

2015

Town Charter of Eliot Maine

Eliot, Me.

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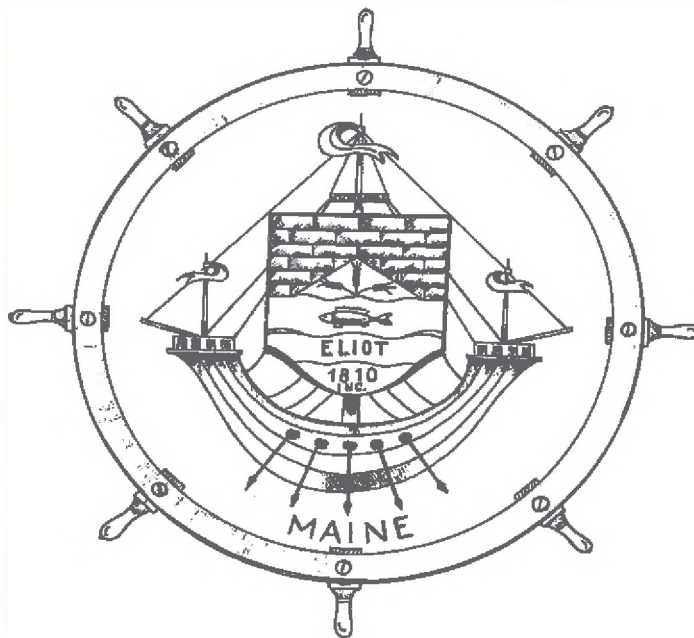
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Charter of the Town of Eliot Maine

Rights and Governance of the Citizens



*Respectfully Submitted
September 10, 2015
Eliot Town Charter Commission*

Town Clerk's Certification of Charter Adoption [30-A M.R.S.A. § 2106]

I, Wendy J. Rawski being the duly appointed Clerk for the Town of Eliot, Maine do hereby certify that the document to which I have affixed this certificate is a true copy of the "Charter of the Town of Eliot", which was adopted at the Special Town Meeting Election held on November 3, 2015.

Dated:

November 6, 2015

Wendy J. Rawski

Wendy J. Rawski, Town Clerk



TOWN OF ELIOT CHARTER

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GLOSSARY

Except as herein defined or where context clearly indicates otherwise, terms are to be interpreted in accordance with their common and generally accepted meanings.

Annual Town Meeting – The Annual Town Meeting held on the second Tuesday of June.

Appointed Board – A Town board, commission, committee, or study group composed of one or more individuals appointed by the Select Board.

Appointed Official – An official of the Town appointed by the Select Board as permitted by the General Statutes or this Charter.

Assessor - An Assessor certified by the State of Maine.

Board - Decision-making or administrative bodies of the Town, such as Select Board, Planning Board and Board of Appeals.

Business Day - Means Monday through Friday except for legal holidays when Eliot Town Hall is not open for business.

Capital Expenditure –The expenditure of funds for assets of a permanent or fixed nature.

Certified Petition – A petition certified by the Town Clerk and conforming to the requirements of this Charter and the General Statutes.

Charter - A document defining the home rule powers of the Town of Eliot granted by the Constitution and laws of the State of Maine.

Charter Revision – A re-examination of the whole document producing a fundamental change in the Charter. The desired changes may be few or many. The process requires the establishment of a "Charter Commission".

Charter Amendment – Correction of detail to better accomplish the Charter's purpose with no fundamental change. Does not require the establishment of a "Charter Commission".

Codification ---The process of collecting or arranging the laws of the Town into a code.

Day - Means calendar day unless preceded by the word "business".

Department Head – The person or persons responsible for the management of each Town department as well as the supervision of all Town employees employed by such Town department.

Elected Board – A Town board, commission, committee or study group composed of one or more individuals elected by secret ballot by a plurality of the registered voters of the Town voting for said elected position.

Elected Official – An official of the Town chosen by secret ballot by a plurality of the registered voters of the Town voting for said elected position.

Fiscal year ---The year by which accounts are reckoned – July 1st of one year to June 30th of the next year.

Legislative Body - Registered voters of the Town of Eliot.

Manager -Town Manager.

Majority Vote - The affirmative vote of over half the number of all the members of a committee, board, or commission present at a meeting.

Meeting Minutes – A written record of the meeting proceedings.

Moderator - The presiding official at a Town Meeting.

MRS - Maine Revised Statutes, including all post-adopted amendments or new laws.

Municipality - Town of Eliot.

Municipal Election – An election at which municipal officials of the Town are elected.

Municipal Officers – A Select Board consisting of 5 members.

Municipal Official - Any elected or appointed member of municipal government.

Municipal Year - Town's fiscal year.

Petition - Document with sufficient signatures by statute that requires submission of an issue to the voters of the Town.

Public hearing - An official proceeding during which the public is accorded the right to be heard on an issue(s); to express their views and to provide evidence in support of those views. These opinions and evidence create part of the public record.

Qualified voter ---Any person registered to vote in the Town of Eliot.

Quorum - A minimum number of members to constitute a legal body to conduct business; specifically the smallest number of members greater than half the full membership.

Recording ---An audio, video or other electronic recording.

Registered Voter - A person who is a resident of the Town of Eliot, at least 18 years old and registered to vote in a municipal election.

Resident ---A person occupying a residence within the Town with intent to make that place his or her permanent home.

Secret Ballot - A secret ballot within the meaning of Title 30-A MRSA 2528.

Surety - A guarantee of performance, payment or other obligation.

Town ---Municipality of Eliot.

Town Department – All departments, agencies, and other subdivisions of the Town, except those under the School Administrative Unit 35 and its subsidiary departments.

Town Employee – All individuals in all Town departments who receive or are entitled to receive compensation from the Town.

Town Officials – Any elected or appointed member of the municipal government. (30-A M.R.S. § 2604(2)).

Town Officer – A member of the Select Board.

Town Ordinance – Any ordinance of the Town of Eliot, as amended from time to time.

Video Streaming - Content sent in compressed form over the Internet and displayed by the viewer in real time.

Warrant - A document stating the time and place of a town meeting and, in distinct articles, the business to be acted on at the meeting.

The terms "**shall**", "**will**" and "**must**" as used in this Charter are mandatory.

PREAMBLE

We, the citizens of the long-established Town of Eliot, Maine, hereby approve and adopt this municipal Charter, for the purpose of preserving and enlarging our sense of community, and of creating a greater understanding of our responsibilities and opportunities in choosing and supporting our statutorily-required representative government. This Charter provides an organizational structure and general operational guidelines for our town government based upon the principles of stability, continuity, integrity, transparency, trust and, not least but most of all, citizen participation.

We accept and concur with this careful delineation of our town's legal and operational structure, both directly and by reference to statutes and ordinances. We understand the need for possible future amendments, as our wants and needs change over the years, and understand that such amendments will require our voted approval.

This Charter recognizes and retains our long established Select Board as our municipal officers, and retains our Town Meeting. The Town Manager Form of Government allows the business of the Town to be accomplished much more quickly.

We hope this Charter leads us all to better understanding of the values and duties of active citizenship.

Our hundreds of years of municipal experience give us countless examples of community activity, planning, and progress. May this Charter help us continue to be a co-operative, generous, forward-thinking, respected, and happy Eliot.

ARTICLE 1

POWERS OF THE TOWN

Section 1.1 Incorporation

The Town of Eliot is a municipal corporation by the name of the Town of Eliot, Maine, established by Statute on March 1, 1810.

1.2 Form of Government

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

1.3 Powers of the Town

The Town shall have all powers possible for a municipality to have under the Constitution and laws of the State of Maine. The powers of the Town under this Charter shall be construed liberally in favor of the Town, and no mention of particular powers in the Charter shall be construed to be exclusive or as limiting in any way the general power stated in this article.

1.4 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 agencies thereof to the extent permitted by law.

