

# **Sanford**

## **Charter Commission**



**FINAL REPORT**

**July 24, 2012**

SKELTON  
TAINOR  
& ABBOTT  
ATTORNEYS AT LAW

STEPHEN P. BEALE | DARCIÉ P. L. BEAUDIN | JAMES E. BELLEAU | JILL A. CHECKOWAY | JOHN B. COLE | BRYAN M. DENCH  
MARC N. FRENETTE | RONALD P. LEBEL | MICHAEL R. POULIN | NORMAN J. RATTEY | ALAN G. STONE | STEPHEN B. WADE  
ADAM R. LEE | MICHAEL S. MALLOY  
OF COUNSEL:  
WILLIAM H. CLIFFORD, JR.

July 16, 2012

Mr. Bradford Littlefield  
Charter Commission Secretary  
Town of Sanford, Maine  
919 Main Street  
Sanford, ME 04073

**RE: 2012 Charter for the City of Sanford, Maine  
Request for Legal Opinion**

Dear Mr. Littlefield:

We are pleased to respond to the Sanford Charter Commission's request for a legal opinion concerning the Commission's final report, as required by 30-A M.R.S.A. § 2103(D)(4). We are attorneys admitted to the bar of the State of Maine. We have examined the final report containing the proposed charter created by the Commission, as well as the law and such records of the Commission and other papers as we deem necessary to render this opinion.

We have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Commission's explanation of the proposed new charter and any additional comments generated by the Commission. We are unaware of the existence of any minority report. As to questions of fact material to our opinion, we have relied upon the oral and written comments of the committee members furnished to us without undertaking to verify the same by independent investigation.

Subject to the foregoing, we are of the opinion that, under existing law, the proposed charter does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws of Maine as they presently exist.

Very truly yours,

*Skelton Tainor & Abbott*

# Table of Contents

PREAMBLE .....	1
ARTICLE I GRANT OF POWERS TO THE CITY .....	1
Section 101. Incorporation .....	1
Section 102. Powers of the City .....	1
Section 103. Intergovernmental Cooperation .....	2
ARTICLE II CITY COUNCIL.....	2
Section 201. City Council.....	2
Section 202. Number, Election, Term .....	2
Section 203. Qualifications.....	3
Section 204. Powers and Duties .....	3
Section 205. Enumeration of Powers .....	3
Section 206. Compensation .....	5
Section 207. Induction of Council into Office .....	5
Section 208. City Council to Judge Qualifications of its Members .....	5
Section 209. Regular Meetings.....	5
Section 210. Deputy Mayor.....	6
Section 211. Quorum and Vote .....	6
Section 212. Vacancies; Forfeiture of Office; Filling of Vacancies.....	6
Section 213. Rules of Procedure; Journal.....	7
Section 214. Public Hearing on Ordinances .....	7
Section 215. City Clerk .....	8
Section 216. Independent Annual Audit.....	8
Section 217. Appointment of City Manager.....	8
Section 218. Appointment and Removal of City Manager .....	8
Section 219. Charter Review .....	9
ARTICLE III MAYOR.....	9
Section 301. Eligibility, election and tenure of office .....	9
Section 302. Vacancies; Forfeiture of Office; Filling of Vacancies.....	9
Section 303. Induction of Mayor into Office .....	10
Section 304. Powers and Duties .....	10
Section 305. Compensation .....	10
ARTICLE IV CITY MANAGER.....	11
Section 401. City Manager, Qualifications .....	11
Section 402. City Manager, Chief Executive Officer.....	11
Section 403. Ombudsperson .....	13
Section 404. Vacancy in the Office of City Manager.....	14

ARTICLE V	DEPARTMENT OF EDUCATION.....	14
Section 501.	Board of Education.....	14
Section 502.	Qualifications.....	14
Section 503.	Vacancies.....	15
Section 504.	Organization; Qualifications; Quorum.....	15
Section 505.	Powers and Duties .....	15
Section 506.	Meetings .....	16
Section 507.	Compensation .....	16
ARTICLE VI	BUDGET.....	16
Section 601.	Fiscal Year.....	16
Section 602.	Budget Committee.....	17
Section 603.	Qualifications.....	17
Section 604.	Powers and Duties .....	17
Section 605.	Organization; Qualifications; Quorum.....	18
Section 606.	[Reserved].....	19
Section 607.	Submission of School Budget and Message.....	19
Section 608.	Submission of Municipal Budget and Message .....	20
Section 609.	Municipal and School Budget Messages.....	20
Section 610.	Capital Improvement Program .....	21
Section 611.	Public Hearing(s) on Municipal and School Budgets .....	22
Section 612.	Amendment of Proposed Municipal and School Budgets.....	22
Section 613.	Budget Establishes Appropriation .....	23
Section 614.	Lapse of Appropriations. ....	23
Section 615.	Budget Establishes Amount to be Raised by Property Tax; Certification of City Assessor ..	23
Section 616.	Budget Summary .....	23
Section 617.	Work program; Allotments.....	23
Section 618.	Adoption. ....	24
Section 619.	Amendments after Adoption of the Annual Budget.....	24
Section 620.	Public Records.....	25
ARTICLE VII	BUDGET VALIDATION.....	25
Section 701.	Budget Validation Referendum .....	25
Section 702.	Notice, Form of Vote.....	25
Section 703.	Adoption of Budget and Appropriations by the City Council.....	26
Section 704.	Repeal of Budget Validation Referendum Process. ....	27
Section 705.	BOND ISSUES, BALLOTS.....	28
ARTICLE VIII	TAX ADMINISTRATION .....	29
Section 801.	Assessor .....	29

