elect, by majority vote of the entire council, one of its members for the ensuing year as chairman and the council may fill, for an unexpired term, any vacancy in the office of chairman that may occur. The chairman shall preside at the meetings of the council, 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. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. In the temporary absence or disability of the chairman, the town council may elect a chairman pro tempore, from among its members, and he shall exercise all the powers of chairman during such temporary absence or disability of the chairman.

Sec. 10. Quorum. A majority of the town council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Sec. 11. Public Hearing on Ordinances. At least one public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a general circulation in said town, shall be held by the council before any ordinance, except emergency ordinances, shall be passed, but nothing contained herein shall be deemed to require publication of the ordinance itself.

The town council may, by vote of 5 of its members, pass emergency ordinances to take effect at the time indicated therein. Such emergency ordinances shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the town council shall be conclusive.

Sec. 12. Town Clerk. In addition to the statutory duties required of the town clerk, the town clerk shall act as clerk of the council and shall keep a public record of all proceedings of the council, including all votes.

Sec. 13. Independent Annual Audit. Prior to the end of each fiscal year, the council shall designate the State Department of Audit or private, certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the town government and shall submit their report to the council, the town meeting and the town manager. Such accountants shall not maintain any accounts or records of the town business, but shall post-audit the books and documents kept by any office, officer, department or agency of the town government.

ARTICLE III

Town Manager

Sec. 1. Appointment, Qualifications, Powers and Duties. The town manager shall be chosen by the town council solely on the basis of his character and his executive and administrative qualifications, and may or may not be a resident of the Town of Yarmouth or of the State of Maine at the time of his appointment. No councilman shall receive an appointment to the office of town manager during the term for which he shall have been elected, nor within one year after the expiration of his term, nor shall any member of the town council act in that capacity. The town manager shall give bond for the faithful discharge of his duties to the Town of Yarmouth in such sum as the town council shall determine and direct, and with surety and sureties to be approved by the town council. The premium on his bond shall be paid by the town. He shall be the administrative head of the town and shall be responsible to the town council for the administration of all departments assigned to him. His powers and duties shall be as follows:

- I. Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all officers and employees of the town appointed by him.
- II. Prepare the budget annually, submit it to the council and be responsible for its administration after adoption.

- III. Prepare and submit to the council as of the end of the fiscal year a complete report of the finances and administrative activities of the town for the preceding year, and cause such annual town report to be published and made available to the public as promptly as possible after the close of the fiscal year.
- IV. Attend the meetings of the council, except when his removal is being considered, and keep the council advised of the financial condition and future needs of the town and make such recommendations as may seem to him desirable.
- V. See that all laws and ordinances governing the town are faithfully administered.
- VI. Act as purchasing agent for all departments of the town, except the school department, and provide, in the case of the school department, for cooperative purchasing arrangements where feasible.
- VII. Perform such other duties as may be described by this charter or required of him by the council, not inconsistent with this charter.
- VIII. Prepare an administrative code, submit it to the council and be responsible for its administration after adoption.

Sec. 2. Removal. The town manager may be removed for cause by the council in accordance with the provisions of the statutes of the State of Maine relating to the removal of a town manager.

Sec. 3. Department Heads. All statutory officers and department heads other than those listed in Article II, Section 3, subsection I, shall be appointed by the town manager, subject to confirmation by the town council.

Sec. 4. Council Not to Interfere in Appointments or Removals. Neither the council nor any of its members shall direct or request the appointment of any person to or his removal from office by the manager or by any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service 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.

Sec. 5. Vacancy in Office of Town Manager. During any vacancy in the office of town manager, and during the absence or disability of the town manager, the town council shall designate a properly qualified person to perform the duties of manager and fix his compensation. While so acting, he shall have the same powers and duties as those given to and imposed upon the town manager. Before entering his duties, he shall give bond to the town of Yarmouth in a sum and with surety or sureties to be approved by the town council. The premium on said bond is to be paid by the town.

ARTICLE IV

Department of Education

Sec. 1. School Committee. The department of education shall be administered by a school committee, which shall consist of 7 duly qualified voters of the town of Yarmouth, who shall be nominated and elected by the registered voters of the entire town according to the provisions of Article VII of this charter for a term of 3 years and who shall serve until their successors are elected and qualified.

Transitional Provision: This section shall become effective upon its approval by the voters for the purposes of electing the 2 additional members of the School Committee at the November 6, 1990 general election. The terms of office of the 2 additional members so elected shall expire at the 1991 annual Town Meeting. Members of the School Committee elected prior to November 6, 1990 shall continue to serve until the expiration of their respective terms. This section shall take effect for all purposes following the November 6, 1990 general election.