1.5 Town Meetings

The Legislative Body of Eliot shall be the registered voters of the Town, assembled in a duly called Town Meeting. The Annual Town Meeting shall convene in the Town of Eliot on the second Tuesday of each June. This Town Meeting shall convene with the election of a Moderator, proceed with election of Town Officers, and other positions, voting on referendum articles by secret ballot as established by law. The meeting may adjourn to the date, time and place certain, within (5) five days following the second Tuesday of June for the purpose of considering and acting upon any remaining business, in which case the Moderator shall re-convene the Town Meeting in open session for the consideration of any remaining articles.

The offices to be filled by the voters shall be:

- A. Town Meeting Moderator
- B. Select Board
- C. Budget Committee
- D. School Board (Eliot Members)

1.6 Elected School Board Representatives

Although Eliot representatives to the School Board serve in accordance with State law and the by-laws of the aforementioned board, they are elected to represent the interests, concerns and public education-oriented ambitions of Eliot residents. As such these representatives shall be responsive to concerns, requests for information and for dialog with Eliot's Select Board, Town Manager, Committees, Boards Commissions and citizens.

1.7 Voter Authority

The qualified voters of the Town shall have power under this article to request consideration or reconsideration of any warrant article prior to adjournment of the Town Meeting subject to parliamentary procedures.

Special Town Meetings may be scheduled by the Select Board as needed.

The complete Warrant shall be posted in at least three conspicuous places within the town and on the town website, not less than seven days before Town Meeting.

State Law Reference: Title 30-A, MRS, Sections 2521-2524

ARTICLE 2 SELECT BOARD

Section 2.1 Composition

The Select Board shall consist of five (5) members. The members of the Select Board shall be the Municipal Officers of the Town.

2.2 Eligibility and Qualifications

Only qualified voters of the Town shall be eligible to hold the office of member of the Select Board. No Select Board member shall hold any other elected Town office, any Town position for which compensation is provided, with the exception of the Fire Department, or any other full or permanent part time Town employment during the term for which he/she is elected to the Board. No former Select Board member shall hold any compensated Town Office or be employed in any Town Department until one (1) year after his/her resignation or expiration of the term for which he/she is elected. No Select Board Member shall serve as a member of any other Town Board, Committee or Commission.

2.3 Election and Terms

Select Board members shall be elected to serve staggered three-year terms. New members shall be elected to fill vacated positions at the Annual Town Meeting. In the event a Select Board member cannot serve out his or her term and more than 180 days remain in that term, a special election shall be held to fill the vacancy. If less than 180 days remain, the Select Board, at its discretion, may call a special election to fill the vacancy.

2.4 Organizational Meeting

The newly constituted Select Board shall be sworn in by the Town Clerk immediately following the adjournment of the Annual Town Meeting. The newly constituted Select Board shall organize by electing by ballot, a Chair, Vice-Chair and Secretary. A time and place for regular Board Meetings shall be established with appropriate notice to the public. The positions of Chair and Vice Chair are offices of merit rather than seniority.

2.5 Compensation

Members of the Select Board shall each receive annual compensation for their services as approved at the annual Town meeting. Members serving unexpired terms shall be paid on a prorated basis for time served. Members shall receive reimbursement for actual and authorized expenses incurred in the performance of the duties of office as approved by the Select Board.

2.6 Chairperson

The Chair, or Vice-Chair in his or her absence, shall with the assistance of the Town Manager, set the agenda, preside at meetings of the Select Board, and be responsible for the legal and orderly transaction of Board business at all regular and special meetings. The sitting chair shall exercise his or her vote as a regular member of the Board on all issues before the Board which require a vote.

The Chair, or Vice Chair in his or her absence, shall be recognized as head of Town Government for all ceremonial purposes and by the Governor for purposes of military law, but shall, in this capacity, have no regular administrative duties.

The Chair or Vice Chair may call special meetings of the Board when such meetings are warranted. In the absence of the Chair and Vice Chair the remaining three members of the board may call meetings chaired by the Secretary.

2.7 Powers and Duties of Select Board

The duty of the Select Board is to execute the legal will of the people, to manage Town affairs, and to provide leadership and oversight on issues of importance to the Town.

The Select Board shall act as a unit by formal vote in authorized meetings. Members must not act individually as a representative of the Board unless specific authority related to a particular duty has been delegated to that member by the Select Board. A formal minority report may be issued by a Board member(s) voting in the minority.

The specific powers and duties of the Select Board shall include, but are not limited to:

- A. Appoint Town Officials as described in Article 4, Section 4.1
- B. Remove for cause the Town Manager, as well as members of all other boards, commissions and committees appointed by the Select Board, after notice and hearing, in accordance with State law, Town Ordinance and this Charter. At either party's request, sworn testimony and the opportunity for cross-examination of witnesses will be allowed. The hearing will be held in executive session unless the party charged requests in writing that it be held in public.
- C. Create, change and abolish offices, departments and committees, other than the offices, and departments established by this Charter. The Select Board may assign additional functions or duties to offices, departments or committees established by this Charter, but may not discontinue or assign to any office, department or committee any function or duty assigned by this Charter to a particular office, department or committee.
- D. Inquire into the conduct of any office, department, board, commission or committee and conduct investigations into municipal affairs, following policies established for such an inquiry.
- E. Call the Annual Town Meeting and any additional town meetings required and prepare the warrants for the meetings.
- F. Adopt an annual budget and recommend it at the Annual Town Meeting for approval.
- G. Provide for an annual audit.
- H. Fill vacancies for elected positions by calling a special election as described in Section 2.3 above, with the exception of the Budget Committee and School Board members.
- I. Provide oversight, liaison, and leadership to the volunteer committees, boards and advisory groups which serve to accomplish the town's needs and purposes.
- J. Be the sole negotiating and contract authority for the Town of Eliot in labor negotiations.
- K. Consider consent agreements for land use violation, only when such a violation has been brought to the Select Board by the Code Enforcement Officer.

State Law Reference: Title 30-A, MRS, Section 2635

2.8 Prohibitions

The Select Board shall direct to the Town Manager all inquiries, concerns, or complaints regarding the administration, delivery, and/or procurement of any Town or municipal services, any Town employee, Board or Committee, or individual members thereof. Neither the Select Board nor individual members of the Board shall, either publicly or privately, instruct, order, direct, or make any demands of any Town official or employee, who is subordinate of the Town Manager regarding the delivery or procurement of Town services or with respect to their duties as a Town official or employee.

- A. Appointments and Removals. Neither the Select Board nor any of its members shall dictate

the appointment or removal of any administrative officials, department heads or employees whom the Town Manager or other persons in authority are empowered to appoint or employ.

- B. Interference with Administration. The Select Board and its individual members shall deal with Department Heads or employees through the Town Manager or such other person as directed by the Town Manager. Neither the Select Board, nor its members, shall give orders to any such official or employee either publicly or privately.

State Law Reference: Title 30-A, MRS, Section 2635

2.9 Vacancies; Forfeiture of Office; Filling of Vacancies

- A. Vacancies. The office of a Select Board member shall become vacant by one or more of the following means:

1. Non-acceptance;
2. Resignation;
3. Death;
4. Failure to qualify for the office within 10 days after written demand by the Municipal Officers;
5. Failure of the municipality to elect a person to this office;
6. Forfeiture of the office;
7. Recall and removal; or
8. Any other manner authorized by this Charter;

- B. Forfeiture of Office. Refer to Article 7 sec. 11

- C. Filling of Vacancies. A vacancy on the board must be filled in accordance with section 2.3.

- D. Tied election result. The Select Board shall schedule a special run - off election to be held within 60 days.

State Law Reference: Title 30-A, MRS, Section 2602

2.10 Procedure

A. Meetings. The Select Board shall, at its organizational meeting or as soon thereafter as possible, establish a time and place for holding its regular meetings and shall meet regularly at least twice a month. Special meetings shall be determined by the Select Board and shall be held at such time and place as is legal and proper to conduct the necessary business at hand. All meetings of the Select Board shall be open to the public; however, the Select Board may, by a three-fifths vote, discuss matters in an executive session to the extent that the matter is a permitted deliberation pursuant to Title 1, Section 405(6) Maine Revised Statutes, and in accordance with the procedures specified in that statute or any other applicable existing statute. 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 Select Board until such matter is placed on the agenda of a regular or special meeting and voted upon thereafter, unless an emergency exists and three Board members vote to suspend the rules to add the item to the agenda.

