

2017

# Town of Rockport Maine Charter - Adopted 2005; Amended 2017

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# TOWN OF ROCKPORT



# CHARTER

*ADOPTED BY THE VOTERS OF ROCKPORT ON  
NOVEMBER 8, 2005  
and AMENDED ON NOVEMBER 4, 2014  
and NOVEMBER 7, 2017*

**C H A R T E R**  
**Of The**  
**TOWN OF ROCKPORT**  
**ADOPTED BY THE VOTERS**  
**ON NOVEMBER 8, 2005**

Certified: /s/Jonathan Duke  
Chair of Select Board

Date: November 10, 2005

Town Clerk: /s/Linda M. Greenlaw

Date: November 10, 2005

**and**

**AMENDED BY THE VOTERS**  
**ON NOVEMBER 4, 2014 and**  
**November 7, 2017**

Certified: /s/William Chapman  
Chair of Select Board

Date: November 4, 2014

Town Clerk: /s/Linda M. Greenlaw

Date: November 4, 2014

Certified: /s/Kenneth McKinley

Date: November 7, 2017

Town Clerk: /s/Linda M. Greenlaw

Date: November 7, 2017

## **Preamble**

Rockport is a lovely Town. From the harbor that defines us as a maritime community to the surrounding hills, pastures and blueberry lands that further define us as rural, we are blessed with many natural attributes.

In coming together to write Rockport's first Charter, a commission of elected and appointed citizens held neighborhood meetings, met with Town employees and with many of the volunteers who serve on Town committees and boards.

We listened as people described Rockport, and their service to the Town, from their various perspectives. Together, we spoke about how changing times requires us to adjust. The advent of Rockport's first Charter is one of these adjustments.

Writing the Charter provided us with the opportunity to fix what needed fixing and to identify what didn't, and then try to craft both into a document intended to guide future residents and public servants.

After all, a town is not a collection of institutions, it is a population of people; and its government is not just a set of rules and regulations, it is a representative sampling of that population – professionals and volunteers – working together for the common good. The Charter that follows is intended to help us all achieve that modest but admirable goal.

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# **Charter of the Town of Rockport**

## **ARTICLE I Powers of the Town**

### **Section 1 Incorporation**

The Town of Rockport is a municipal corporation by the name of the Town of Rockport, Maine, established by Maine law in February of 1891.

### **Section 2 Powers of the Town**

The Town shall have all powers possible for a municipality to have under the Constitution and laws 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.

### **Section 3 Intergovernmental Relations**

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or of the United States or any agencies thereof to the extent permitted by law.

### **Section 4 Town Meetings**

Annual Town Meetings shall be held in the Town of Rockport, County of Knox, on the second Tuesday in June of each year. The Town Meeting shall commence with the election of a moderator, and shall proceed with voting, by secret ballot, as established by law, on Warrant articles, citizens' petitions, election of Town officers, and all other business. The Moderator, as established under State law, shall re-convene the Town Meeting in open session on the immediately following day for the consideration of any remaining articles.

The complete Warrant shall be posted in at least three conspicuous places seven days before Town Meeting. State Law Reference: Title 30-A, MRSA, Sections 2521-2524

### **Section 5 School Administration**

Rockport voters elect, by secret ballot, representatives to serve on the SAD 28 and Five Town CSD School Boards. Although these elected School Board members serve in accordance to State law and the by-laws of the aforementioned boards, they are elected to represent the interests, concerns and public education-oriented ambitions of Rockport residents, and as such should be responsive to concerns and requests for information and dialog with Rockport's Select Board, committees and boards, and the citizenry in general.

### **Terms of Service**

School Board members are elected for three-year staggered terms in which they serve on both boards (SAD 28 and CSD) simultaneously.

**Vacancies; Forfeiture of Office; Filling of Vacancies; Tie Election Result**

- A. Vacancies. Office of a School Board member shall become vacant upon failure to qualify for office, non-acceptance, resignation, death, permanent disability, removal in any manner authorized by law, or this Charter, or School Board by-laws, or forfeiture of office.
- B. Forfeiture of Office. A School Board member shall forfeit his or her office if he or she:
  - 1. lacks at any time during his or her term of office any qualification for the office prescribed by this Charter, or by law; or
  - 2. violates any express prohibition of this Charter.
- C. Filling of Vacancies. A vacancy on the School Boards shall be filled by the Select Board for the remaining unexpired term, except where such vacancy occurs within 120 days of an election. Then the seat may remain vacant until filled by regularly scheduled election. In filling the vacancy, the Select Board may communicate with the School Board, but the choice is the Select Board's to make.
- D. Tie Election Result. A runoff election will occur within 60 days of the original election.

State Law Reference: Title 20-A, MRSA, Part 2, generally

# **Charter of the Town of Rockport**

## **ARTICLE II Select Board**

### **Section 1 Composition**

The Select Board shall consist of five members.

### **Section 2 Eligibility and Qualifications**

Only qualified voters of the Town shall be eligible to hold the office of Selectman. Select Board members shall not hold any other compensated Town office or position of employment and shall not have business relationships with the Town for which they receive compensation.

### **Section 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 annually-held June elections. In the event a Selectman cannot serve out his or her term and more than 120 days remain in that term, a special election shall be held to fill the vacancy.

### **Section 4 Organizational Meeting**

The members of the newly constituted Select Board shall meet within twenty-four hours of their election to elect a chairman and vice-chairman. The positions of chairman and vice-chairman are offices of merit rather than seniority. The Select Board shall endeavor to elect officers whose previous work on the Select Board, or other Town boards or committees, indicates an ability to lead, manage and work toward consensus.