Sec. 2. Qualifications. Members of the school committee shall be qualified voters of the town and shall reside in the town during their term of office. They shall hold no office of emolument or profit under the town charter or ordinances. Any member of the superintending school committee who shall be convicted of a felony or a misdemeanor involving moral turpitude while in office shall, after due notice and hearing before the town council and the production of the records of such conviction, forfeit his office.

Sec. 3. Vacancy. If for any reason a vacancy shall exist in the membership of the school committee more than 3 months prior to the regular town election, the vacancy shall be filled by a special election for the unexpired portion of the term, which election shall be held within 30 days after the vacancy occurs.

Sec. 4. Organization, Qualification, Quorum. The members of the school committee shall meet for organization within 5 days from the date of their election.

The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk, and a record made thereof. The majority of the whole number of the school board shall be a quorum and they shall elect their own chairman.

Sec. 5. Powers and Duties. The superintending school committee shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the town, except as otherwise provided in this charter. The school committee shall prepare budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and at least 45 days before the beginning of the budget year, the school committee shall furnish copies of such estimates to the town manager. Each member shall be entitled to receive as salary the sum of \$100 per year, payable quarterly, for all services rendered. Such compensation may be changed by vote on an article contained in a warrant for said purpose at the annual town meeting. *(Note: At the Annual Town Meeting held on May 26, 1977, the Town voted in Article No. 3 to change the salary of the School Committee members to \$1,000 per year for services rendered.)*

ARTICLE V

Budget

Sec. 1. Fiscal Year. The fiscal year of the town government shall begin the first day of February and shall end on the 31st day of January of each calendar year, or other such fiscal year as the council may decide. Such fiscal year shall constitute the budget and accounting year as used in this charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

(Note: At a regular town meeting of the town council on November 15, 1976, Council Order No. 140 changed the fiscal year to commence on July 1st and end on June 30th of each calendar year.)

Sec. 2. Preparation of Submission of the Budget. The town manager, at least 35 days prior to the beginning of each budget year, shall submit to the council a budget and an explanatory budget message. The budget authority of the council shall be limited to the final determination of the total appropriation to be made to each of the several offices, departments and agencies of the town, including the department of education. This budget shall contain:

- I Exact statement of the financial condition of the town.
- II. An itemized statement of appropriations recommended for current expenses, and for permanent improvements, with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated.
- III. An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.

IV. Such other information as may be required by the town council.

The proposed budget prepared by the manager shall be reviewed by the town council which shall approve the budget with or without amendments. The complete town budget, including the school budget, as approved by the town council shall be published and the town council shall fix the time and place for holding a public hearing for the budget, and shall give a public notice of such hearing. The council shall then review the budget and recommend it, with or without change to the annual town meeting.

Sec. 3. Budget Establishes Appropriations. From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies and purposes therein named.

Sec. 4. Budget Establishes Amount to be Raised by Property Tax; Certification to Town Assessor. From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the town manager and filed by him with the town assessor, whose duty it shall be to levy such taxes for the corresponding year.

Sec. 5. Budget Summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized, further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized also by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

Sec. 6. Expenditures and Departmental Revenue. The budget for all departments, including the school department shall include all proposed expenditures; and the town meeting shall make a gross appropriation for each department, for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded except by consent of the council, but the school budget shall be expended under the direction and control of the superintending school committee.

Sec. 7. Work Program; Allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the town manager, when required by him, a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and

may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

Sec. 8. Transfers of Appropriations. At the request of the manager and within the last 3 months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof between general classification of expenditures within an office.

Sec. 9. Interim Expenditures. In the period between the beginning of the fiscal year and the appropriation of funds, the council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year when made, in amounts sufficient to cover the necessary expenses of the various departments.

Sec. 10. Capital Program. The planning board, in consultation with the town manager and designated member(s) of the town council, shall prepare and submit to the town council, annually, a five-year capital program at least 120 days prior to the beginning of each budget year. The capital program shall contain such information as the town council may, from time to time, designate by order.

ARTICLE VI

Tax Administration

Sec. 1 Assessor. There shall be established a division of assessment, the head of which shall be the town assessor. The assessor, appointed as hereinbefore provided, shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the same State may exercise, and may now or hereafter be subject to under the laws of the State.