B. Rules. Record Keeping and Minutes. The Select Board shall keep an accurate permanent recording of all its meetings and maintain a record of its proceedings; such recordings and minutes to be public records.

The Select Board shall keep minutes of its proceedings which shall include the meeting time, place, and the name of each member in attendance and member(s) absent, a list of all correspondence, the subject matter under discussion and all motions made and seconded and by whom, along with a roll call vote on all motions listing the name, his or her vote, and reason

for abstention, if applicable. The minutes shall be written in such a way as to provide sufficient background to understand the reasons for the motions, proposals, resolution, votes and all other actions of the Board, being careful to convey exactly what the majority decision is, however the entire discussion (verbatim) does not need to be recorded. The minutes shall be written or typed legibly and become the permanent record of the actions of the Select Board.

C. Voting and Quorum. Voting, except on procedural motions, shall be by roll call and the ayes and nays and abstentions shall be identified and recorded in the minutes. Three members of the Select Board shall constitute a quorum. Any action of the Board receiving less than 3 affirmative votes may be brought up for reconsideration by any member at the next regularly scheduled meeting. Each Board member in attendance shall vote on all issues and questions presented for vote except when a valid reason to abstain clearly exists. If any member does abstain from a vote, other than because of a valid reason to abstain, including the appearance of a conflict, he or she shall be considered to have cast a vote in the affirmative and the record shall so show.

D. Training. Select Board members shall receive mandatory or statutory training on boardsmanship and municipal governance as provided by the Maine Municipal Association and Town Attorney, and may participate in other training opportunities, at the Town's expense and the Select Board's discretion.

2.11 General and Administrative Ordinances

The authority for the enactment of all ordinances authorized to be enacted by the municipality shall be held in the legislative body, Town meeting forum, except for emergency ordinances as provided in Section 2.15 of this Article. Except for emergency ordinances, or those with dates specified by statute, ordinances shall become effective seven days after adoption unless otherwise specified therein. No Town ordinances, with the exception of emergency ordinances, shall be enacted unless the total vote is at least 10% of the number of votes cast in the Town at the last gubernatorial election. When brought to a town meeting, an emergency ordinance may be adopted or rejected with or without amendment.

State Law Reference: Title 30-A, MRS, Section 3001

2.12 Articles for the Warrant

The Select Board, on its own initiative, may, by majority vote, place on the Town Warrant any article relating to the health, safety and welfare of the municipality.

State Law Reference: Title 30-A, MRS, Section 2523

2.13 Petitions for Articles in the Warrant

Any qualified voter may make a request to the Select Board to place an article on the Town Warrant and shall present in written form the substance of the article. Should the Select Board decide against placing the article on the Warrant, citizen petitioners may submit a written petition with voter signatures equal to at least ten (10) percent of the number of votes cast in the Town at the last gubernatorial election. After certification of said petition by the Town Clerk, the Select Board shall include that particular article in the next Warrant issued, or shall call a special Town Meeting for its consideration within 60 days.

If an issue has been submitted to the voters by referendum, either as a citizen's initiative or by the Select Board, then the substantially same issue may not be resubmitted to the voters for one (1) year from the referendum vote, regardless of the outcome of that vote, as long as it met the voting requirement of Article 2.11.

State Law Reference: Title 30-A, MRS, Section 2522

2.14 Emergency Ordinances

To meet a public emergency affecting life, health, safety, property or the public peace, the Select Board may adopt one or more emergency ordinances in the form and manner prescribed for the ordinances generally, but such emergency ordinances may not levy taxes or authorize the borrowing of money. When brought to a Town meeting, an emergency ordinance may be adopted or rejected with or without amendment. It shall become effective upon adoption or at such later time as it may specify. An Emergency ordinance so enacted shall be automatically repealed after the time specified in the ordinance, but not later than the sixty-first (61st) day following the date on which it was adopted. This shall not prevent reenactment of the ordinance in the manner specified in this section or at a Town meeting 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.

2.15 Authentication and Recording of Ordinances

All ordinances and resolutions adopted by the Select Board shall be authenticated by the signatures of the Select Board members and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.

All ordinances and resolutions adopted at the Annual Town Meeting or any special Town Meeting shall be authenticated by the Town Clerk and recorded in full by the Town Clerk in a properly indexed book kept for this purpose, and retained permanently, in accordance with State Statute.

2.16 Codification of Ordinances

Within three years after adoption of this Charter, the Select Board 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 a majority vote of the Select Board and shall be in loose-leaf form together with this Charter and any amendments thereto, and with such codes of technical regulations and other rules and regulations as the Select Board may specify. This compilation shall be known as the Eliot Code.

The Eliot Code shall include all new ordinances and other pertinent material, including an indexed record of rescinded ordinances and other changes and at least every ten years shall be reviewed and updated. Copies of the Code and of new ordinances as enacted shall be made available on request to officials, libraries and public offices for public reference, and made available for purchase at a reasonable price fixed by the Select Board.

State Law Reference: Title 30-A, MRS, Section 3001.

ARTICLE 3 TOWN MANAGER

Section 3.1 Appointment; Qualifications; Compensation

The Select Board shall choose the Town Manager solely on the basis of executive and administrative qualifications, with special reference to actual experience in, or knowledge of, the duties of office under State law.

He/she should possess the following knowledge, skills and abilities:

Thorough knowledge of public administration, including personnel management, financial management involving direct experience with Municipal Fund Accounting or the equivalent experience, and public sector management principles, policies, and practices; the ability to interpret and apply municipal policies and procedures, Town ordinances and Federal and State statutes; ability to plan, organize, supervise, and inspect the work of professional, technical, and support personnel; ability to delegate responsibility; ability to prepare and present technical and statistical reports; ability to negotiate and resolve disputes effectively; ability to exercise creativity in resolving Town problems and in carrying out administrative responsibilities; ability to establish and maintain effective working relationships with employees, Town officials, the business community, the general public, and the County, State, Regional and Federal officials. The Town Manager must be knowledgeable and practiced in up-to-date information technology, methods, and skills.

He/she should possess the following minimum qualifications:

Bachelor's degree in Public Administration or related field, with a Master's degree preferred; five (5) years senior management experience preferably in municipal government using fund accounting; OR any equivalent combination of education and experience that demonstrates possession of the required knowledge, skills, and abilities.

The Select Board shall appoint a Town Manager for a specific term, as specified by contract, the first six (6) months of which shall be probationary. The Select Board shall, by contract, fix the compensation, benefits, holidays, vacation, and other terms, and provide for the reimbursement of the actual and necessary expenses incurred in the performance of the Town Manager's duties.

The Select Board shall consult with the Maine Municipal Association to determine the salary range and benefits provided to:

- A. Town Managers of towns similar in administrative size and population to Eliot
- B. Town Managers of various experience, education and training.

The Town Manager need not be a resident of the Town at the time of appointment and may reside outside the Town while in office, provided that the Select Board allows it. Approval for the Town Manager to live outside Eliot may not be rescinded during the Town Manager's term of office.

The Town Manager shall not serve as a member of the Select Board, as Assessor, a member of the School Board, or any other Town Board, Committee or Commission, but may attend all such meetings ex officio.

State Law Reference: Title 30-A, MRS, Section 2632

Former members of the Select Board may be appointed Town Manager even if the Town Manager's compensation was increased during his or her term of office. (see Article 2.2)

3.2. Appointment Process

The procedure leading to the appointment of a Town Manager shall be as follows:

A. The Select Board may consult with the Maine Municipal Association regarding recruiting procedures and make such information available to the Search Committee.

B. A Search Committee of not less than five (5) and not more than seven (7) town residents shall be appointed by the Select Board within thirty (30) calendar days of the office of Town Manager becoming vacant or within thirty (30) calendar days' of notice to the Select Board that the office of Town Manager will become vacant. In addition, one member of the Select Board shall serve as an ex-officio member of the search committee with voice but no vote.