### **Section 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.

### **Section 6 Chairman**

The chairman, or vice-chairman in his or her absence, shall preside at meetings of the Board and is responsible for the legal and orderly transaction of Board business at all regular and special meetings. The chairman shall exercise his or her vote in Town affairs as a regular member of the Board.

The Board chairman shall be recognized as head of Town government for all ceremonial purposes and by the Governor for purposes of military law, but he or she shall have no regular administrative duties.

The chairman is responsible for calling special meetings of the Board when such meetings are warranted.

### **Section 7 Powers and Duties**

The Select Board (and all other municipal officials, either elected or appointed by the Select Board) represent the executive branch of the municipal government, of which the Select Board members are the chief executive officers. The duty of the Select Board is to execute the 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 settling all questions by formal vote in authorized meetings.

Members must not act individually unless specific authority related to a particular duty has been delegated to them by the Board. A formal minority report may be issued by Board members voting in the minority.

Without limitation, the Select Board shall have the power to:

- A. Annually appoint Town officers as described in Article IV-A, Section 1.
- B. Remove for cause, after notice and hearing, in accordance with state law, the Town Manager, Tax Assessor, members of the Planning Board, Board of Assessment Review, the Zoning Board of Appeals and members of all other Town boards, commissions, and committees appointed by the Board. Said hearing may, at either party's request, include sworn testimony and the opportunity for cross-examination of witnesses.
- C. Create by ordinance, change and abolish offices, departments, agencies and committees, other than the offices, departments and agencies established by this Charter. The Board, 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 office, department or agency, any function or duty assigned by this Charter to a particular office, department or agency. The Board may, however, vest in the Town Manager all or part of the duties of any office under this Charter.
- D. Inquire into the conduct of any office, department or agency of the Town and make investigation as to municipal affairs.
- E. Adopt an annual budget and recommend same to the Town Meeting for approval.
- F. Provide for an annual audit.
- G. Fill vacancies for elected positions if the vacancy occurs more than 120 days before the next election.
- H. Provide oversight, liaison and leadership to the volunteer committees, boards and advisory groups which serve at its pleasure.
- I. Manage all reserve accounts established by Town meeting vote, supplement those accounts with non-budgeted revenue, including but not limited to income from the sale of Town property and donations, and make expenditures from those accounts in order to accomplish the purposes for which the accounts, were established, all in accordance with the Rockport Reserve Account Policy, as amended.

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

### **Section 8 Prohibitions**

- A. Appointments and Removals. Neither the Board nor any of its members shall dictate the appointment or removal of any administrative officers or employees whom the Town Manager or other persons in authority are empowered to appoint or employ.
- B. Interference with Administration. The Board, or its members, shall deal with Town officers or employees who are subject to the direction and supervision of the Town Manager, or other persons in authority, solely through the Manager or persons in authority. Neither the Board, nor its members, shall give orders to any such officer or employee either publicly or privately.

State Law Reference: Title 30-A, MRSA, Sections 2605, 2606

### **Section 9 Vacancies; Forfeiture of Office; Filling of Vacancies**

- A. Vacancies. Office of a Board member shall become vacant upon failure to qualify for office within ten days after written demand by the Town Clerk, non-acceptance, resignation, death, permanent disability, removal in any manner authorized by law, or this Charter, or forfeiture of office.
- B. Forfeiture of Office. A Board member shall forfeit his or her office if he or she:
  - 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; or
  - 3. is recalled by voters (see Article VIII, Section 8).
- C. Filling of Vacancies. A vacancy on the Board must be filled by election for an unexpired term, except where such vacancy occurs within 120 days of an election. Then the seat may remain vacant until filled by the election process.
- 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, MRSA, Section 2602

### **Section 10 Investigations**

The Select Board, or authorized committees, or commissions of its own members, or of citizens appointed by the Board, may make investigations into affairs of the Town and the conduct of any Town department, office or agency.

### **Section 11 Procedure**

- A. Meetings. The 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 once a month. The location of special meetings shall be determined by the Board and shall be held at such time and place as is legal and proper to transact the necessary business at hand. All meetings of the Board shall be open to the public; however, the Board may, by a majority vote, discuss matters in a closed or executive session to the extent that the matter is a permitted deliberation as identified in Title 1, Section 405(6) Maine Revised Statutes Annotated, 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 Board until such matter is placed on the agenda of a regular or special meeting and voted upon thereafter.
- B. Rules, Record Keeping and Journal. The Board shall determine, at its organizational meeting, its own rules and order of business for the ensuing year; such rules to be recorded and made available for public inspection and publication. In developing rules, the Board shall endeavor to establish and follow parliamentary procedures.
 

The Board shall provide for the keeping of an accurate permanent recording of its meetings and for maintaining a journal of its proceedings; such recordings and journal to be public record.
- 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 journal. Three members of the Board shall constitute a quorum.

No action of the Board shall be binding or valid unless it receives at least three affirmative

votes. Each Board member in attendance shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists. If any member does abstain from a vote, other than because of a recognized conflict of interest, he or she shall be considered to have cast a vote in the affirmative and the record shall so show.

- D. Training. Board members shall receive 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 Board's discretion.

State Law Reference: Title 1, MRSA, Section 71

### **Section 12 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 except for emergency ordinances as provided in Section 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. The Select Board shall have the responsibility for the preparation and publication of the Annual Town Report, and for making copies available to the public at least seven (7) days prior to Town Meeting.