Sec. 2 Board of Assessment Review; Appointments; Vacancies. There shall be a board of assessment review to consist of 3 members, who shall be appointed by the town council for a term of 3 years, except that of those first appointed one shall serve for a term of 2 years and one for a term of one year. Compensation, if any, to such members shall be determined by the town council. Vacancies in the membership of such board shall be filled by appointment by the council for the unexpired term.

Sec. 3. Board of Assessment Review; Powers and Duties. The Board of Assessment Review shall have the power to:

- I. Review, on complaint of property owners, and revise assessments for the purpose of taxation of real and personal property within the town limits made by the town assessor;
- II. Administer oaths;
- III. Take testimony;
- IV. Hold hearings;
- V. Adopt regulations regarding the procedure of assessment review, not inconsistent with statutory provisions.

ARTICLE VII

Nominations and Elections

Sec. 1. Municipal Elections. The regular election for the choice of members of the town council and the school committee shall be held at the time of the annual town meeting for the consideration of the budget. In the event that the date of the regular election varies due to a change in the fiscal year, the terms of office of incumbent members of the town council and school committee shall be automatically adjusted to coincide with the revised date of the regular election.

Sec. 2. Nomination. Any qualified voter of the town may be nominated for the council or superintending school committee in accordance with the statutes of the State of Maine.

Sec. 3. Conduct of Municipal Elections. The provisions of the statutes of the State of Maine relating to the qualifications of voters, the registration of voters, the nomination for any office, the manner of voting, the duties of election officers and all other particulars relative 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. 4. Voting Places. The voting places for municipal elections shall be those which have been established for state elections.

Sec. 5. Election Officials. The town council shall, 10 days before any election, appoint a warden and a clerk, in addition to the regular ballot clerks, for each voting place.

Sec. 6. Limitation on Terms. No person shall be elected to office as a member of the town council or member of the school committee for more than two (2) consecutive full terms of office in any seven-year period.

ARTICLE VIII

The Town Meeting

Sec. 1. Annual and Special Town Meetings. An annual town meeting for the consideration of the budget and the transaction of other town business shall be held not more than 45 days prior to the beginning of each fiscal year.

The annual and special town meetings shall be called by the council in the manner provided for calling town meetings in accordance with the provisions of the statutes of the State of Maine.

Sec. 2. When Action by Town Meeting Required. The annual budget, any appropriation of any amount of more than \$100,000 in addition to or supplementary to the annual budget appropriation, the issuance of bonds or notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued, shall become effective only after it has been adopted at a town meeting by the vote of a majority of those voting at such meeting. The town meeting shall not increase the amount of any appropriation above the amount recommended by the council or make any appropriation not recommended by the council and shall not increase the amount of any bond issue above the amount recommended by the council.

(Amendment Approved at Annual Town Meeting on June 13, 1995)

Sec. 3. Method of Abolishing the Town Meeting. At any time after the adoption of this charter, not less than 10% of the registered voters of the town may petition over their personal signatures for a special town meeting to vote upon the question of submitting to a referendum vote on the ballot at a special town election the proposition of abolishing the town meeting. The 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 within 14 days after said public hearing call a special town meeting for the purpose of submitting to a referendum vote the question of abolishing the town meeting in the Town of Yarmouth. If at such special election a majority of the voters of the town voting on the question shall vote for the abolition of the town meeting of the Town of Yarmouth, the powers heretofore vested in the town meeting shall be conferred upon and exercised by the town council. Notwithstanding any of the provisions of this section, the council shall not call any special town meeting within 30 days of the date of the annual town meeting.

Sec. 4. Notwithstanding Section 2 of this Article, the town council shall have the authority, without town meeting approval, to accept and expend grants; license, permit, user or franchise fees; contribution; special assessments; donations; gifts or bequests; reimbursements; settlements; payments in lieu of taxes or other miscellaneous revenues provided such authorization does not require the expenditure of municipal tax revenues not previously appropriated.

(Amendment Approved at Annual Town Meeting on June 13, 1995)

ARTICLE IX

Initiative and Referendum

Sec. 1. Petition for Overrule of Action of Council. All ordinances, resolutions or votes, except those making appointments or removals or regulating exclusively the internal procedure of the council, shall be subject to overrule by a referendum as follows:

If, within 10 days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than 7% of the registered voters of the Town of Yarmouth or 250, whichever is greater, is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of filing of such petition with the town clerk and shall, within 14 days after said public hearing call a special election for the purpose of submitting to a referendum vote the question of adopting such ordinance, resolution or vote. Pending action by the voters, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question.