Section 802.	Method of Assessment.....	30
Section 803.	Board of Assessment Review; Appointment; Vacancies. ....	30
Section 804.	Board of Assessment Review, Qualifications .....	30
Section 805.	Board of Assessment Review: Powers, and Duties .....	31
ARTICLE IX	MUNICIPAL DEVELOPMENT .....	31
Section 901.	Director of Planning .....	31
Section 902.	Director of Public Works.....	31
Section 903.	Planning Board .....	32
Section 904.	Zoning Ordinance .....	32
Section 905.	Board of Appeals .....	33
ARTICLE X	PERSONNEL SYSTEM.....	34
Section 1001.	School Personnel .....	34
Section 1002.	Merit Principle.....	34
Section 1003.	Personnel Director.....	34
Section 1004.	Personnel Rules.....	34
ARTICLE XI	NOMINATIONS AND ELECTIONS.....	35
Section 1101.	Municipal Elections.....	35
Section 1102.	Establishment and Review of Voting Districts .....	35
Section 1103.	Nomination.....	36
Section 1104.	Conduct of Municipal Elections.....	36
Section 1105.	Voting Place .....	36
Section 1106.	Election Officials.....	37
Section 1107.	Ballot Position of Candidates for City Offices .....	37
Section 1108.	Restrictions on Offices .....	37
Section 1109.	Restrictions on Election .....	37
Section 1110.	Date New Officials Take Office.....	38
ARTICLE XII	RECALL OF ELECTED OFFICIALS.....	38
Section 1201.	Holder of an Office may be Recalled .....	38
Section 1202.	Recall Petition .....	38
Section 1203.	Resignation of Official; Election as to Recall .....	39
Section 1204.	Nomination of Candidates.....	39
Section 1205.	Incumbent to Continue Duties Until Recalled .....	39
Section 1206.	Form of Ballots for Recall.....	39
The Voters shall	indicate their choice by completing their ballot as instructed. ....	40
Section 1207.	Limitations on Petitions .....	40
Section 1208.	Prohibition Against Appointment of Recalled Officials.....	40
ARTICLE XIII	INITIATIVE AND REFERENDUM .....	40

Section 1301.	Petition for Enactment of Ordinances .....	40
Section 1302.	Petition for Overrule of Action of Council .....	41
Section 1303.	Form of Ballot .....	42
Section 1304.	Council not to Reenact or Reject.....	43
ARTICLE XIV	GENERAL PROVISIONS .....	43
Section 1401.	Oath of Office.....	43
Section 1402.	Severability.....	43
Section 1403.	Specific Provisions Prevail.....	43
Section 1404.	References to General Laws.....	43
Section 1405.	Computation of Time .....	44
Section 1406.	Number and Gender .....	44
Section 1407.	Rules and Regulations .....	44
Section 1408.	Repealing Clause.....	44
Section 1409.	Disclosure of Interest .....	44
Section 1410.	Procedures of Multiple Member Bodies .....	45
Section 1411.	Short Title.....	46
Section 1412.	Charter Amendments.....	46
Section 1413.	Definitions .....	46
ARTICLE XV	TRANSITIONAL PROVISIONS .....	48
Section 1501.	Ordinances consistent Continue in Force.....	48
Section 1502.	Existing Contracts non Invalidated, Unless Inconsistent.....	48
Section 1503.	Continuance of Present Administrative Officials.....	48
Section 1504.	Expiration of Term of Present Elected Officials and Applicability.....	49
Section 1505.	First Election; Effective Date of 2012 Sanford City Charter .....	49
Section 1506.	Recording .....	49

## **PREAMBLE**

We the people of Sanford, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment to the constitution of the State of Maine, do hereby adopt the following Charter for the City of Sanford, Maine.

### **ARTICLE I**

### **GRANT OF POWERS TO THE CITY**

#### **Section 101. Incorporation**

The inhabitants of the City of Sanford, within the limits as now established or as hereafter established in the manner provided by law, shall be a municipal corporation by the name of the City of Sanford, Maine.

#### **Section 102. Powers of the City**

The City shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said City as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and may impose penalties for the breach thereof, to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

The administration of all the fiscal, prudential and municipal affairs of said City, with the government thereof (except (i) the general management, care, conduct and control of the schools of said City, which shall be vested in a municipal School Committee as provided by the laws of the State of Maine, and as hereinafter provided, and (ii) as otherwise provided by this Charter) shall be and are vested in one body of seven (7) members, which shall constitute and be called the City Council, all of whom shall be inhabitants of said City, and shall be sworn in the manner hereinafter prescribed. All legislative powers of the City shall be vested in the City Council, except that the municipal budget and school budget shall be adopted by the voters as provided in Article VII of this Charter.

The City may acquire property within or without its corporate limits for any City purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation and may sell, lease, mortgage, hold, manage, maintain and control such property as its interest may require.

In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the City may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the City may assume pursuant to State laws and to the provisions of the State Constitution.

### **Section 103. Intergovernmental Cooperation**

The City may exercise any of its powers to 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 sub-divisions or agencies thereof, or with the United States or any agency thereof, in accordance with the provisions set forth in 30-A M.R.S.A. §§ 2201-2207, as amended from time to time, and other statutory provisions.

## **ARTICLE II**

## **CITY COUNCIL**

### **Section 201. City Council**

The City Council shall consist of seven (7) members. The Mayor shall serve as the seventh member of the City Council. The six (6) City Council members not elected as Mayor under Article III of this Charter shall be known as Councilor, and collectively as Councilors.

### **Section 202. Number, Election, Term**

The six (6) Councilors shall have staggered terms, each of whom shall be elected by the Voters. At the first regular election under the 2012 Sanford City Charter, the seven (7) Town Councilors under the previous charter with terms extending beyond December 31, 2012, shall complete the terms of their office as City Councilors. Thereafter the Council seats shall be filled as follows: one Council seat expiring on December 31, 2013, shall be vacated and shall be filled by the newly elected Mayor; one Council seat expiring on December 31, 2013, shall be filled for a three (3) year term; two Council seats expiring on December 31, 2014, shall be filled for three (3) year terms; two Council seats expiring on December 31, 2015, shall be filled for three (3) year terms and one Council seat expiring on December 31, 2015, shall be filled for a one (1) year term. Thereafter, two Council seats shall be available each year and City Councilors shall be elected as the terms of their office expire for a term of three (3) years and until a successor is elected and sworn.

### **Section 203. Qualifications**

Councilors shall be qualified Voters and shall have their principal place of residence in the City during their terms of office. No Councilor, including the Mayor, shall hold any other paid office or position of employment with the City or School Department. If a Councilor shall

cease to possess any of these qualifications or shall be convicted of a crime punishable by imprisonment for more than six months, the office of that Councilor shall immediately become vacant.

## **Section 204. Powers and Duties**

The members of the City Council shall be and constitute the municipal officers of the City of Sanford for all purposes required by law, and except as otherwise specifically provided in this Charter, shall have all powers and authority given to, and perform all duties required of, municipal officers under the laws of this State and this Charter.

## **Section 205. Enumeration of Powers**

Without limitation, the City Council shall have the following powers:

### **205.1**

Appoint the City Manager, the members of the Budget Committee, Planning Board, Zoning Board of Appeals, Board of Assessment Review, and Housing Authority, each of which body shall have such powers and perform such duties as are provided for by the laws of the State of Maine; appoint a City Attorney and City Auditor who shall serve at the will of the Council; and appoint members of all other City boards, commissions, and committees created by the Council or established by the Charter.