1. All meetings of the Search Committee that deal with personal and privileged information shall be conducted in Executive Session and all information and discussions are confidential to the extent allowed by law. (1 MRS 405 (6) (A))

2. The Search Committee shall choose from its members a Chair, who is responsible for preparing the agendas, conducting the meetings and conveying to the Select Board the progress of the search.

3. The Search Committee shall also choose from its members a vice-Chair who shall act in the event the Chair is absent or unable to carry out the duties of the Chair.

4. The Search Committee shall choose a Secretary from its members to record the minutes of the meetings.

5. The Select Board shall present the Search Committee with a proposed job description and job advertisement for the position of Town Manager for review. The Search Committee will review, edit and return the job description and job advertisement, and make recommendations of how to post the advertisement to the Select Board for approval.

6. After the close of the application period, the Search Committee shall review all applications received for the Town Manager position, assuring that the standards set out in this Charter and state law are met and that the applications meet the requirements of the job description.

7. The Search Committee shall present to the Select Board a final list of candidates for the position of Town Manager.

8. The Select Board shall interview in person, in executive session, each of the finalists for the position of Town Manager.

9. Appointment of a Town Manager requires a majority vote of the full Select Board.

10. In the event the Select Board is unable to reach a majority for appointing a Town Manager, the position shall be advertised again and the search re-started.

11. If the office of Town Manager becomes vacant within 90 calendar days of appointment, the Select Board may choose a new Town Manager from the list of finalists in the previous search.

3.3. Powers and Duties

Except where specifically exempted, the Town Manager shall:

- A. Be the chief executive and administrative official of the municipality;
- B. Be responsible to the Select Board for the administration of all Town Departments and employees;
- C. Ensure proper execution and adherence to all ordinances, Town procedures and policies of the municipality;
- D. Serve in any legal office or as the head of any department not prohibited by this Charter or State Statute when so directed by the Select Board;
- E. Appoint, subject to confirmation by the Select Board, and supervise Department Heads;
- F. Appoint, supervise and control all Town employees and other officials pursuant to ordinances, policies and procedures of the Town and State law;
- G. Act as purchasing agent by establishing purchasing procedures in accordance with Town policies or ordinances;
- H. Attend all meetings of the Select Board, unless excused, and such other meetings as the Select Board may designate; the Town Manager shall have the right to participate in discussions;
- I. Make recommendations to the Select Board for the more efficient, legal and appropriate operation of the municipality;
- J. Keep the Select Board and the residents of the municipality informed regarding the financial condition of the Town, as well as maintain contact with the public by handling suggestions, complaints, and information requests, and act as a resource, in so far as possible, for residents and taxpayers who have problems and concerns regarding community/municipal issues;
- K. Prepare a draft of the annual budget, present it to the Select Board and the Budget Committee as outlined in Article 6, Financial Procedures, of this Charter, and be responsible for its administration after adoption;
- L. Assist, insofar as possible, residents and taxpayers with matters involving inquiries or complaints regarding governmental practices;
- M. Have exclusive authority to remove, in accordance with the Town Personnel Policy and applicable union and employment contracts, all persons whom he or she is authorized to appoint, and report all the removals to the Select Board;
- N. Not interfere with the operation of the various departments of the Town except through the Department Head and shall not independently direct employees except in the absence of a person in authority;
- O. Shall perform such duties as may be prescribed by this Charter or required by the Select Board, not inconsistent with this Charter; and

P. Prepare an annual Town Report pursuant to Title 30-A, MRS, Section 2801.

State Law Reference: Title 30-A, MRS, Section 2636

3.4. Removal from Office

The Town Manager may be removed or suspended for cause by the Select Board in accordance with the following procedure:

A. The Select Board shall file with the Town Clerk a written preliminary resolution setting forth the specific reasons for the proposed removal, a copy of which shall be delivered to the Town Manager within five (5) business days of filing.

B. The Town Manager may within twenty (20) business days of receiving the resolution, reply in writing and may request a hearing. The Town Manager shall specify whether that hearing is to be held in public or executive session.

C. Upon request for a hearing, the Select Board shall hold one not earlier than ten(10) business days after the request is filed and not later than twenty(20) business days.

D. After the hearing, or at the expiration of the time permitted the Town Manager to request the hearing, the Select Board may adopt or reject the resolution of removal.

E. Removal of a Town Manager requires a majority vote of the full Select Board that good cause to remove the Manager exists.

F. The Select Board may suspend the Town Manager from duty in the preliminary resolution, but in no event shall the Town Manager's salary be affected until the final resolution of removal has been adopted.

3.5. Absence or Disability

In the temporary absence or disability of the Town Manager, the Town Manager shall designate, subject to approval of the Select Board, a properly qualified person to perform the duties of the Town Manager and the Select Board shall fix his/her replacement's compensation. While so acting, he/she shall exercise the powers and perform the same duties of the Town Manager. During such absence or disability, the Select Board may revoke such designation at any time and appoint another qualified person to serve until the Town Manager shall return or his/her absence/disability shall cease. No member of the Select Board shall be appointed to serve as Town Manager during such absence or disability. For absences 10 business days or less the Town Manager may designate an Acting Town Manager without Board approval.

Temporary, for the purposes of this Section, is defined as not more than thirty (30) calendar days. After thirty (30) calendar days the Select Board by majority vote, must decide to continue the temporary situation or take steps to ensure a more permanent situation.

After (6) months of the Town Manager's uninterrupted inability to perform the duties of Town Manager, the position will be deemed vacant, unless otherwise required by law and the Select Board shall evaluate the performance and character qualifications of the Acting Town Manager for permanent position or begin the search for a new Town Manager. Refer to Article 3 sec 2, Town Manager Appointment Process.

State Law Reference: Title 30-A, MRS, Section 2634.

ARTICLE 4

ADMINISTRATIVE ORGANIZATION

PART A. - GENERAL PROVISIONS

Section 4.1 Appointments

The Select Board shall, by majority vote, at no later than their third regular meeting following the annual Town Meeting, review, appoint, renew, or reappoint all necessary Town officials as provided by general statute, this Charter, and Town ordinances.

State Law Reference: Title 30-A, MRS, Sections 2601

The Select Board will appoint members to standing and ad hoc committees whenever an opening occurs, shall appoint members of the Planning Board and Board of Appeals, which shall have such powers and perform such duties as are provided for by the laws of the State of Maine, this Charter and other town ordinances, and shall appoint members to committees created by the Select Board. All board and committee appointments shall be made by rules adopted by the Select Board.

The Town Manager shall appoint department heads subject to the confirmation by the Select Board, and shall have the power to remove such appointees when necessary and in accordance with the laws of the State of Maine, this Charter and town ordinances. All other employees shall be appointed or may be removed by the Town Manager or his or her authorized designee.

4.2 Creation of Departments

The Select Board may establish departments, offices, or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices or agencies; except that no function assigned by this Charter to a particular department, office or agency may be discontinued or assigned to any other, unless this Charter specifically so provides.

4.3 Duties and Obligations of Office

In addition to those duties and responsibilities established by statute, it is provided that the Town Clerk, Tax Collector and Treasurer shall maintain their offices at the Town Office. All current documents, books and public records pertaining to their office shall be maintained at the Town Office, and all business transacted on behalf of the Town by the Town Clerk, Tax Collector and Treasurer shall be carried on at the Town Office, except for those duties required to be carried on elsewhere.

4.4 Bonds

The Select Board shall require a Surety Bond from all persons trusted with the collection, custody, or disbursements of any moneys of the Town. The Town shall pay the cost of providing the Surety Bond.

4.5 Department Heads

All departments and offices shall be administered by a Department Head, appointed by the Town Manager, and are subject to the to the direction and supervision of the Town Manager except as set forth in 4.5(A) below regarding the Fire Chief. The Town Manager may appoint himself or herself as a Department Head.

4.5(A) Fire Chief

The Fire Chief is elected by the Fire Department membership. As an elected department head, the Fire Chief shall be responsible to the Town Manager in all administrative matters, including but not limited to all federal and state workplace laws, budget administration and public safety policies.