State Law Reference: Title 30-A, MRSA, Section 2801

### **Section 13 Articles for the Warrant**

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

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

### **Section 14 Petitions for Articles in the Warrant**

Any qualified voter may request the Select Board that an article be placed in the Town Warrant and shall present in written form the substance of the article. Should the Select Board decide against placing the article in 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 insert that particular article in the next Warrant issued, or shall call a special Town Meeting for its consideration.

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

### **Section 15 Emergency Ordinances**

Emergency ordinances affecting life, health, property, or the public peace may be introduced or adopted in accordance with the procedures for regular ordinances except that pre-adoption, publication and notice of public hearing requirements may be omitted, provided the enacting clause of the emergency ordinance sets forth a statement of the emergency. The emergency ordinance may be adopted by a vote of the Select Board, with or without amendment, at the meeting at which it is introduced. Emergency ordinances 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.

### **Section 16 Authentication and Recording of Ordinances**

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

All ordinances and resolutions adopted by the legislative body shall be authenticated by the Town Clerk and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.

### **Section 17 Codification of Ordinances**

Within three years after adoption of this Charter, the 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 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 Board may specify. This compilation shall be known as the Rockport Code.

This Rockport Code shall be maintained currently by there being inserted 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 Board.

State Law Reference: Title 30-A, MRSA, Section 3006

# **Charter of the Town of Rockport**

## **ARTICLE III Town Manager**

### **Section 1 Appointment; Qualifications; Compensation**

The Select Board shall appoint a Town Manager on the basis of character, executive and administrative qualifications, and education and experience in municipal administration.

The Select Board shall appoint a Town Manager for a specific term, as specified by contract, the first six 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 may renew the Town Manager's contract, for a specific term, within six months of the current contract's expiration, or at any time after its expiration.

- A. The Select Board shall consult with the Maine Municipal Association to determine the usual salary range and benefits provided to Town Managers of towns similar in administrative size and population to Rockport.
- B. The Select Board shall consult with the Maine Municipal Association to determine the usual salary range and benefits provided to 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 in office at the time of the appointment approves, by majority vote, said approval not to be rescinded during the Town Manager's term of office.

The Town Manager may not serve as a member of the Select Board, Assessor, member of the School Board, or any other Town board, committee or commission.

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

Current or former municipal officers may be appointed Town Manager even if the Town Manager's compensation was increased during the municipal officer's term of office. When a current municipal officer is appointed Town Manager, he or she must immediately submit in writing to the Select Board his or her resignation from the municipal office.

State Law Reference: Title 30-A, MRSA, Section 2606

### **Section 2 Appointment Process**

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

- A. The Select Board shall consult with the Maine Municipal Association regarding recruiting procedures and may make use of any services the Maine Municipal Association might have available. This information shall be made 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 30 days of the office of Town Manager becoming vacant or within 30 days notice to the Select Board that the office of Town Manager will become vacant. One member of the Select Board shall serve as an ex-officio

member of the search committee.

1. All meetings of the Search Committee shall be conducted as Executive Sessions and all information and discussions are confidential to the extent allowed by law.
2. The Search Committee shall choose from its members a chairman who is responsible for running 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-chairman who shall act in the event the chairman is absent or unable to carry out his or her duties.
4. The Select Board shall present to the Search Committee a job description for the position of Town Manager.
5. The Search Committee shall review all applications received for Town Manager, assuring that the minimum standards set out in state law are met and that the applications meet the requirements of the job description. A copy of each application for Town Manager shall be given to each member of the Select Board.
6. The Search Committee shall present to the Select Board a semi-final list of candidates for the position of Town Manager. By a majority vote the Select Board may add to the list of semi- finalists, the name of one or more applicants taken from the list of all applicants.
7. The Search Committee and the Select Board together shall prepare a questionnaire which all semi-finalists must complete in writing and return to the Town Office. Responses to the questionnaire shall be distributed to both the Search Committee and the Select Board.
8. After reviewing the questionnaires, the Search Committee shall present to the Select Board a list of finalists, not to exceed five.
9. By a simple majority vote, the Select Board may add to the list of finalists additional finalists from the original list of semi-finalists, not to exceed two.
10. The Select Board shall, as a group, interview in person in executive session, each of the finalist for the position of Town Manager.
11. Appointment of a Town Manager requires a majority plus one vote of the Select Board, all members being present.
12. In the event the Select Board is unable to meet the requirements for appointing a Town Manager, the position shall be advertised again and the search re-started.
13. If the office of Town Manager becomes vacant for any reason within 90 days of the appointment of the Town Manager, the Select Board may choose a new Town Manager from the list of finalists in the previous search.

### Section 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 departments as established under Article IV, Part A, Section 2, and offices over which the Select Board has control;
- C. execute all laws and ordinances of the municipality;
- D. serve in any office as the head of any department under the control of the Select Board when so directed by the Select Board;
- E. appoint, subject to confirmation by the Select Board, supervise and control the heads of departments under the control of the Select Board when the department is not headed by the Town Manager under paragraph D of this section;
- F. appoint, supervise, and control---unless otherwise provided by municipal ordinance--all Town officers and employees whom the Town officials are required by statute to appoint, except members of boards, commissions, and committees; and appoint, supervise and control all other officials, subordinates, and assistants subject to the limitations given in subsection N in this section. The Manager may delegate this authority to a head of a department, and report all appointments to the Select Board;
- G. act as purchasing agent by establishing purchasing procedures for all departments, except the school department and wastewater department, provided that the Town or the Select Board may require that all purchases greater than a designated amount shall be submitted to sealed bid;
- H. attend all meetings of the Select Board, and such other meetings as the Board may designate;
- I. make recommendations to the Select Board for the more efficient operation of the municipality;
- J. keep the Select Board and the residents of the municipality informed regarding the financial condition of the Town;
- K. prepare a draft of the annual budget, present it to the Select Board and the Budget Committee as outlined in Article VI of this document, and be responsible for its administration after adoption;
- L. assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices;
- M. have exclusive authority to remove for cause after notice and hearing, and in accordance with the Town Personnel Policy, 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; and

- O. cause to be prepared an annual Town Report pursuant to Title 30-A MRSA Section 2801.