### **205.2**

Remove for cause, after a six (6) month probationary period, after notice and hearing and in accordance with state law, the City Manager, members of the Budget Committee, Planning Board, Board of Assessment Review, the Zoning Board of Appeals, and the Housing Authority and members of all other City boards, commissions, and committees appointed by the Council.

### **205.3**

By ordinance, create, change and abolish offices, departments, agencies, and committees, other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. The Council may, however, vest in the City Manager all or part of the duties of any office under this Charter, except those of the Department of Education.

#### **205.4**

Make, alter and repeal ordinances.

#### **205.5**

Develop a set of priorities and objectives for the City for the ensuing fiscal year.

#### **205.6**

Perform an annual performance review of the City Manager within sixty (60) days following the anniversary of the day on which the City Manager was hired.

#### **205.7**

Provide for an annual audit.

#### **205.8**

Be responsible for the negotiation of all contracts involving any subject within the City Council's jurisdiction (except that in the case of the School Department, such negotiations shall be the responsibility of the School Committee) and approve the awarding thereof.

#### **205.9**

Adopt, modify and carry out plans proposed by the Planning Board for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction and redevelopment of any area or district which may have been destroyed in whole or in part by disaster.

#### **205.10**

Make investigations into the affairs of the City and the conduct of any City department, office or agency (except that in the case of the School Department, such investigations shall be made by the School Committee). For this purpose the Council may enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths, the taking of testimony and the compulsory production of evidence.

#### **205.11**

Neither the Council nor any of its members, including the Mayor, shall direct or request the appointment of any person to or the removal from office by the City Manager or by any subordinates. Except for the purpose of inquiry and investigation under Section 205.10, the

Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

## **205.12**

At intervals of not more than ten years, proposed revisions or recodifications of the by-laws and ordinances of the city shall be presented to the City Council for re-enactment. Such revisions or recodifications shall be prepared by a committee selected or appointed by the City Council.

## **Section 206. Compensation**

### **206.1**

Compensation for the City Councilors shall be fixed each year by the City Council.

### **206.2**

The City Council by order shall fix the salaries of officials appointed by the City Council, including the salary of the City Manager.

## **Section 207. Induction of Council into Office**

Councilors elect shall be sworn to the faithful discharge of their duties by the City Clerk or the City Clerk's designee at the first regular, special or emergency meeting in January of the City Council.

## **Section 208. City Council to Judge Qualifications of its Members**

The City Council shall be the judge of the election and qualifications of its members.

## **Section 209. Regular Meetings**

The City Council shall, at its first meeting or as soon thereafter as possible, establish by ordinance, order or resolution a regular place and time for holding its regular meetings, and shall meet regularly at least twice per month. It shall also provide a method for calling special meetings and workshop meetings. Public notice shall be given for all meetings of the City Council in accordance with state law. Meetings of the City Council shall be open to the public and shall be recorded, unless in executive session, in accordance with 1 M.R.S.A. Sections 401-410 as amended from time to time. No failure to give public notice or to make record of any meeting at which no vote is taken shall invalidate any action of the Council.

## **Section 210. Deputy Mayor**

At its first meeting or as soon thereafter as practicable the Council shall elect, by majority vote of the entire Council, one of its members for the ensuing year as Deputy Mayor. In the temporary absence or disability of the Mayor, the Deputy Mayor shall exercise all the powers of the Mayor during such temporary absence or disability of the Mayor.

## **Section 211. Quorum and Vote**

A majority of the City Council, including the Mayor, shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding an adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken. Every ordinance, order, and resolve shall require on final passage the affirmative vote of four (4) members of the City Council.

## **Section 212. Vacancies; Forfeiture of Office; Filling of Vacancies**

### **212.1**

The office of a Councilor shall become vacant upon a Councilor's (i) death, (ii) resignation, (iii) non- acceptance, (iv) removal from office in any manner authorized by law, (v) failure to qualify for the office within ten (10) days after written demand by the Council, (vi) failure of the City to elect a person to the office, (vii) forfeiture of office, or (viii) by permanent physical or mental disability resulting in decreased ability to perform the Councilor's duties as determined by the City Council.

### **212.2**

A Councilor shall forfeit his or her office if he or she fails at any time during the term of office to maintain any qualifications for the offices prescribed by this charter or by by-law or ordinance.

### **212.3**

If a seat on the City Council becomes vacant, the City Council may appoint an interim Councilor to serve until December 31<sup>st</sup> of the calendar year in which the seat became vacant. No resigning City Councilor may vote on the Councilor's own successor.

## **Section 213. Rules of Procedure; Journal**

The Council shall determine its own rules and order of business. It shall keep a record of its proceedings, unless in executive session, and the record shall be open to public inspection.

## **Section 214.**

### **Public Hearing on Ordinances**

A proposed ordinance may be introduced in writing by any Councilor to the agenda of any regular or special meeting of the Council. Upon introduction of a proposed ordinance, the Clerk shall distribute a copy to each Councilor and to the City Manager; shall file a reasonable number of copies in the office of the Clerk, the Library, and the City of Sanford's website; and shall cause to be published, in a newspaper having a general circulation in the City, the wording of the proposed ordinance or a title descriptive of its contents and purpose, together with notice of the time and place of public hearing thereon. The public hearing shall follow the publication by at least fourteen (14) days, may be held separately or in connection with a regular or special meeting of the Council and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. An ordinance shall become effective upon its adoption by the Council or at such later time as it may specify. After the hearing the Council may adopt the ordinance with or without amendment or reject it; but in no case shall the ordinance be adopted or rejected in less than fourteen (14) days after the public hearing. If an ordinance is amended so as to change substantially its meaning, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures required in the case of a newly introduced ordinance. The above procedure may be waived only as provided in the following section dealing with emergency ordinances. The Council may enact rules controlling re-introduction of defeated ordinances.

#### **214.1**

Notwithstanding any other provision of this Charter, to meet a public emergency affecting the health, safety or welfare of the City, the Council may adopt one or more emergency ordinances, with the statement of the emergency being a part of the preamble to the ordinance. The declaration of such emergency by the Council shall be conclusive. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) Councilors shall be required for adoption. After adoption, the ordinance shall be posted in the City Hall, and such other places as the Council may designate. It shall become effective upon its adoption or at such later time as it may specify. Every emergency ordinance, except one authorizing the issuance of emergency bonds or notes, shall stand repealed as of the ninety-first (91st) day following the date of its adoption, but this shall not prevent the re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

## **Section 215. City Clerk**

The City Clerk shall keep a public record of all proceedings of the City Council, including all roll-call votes.