PART B. - PERSONNEL ADMINISTRATION

4.6 Employment Policy

The Town of Eliot is an equal opportunity employer. It shall be the policy of the Town of Eliot to employ, appoint, assign and promote personnel, without regard to race, color, religious creed, national origin, gender, ancestry, age, sexual orientation, physical or mental disability, military status or political or religious opinions or affiliations unless related to bona fide occupational qualifications.

4.7 Personnel Director

The Town Manager shall serve as Personnel Director, or with the consent and approval of the Select Board appoint someone to serve as Personnel Director.

4.8 Adoption of Personnel Policy

The Town shall adopt a Personnel Policy and will review it on an annual basis.

The Select Board may appoint an ad hoc committee to review and recommend changes to the Personnel Policy.

4.9 Specially Classified Positions

The following persons and positions shall be exempt from the Personnel Policy, except where the Policy specifically addresses that person or position. There shall be no exemption pertaining to equal opportunity and other non-discrimination provisions of the Personnel Policy for any person or position.

A. Elected officials, including all persons chosen by popular election or appointed to fill an elective office, shall be exempt.

B. Members of Boards, Committees and Commissions appointed by the Select Board, whether standing or ad hoc shall be exempt.

All town employees not specifically exempted in this section shall be subject to the Personnel Policy and the rules and regulations pertaining thereto except to the extent that the specially classified employee has a written agreement with other terms and conditions.

In addition, the Select Board is authorized, upon recommendation from the Town Manager, to offer special employment benefits or conditions which vary from the provisions of the Personnel Policy. Any such variations or differences from the Personnel Policy shall be in writing and retained in the personnel file of that employee and shall be reviewed annually.

PART C. - ASSESSMENT ADMINISTRATION

4.10 Assessor

The Assessor of Taxes shall be an appointed position. The Select Board shall not act as Assessors.

The Assessor appointed by the Town Manager shall have all the legal qualifications for this position. The Town Manager shall take into consideration, prior to appointment, the skills necessary to be successful.

The Assessor shall perform all Assessment duties and responsibilities provided for Assessors under the laws of the State of Maine.

State Law Reference: Title 36, MRS, Section 701et seq.

4.11 Assessment Review

Property owners have the right to appeal individual assessments and are entitled to (1) meet with the Assessor; (2) review assessment (3) with unsatisfactory results at the municipal level may appeal the decision and request a hearing before the County Commissioners.

PART D. - LEGAL

The Select Board will retain a lawyer or law firm licensed in Maine from time to time to provide legal advice to the town. The Town Attorney shall serve as chief legal adviser to the Select Board, the Town Manager, as well as all Town Departments, Boards, Agencies, Committees and Commissions subject to the approval of the Town Manager. The Town Attorney shall represent the Town in all legal proceedings and shall perform any other duties prescribed by ordinance and law, unless otherwise determined by the Select Board.

PART E. - APPOINTED OFFICIALS

Town Officials, in addition to those positions provided for elsewhere in this Charter or State Statute, shall be appointed by the Town Manager subject to confirmation by the Select Board. Said appointments shall be acted upon no later than the third (3rd) Select Board meeting after the Annual Town Meeting. Terms of office for appointed positions shall run concurrently with the fiscal year. The appointed officials shall be duly sworn in prior to sitting or acting in their position.

4.12 Job Descriptions and Qualifications

The Town Manager shall maintain job descriptions for all Town of Eliot employees as well as qualifications required by Maine State Law.

4.13 Compensation

The Town shall provide for compensation to be paid to the appointed officials for the performance of their duties as determined by the Town Manager with approval by the Select Board.

ARTICLE 5

RESERVED FOR FUTURE USE

ARTICLE 6

FINANCIAL PROCEDURES

Section 6.1 Fiscal Year

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 inclusive.

State Law Reference: Title 30-A, MRS, Section 5651

6.2 Budget

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year, and except as required by this Charter, shall be in such form as the Town Manager deems desirable or the Select Board or any adopted budget referendum ordinance may require. In organizing the budget the Town Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated revenue, and all proposed expenditures, including debt service, for the ensuing fiscal year; and be so arranged as to show comparative figures for actual and estimated revenue and expenditures of the current fiscal year, and actual revenue and expenditures of the preceding fiscal year.

6.3 Budget Committee

There shall be a Budget Committee consisting of (7) seven members elected for staggered three (3) year terms. The Budget Committee shall have the responsibility of reviewing and evaluating the Town Budget. This Committee shall function as a sub-committee of, and report back to, the legislative body. The Budget Committee shall act independently from the Select Board and the Town Manager. The Budget Committee shall, by majority vote of the committee members present and voting, make recommendations regarding and included in each warrant article having a financial impact whether at the Annual Meeting or at a Special Town Meeting.

Vacancies of the Budget Committee members, other than anniversary term expirations, may be filled by the budget committee as soon as possible, after posting the vacancy for 14 days. Each appointee shall serve until the next Town election.

One member of the Budget Committee or a designee shall serve as a member of the town's negotiating team that will negotiate all labor contracts for the Town of Eliot.

6.4 Submission of Budget, Budget Message, and Budget Schedule

Not later than the first week in January, the Town Manager shall submit to the Select Board and Budget Committee a proposed budget for the ensuing fiscal year with an explanatory message and calendar schedule for the entire Budget preparation.

The Manager's budget report shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline his or her proposed financial plan for the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year the financial plan, 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 or the Select Board or Budget Committee shall request.

6.5 Budget Review Process and Schedule

The Select Board shall review the Town Manager's proposed budget when presented and shall reconsider the budget for final approval after the Budget Committee has reported its recommendations to the Select Board; such final approval shall be in accordance with the provisions set forth in Section 6.6 below.

The Budget Committee shall meet during the development of the proposed budget. The Budget Committee shall meet to review the proposed budget prepared by the Town Manager and to make recommendations concerning such budget. Prior to the adoption of a final budget by the Select Board, the Budget Committee shall meet and adopt recommendations concerning such final budget to be included in a Town Warrant at the Town Meeting by Referendum Vote.

The Town Manager shall provide copies of supporting plan documents for the proposed budget as requested by the Budget Committee. The documents shall be submitted to the Budget Committee within five (5) business days of the request. If a document is not available, a written explanation as to why it is not available shall be provided within said five (5) business days.

As scheduled, the Town Manager shall deliver to the Budget Committee copies of the proposed final town budget at least five (5) business days prior to the Budget Committee's final vote. The recommendations of the Budget Committee shall be reported to the Select Board prior to final approval of the budget by the Select Board. The Budget Committee's recommendations shall be included in the Town Warrant.

6.6 Select Board Action on the Budget

A. Final Review and Approval. The proposed final budget prepared by the Town Manager shall be reviewed for final approval by the Select Board at a Select Board meeting after the receipt of the recommendations of the Budget Committee. At such a meeting, the Select Board shall consider the recommendations of the Budget Committee and approve the proposed budget with or without amendment.

B. Publication of the Budget. The Select Board shall publish a general summary along with the detailed budget and the recommendations of the Budget Committee in the Town Report. Copies of the budget and the Budget Committee's recommendations shall be available at the Town Office following the final approval of the budget by the Select Board as per the Town Manager's schedule. The Select board shall hold a public hearing on the proposed budget at least 30 days in advance of the Referendum Vote.

C. Vote on Budget. The budget shall be voted upon by Referendum Vote at the Annual Town Meeting through separate appropriation articles consistent with the proposed budget format and any adopted budget referendum ordinance.

The Select Board and Budget Committee recommended vote count numbers and dollar amounts only shall be published on the warrant with the article.

Any appropriation article that is approved, and which contains two or more specific sub-appropriations within said article, is restricted to the amounts specified in the sub-appropriations as presented, which may not be moved, interchanged, or otherwise commingled in any fashion without approval at a Town Meeting.

D. Budget funding provision in the event an appropriation article is not approved.

In the event an appropriation article is not approved, the appropriation for the immediately preceding year shall constitute the appropriation for the following fiscal year. In the event an

appropriation article is not approved, and the appropriation did not appear on the ballot for the immediately preceding year or it was submitted by voter petition, no appropriation shall be deemed to have been made. The Select Board may call one additional referendum election in the same fiscal year to vote on appropriation articles that were not approved or that are for a similar purpose.