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

#### **Section 4 Removal**

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 ten 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 five (5) 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, if no such request is made, the Select Board may adopt or reject the resolution of removal.

Removal of a Town Manager requires a majority plus one vote of the Select Board, all members being present.

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

State Law Reference: Title 30-A, MRSA, Section 2633

#### **Section 5 Absence or Disability**

The Town Clerk shall perform the duties of Town Manager during the Town Manager's temporary absence or disability. Temporary, for the purposes of this Section, is defined as not more than 30 days.

In the event of a planned absence, the Manager may recommend to the Select Board a qualified candidate to serve as temporary Manager.

If the position of Town Manager becomes vacant because of the death, resignation, or removal of the Town Manager, or any other cause, the Town Clerk shall perform the duties of the Town Manager until a new Town Manager or Interim Town Manager is appointed.

Whenever for six months the Town Manager has been continuously unable to perform the duties of Town Manager because of mental or physical disability, the position Town Manager shall be deemed vacant. Whenever the Town Manager is unable to discharge the duties of the position, the Town Manager may so notify the Select Board in writing, in which case, the Town Clerk shall perform the duties of Town Manager until the Town Manager notifies the Select Board in writing that he or she can return to duty.

In the event the Town Clerk is unable or unavailable to perform the duties of Town Manager, the Deputy Town Clerk shall perform those duties until a new Town Manager or Interim Town Manager is

appointed or the Town Manager or Town Clerk returns to duty.

State Law Reference: Title 30-A, MRSA, Section 2634, generally

### **Section 6 Interim Town Manager**

Should an extended absence or disability of the Town Manager occur or the office of Town Manager becomes vacant (see Section 5 of this Article), by majority vote the Select Board shall appoint a properly qualified person, not a member of the Select Board, as Interim Town Manager to perform the duties of Town Manager. At that time, the Select Board shall also determine the compensation and hours of employment.

While acting as Town Manager the Interim Town Manager shall have the same powers and duties as those given to and imposed on the Town Manager. Before entering these duties, the Interim Town Manager shall give bond to the Town in a sum and with surety or sureties to be approved by the Select Board. The premium on said bond shall be paid by the Town.

The Interim Town Manager may be an employee of the Town.

The Interim Town Manager may apply for the position of Town Manager in the same manner as any other applicant.

# **Charter of the Town of Rockport**

## **ARTICLE IV Administrative Organization**

### **PART A General Provisions**

#### **Section 1 Appointments**

The Select Board shall, by majority vote, at no later than their third regular meeting, review, appoint, renew, or reappoint all necessary Town officers as provided by general statute, this Charter, or Town ordinance, and will appoint a Town Attorney per Article IV-D of this Charter and a Town Auditor both of whom shall serve at the will of the Board. They may also appoint the Town Manager to act as their agent/overseer, and may elect one or more their own members to act as authorized representatives to sign warrants for the expenditure of funds.

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

The Select Board, whenever an opening occurs, also shall appoint members of the Planning Board, Zoning Board of Appeals and Board of Assessment Review, which shall have such powers and perform such duties as are provided for by the laws of the State of Maine; and shall also appoint members to committees created by the Board. All board and committee appointments shall be made by procedures adopted through rules of the Board.

The Town Manager shall appoint department heads subject to the confirmation of 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. All other administrative officers and employees shall be appointed or may be removed by the Town Manager or his or her authorized subordinate except as otherwise provided in this Charter.

#### **Section 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 be discontinued or assigned to any other, unless this Charter specifically so provides.

#### **Section 3 Department Heads**

All departments and offices under the direction and supervision of the Town Manager shall be administered by an officer or department head appointed by and subject to the direction and supervision of the Town Manager.

#### **Section 4 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 municipal building. All documents, books and records pertaining to their office shall be maintained at the municipal building, and all business transacted on behalf of the Town by these officers shall be carried on at the municipal building.

#### **Section 5 Bonds**

The Select Board shall require a bond by a reputable surety company, or other acceptable sureties satisfactory to the Board, from all persons trusted with the collection, custody, or disbursements of any

moneys of the Town provided, however, that the Town shall pay the costs of providing such bonds.

## **Part B Personnel Administration**

### **Section 1 Municipal Policy**

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

### **Section 2 Personnel Director**

The Town Manager or, with the consent and approval of the Select Board, a person appointed by Town Manager, shall serve as personnel director.

It shall be the duty and responsibility of the personnel director to administer the personnel policy as established in Section 3 of this Article.

### **Section 3 Preparation and Presentation of Personnel Policies and Procedures**

It shall be the duty of the personnel director to review the personnel policies on a regular basis, or as directed by the Select Board.

The Select Board may appoint an ad hoc committee to review personnel policies. The committee shall include the personnel director, one Select Board member and other employees and residents of the Town of Rockport.