## **Section 216. Independent Annual Audit**

Prior to the end of each fiscal year, the Council shall designate the State Department of Audit or private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City, and shall submit their report to the Council, the City Manager and Superintending School Committee. Such accountants shall not maintain any accounts or records of the City business, but shall post-audit the books and documents kept by any office, official, department or agency of the City Government. The audit shall be completed and delivered to the City Council not later than the last business day of the calendar year following the end of the municipal year of the subject audit. The City Council shall present an overview of the findings of the audit at the next regular meeting of the City Council following receipt of the audit.

## **Section 217. Appointment of City Manager**

The Council shall appoint an official of the City who shall have the title of City Manager and shall have the powers and perform the duties described in this Charter. No Councilor shall receive such appointment during the term for which the Councilor shall have been elected, nor within one year after the expiration of the term, nor shall any Councilor act in that capacity.

## **Section 218. Appointment and Removal of City Manager**

The Council shall appoint the City Manager for an indefinite term or by contract for a definite term, and may remove the City Manager for cause by a vote of a majority of its members in accordance with the method and procedure set forth in the general laws of the State of Maine and this Charter.

## **Section 219. Charter Review**

At least once every ten (10) years the City Council shall appoint a committee to review the provisions of this Charter and make recommendations to the City Council on any amendments deemed necessary or appropriate.

## **ARTICLE III**

## **MAYOR**

### **Section 301. Eligibility, election and tenure of office**

A Mayor shall be elected by and from the Voters, and shall have his or her principal place of residence in the City during the Mayor's term of office. Upon adoption of this Charter, the City Council shall elect the Mayor from among its members, to serve as interim Mayor until his or her successor can be elected during the first regular election under this Charter.

At the first regular election under this Charter, the Mayor shall be elected to a base three (3) year term expiring on December 31, 2016. Thereafter, the Mayor shall hold office for a term of two (2) years or until a successor is sworn, except that when elected to fill a vacancy the Mayor shall hold office only for the unexpired term or until a successor is elected and sworn. No person shall serve as Mayor for more than three (3) consecutive two (2) year terms, unless he or she was elected to an initial term of eighteen (18) months or less, in which case he or she may still be elected to three (3) consecutive two (2) year terms.

### **Section 302. Vacancies; Forfeiture of Office; Filling of Vacancies**

#### **302.1**

The office of Mayor shall become vacant upon a Mayor's (i) death, (ii) resignation, (iii) non-acceptance, (iv) removal from office in any manner authorized by law, (v) failure to qualify for the office within ten (10) days after written demand by the Council, (vi) failure of the City to elect a person to the office, (vii) forfeiture of office, or (viii) by permanent physical or mental disability resulting in decreased ability to perform the Mayor's duties as determined by the City Council.

#### **302.2**

A Mayor shall forfeit his or her office if he or she fails at any time during the term of office to maintain any qualifications for the office.

#### **302.3**

In the case of vacancy in the office of Mayor, the vacancy shall be filled at the next regular election. Until such time as the office is filled at a municipal election, the vacancy shall be filled from the membership of the City Council by a majority vote of its members, and the member so elected to the position of Mayor shall have all of the powers of Mayor.

### **Section 303. Induction of Mayor into Office**

The Mayor elect shall be sworn to the faithful discharge of his or her duties by the City Clerk or the City Clerk's designee at the first regular, special or emergency meeting in January of the City Council.

### **Section 304. Powers and Duties**

The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law, but the Mayor shall have no regular administrative or executive duties, except as specifically provided by this Charter. It shall be the duty of the Mayor to (1) preside at all meetings of the Council; (2) develop, after consultation with the City Manager, agenda for the Council meetings, provided that no Councilor shall be denied the right to place an item on the agenda; (3) after consultation with the Council, represent the Council in all dealings with the City Manager and with all statutory and advisory boards, commissions and committees in person or by delegation.

The Mayor shall be considered the seventh (7<sup>th</sup>) member of the City Council and share all powers and duties conferred upon the City Council by this Charter. The Mayor shall vote as a member of the City Council at all meetings of the City Council.

The title of Mayor shall not be considered as conferring upon him or her any power of a mayor under the general laws of the state inconsistent with the provisions of this Charter.

### **Section 305. Compensation**

The Mayor's compensation shall be fixed each year by the City Council, which compensation shall exceed the compensation paid to any individual City Councilor by at least, but not more than, twenty-five percent (25%).

## **ARTICLE IV**

## **CITY MANAGER**

### **Section 401. City Manager, Qualifications**

The City Manager shall be appointed by the City Council solely on the basis of character and executive, academic and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of office as hereinafter set forth. At the time of appointment, the City Manager need not be a resident of the County or State but, after one year following the date of initial appointment, the City Manager shall not reside outside of the County of York, Maine. No member of the City Council shall be appointed City Manager during a term of office, nor within one (1) year after the expiration of a term, nor shall any member of the City Council act in that capacity.

## **Section 402.**

### **City Manager, Chief Executive Officer**

The City Manager shall be the Chief Executive Officer and the head of the administrative branch of the City government, except for the School Department, and shall be responsible to the City Council, for the proper administration of all, except as otherwise provided in this Charter, affairs of the City. The City manager shall have the power and shall have the following duties:

#### **402.1**

Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

#### **402.2**

Give bond for the faithful discharge of all duties to the City of Sanford in such sum as the City Council shall determine and direct on an annual basis. Said surety or sureties shall be approved by the City Council. The premium on the bond shall be paid by the City.

#### **402.3**

Appoint, prescribe the duties of, and when necessary for the good of the City, remove any non-school officials and employees of the City, except as otherwise provided herein, and except as the City Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office and except as otherwise provided by law, by this Charter, or by personnel rules adopted pursuant to this Charter.

Only the City Manager's appointments of the following shall be subject to confirmation by the City Council: Police Chief, Fire Chief, City Clerk, Tax Collector, Planning Director, Codes Enforcement Officer, Public Works Director, City Treasurer and the Director of the Sanford Emergency Management Agency.

#### **402.4**

Administer all personnel policies, practices and related matters for all municipal employees as established by a compensation plan, personnel policy guide, order or ordinance, and all collective bargaining agreements entered into by the City Council on behalf of the City.