E. Adoption.

1. Adoption of the annual Municipal Budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated, and shall constitute a levy of the property tax thereby required. A copy of the budget as finally adopted by Town Meeting or Referendum Vote shall be prepared by the Town Manager and submitted to the Select Board for certification. The certified property tax levy shall be distributed by the Town Manager to the Town Clerk for record retention and to the Assessor for the proper calculation of the tax rate and tax levy.

2. If the Budget has not been finally approved before the Fiscal Year begins, the Town is authorized to continuing spending from an Unassigned Fund balance an amount up to 1/12 of the budgeted amount of the preceding fiscal year per month until a new budget is approved at a Town Meeting.

6.7 Administration of Budget

Before the beginning of the fiscal year, the head of each office, department or agency shall submit to the Town Manager, when required by the Town Manager, a work program for the year. This program shall show the requested allotments of appropriations for such office, department or agency, by defined period, for the entire fiscal 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 them. The aggregate of such allotments shall not exceed the total of voted approved appropriations available to said office, department or agency for the budget year.

6.8 Tax Anticipation Borrowing Guidelines

In the event that the Select Board determines it necessary to borrow money in anticipation of taxes, the Select Board shall adhere to the guidelines for Tax Anticipation Note Borrowing as detailed in MRS 30-A, Section 5771. The following guidelines shall be followed:

- A. Invitations to bid shall be extended to lending institutions at the same time.
- B. Invitations shall be dated and delivered to the invited lending institutions at least ten (10) business days prior to the bid opening.
- C. Invitation to bid shall specify the maximum amount to be borrowed;
- D. The method of borrowing shall be clearly defined; i.e., "as needed or lump sum";
- E. Invitation shall specify planned maturity dates of said notes, and shall require the option to prepay without penalty;
- F. Invitation shall show estimated planned borrowing and repayment schedule. (Does not apply if borrowing is on a lump-sum basis.);
- G. Invitation shall state date, time and place bids are due, and shall indicate date bids will be opened and awarded;

H. Invitation shall inform of the Town's right to accept or reject any or all bids, provided that it is in the Town's best interest to do so;

I. Bidder shall be asked to submit interest rates in multiples of one- hundredth (1/100) of one percent (0.01%);and

J. The Town must specify the method by which interest shall be calculated;

6.9 Public Records

Copies of the budget and the capital program as adopted shall be public records.

State Law Reference: Title 1, MRS, Section 401

6.10 Lapse of Appropriations

General fund appropriations, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that they have not been expended or encumbered, or except as prohibited by law, as set forth in this section. Such funds shall be transferred to the Unassigned Funds account. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The Select Board may, on advice of the Town Manager, carry forward unexpended general fund appropriations, as deemed appropriate, to the same department for the next fiscal year.

State Law Reference: Title 30-A, MRS, Section 5801

6.11 Annual Audit

The Town Manager shall each year, by November 1st , engage a certified public accounting firm, with the approval of the Select Board, for the purpose of conducting the annual audit of the prior fiscal year's municipal finances, as authorized by law.

State Law Reference: Title 30-A, MRS, Section 5823

ARTICLE 7 NOMINATIONS AND ELECTIONS

Section 7.1 Conduct of Elections

The Town will conform to the nomination and election procedures established in state law.

State Law Reference: Title 21-A, MRS, Chapter 9

7.2 Nomination by Petition Method

A. Petitions

1. Candidates for election to any elective office whose names appear on a written ballot must be nominated by petition. Any registered voter of the Town of Eliot may be nominated for election by a petition signed by not less than twenty-five (25) and not more than one hundred (100) registered voters of the Town of Eliot.
2. The signatures to a nomination 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, that each signature on it was affixed in his or her presence and that he/she 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 his or her signature the street address where he or she resides.

B. Filing and Acceptance of Nomination Petitions. Completed nomination papers, including all separate papers comprising the nomination petition, shall be assembled and filed with the Town Clerk during business hours, in accordance with Title 30-A MRS, Section 2527. The Clerk shall make a record of the exact time/date when each petition is filed. No nomination petition shall be accepted unless accompanied by a signed acceptance of nomination.

C. Procedure After Filing Nomination Papers. Within five days after the filing of a nomination petition, the Clerk shall notify the candidate and the person who filed the petition whether or not it satisfied the requirements prescribed by this Charter. If a petition is found to be insufficient, the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found to be insufficient, but will retain a copy. The Clerk shall keep on file all petitions pursuant to state records retention policy .

State Law reference Title 30-A Sec. 2528

7.3 Order of Candidates' Surnames

Where two or more candidates have been nominated for any office, the names of such candidates shall appear on the ballot in alphabetical order.

7.4 Elected Officials

The elected officials of the town, whose positions are to be filled by the voters, will be:

- A. Town Meeting Moderator
- B. Select Board
- C. Budget Committee
- D. School Board (Eliot Members).

7.5 Eligibility

Any registered voter shall be eligible to hold any elective office, but a person holding one elective office shall not simultaneously hold any other elective Town Office. In any particular Town Election, no person shall be a candidate for more than one Town Office.

7.6 Nomination Procedure

Except as otherwise provided, the number of valid signatures of voters required to place the name of a candidate for any town office on the official ballot for use at any town election shall not be less than twenty-five (25) nor more than one hundred (100).

7.7 Election

The annual election of town officials shall be held on the second (2nd) Tuesday in June each year in conjunction with the Annual Town Meeting, in accordance with State Statute.

7.8 Determination of Election Results

- A. Number of Votes. Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled.
- B. Write-in candidates shall be identified by first and last name.
- C. Plurality. Election shall be determined by plurality vote. In case of a tie for any elected positions, a run-off election, following an official recount, shall be scheduled by the Select Board in accordance with State Statute as soon as possible after the election.
- D. Vacancy. If a position receives no votes, then a vacancy shall be declared.

7.9 Vacancy of Office

The office of an elected official shall be vacant upon the official's death, resignation, non-acceptance, failure to be elected, removal from the municipality, expressed prohibition of this Charter, or removal from office in any manner authorized by law or by this Charter.

7.10 Filling of Vacancies

If for any reason a vacancy of an elected official shall exist for more than (180) days 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 (180) days prior to the next regular municipal election, the vacancy may be filled for the unexpired portion of the term by a special election to be called by the municipal officers. Any such special elections shall be conducted in accordance with the provisions of State Statute. The exception is the Budget Committee (see article 6.3) and the School Board whose vacancy will be filled by the Select Board as defined by State Statute Title 20-A MRS Sec.1254.

7.11 Recall, Forfeiture and Removal from Office

A. Any elected official who no longer resides in Eliot shall immediately forfeit such office and a vacancy shall be declared by the Select Board.

B. An elected official may be subject to the recall provisions and removal from office for reasons including but not limited to:

1. Lacks at any time during his or her 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 of moral turpitude or dishonesty while in office or crime punishable by one year incarceration or more;
4. Fails to fulfill the requirements of the Eliot Town Ordinance(s) governing Boards, Committees or Commissions;
5. Making of false statements under oath or perpetration of fraud;
6. The offering or acceptance of bribes;
7. The solicitation of favors or special privileges;
8. Interference in any person's right to political activity and expression.

C. Upon receipt of any allegation or charges of violation of the above provisions;

The Select Board shall hold a hearing within (30) days to determine if there is cause for removal from office. The official shall be given notice of the hearing and provided the opportunity to present reasons against his/her removal from office.

The Select Board, by a majority vote (excluding the charged official if a Member of the Select Board) shall determine if cause to remove exists.

If the Select Board determines that cause to remove exists, it shall commence proceedings for recall, by warrant article, as provided by this Charter.

In the event that the Select Board fails to take any action or vote for recall of the official charged, then, the registered voters of the Town may initiate recall proceedings in accordance with the provisions set forth in this Charter.