Sec. 2. Petition for Enactment of Ordinance. Subject to the provisions of Section 1, not less than 7% of the registered voters of the town or 250, whichever is greater, may at any time petition over their personal signatures for the enactment of any proposed lawful ordinance or charter amendment by filing such petition, including the complete text of such ordinance or charter amendment, with the town clerk. No ordinance so petitioned shall have a retroactive effective date. The council shall call a public hearing to be held within 30 days from the date of filing of such petition with the town clerk, and shall within 30 days after said public hearing call a special election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call of said election, such ordinance shall be enacted by the council.

Such ordinance shall take effect on the tenth day after the conclusion of such referendum, provided a majority of those voting thereon shall have voted in the affirmative. Any charter amendment approved by a majority of those voting thereon shall take effect on the ninetieth day after the conclusion of such referendum.

Any such proposed ordinance or charter amendment and petition shall be examined by the town attorney before signatures are gathered on any petition for ordinance enactment or charter amendment.. The town 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 its text and references and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

Sec. 3. Form of Ballot. The form of the ballot for the proposed ordinance, resolution, vote or charter amendment shall be substantially as follows:

“Shall the proposed ordinance (resolution, vote or charter amendment), a copy of which is printed herein or attached hereto, be adopted?”

For the Ordinance:

Against the Ordinance:

The voter shall write a cross, check mark, or complete the ballot to indicate the preferred choice.

Sec. 4. Filing of Petitions Prior to Signatures. Any voter wishing to sponsor (circulate) a petition for enactment of an ordinance or charter amendment pursuant to the Section 2 of this Article shall file with the town clerk a copy of the complete text of the proposed ordinance or charter amendment and proposed petition form. The town clerk shall cause the proposed ordinance or charter amendment and petition form to be reviewed by the town attorney, who shall make such modifications and corrections as authorized pursuant to Section 2. The town clerk shall certify such petition and proposed ordinance or charter amendment with such modifications and corrections as the town attorney shall direct within 15 calendar days from the filing of the petition, unless a longer period is authorized by the sponsor of such petition.

Sec. 5. Time limit for Signatures. Any petition certified by the town clerk pursuant to Section 4 shall be returned to the town clerk with not less than the minimum number of required signatures within 45 days of the date of certification. If the minimum number of required signatures have not been collected within the 45 day period, the petition shall be deemed null and void. The town clerk shall certify that the minimum number of valid signatures have been gathered on the petition within 5 business days from the date of filing. In the event that a petition is filed with less than the minimum number of required signatures, the town clerk shall notify the sponsor as to the number of signatures validated.. The sponsor may elect to gather additional signatures, provided the 45 day collection period has not expired.

(Amendment Approved by referendum vote on June 13, 2000)

ARTICLE X

General Provisions

Sec. 1. Repealing Clause. All Acts and parts of Acts of the private and special laws of Maine relating to the town of Yarmouth, inconsistent with the provisions of this charter, are repealed.

Sec. 2. Separability Clause. If any portion of this Act shall be held to the invalid, such decision shall not affect the validity of the remaining portions thereof.

Sec. 3. Short Title. This charter shall be known and may be cited as the "Council-Manager Charter of the Town of Yarmouth." The clerk shall cause it to be printed and made available to the public promptly.

Sec. 4. Expiration Term of Present Elected Officials. The term of the present elected town officials and of the school committee shall expire at the annual meeting in March, 1966.

Sec. 5. Existing Contracts Not Invalidated, Unless Inconsistent. All rights, actions, proceedings, prosecutions and contracts of the town or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 6. Summons Before Town Council. The clerks of the Supreme Judicial and Superior Courts may issue a summons for witnesses to attend and produce books, documents and papers at any meeting of the town council for the Town of Yarmouth at which a hearing is held in any matter regarding any alleged dereliction of duty by town officers or employees. On complaint of failure to obey summons filed with any Justice of the Superior Court, said Justice, if he finds failure to obey said summons to be without reasonable excuse shall impose a fine of not less than \$10 nor more than \$100, or imprisonment for not more than 30 days, or both.

Sec. 7. Oath of Office. Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

“I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the charter and ordinances of the town of Yarmouth and statutes of the State of Maine, and will faithfully discharge the duties of the office of”

Sec. 8. Ordinances Not Inconsistent Continue in Force. All ordinances of the Town of Yarmouth in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Sec. 9. Removal of Officers and Employees. With the exception of the town manager, whose removal is provided for in accordance with the statutes of the State of Maine, any statutory officer, department head or employee may be removed by the appropriate appointing body or officer at any time. The decision of the appointing body or officer shall be final and there shall be no appeal therefrom to any other appointing body, officer or court.