#### **402.5**

Fix the compensation of all City officials and employees appointed by the City Manager within the limits established by the appropriations and any compensation plan adopted by the City Council.

#### **402.6**

Keep the City Council fully informed as to the financial condition and needs of the City, and make such recommendations to the City Council as deemed necessary or expedient.

#### **402.7**

Keep the City Council fully advised as to the needs of the City and recommend to the City Council for adoption such measures requiring action by them or by the City as may be deemed necessary or expedient.

#### **402.8**

Attend all regular and special meetings of the City Council, unless excused at the City Manager's own request, and have a voice, but no vote, in all discussions. The City Manager is permitted, but not required, to attend any City Council meeting at which the City Manager's own removal is to be discussed, unless in executive session.

#### **402.9**

See that all ordinances, by-laws, orders, provisions of the Charter, and acts of the City Council that require enforcement by the City Manager, or Officials and employees subject to the City Manager's direction and supervision, are faithfully executed.

#### **402.10**

Prepare the Municipal budget annually, submit it to the Budget Committee as directed by the City Council and be responsible for its administration after adoption by the voters at any Budget Validation Referendum.

#### **402.11**

Prepare and submit to the City Council, after the completion of the required annual fiscal audit, an "Audit Action Plan," and a complete report on the finances and administrative activities of the City for the preceding year. The City Manager shall cause such annual City report to be made available to the public as promptly as possible after receiving the annual audit.

#### **402.12**

Keep a full and complete inventory of all property of substantial value belonging to the City, both real and personal.

#### **402.13**

Act as purchasing agent for all departments of the City, except the School Department. Whenever possible, the City Manager shall work with the Superintendent to negotiate contracts for supplies, materials and equipment commonly purchased by both the School Department and the Municipality.

#### **402.14**

With the approval of the City Council, have the authority to prosecute, defend or compromise all litigation to which the City is party, except any and all litigation under the jurisdiction of the School Department, and to employ special legal counsel with the approval of the City Council to assist the City Attorney whenever in the City Manager's judgment it may be necessary.

#### **402.15**

Perform any other duties required of the City Manager by this Charter, by ordinance, or by the City Council not inconsistent with this Charter.

### **Section 403. Ombudsperson**

The City Manager, or, in the case of the School Department, the Superintendent of Schools, or his or her designee shall act as an Ombudsperson to all citizens in their day to day contacts and dealings with the City, its officials and boards. The function of the Ombudsperson shall be: (a) to direct citizens to the proper official, board or committee to deal with the citizen's problem, (b) to set up appointments for citizens to meet with directors, department heads and boards, (c) to provide citizens with access to public information with the City and (d) to otherwise serve the public in connection with their dealings with the City. The office of the City Ombudsperson shall be clearly and conspicuously marked within the City Hall.

### **Section 404. Vacancy in the Office of City Manager**

During any vacancy in the office of the City Manager, and during the absence or disability of the City Manager, the City Council shall designate a properly qualified person, not a member of the Council, to perform the duties of the Manager and the Council shall fix the compensation (the "Acting City Manager"). The Acting City Manager shall have the same powers and duties of those given to and imposed on the City Manager. Before entering upon the duties, the

Acting City Manager shall give bond to the City of Sanford in a sum and with surety or sureties to be approved by the Council. The premium on said bond shall be paid by the City.

## **ARTICLE V**

## **DEPARTMENT OF EDUCATION**

### **Section 501. Board of Education**

The Department of Education shall be governed and administered by a Board of Education (hereafter referred to as the School Committee) and a Superintendent of Schools, in accordance with Maine Law. The School Committee shall consist of five (5) members, who shall be nominated and elected at-large by the Voters according to the provisions of Article XI of this Charter. Members of the School Committee shall be elected for a term of three (3) years and shall serve until their successors are elected and qualified. School Committee members serving all or a portion of a three (3) year term at the time this Charter is enacted shall serve until their term expires. School Committee members shall then be elected as the terms of their office expire for a term of three (3) years.

### **Section 502. Qualifications**

Members of the School Committee shall be qualified Voters of the City and shall have their principal place of residence in the City during their terms of office. No School Committee member shall hold any other compensated City office or City employment, except as on-call emergency personnel, during their term of office. No School Committee member shall hold any paid office or position of employment with the School Department. If a member of the School Committee ceases to possess any of these qualifications or is convicted of a crime punishable by imprisonment for more than six (6) months, the office shall immediately become vacant.

### **Section 503. Vacancies**

If for any reason a vacancy exists in the membership of the School Committee, it shall be filled within thirty (30) days by a majority vote of the remaining members of said committee until December 31<sup>st</sup> of the year in which said vacancy occurs.

### **Section 504. Organization; Qualifications; Quorum**

#### **504.1**

The School Committee shall meet on the first business day of January for the purpose of organization. The members-elect shall be sworn to the faithful discharge of their duties by the City Clerk or by a Notary Public at or prior to the first organizational meeting in January.

## **504.2**

A majority of the School Committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of resuming such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken.

## **504.3**

At its first meeting or as soon thereafter as practicable the School Committee shall elect, by majority vote of the entire School Committee, one of its members for the ensuing year as Chairperson and one of its members as Vice-Chairperson, and the School Committee shall fill, for an unexpired term, any vacancy in the office of Chairperson or Vice-Chairperson that may occur. No member of the School Committee shall be eligible for re-election as Chairperson or Vice-Chairperson for more than three (3) consecutive one-year terms. For purposes of this section, election to an unexpired term of less than six (6) months shall not be considered a term.

## **Section 505. Powers and Duties**

### **505.1**

The School Committee shall have all the powers conferred and shall perform all the duties imposed by State law upon municipal school committees and this Charter in regard to the care and management of the public schools of the City.

### **505.2**

Prior to the deadline established by the City Council under section 602.2 of this Charter, the School Committee shall prepare detailed budget estimates of the various sums required during the ensuing fiscal year for the support of the public schools and the School Committee shall furnish copies of such estimates to the Budget Committee. The Budget Committee shall review the budget and make recommendations on appropriations for the support of public schools in accordance with the provisions of the general laws of the State of Maine and this Charter.

### **505.3**

The Superintendent of Schools, through the School Committee, shall not later than the first regular City Council meeting in December, present an "Audit Action Plan" with remedies as appropriate to the City Council for review and approval.

## **Section 506. Meetings**

The School Committee shall meet at least once a month, except during July and August. All meetings of the School Committee shall be open to the public, except as may otherwise be provided by the laws of the State of Maine.