After holding a public hearing, the Select Board shall vote to approve or reject (by a simple majority) the amended Personnel Policies and procedures and its rules and regulations. Until a new or amended Personnel Policies and Procedures document is approved by the Select Board, the previous version shall remain in effect.

### **Section 4 Exempt Positions and Specially Classified Positions**

The following persons and positions shall be exempt from the Personnel Policies and Procedures document's rules and regulations, except where the document specifically addresses that person or position. There shall be no exemption pertaining to equal opportunity and other non-discrimination provisions of the Personnel Policies and Procedures document 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 and Commissions appointed by the Select Board, whether permanent or ad hoc shall be exempt.
- C. The following designated positions in the Town: Sealers of Weights and Measures, Town Attorney, and Emergency Preparedness Defense Director shall be exempt.
- D. The following designated positions in the Town of Rockport shall be specially classified positions: Town Clerk, Town Manager, Police Chief, Fire Chief, Director of Public Works, Assessor, Planning and Community Development Director, and Finance Director.

1. Any position which is designated as specially classified shall be subject to the Personnel Policies and Procedures of the Town of Rockport and the rules and regulations pertaining thereto except to the extent that the specially classified employee has an agreement in a written contract with other terms and conditions.
2. 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 Policies and Procedures of the Town of Rockport. Any such variations or differences from the Personnel Policies and Procedures of the Town of Rockport shall be in writing and retained in the personnel file of that employee and shall be reviewed annually.
3. New department head positions may be established after the enactment of this Charter. The Select Board may designate any such new department head position as specially classified and subject to the provisions contained herein for specially classified personnel. Such designation of a new position as specially classified shall not require any additional amendment of this Charter.

## **PART C Assessment Administration**

### **Section 1 Assessor**

There shall be established a Department of Assessment, the head of which shall be the Town Assessor. The Assessor, appointed as herein before provided, shall perform all duties and responsibilities provided for assessors under the laws of the State of Maine.

State Law Reference: Title 30-A, MRSA, Section 2526(5)

The Appointed Assessor of the Town of Rockport shall have all the legal qualifications for this position. Both the Assessor and those who appoint him or her shall take into consideration the many skills necessary to be successful in this position including:

- A. thorough understanding of the complexities of valuation in a Maine coastal community;
- B. the ability to communicate well, especially the ability to explain complex legal, land value situations to laypeople;
- C. excellent peer connections to Assessors in other communities that share the Town's assessing issues;
- D. high quality professionalism;
- E. attention to detail; and
- F. demonstrated ability to complete tasks on time.

## **Section 2 Board of Assessment Review**

There shall be a Board of Assessment Review to consist of five (5) members appointed by the Select Board. The Select Board shall appoint registered voters in the Town of Rockport for three year terms, to be staggered. Members may be removed for cause and notice and hearing under the By-Laws of this Board. The Board of Assessment Review shall perform all duties and responsibilities provided for Boards of Assessment Review under the laws of the State of Maine.

A majority of the members of the board shall be a quorum. The board shall elect its own chairman. Vacancies in the membership of such a board shall be filled by appointment by the Select Board for the unexpired term.

State Law Reference: Title 30-A, MRSA, Section 2691(3)

## **Section 3 Board of Assessment Review: Powers; Duties**

The Board of Assessment Review shall have the power to:

- A. 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 Assessor;
- B. administer oaths;
- C. take testimony;
- D. hold hearings; and
- E. adopt regulations regarding the procedure of assessment review.

State Law Reference: Title 30-A, MRSA, Section 2526(6)

## **PART D Legal: Town Attorney**

There shall be a Town Attorney appointed by the Select Board. He or she shall serve as chief legal adviser to the Select Board, the Town Manager, and all Town departments, boards, and agencies with 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. In addition, the Select Board may, from time to time, hire other lawyers to assist the Town attorney in matters of complexity or magnitude.

# **Charter of the Town of Rockport**

## **ARTICLE V Wastewater**

### **Section 1 Organization**

The Town of Rockport is hereby authorized and empowered to acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate a revenue-producing wastewater facility consisting of a sewer system or part thereof within or without or partly within and partly without the corporate limits of the Town of Rockport, in accordance with Title 30-A, Part 2, Subpart 5, Chapter 161 and Title 38, Chapter 12.

All ordinances, rules, and regulations presently existing pertaining to the wastewater facility shall remain in full force and effect until amended. The Town's current Sewer Use Ordinance and Appendices serves as primary municipal regulation.

### **Section 2 Wastewater Commissioners**

The Select Board, acting as Wastewater Commissioners, are hereby authorized and empowered to perform all duties and functions authorized and established by state statute or law or by municipal ordinance for fulfilling the purposes outlined above.

State Law Reference: Title 30-A, MRSA, Section 3402

# **Charter of the Town of Rockport**

## **ARTICLE VI Financial Procedures**

### **Section 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 each year.

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

### **Section 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 Manager deems desirable or the Select Board may require. In organizing the budget, the 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 income, 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 income and expenditures of the current fiscal year, and actual income and expenditures of the preceding fiscal year.

### **Section 3 Budget Committee**

In addition to articles in the Town Warrant for the election of officers required in the Charter, there shall be an article for the election of a committee of citizens, representing all sections of the Town, to cooperate with the Select Board, Town Manager, Treasurer, and department heads, in making recommendations concerning articles in the Warrant calling for appropriations; and this committee of citizens shall submit recommendations for consideration by the voters at the annual Town Meeting; said committee to be known as the Budget Committee, and shall consist of nine members.