Sec. 10. Continuance of Present Administrative Officers. All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provision has been made accordance therewith for the performance of such duties or the discontinuation of such office.

Sec. 11. Time. In computing any period of time prescribed by this Charter, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a holiday. For purposes of this section, legal holidays shall include days on which the general administrative offices of the Town of Yarmouth are closed.

THE FOLLOWING REVISIONS HAVE BEEN MADE TO THE CHARTER

Article IV, Department of Education. Section. 1. School Committee.

Repealed:

Sec. 1. Superintending School Committee. The department of education shall be administered by a superintending school committee, hereinafter referred to as the school committee, which shall consist of 5 duly qualified voters of the town of Yarmouth, who shall be nominated and elected by the registered voters of the entire town according to the provisions of Article VII of this charter for a term of 3 years and who shall serve until their successors are elected and qualified. At first election after the adoption of this charter, the 2 members receiving the largest number of votes shall serve for 3 years, the 2 members receiving the next largest number of votes shall serve for 2 years, and the member receiving the next largest number of votes shall serve for one year. In case of members receiving an equal number of votes, their relative positions shall be determined by lot.

Replaced by:

Sec. 1. School Committee. The department of education shall be administered by a School Committee, which shall consist of 7 duly qualified voters of the Town of Yarmouth, who shall be nominated and elected by the registered voters of the entire Town according to the provisions of article VII of this charter for a term of 3 years and who shall serve until their successors are elected and qualified.

Transitional Provision: This section shall become effective upon its approval by the voters for the purposes of electing the 2 additional members of the School Committee at the November 6, 1990 general election. The terms of office of the 2 additional members so elected shall expire at the 1991 annual Town Meeting. Members of the School Committee elected prior to November 6, 1990 shall continue to serve until the expiration of their respective terms. This section shall take effect for all purposes following the November 6, 1990 general election.

Revised 6/12/90

ARTICLE VIII, The Town Meeting

Repealed:

Sec. 2. When Action by Town Meeting Required: The annual budget, any appropriation of \$25,000 or more in addition to or supplementary to the annual budget appropriation the issuance of bonds or notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued, shall become effective only after it has been adopted at a town meeting by the vote of a majority of those voting at such meeting. The town meeting shall not increase the amount of any appropriation above the amount recommended by the council or make any appropriation not recommended by the council and shall not increase the amount of any bond issue above the amount recommended by the council.

Replaced by:

Sec. 2. When Action by Town Meeting Required. The annual budget, any appropriation of any amount of more than \$100,000 in addition to or supplementary to the annual budget appropriation, the issuance of bonds or notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued, shall become effective only after it has been adopted at a town meeting by the vote of a majority of those voting at such meeting. The town meeting shall not increase the amount of any appropriation above the amount recommended by the council or make any appropriation not recommended by the council and shall not increase the amount of any bond issue above the amount recommended by the council.

(Amendment Approved at Annual Town Meeting on June 13, 1995)

Added:

Sec. 4. Notwithstanding Section 2 of this Article, the town council shall have the authority, without town meeting approval, to accept and expend grants; license, permit, user or franchise fees; contribution; special assessments; donations; gifts or bequests; reimbursements; settlements; payments in lieu of taxes or other miscellaneous revenues provided such authorization does not require the expenditure of municipal tax revenues not previously appropriated.

(Amendment Approved at Annual Town Meeting on June 13, 1995)

ARTICLE IX, Initiative and Referendum

Repealed:

Sec. 1. Petition for Overrule of Action of Council. All ordinances, resolutions or votes, except those making appointments or removals or regulating exclusively the internal procedure of the council, shall be subject to overrule by a referendum as follows:

If, within 10 days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than 7% of the registered voters of the Town of Yarmouth or 250, whichever is greater, is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of filing of such petition with the town clerk and shall, within 14 days after said public hearing call a special election for the purpose of submitting to a referendum vote the question of adopting such ordinance, **resolution or vote**. Pending action by the voters, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question.