## **Section 507. Compensation**

Compensation for the members of the School Committee shall be fixed each year by the School Committee.

# **ARTICLE VI**

# **BUDGET**

## **Section 601. Fiscal Year**

The fiscal year of the City government shall begin the first day of July and shall end the 30th day of June of each calendar year. Such fiscal year shall constitute the budget and accounting year as used in this charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

## **Section 602. Budget Committee**

### **602.1 Budget Committee Composition**

There shall be a Budget Committee comprised of seven (7) members. Four (4) members of the Budget Committee shall be Voters appointed at large by the City Council, and three (3) members of the Budget Committee shall be members of the City Council, as designated by the City Council. The terms of the Budget Committee shall be for one (1) year and shall commence at the first meeting of the Budget Committee following the appointments.

### **602.2. Budget Review Schedule Established by City Council.**

No later than its second meeting in January of each year, the City Council shall appoint a Budget Committee and shall establish a budget review schedule, which shall govern the Budget Committee's work. The budget review schedule shall specify public hearing dates and budget development deadlines, and shall allow for a minimum of four (4) weeks for the Budget Committee to complete its review of the Municipal and School Budgets, before presenting them to the City Council.

## **Section 603. Qualifications**

Budget Committee members shall be qualified Voters and shall have their principal place of residence in the City during their terms of office. Except as provided in Section 205.1, no Budget Committee member shall hold any paid office or position of employment with the City or with the Sanford School District.

## **Section 604. Powers and Duties**

### **604.1**

The Budget Committee shall hold public hearings to review the expenditures of each Municipal Agency or Department proposed by the City Manager, and of each School Agency or Department proposed by the Superintendent of Schools. The Budget Committee may require the City Manager or the Superintendent of Schools to provide such additional information as it deems necessary or desirable in furtherance of its responsibility.

### **604.2**

At the second meeting in January each year, the City Council shall establish a line item budget format that shall be used by the Budget Committee when reviewing the Municipal and School budgets. The line item budget shall be broken down by cost centers.

### **604.3**

Each City Budget approved by the Budget Committee shall be presented in one document to the City Council for authorization and worded in a manner which specifies the amount that may be raised or appropriated. The Municipal Budget approved by the Budget Committee may be changed or adjusted only by a vote of the City Council in which a majority have voted for the change or adjustment as provided in section 211.

The authorization of the Municipal and School budgets by the City Council shall be the final budgets that are to be presented to the Voters in their aggregate amounts for final authorization at any Budget Validation Referendum.

### **604.4**

The Budget Committee shall review all bond requests presented to them by the Council and School Committee, and shall make recommendations for bonding to the City Manager and Superintendent of Schools when appropriate during the Budget review process.

## **604.5**

The Budget Committee shall review the five-year capital program and make recommendations to the City Council for approval as per Section 610 of this Charter.

## **Section 605. Organization; Qualifications; Quorum**

### **605.1**

[Reserved]

### **605.2**

A majority of the Budget Committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of resuming an adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken. Except for a vote to adjourn, every act of the Budget Committee that requires a vote shall require an affirmative vote of four (4) members of the Budget Committee.

### **605.3**

At its first meeting or as soon thereafter as practicable the Budget Committee shall elect, by majority vote of the entire Budget Committee, one of its seven (7) members for the ensuing year as Chairperson and one of its seven (7) members as Vice-Chairperson. The Budget Committee shall fill by appointment any vacancy that may occur in the office of Chairperson or Vice-Chairperson for the remainder of the unexpired term. No member of the Budget Committee shall be eligible for re-election as Chairperson or Vice-chairperson for more than three (3) consecutive one-year terms. For purposes of this section, election to an unexpired term of less than six (6) months as Chairperson or Vice-Chairperson shall not be considered a term.

## **Section 606. [Reserved]**

## **Section 607. Submission of School Budget and Message**

### **607.1**

In accordance with the Budget Review Process established by this Charter, the Superintendent of Schools and the School Committee shall submit to the Budget Committee, through the Superintendent, a complete, line-item budget containing the estimated receipts and expenditures

of the School Department for the upcoming municipal fiscal year. This budget shall be known as the School Budget. Along with the School Budget, the Superintendent shall also submit an accompanying message meeting the requirements of Section 609 of this article.

### **607.2**

The School Budget shall contain a complete financial plan for all school funds and activities for the upcoming school fiscal year.

### **607.3**

The School Budget shall indicate in separate sections:

- a. Proposed operating expenditures for the upcoming school fiscal year, detailed by offices, departments, and agencies in terms of their respective work programs, and the methods of financing such expenditure.
- b. Proposed debt service expenses for capital expenditures for the upcoming school fiscal year, including items to be financed by bond issues, detailed by offices, departments, and agencies when practical and the proposed methods of financing each such expenditure;
- c. Estimated budget income, which shall not be exceeded by total budget expenditures;

## **Section 608.                      Submission of Municipal Budget and Message**

### **608.1**

In accordance with the Budget Review Process established under this Charter, the City Manager shall submit to the Budget Committee a complete line-item budget containing the estimated receipts and expenditures for all municipal departments, excluding the School Department, for the upcoming municipal fiscal year. This budget shall be known as the Municipal Budget. Along with the Municipal Budget, the City Manager shall also submit an accompanying message meeting the requirements of Section 609 of this article.

### **608.2**

The Municipal Budget shall provide a complete financial plan of all City funds and activities for the upcoming fiscal year exclusive of the School Department and which, except as required by law or this Charter, shall be in such form as the Budget Committee shall require. In organizing the Municipal Budget, the City Manager shall utilize the most feasible combination of expenditure classification by fund, organizational unit, program, purpose or activity, and object.

## **608.3**

The Municipal Budget shall indicate in separate sections:

- a. Proposed operating expenditures for the upcoming fiscal year, detailed by offices, departments, and agencies in terms of their respective work programs, and the methods of financing such expenditure;
- b. Proposed capital expenditures for the upcoming fiscal year, detailed by offices, departments, and agencies when practical, and the proposed methods of financing each such expenditure;
- c. Estimated budget income, which shall not be exceeded by total budget expenditures;

## **Section 609. Municipal and School Budget Messages**

The Municipal and School Budget messages shall explain the respective budget both in fiscal terms and in terms of the work programs. These budget messages shall outline the proposed financial practices of the respective departments for the upcoming fiscal year, describe the important features of the budget request, indicate any major changes from the current fiscal year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the City's debt position and include such other material as the City Manager and School Committee deem desirable.