### **Section 4 Submission of Budget and Budget Message**

Not later than the third week in April, the Town Manager shall submit to the Select Board and Budget Committee a budget for the ensuing fiscal year and an explanatory message.

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 policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position and include such other material as the Manager deems desirable or the Select Board shall request.

### **Section 5 Budget Review Process**

The Select Board shall review the Town Manager's proposed budget in a preliminary manner 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 below.

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

The Budget Committee shall receive copies of the proposed final Town budget at least 72 hours prior to the Budget Committee's final vote. The recommendations of the Budget Committee shall be reported to the Select Board prior to the final approval of the budget by the Select Board and those recommendations shall be included in the Town Warrant.

### **Section 6 Board Action on the Budget**

- A. Final Review and Approval. The budget prepared by the Town Manager shall be reviewed for final approval by the Select Board at a Select Board's 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 of the 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.
- C. Vote on Budget. The budget shall be included in appropriate articles in the Town Warrant and shall be voted upon at a Town Meeting.
- D. Adoption.
  - 1. An article shall be placed in the Warrant to authorize expenditures chargeable to the appropriations for the year when adopted in amounts sufficient to cover the necessary expenses of the various departments, from the beginning of the fiscal year to the adoption of the Warrant at Town Meeting.
  - 2. Adoption of the 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; and a copy of the budget as finally adopted shall be certified by the Select Board and filed by them.

### **Section 7 Administration of Budget**

At such time as the Manager shall specify, each department, office, or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year and duly signed by the department head. The Town Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He or she may revise such allotments during the year if he or she deems it desirable, and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made.

## **Section 8 Tax Anticipation Borrowing Guidelines**

In the event that the Town of Rockport finds it necessary to borrow money in anticipation of taxes, the following guidelines shall be followed:

- A. Invitations to bid shall be extended to all local banks at the same time;
- B. Invitations shall be dated and delivered to the invited banks at least ten (10) complete banking days prior to the bid opening and awarding of the bid;
- 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 may require the option to prepay;
- 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 (1%); and
- J. The Town must specify the method in which interest shall be calculated; i.e., actual number of days outstanding over a 365-day period.

State Law Reference: Title 30-A, MRSA, Section 5771

## **Section 9 Voter Authority**

The qualified voters of the Town shall have power under this article to require consideration or reconsideration of any budget item prior to adjournment of the Town Meeting.

## **Section 10 Public Records**

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

State Law Reference: Title 1, MRSA, Section 401

## **Section 11 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 or prior agreement. Such funds shall be transferred to a surplus account. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished

or abandoned.

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

**Section 12 Annual Audit**

The Select Board shall each year appoint a certified public accountant or accountants for the purpose of conducting the annual audit of the prior fiscal year municipal finances, as authorized by law.

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

# Charter of the Town of Rockport

## ARTICLE VII Nominations and Elections

### Section 1 Conduct of Elections (See Article 1, Sec. 4)

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

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

### Section 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 may be nominated for election by a petition signed by registered voters of the Town, not less than twenty-five and not more than 100 in number.
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 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 date of his or her signing and the street address where he or she resides.
  - a. Petition circulators must be residents of the Town.

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 MRSA, Section 2527 as that statutory provision may be amended from time to time. The Clerk shall make a record of the exact time 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 insufficient, the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. The Clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

### Section 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 ascending alphabetical order.

#### **Section 4 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. Plurality. Election shall be determined by plurality vote. In case of a tie for all elected positions except for Select Board and School Board, a run-off election of those who tied shall be at the November election. Select Board reference: Article II, Sec 10 E; School Board reference: Article I, Sec 5.

#### **Section 5 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.

#### **Section 6 Voting Machines**

The Select Board may provide for the use of mechanical or other devices for voting, or counting the votes, not inconsistent with the law, provided the voting or vote-counting device provides for individual paper “receipts” that reflect each vote cast, are reviewable for accuracy by each voter, and are recountable.

State Law Reference: Title 21, MRSA, Subchapter 6

#### **Section 7 Election Officials**

The Town Clerk shall be the supervisor of all elections. The Town Clerk shall appoint a Warden to assist the Town Clerk on Election Day. The Warden shall designate a Deputy Warden. The municipal officers and Town Clerk shall appoint the election clerks as provided by state law.

# Charter of the Town of Rockport

## ARTICLE VIII General Provisions

### Section 1 Initiative and Referendum

- A. Definitions. Initiative guarantees the right by which citizens can propose a law by petition and ensure its submission to the electorate. Referendum is the actual submission of a proposed public measure or statute to a direct popular vote.

State Law Reference: Title 30-A, MRSA, Section 2528(5)

- B. Procedure. The details of procedure by which both of these rights are fulfilled are described in Title 21, Section 1351 et seq. of the Maine Revised Statutes Annotated of 1964 and amendments thereto. Nothing in this Charter shall be construed to diminish the rights granted by law.

### Section 2 Elected or Appointed Officers: Terms

The term of any elected or appointed officer shall begin not later than the second business day following the final determination of the election or appointment of said officer. Any officer shall serve for his or her prescribed term or until his or her successor is elected or appointed.

The Office of Treasurer, Tax Collector and Clerk may be held by duly appointed individuals even though such individuals may not be residents in the Town of Rockport during his or her term of office.

### Section 3 Swearing in Officers

Every Town officer or official shall be sworn to the faithful discharge of the duties incumbent upon him/her to the Constitution and 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, MRSA, Section 2526(9)

### Oath of Office

Every officer of the Town shall, before entering upon the duties of office, 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 of the United States and the state of Maine, so long as I shall continue a citizen thereof, (so help me God).”