Sec. 2. Petition for Enactment of Ordinance. Subject to the provisions of Section 1, not less than 7% of the registered voters of the town or 250, whichever is greater, may at any time petition over their personal signatures for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance with the town clerk. The council shall call a public hearing to be held within 30 days from the date of filing of such petition with the town clerk, and shall within 30 days after said public hearing call a special election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call of said election, such ordinance shall be enacted by the council. Such ordinance shall take effect on the tenth day after the conclusion of such referendum, provided a majority of those voting thereon shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the town attorney before being submitted to referendum. The town 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 its text and references and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

Sec. 3. Form of Ballot. The form of the ballot for the proposed ordinance, resolution, vote or charter amendment shall be substantially as follows:

“Shall the proposed ordinance (resolution, vote or charter amendment), a copy of which is printed herein or attached hereto, be adopted?”

For the Ordinance:

Against the Ordinance:

The voter shall write a cross, check mark, or complete the ballot to indicate the preferred choice.

Replaced by:

Sec. 1. Petition for Overrule of Action of Council. All ordinances, resolutions or votes, except those making appointments or removals or regulating exclusively the internal procedure of the council, shall be subject to overrule by a referendum as follows:

If, within 10 days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than 7% of the registered voters of the Town of Yarmouth or 250, whichever is greater, is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of filing of such petition with the town clerk and shall, within 14 days after said public hearing call a special election for the purpose of submitting to a referendum vote the question of adopting such ordinance, resolution or vote. Pending action by the voters, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question.

Sec. 2. Petition for Enactment of Ordinance. Subject to the provisions of Section 1, not less than 7% of the registered voters of the town or 250, whichever is greater, may at any time petition over their personal signatures for the enactment of any proposed lawful ordinance or charter amendment by filing such petition, including the complete text of such ordinance or charter amendment, with the town clerk. No ordinance so petitioned shall have a retroactive effective date. The council shall call a public hearing to be held within 30 days from the date of filing of

such petition with the town clerk, and shall within 30 days after said public hearing call a special election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call of said election, such ordinance shall be enacted by the council. Such ordinance shall take effect on the tenth day after the conclusion of such referendum, provided a majority of those voting thereon shall have voted in the affirmative. Any charter amendment approved by a majority of those voting thereon shall take effect on the ninetieth day after the conclusion of such referendum.

Any such proposed ordinance or charter amendment and petition shall be examined by the town attorney before signatures are gathered on any petition for ordinance enactment or charter amendment.. The town 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 its text and references and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

Sec. 3. Form of Ballot. The form of the ballot for the proposed ordinance, resolution, vote or charter amendment shall be substantially as follows:

“Shall the proposed ordinance (resolution, vote or charter amendment), a copy of which is printed herein or attached hereto, be adopted?”

For the Ordinance:

Against the Ordinance:

The voter shall write a cross, check mark, or complete the ballot to indicate the preferred choice.

Sec. 4. Filing of Petitions Prior to Signatures. Any voter wishing to sponsor (circulate) a petition for enactment of an ordinance or charter amendment pursuant to the Section 2 of this Article shall file with the town clerk a copy of the complete text of the proposed ordinance or charter amendment and proposed petition form. The town clerk shall cause the proposed ordinance or charter amendment and petition form to be reviewed by the town attorney, who shall make such modifications and corrections as authorized pursuant to Section 2. The town clerk shall certify such petition and proposed ordinance or charter amendment with such modifications and corrections as the town attorney shall direct within 15 calendar days from the filing of the petition, unless a longer period is authorized by the sponsor of such petition.

Sec. 5. Time limit for Signatures. Any petition certified by the town clerk pursuant to Section 4 shall be returned to the town clerk with not less than the minimum number of required signatures within 45 days of the date of certification. If the minimum number of required signatures have not been collected within the 45 day period, the petition shall be deemed null and void. The town clerk shall certify that the minimum number of valid signatures have been gathered on the petition within 5 business days from the date of filing. In the event that a petition is filed with less than the minimum number of required signatures, the town clerk shall notify the sponsor as to the number of signatures validated.. The sponsor may elect to gather additional signatures, provided the 45 day collection period has not expired.

(Amendment Approved by referendum vote on June 13, 2000)

ARTICLE X, General Provisions

Added:

Sec. 11. Time. In computing any period of time prescribed by this Charter, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a holiday. For purposes of this section, legal holidays shall include days on which the general administrative offices of the Town of Yarmouth are closed.

(Amendment approved at annual town meeting on June 9, 1987)

Charter Changes in Chronological Order

<u>6/9/87</u>	Article X, General Provisions
<u>6/12/90</u>	Article IV, Department of Education, Section 1. School Committee
<u>6/13/95</u>	Article VIII, the Town Meeting
<u>6/13/00</u>	Article IX, Initiative and Referendum