## **Section 610. Capital Improvement Program**

### **610.1**

The City Manager and the Superintendent of Schools shall, on an annual basis, prepare and submit to the Budget Committee a five-year capital program.

### **610.2**

The Budget Committee shall review the five-year capital program and make recommendations to the City Council for approval.

### **610.3**

The city shall annually create reserves for the Capital Improvement Program by raising and appropriating or appropriating a percentage of the previous year's combined City and School budgets in amounts that are at least but not limited to, two point five percent (2.5%) in the first fiscal year following adoption of this Charter, three percent (3%) in the second fiscal year

following adoption of this Charter, three point five percent (3.5%) in the third fiscal year following adoption of this Charter, and four percent in each subsequent fiscal year following adoption of this Charter. All amounts to be placed in a Capital Reserve Account with any and all balances at the end of any fiscal year are to be retained in said account. Carryover reserves will be added to the annual appropriation for future Capital Improvement Projects.

Fifty percent (50%) of the amount raised for the Capital Improvement Program shall be allocated to the costs associated with non-rolling stock transportation infrastructure.

#### **610.4**

Projects funded by the Capital Improvement Program include, but are not limited to, the following: road maintenance, vehicular replacements, roofing projects, major building renovations, major equipment purchase, airport projects, new buildings and the like. The funds raised through the Capital Improvement Program shall not be used to reduce the City's bonded debt.

### **Section 611. Public Hearing(s) on Municipal and School Budgets**

#### **611.1**

Within fourteen (14) days after receiving Municipal and School Budgets from the City Manager and the Superintendent of Schools, the City Council, School Committee and Budget Committee shall hold a joint public hearing(s) on the proposed budgets at which the Budget Committee chair shall preside. The City Manager shall post notice of the public hearing(s) as soon as possible by publishing in one or more newspapers of general circulation in the city a notice stating:

- a. The time and places where copies of the Municipal and School Budgets and budget messages are available for inspection by the public;
- b. The time, place and purpose of the public hearing(s); and
- c. A statement that all residents interested in speaking on the proposed Municipal and School Budgets shall have an opportunity to be heard at the public hearing.

### **Section 612. Amendment of Proposed Municipal and School Budgets**

#### **612.1**

Following the initial public hearing, the Budget Committee shall meet to consider whether to amend and what amendments to include in the proposed Municipal and School Budgets. The

Budget Committee may meet as a committee of the whole as many times as necessary to do so, provided all meetings are open to the public and televised when feasible.

## **612.2**

The Budget Committee shall take public comment from residents at all of its meetings, including the public hearings.

## **612.3**

In amending the Municipal and School Budgets, the Budget Committee may increase or decrease any proposed amounts consistent with state laws, except amounts approved by the State Board of Education in granting concept approval for school construction projects, expenditures required by law or for debt service or for estimated cash deficit.

### **Section 613. Budget Establishes Appropriation**

From the date of adoption of the Municipal and School Budgets, the amounts stated therein shall be and become appropriated to the several offices, departments and agencies for purposes therein named, subject to the requirements of law, except that: the City Manager may transfer, with City Council approval, any unencumbered appropriations or portion thereof between Municipal Budget articles, and the Superintendent may transfer, with School Committee approval, any unencumbered appropriations or portion thereof between School Budget articles.

### **Section 614. Lapse of Appropriations.**

Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered, except as provided in 20-A M.R.S.A. § 15004 and 15613 (8), as amended from time to time, and except an appropriation for a capital expenditure. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned by vote of the City Council.

### **Section 615. Budget Establishes Amount to be Raised by Property Tax; Certification of City Assessor**

From the date of adoption of the Municipal and School Budgets, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy, subject to the requirements of law, for the purposes of the City in the corresponding tax year. A copy of the Municipal and School budgets as finally adopted shall be certified by the City Manager and filed by the City Manager with the City Assessor, whose duty it shall be to levy such taxes for the corresponding year.

## **Section 616. Budget Summary**

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

## **Section 617. Work program; Allotments**

Before the beginning of the budget year, the head of each office, department or agency shall submit to the City Manager, when required by the City Manager (and in the case of the School Department, to the Superintendent of Schools), a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The City Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

## **Section 618. Adoption.**

The Voters shall adopt the budget for the next fiscal year on or before the last day in June of the current fiscal year. If voters fail to adopt a Municipal Budget or School Budget by this date for any reason, the amounts appropriated for the current operation for the current fiscal year shall be deemed adopted for the following fiscal year on a month-to-month basis, with all items in the respective budget prorated accordingly until such time as the Voters adopt a budget for the following fiscal year.

## **Section 619. Amendments after Adoption of the Annual Budget.**

### **619.1. Supplemental Appropriations**

If during the fiscal year the City Manager and/or the Superintendent certifies that there are available from Federal or State grants revenues in excess of those estimated in the budget, the City Council, or, in the case of the School Department, the School Committee, by resolution may authorize the use of such excess grant revenues in the Municipal or School project for which the grant money was received.

## **619.2. Emergency Appropriations**

To meet a public emergency affecting the health, safety, or welfare of the City, the City Council may make emergency appropriations. Any such emergency appropriation shall be so declared in an emergency preamble thereto, separately voted on and receiving the affirmative vote of at least six (6) members of the City Council. To the extent that there are no available, unappropriated revenues to meet such appropriations, the City Council may authorize borrowings not to exceed \$250,000, with maturities no longer than necessary taking into account the nature of the emergency and the size of the borrowing. If the City Council shall determine that the emergency warrants an appropriation of more than \$250,000, it may submit the amount of the proposed appropriation in excess of \$250,000 to the Voters for a single vote as provided in Article VII, provided that the result of the vote shall not affect the validity of any emergency appropriation less than \$250,000. The issuance of an emergency appropriation pursuant to this subsection shall be exempt from the initiative and referendum provisions set forth in Article XIII of this Charter.

## **619.3. Reduction of Appropriations**

If at any time during the fiscal year it appears probable to the City Manager and/or Superintendent that revenues available will be insufficient to meet the amount appropriated, the City Manager and/or Superintendent shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The City Council shall then take such further action, as it deems necessary, to prevent or minimize any deficit, and for that purpose it may reduce one or more appropriations to the extent not inconsistent with 20-A M.R.S.A. ss15004 and 15613 (8), as amended.

## **619.4. Limitations, effective date**

No appropriation for debt service may be reduced or transferred. No appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the encumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

## **Section 620. Public Records**

Copies of the City Budget and the capital programs as adopted by the City voters shall be public records and shall be made available to the public at suitable places in the City.