“I, \_\_\_\_\_, do solemnly swear (or affirm) that I will in all respects observe the provisions of the Town Charter and ordinances of the Town of Rockport, (so help me God).”

“I, \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully discharge all the duties incumbent upon me as \_\_\_\_\_ according to the Constitution and laws of the State, (so help me

God).”

#### **Section 4 Conflict of Interest**

It is the policy of the Town of Rockport 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; 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 or committee must state, for the public record, the nature of their relationship with the person or item being discussed.
  - 1. Financial Interest means having a 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 is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

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

- 2. Personal Interest means the Town official or employee is placed in a situation of temptation 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 to act.
  - 3. Bias means any Town official or employee who is so predisposed against an applicant or project that they could not make an impartial decision, thereby depriving the applicant of due process right to a fair and objective hearing.
- B. A board member must disqualify himself or herself if a situation requires that board member to be disinterested or indifferent and the board member must make a quasi-judicial decision which involves a person to whom the board member is related by blood or marriage within the 6th degree (parents, grandparents, great-grandparents, great-great grandparents, brothers, sisters, children, grandchildren, great-grandchildren, aunts, uncles, great aunts/uncles, great-grand aunts/uncles, first cousins, first cousins once removed, first cousins twice removed, second cousins, nephews, nieces, grand nephews/nieces, great grand nephews/nieces).

State Law Reference: Title 1, MRSA, Section 71 (6)

- C. Even if no legal conflict of interest exists, a board member should avoid the appearance of a conflict by abstaining from a board’s discussion and voting in order to maintain the public’s confidence in the board’s work.

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

- D. A board member with a conflict of interest shall abstain from the discussion and from the vote. This abstention and its reason must be permanently recorded in meeting minutes.
- E. A board member who fails to abstain may be required to recuse himself by a majority vote of the board's remaining members.
- F. Any official who willfully conceals such financial interest or willfully violates the requirement 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 the contract or sale void.

### **Section 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 Town administrative office, because of race, color, religious creed, national origin, gender, ancestry, age, sexual orientation, physical handicap, 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 personnel provisions of this Charter or the rules and regulations made thereunder, 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, MRSA, Chapter 337

### **Section 6 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.

### **Section 7 Public Bulletin Board**

There should be a public bulletin board located in the Town Office. The agenda of each meeting of the Select Board, the School Board and all other boards, committees, and commissions should be posted on this bulletin board. Dates, times and meeting places of all regular and special meetings, public hearings and workshops should also be posted on the bulletin board and the Town's web site.

### **Section 8 Recall of Elected Officials**

Procedures for recall. Any five qualified voters may begin at any time proceedings to recall a member of the Select Board, Budget Committee, Library Committee or other elected municipal official by a request in writing to the Town Clerk for appropriate petition blanks. These voters shall be referred to as the Recall Committee. Within ten days of the Recall Committee's request, the Clerk must provide the Recall Committee with petition blanks 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 Recall Committee shall have 30 days from the date of issuance of appropriate petition blanks to cause the petition to be signed by at least 40% of the number of votes cast in the Town at the last gubernatorial election. The petition may be circulated by any number of registered voters of the Town, but the recall petitions must be submitted together as one petition to the Town Clerk.

Within 10 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 40% of the number of votes cast in the Town at the last gubernatorial election. Should less than 40% of the number of votes cast in Rockport 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 can be initiated until 180 days from the end of the previous filing period.

Upon receipt of certification from the Clerk, the Select Board shall, at its next regularly scheduled meeting, order a removal election to be held not less than 30 nor more than 60 days from the date of the meeting.

The form of the ballot at the recall election shall be: "Shall [elected municipal official shown on petition] be recalled?" If a majority of those voting vote in favor of recalling that elected official, that official is removed. 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.

### **Section 9 Planning Board Makes Warrant Recommendations**

The Planning Board shall make recommendations, the vote count to be published on the ballot, concerning articles in the Warrant having to do with land use.

### **Section 10 Committee and Board Service**

All boards and committees serve at the pleasure of the Select Board, which is responsible for each board and committee's purpose (mandate) and direction. The intent of this Section is to provide guidance to all official volunteer boards and committees.

#### **A. Definitions**

1. By official, it is meant the board or committee is sanctioned, and its members are appointed to serve, by the Select Board.
2. Conflict of Interest, see Section 4 of this Article.

#### **B. Organization**

1. All boards and committees:
  - a. shall operate under by-laws approved by the Select Board and updated as necessary;
  - 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.

2. Board and committee chairmen:

- a. shall manage their group 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 run orderly meetings;
- e. shall provide for recorded minutes if and whenever necessary, and shall review and approve minutes regularly;
- f. shall make themselves available, within reason, to the press;
- g. shall ensure their members receive proper training and understand their roles and responsibilities, including boardsmanship and conflict of interest parameters;
- h. shall work to recruit new members whenever a vacancy occurs; and
- i. shall welcome public comment at appropriate segments of their meetings.