7.12 Recall of Elected Officials

A. The recall of any elected official may be initiated by either the Select Board as provided in Sec 7.11 or by a petition by the registered voters of the town.

B. Procedures for recall by registered voters;

1. At any time, any five (5) qualified voters may begin proceedings to recall a member of the Select Board, Budget Committee, or other elected municipal official by a written request to the Town Clerk for appropriate blank petitions. These voters shall be referred to as the Recall Committee.

Within ten (10) days of the receipt of the Recall Committee's request, the Clerk must provide the Recall Committee with blank petitions for such removal, which must be dated, issued with the Clerk's signature and official seal, and which shall contain a statement of the reason or reasons for recall and the names of the Recall Committee. Each petition shall be limited to the recall of a single individual. The Clerk must retain a copy of the petition in a record book available for public inspection. The Clerk will provide a copy of the petition to the party whom the petition seeks to recall.

The Recall Committee shall have thirty (30) business days from the date of issuance of appropriate petition blanks to file with the Town Clerk petitions signed by at least 10% of the number of registered votes cast in the Town at the last gubernatorial election.

The petition may be circulated in multiple copies, but the recall petitions must be submitted together as one petition to the Town Clerk.

Within ten (10) business days after the circulation period ends the Town Clerk shall certify to the Town Manager and Select Board as to whether the petition has been signed by not less than 10% of the number of registered votes cast in the Town at the last gubernatorial election and shall immediately inform the official for whom recall is sought. Should less than 10% of the number of registered votes cast in Eliot at the last gubernatorial election sign the petition, the petition shall have no further force or effect, and no new petition action for recall of the same person for the same reason can be initiated until one hundred eighty (180) calendar days from the date the petition was filed with the Town Clerk.

2. Upon receipt of certification from the Town Clerk of a petition for recall or by a Warrant for recall issued by the Select Board, the Select Board shall, at its next regularly scheduled meeting, order a removal election to be held within forty five (45) business days nor more than sixty (60) business days unless a regular municipal election will be held within ninety (90) calendar days of receipt of the certified petition. If the regular municipal election will occur between 45 and 90 calendar days after receipt of a petition, the Select Board may at its discretion provide for the holding of the recall election on the date of the regular municipal election. If the Select Board fails to order the petitioned recall election, the Town Clerk shall immediately order the recall election pursuant to this section.

The Select Board shall immediately give written notice to said official that it has scheduled a vote for his or her recall. If the official sought to be removed does not resign within five (5) business days of such notice, the Select Board shall schedule a public hearing to be held within seven (7) business days prior to the date of said election. At said hearing the Select Board, petitioners and the official whose recall is sought shall be provided the opportunity to present reasons for or against recall.

The form of the ballot question at the recall election shall be: "Shall (elected municipal official name shown on petition) be recalled?" If a majority of those voting vote in favor of recalling that elected official, that official is removed effective upon certification by the Town Clerk.

Any elected official against whom recall proceedings have been initiated may continue to hold office until recalled and shall have the privilege of seeking election to the same or any other office at any election after the date of recall.

If an official is recalled or resigns pursuant to the foregoing process in this Charter or as otherwise provided by law, the vacancy shall be filled in the manner provided.

7.13 Ballots for Ordinances

An ordinance to be voted on by secret ballot shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Any current ordinance that will be modified or superseded by this ballot shall be clearly identified by its title and code number. Copies of such ordinances shall be available in the Town Hall for the public.

7.14 Voting Machines

The Select Board shall provide for the use of mechanical or other devices for voting or counting the votes consistent with State Law.

7.15 Election Officials

The Town Clerk shall be the supervisor of all elections. The Town Clerk shall nominate a Warden, to be appointed by the Select Board, to assist the Town Clerk on Election Day. The Warden shall designate a Deputy Warden, subject to approval of the Town Clerk. The Town Clerk shall recommend to the Select Board the election clerks for appointment as provided by state law.

7.16 Compensation

Elected town officials shall receive compensation as may be provided for that purpose by appropriation annually.

ARTICLE 8 GENERAL PROVISIONS

Section 8.1 General Authority - Initiative and Referendum

A. Initiative guarantees the qualified voters of the town shall have the power by which citizens can propose an ordinance by petition and ensure its submission through the Select Board to the electorate. State Law Reference: Title 30-A, MRS, Section 2528(5)

B. Referendum is the submission of a proposed public measure or ordinance to a direct popular vote. The qualified voters of the town shall have the power to require reconsideration by the Select Board of any adopted ordinance and if the Select Board fails to repeal the ordinance reconsidered, to approve or reject it at a town election.

Nothing in this Charter shall be construed to diminish the rights granted by law.

8.2 Residency of Treasurer, Tax Collector and Clerk

The Office of Treasurer, Tax Collector and Clerk may be held by duly appointed individuals even though such individuals need not be residents of the Town of Eliot or the State of Maine during their term of office.

8.3 Swearing in Officers and Officials

No Town officer or official can act or officiate until sworn to the faithful discharge of the duties incumbent upon him/her to the laws of the State of Maine, and the Charter and ordinances of the Town, and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

State Law Reference: Title 30-A, MRS, Section 2526(9)

A. Oath of Office

Every officer or official of the Town before entering upon the duties of office, shall take and subscribe to the following oath, to be filed and kept in the office of the Town Clerk.

"I, _____, do solemnly swear (or affirm), that I will support the Constitutions 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 Eliot, and will faithfully discharge the duties of the office of _____.

8.4 Conflict of Interest

It is the policy of the Town of Eliot that the proper operation of democratic government requires that public officials and members of all boards and committees be independent, impartial, and responsible to the citizens as a body; that public service not be used for personal gain; and that the public have confidence in the integrity of its municipal government. The purpose and intent of this Section is to promote the objective of protecting the integrity of town government against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.

This Article shall not prevent the Select Board from adopting additional procedures and standards intended to prevent the exercise or appearance of improper influence or bias in the conduct of Town business.

A. Any official or employee of the Town with a financial or personal interest or bias for or against an applicant or application in any matter that comes before any board, committee, or

commission must state, for the public record, the nature of their relationship with the person or item being discussed.

1. **Financial Interest** means the direct or indirect stake, or by reason of ownership of stock in any corporation, in any contract with the Town, by an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity, which is making an application to a Town board, and who directly or indirectly owns any interest in the business or other economic entity.

State Law Reference: Title 30-A, MRS, Section 2605

2. **Personal Interest** means the temptation of Town official(s) or employee(s) to serve his or her own personal pecuniary interest to the prejudice of the interests of those for whom the law authorized and required him/her to act.

3. **Bias** means any Town official or employee who is so against or for an applicant or project such that they could not make an impartial decision, thereby depriving the applicant of the due process right to a fair and objective hearing.

B. All Town Officials, employees and members of Town Boards, Commissions, and Committees must disqualify themselves if a situation requires them to be disinterested or indifferent when making a quasi-judicial decision which involves a person to whom they are related by blood or marriage (family member). Family Member means spouse, parents, grandparents, child, sister, brother, stepparent, stepchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, cousins, aunts, uncles, grandchildren, domestic partner, any person with whom he or she is cohabitating and any other person to whom he or she is engaged to be married. A "domestic partner" is an unmarried adult, unrelated by blood, with whom an unmarried officer, official or employee has an exclusive committed relationship and maintains a mutual residence.

No officer, official, or employee shall appoint or hire a Family Member for any type of employment, including, but not limited to, full time employment, part time employment, permanent employment, temporary employment, and contract employment.

No officer, official, or employee shall supervise or be in a direct line of supervision over a Family Member. The exception to this will be when a family relationship occurs after one of the two people was hired (i.e. marriage occurred). If an officer, official, or employee comes into a direct line of supervision of a member of his or her family, he or she shall have six (6) months to come into compliance or obtain a waiver as provided herein.

Waivers. Any current, former, or prospective officer, official, or employee may submit a written request for a waiver. The Town Manager will then set up an ad-hoc Ethics Committee, composed of 3 impartial registered voters, who will be empowered to make a recommendation for a waiver if it finds that the waiver will serve the best interests of the town. The board shall issue appropriate notice of its meeting on the waiver and its meeting shall be open to the public. The Select Board shall either issue or deny the waiver within six (6) weeks of receiving the request.

C. Even if no legal conflict of interest exists, all officials and employees of the town shall avoid the appearance of a conflict by abstaining from a board, committee, or commission's discussion and voting, and by stepping down to join the public in order to maintain the public's confidence in the work of the board, committee or commission.

State Law Reference: Title 30-A, MRS, Section 2605

D. Any official or employee of the town with a conflict of interest shall abstain from the discussion and from the vote. This abstention and its reason must be recorded in meeting minutes.

E. Any official or employee of the town who fails to abstain due to a conflict may be required to recuse himself or herself by a majority vote of the board's remaining members.

F. Any official or employee of the town who intentionally violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit their office or position. 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 any transactions affected thereby void.

8.5 Prohibitions

A. 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 board, committee, commission or office, because of race, color, religious creed, national origin, gender, ancestry, age, sexual orientation, physical or mental disability, military status, or political or religious opinions or affiliations.

B. No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under any provisions of this Charter or the rules and regulations made hereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

State Law Reference: Title 5, MRS, Chapter 337

8.6 Planning Board Makes Warrant Recommendations

The Planning Board shall make recommendations concerning all articles on the warrant for the Annual Town Meeting having to do with land use.

A vote count and recommendation of the Planning Board and Select Board members shall be published on the ballot with the article, example below: (ref. article 6.6, C. detail)

Planning Board recommends approval (5-0)
Select Board recommends approval (4-1)

8.7 Appointed Board, Committee, and Commission Service

All appointed boards, committees and commissions serve at the pleasure of the Select Board, which is responsible for each board, committee, and commission's purpose, mandate, and direction. No individual shall serve as chairperson on more than two (2) boards, committees or commissions at any one time. An individual may serve as a regular member on more than two (2) boards, commissions or committees only when no other applicants are available. The intent of this Section is to provide guidance to all official volunteer boards, committees and commissions. Board, committee and commission members shall be residents of the Town of Eliot.

The Planning Board and Board of Appeals, which are quasi-judicial boards whose responsibilities are derived by action of the State Legislature and, as such, do not serve at the pleasure or direction of the Select Board except removal for cause as provided for under, Section 4. Membership, subsection B, Removal of Members, of the Town of Eliot Ordinance Governing Boards, Commissions and Committees.

A. Organization

1. All appointed boards, committees and commissions:

- a. shall prepare and operate under by-laws updated as necessary and a copy submitted to the Town Clerk;
- b. shall annually elect a chairman and vice-chairman, and other officers as are necessary and required by their by-laws;
- c. shall hold meetings at regularly scheduled, or specially scheduled dates and times, in accordance with their by-laws, that are publicized by the Town in advance of all meetings; and
- d. all meetings shall be open to the public and the public allowed to speak except as otherwise provided by statute and any person must be permitted to attend. Any member of the public shall be allowed the opportunity to speak relevant to agenda items on any subject, motion or vote at such proceedings. Time limits may be set by boards, committees and commissions.
- e. public notice shall be given for all public proceedings. Notice shall be given seven (7) days prior to the public proceeding, except that for regularly occurring meetings or unusual and sudden circumstances, when a minimum of three (3) days' notice shall be provided. In the event of an emergency meeting, public notice shall be provided as soon as possible using all means of available communication to the public and local media.

2. Board, committee and commission chairperson:

- a. shall lead their board or committee according to its by-laws, Select Board directives, and any applicable Town ordinances and state and federal laws;
- b. shall establish a meeting schedule and set their group's agenda;
- c. shall keep the Select Board, and any other necessary Town officials, apprised of its work;
- d. shall conduct orderly meetings;
- e. shall provide for recorded minutes, and shall review and approve minutes regularly;
- f. shall ensure their members receive proper training and understand their roles and responsibilities, including boardsmanship and conflict of interest parameters;
- g. shall recruit new members whenever a vacancy occurs; and
- h. shall welcome public comment at appropriate segments of their meetings
- i. shall exercise his or her vote as a regular member on all voted issues.

B. Procedure

In developing rules, boards and committees shall endeavor to establish and follow parliamentary procedures.

8.8 Public Bulletin Board, Website

There shall be a public bulletin board located in the Town Office. The agenda of each meeting of the Select Board and all other boards, committees, and commissions shall be posted on this bulletin board and the Town's website. Dates, times, agendas, and meeting places of all regular and special meetings, public hearings and workshops shall also be posted on the bulletin board and the Town's web site as well as local newspaper where possible.

8.9 Video Streaming

Video streaming or any other media broadcasting where available, shall be scheduled, and utilized for all boards, committees and commission meetings. The chair of the meeting has a responsibility to schedule the media broadcasting.

8.10 Separability

If any provision of this Charter is held invalid, the other provisions shall not be affected thereby. 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.

ARTICLE 9

TRANSITIONAL PROVISIONS AND CHARTER AMENDMENTS

Section 9.1 Effective Date

After adoption, this Charter shall become effective for all purposes on and after the first day of the next succeeding fiscal year.

9.2 Select Board

All members serving on the Select Board at the effective date of this Charter shall continue to hold office until their prescribed term expires and their successors are elected and qualified. Initially, each Select Board member shall receive a salary at the existing rate on the effective date.

9.3 Temporary Ordinances

All existing codes, ordinances, and policies will remain in effect until altered, amended, or rescinded except where these codes, ordinances, and policies are inconsistent with this Charter.

9.4 Officers, Employees, and Board Members

A. Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the right or privileges of persons who are Town officers or employees at the time of its adoption.

B. Continuance of Office or Employment.

1. Except as specifically provided by this Charter, if at the time this Charter takes full effect a Town administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he or she vacate the office or position or until his or her term of office expires or is terminated.

2. All established boards and committees not inconsistent with this Charter shall continue in effect until changed by Select Board action, and the incumbent members shall serve their appointed terms or until replaced.

3. As required by the last sentence of Article 2, section 2, "no Select Board member shall serve as a member of a Town Board, Committee, or Commission". Immediately upon implementation of this Charter by the Town, any member of the Select Board who is also a member of any Town Board(s), Committees or Commissions must choose which membership he/she wishes to keep and then must explicitly resign either from the Select Board or from the Town Board(s).

C. Personnel System. An employee holding a Town position at the time this Charter takes effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position, but in all other respects shall be subject to the personnel system provided for under this Charter.

9.5 Pending Matters

All rights, claims, action, orders, contracts, and legal or administrative proceedings of the Town or any of its departments, pending or unexecuted when this Charter goes into effect shall be enforced, continued, or completed in all respects except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the Town department, office or agency appropriate under this Charter.

9.6 State and Municipal Laws

All Town ordinances, resolutions, orders, and regulations which are in force when this Charter becomes effective are repealed to the extent that they are inconsistent with this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Maine permit, all laws relating to or affecting this Town or its agencies, officers, or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant hereto. The Town Clerk shall, within ninety (90) days of the adoption of this Charter, report to the Select Board which ordinances, orders, resolutions and regulations will no longer be in effect.

9.7 Amendment and Revision of the Charter

This Charter may be revised or amended according to Title 30-A M.R.S. Sections 2102, 2104, and 2105.

Revision requires a re-examination of the whole document producing a fundamental change in the Charter. The desired changes may be few or many. The process requires the establishment of a "Charter Commission".

Amendments are correction of detail to better accomplish the Charter's purpose with no fundamental change. Amendments do not require the establishment of a "Charter Commission".

Amendments to this Charter may be initiated, framed and posed:

- A. By request of the Select Board that a Charter Review Committee be appointed;
- B. By petition processed in accordance with State Statute, or
- C. By the appointed Charter Review Committee.

A public hearing shall be held at least thirty (30) days prior to voting on the amendment(s).

9.8 Amendment of State Statutes

Any reference herein to the Statutes of the State of Maine (M.R.S.) is made to those Statutes of the State in effect as of the effective date of this Charter, together with any amendments to said Statutes occurring after the date of the enactment of this Charter.

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