C. Procedure

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

D. Exceptions

Excepted from this section are:

- 1. The multi-town SAD 28 and CSD school boards, whose members are elected by Town-wide secret ballot and whose responsibilities, objectives and rules and procedures are established under, and guided by, other parameters;
- 2. The Library Committee, which is elected by Town-wide secret ballot.
- 3. The Budget Committee, also elected by Town-wide secret ballot, serves as a citizen watchdog group, and while it therefore does not serve at the pleasure or direction of the Select Board, it is bound to comply with the guidelines set forth in Subsections B and C of this Section.
- 4. The Planning Board, the Board of Assessment Review (BAR), and the Zoning Board of Appeals (ZBA), 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 as provided for under Article II, Section 7.B and are also bound to comply with the guidelines set forth in Subsections B and C of this Section.

# Charter of the Town of Rockport

## ARTICLE IX Transitional Provisions

### Section 1 Effective Date

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

### Section 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.

### Section 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.

### Section 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.
- C. Personnel System. An employee holding a Town position at the time this Charter takes full 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.

### Section 5 Departments, Offices, and Agencies

If a department, office, or agency is abolished by or under this Charter, the powers and duties given it by law shall be transferred to the Town department, office, or agency designated in this Charter, or if the Charter makes no provision, designated by the Select Board.

All property, records, and equipment of any department, office, or agency existing when this Charter is adopted shall be transferred to the department, office, or agency assuming its powers and duties; but, in the event that the powers or duties are to be discontinued or divided between units, or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices, or agencies designated by the Select Board in accordance with this Charter.

### **Section 6 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.

### **Section 7 State and Municipal Laws**

All Town ordinances, resolutions, orders, and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of 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 thereto.

# **Charter of the Town of Rockport**

## **ARTICLE X Final Report of the Charter Commission**

The Citizens of the Town of Rockport voted November of 2004 in the affirmative to form a Charter Commission to create the Town's first Town Charter. Six members were elected and two appointed by the Select Board.

At its organization meeting, the Commission set up a plan that included reviewing many other town charters from towns including Camden, Lincolnville, Cape Elizabeth, Gray and Lisbon to determine how the members of the Commission would construct the Town of Rockport Charter. The Commission held public hearings and individual meetings with the Town's department heads and committees to gain as much input as possible. From these meetings, the Commission heard suggestions or concerns relative to the Town “moving further away from the citizens”, the feeling from certain sections of Rockport that they are not fairly represented, and issues involving the hiring or management of Town personnel. It was also suggested that the Town possess an Ombudsman to be a voice of citizens, potentially intimidated by the municipal process.

The Commission's main objective in this first Charter was to construct a document that took personalities out of the Town's municipal operation. We also wanted to ensure that the Board, Committee Members, and employees of the Town foster a closer relationship between the Town and its citizens. Since this is the first Charter for Rockport, the Commission defined the structure clearly for the Select Board and its Town Manager to operate within.

The Commission proposed changes to the assessing process. This Charter creates the position of Town Assessor. The Board of Assessment Review becomes the second level of appeal (after the Town Assessor). This provides taxpayers with an opportunity to appeal to a Board that is specifically charged and trained with determining whether or not assessing errors have been made.

The Charter also allows citizens to recall elected officials through a process of notice and hearings.

A process for the selection of a Town Manager has been structured. It requires the use of a citizen committee to screen candidates and encourages the use of the Maine Municipal Association as a consultant in the search for suitable candidates. In the event the position of Town Manager is vacant, the Town Clerk will fulfill those duties until a replacement is found or the Select Board appoints a temporary replacement.

The Commission is satisfied with this draft document. Though not every issue brought before us was included in the final version of the document, we believe the Town Charter provides policymakers and committee members with a framework for conducting the Town's business, as well as providing citizens with a guidebook for understanding the workings of Town government.

As soon as this Charter is accepted, the ordinances should be studied and similarly updated to match the more recently adopted provisions. If this Charter is favorably received, it will go into effect on July 1, 2006. If it is rejected, another Commission must be established and given a year in which to produce another Charter.

As the Town's Charter Commission, we have spent a considerable amount of time discussing every facet of municipal government—its successes and its failings. We believe that with the adoption of this Charter the Town of Rockport can make meaningful changes to the workings of its government, creating a structure that is clearly defined and in which we can all have confidence.

Respectfully submitted,

TOWN OF ROCKPORT CHARTER COMMISSION

John Annis

Roger Jones

Alex Arau

Kerry Leichtman

Stephen Bowen

Tracy Lee Murphy, Secretary

Robert Duke, Chairman

Helen Shaw, Vice-Chairman

## **Charter of the Town of Rockport**

### **GLOSSARY**

Board – Select Board, when word is capitalized

Capital expenditure – the expenditure of funds for assets of a permanent or fixed nature

Charter – this document, when word is capitalized

Clerk – Town Clerk, when word is capitalized

Codification – the process of collecting or arranging the laws of the Town into a code i.e. into a complete system of positive law.

Ensuing year – one year from a stated date

Fiscal year – the year by which accounts are reckoned

Legislative body – voters of the Town

Local banks – banks that maintain banking facilities within Knox County

Manager – Town Manager, when word is capitalized

Overseers – supervisors, public officers whose duties involve general superintendence of the inhabitants of the municipality with monies furnished to them by the public authority

Qualified voter – any person qualified and registered to vote under law in the Town of Rockport

Recording – a relatively permanent physical record

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

Secret Ballot – a vote cast in such a way that the person voting cannot be identified

Town – Rockport, when word is capitalized

Town officers – Including Assessor, Finance Director, Fire Chief, Health Officer, Office of Treasurer, Planning and Community Development Director, Police Chief, Tax Collector, Town Attorney, Town Clerk and other such officers as the Select Board shall establish.

Town officials – The Select Board

(Black's Law Dictionary was used as a reference in defining some of these terms.)