**ARTICLE VII**

**BUDGET VALIDATION**

**Section 701. Budget Validation Referendum**

There shall be a Budget Validation Referendum for the School and Municipal Budgets held on the second Tuesday in June.

**Section 702. Notice, Form of Vote**

The City Manager shall publish in one or more newspapers of general circulation in the city a notice that a vote on the City Budget shall be held not less than thirty (30) days from the date of the published notice. The City Clerk shall prepare the necessary ballot for said voting with a brief description of the Municipal Budget as presented by the City Manager and a brief description of the School Budget as presented by the Superintendent of Schools. Such ballot shall ask the following question for the Municipal Budget, excluding bond issues:

“Shall the City of Sanford adopt the Municipal Budget as proposed by the Budget Committee and approved by the City Council?

Yes\_\_\_\_\_ No\_\_\_\_\_“

Such ballot shall ask the following question for the School Budget, excluding bond issues:

“Shall the City of Sanford adopt the School Budget as proposed by the Budget Committee and approved by the City Council?

Yes\_\_\_\_\_ No\_\_\_\_\_“

**Section 703. Adoption of Budget and Appropriations by the City Council**

The City Clerk shall certify the results of any Budget Validation Referendum to the City Council within three (3) days of the vote. The City Clerk shall also record the number of Voters participating in every Budget Validation Referendum, and shall certify the number of participants to the City Council within three (3) days of the vote.

Upon certification that a majority of the Voters in the Budget Validation Referendum have voted "YES" in response to the “Municipal Budget” question proposed pursuant to Section 702, the Municipal Budget shall be deemed approved and shall become the budget for purposes of section 613 as of the first day of the fiscal year for which it was proposed.

Upon certification that a majority of the Voters in the Budget Referendum have voted “YES” in response to the “School Budget” question proposed pursuant to Section 702, the School Budget

shall be deemed approved and shall become the budget for purposes of section 613 as of the first day of the fiscal year for which it was proposed.

Upon certification that a majority of the voters of the City voting at the Budget Validation Referendum have voted "NO" in response to either the "Municipal Budget" or the "School Budget" question proposed under Section 702, section 618 shall apply.

Neither the Municipal Budget nor the School Budget shall be deemed to have been rejected by the Voters unless a minimum of twenty-five percent (25%) of the total number of Voters in the last gubernatorial election cast a ballot during the Budget Validation Referendum. If fewer than twenty-five percent (25%) of the total number of Voters in the last gubernatorial election cast a ballot in the Budget Validation Referendum, the Voters shall be deemed to have approved the Municipal Budget and the School Budget.

The amount stated in the Municipal Budget, as adopted and including any revisions from a subsequent Budget Validation Referendum which may be scheduled by the City Council, shall constitute the amount to be raised by property tax or other powers and shall constitute a determination of the amount of the levy for the purposes of the City in the corresponding tax year and shall be effective on the effective date of the budget. A copy of the Municipal Budget as finally adopted shall be certified by the City Clerk and filed with the City Assessor, whose duty it shall be to levy such taxes, if any, for the corresponding year. Adoption of the Municipal Budget shall constitute adoption of an ordinance appropriating amounts specified therein from the funds indicated. So long as a minimum of twenty five percent (25%) of Voters in the last gubernatorial election participate in the referendum, if either the Municipal or School Budget is rejected by Voters, the City Council may elect to schedule a subsequent Budget Validation Referendum to take place within seventy (70) days from the date of the first Budget Validation Referendum in order for the Voters to reconsider the Municipal or School Budget according to the following procedure:

1. Within five (5) days of receipt from the City Clerk of any Budget that was rejected by the Voters during a Budget Validation Referendum and certification that at least twenty-five percent (25%) of the Voters in the last gubernatorial election participated in the referendum, the City Council shall refer the rejected budget back to the Budget Committee;
2. Upon receipt of said referral, the Budget Committee shall schedule one or more public hearing(s), the first of which shall be held within ten (10) days after the City Council refers the rejected budget back to the Budget Committee. The purpose of the public hearing(s) shall be for the Budget Committee to receive comments from the public, City officers, and the School Committee on any rejected Budget, and on any proposed changes to the rejected budget;
3. The City Manager shall publish notice of the time, place, and purpose of said public hearing(s) in one or more newspapers of general circulation in the City;

4. Following the public hearing(s), the Budget Committee shall prepare a revised budget to be submitted for Voter approval in a subsequent Budget Validation Referendum;
5. At least thirty (30) days before any subsequent Budget Validation Referendum, the Budget Committee shall return the revised Budget to the City Council;
6. Any subsequent Budget Validation Referendum shall be conducted pursuant to all other provisions of this Article.

#### **Section 704. Repeal of Budget Validation Referendum Process.**

The Budget Validation Referendum Process shall be considered a City ordinance. Notwithstanding any other provision of this Charter, the Budget Validation Referendum Process may be repealed as follows:

Beginning five (5) years from the date this Charter takes effect, the Budget Validation Referendum Process shall be automatically repealed for the Municipal Budget if, according to the results recorded and certified by the City Clerk pursuant to Section 703, the average voter participation in Budget Validation Referendum votes for the past five years is less than twenty-five percent (25%) of voter participation in the most recent gubernatorial election. If the Budget Validation Referendum process is repealed, it may only be reinstated through the Voter-initiated ordinance process set forth in Article XIII, below. In addition, any vote to reinstate the Budget Validation Referendum process must be held during the regularly scheduled November general election.

The Budget Validation Referendum Process may be repealed for the School Budget pursuant to the procedures set forth in 20-A M.R.S.A. § 1486.

#### **Section 705. BOND ISSUES, BALLOTS**

##### **705.1**

All capital projects of the municipal and school departments which the Budget Committee proposes to finance through the issuance of bonds in an amount equal to or less than two hundred fifty thousand dollars (\$250,000) shall be approved by the City Council.

##### **705.2**

All capital projects of the municipal and school departments which the Budget Committee proposes to finance through the issuance of bonds in an amount over two hundred fifty thousand dollars (\$250,000), shall be approved by the City Council and submitted to the

qualified voters of the City at the Budget Validation Referendum pursuant to Section 701 or at the regular election in November.

### **705.3**

Within fourteen (14) days after receiving the proposal for bonding a capital project, the City Council, Budget Committee, and School Committee shall hold a joint public hearing on the proposed capital project at which the Budget Committee chair shall preside. The public hearing may be held in conjunction with the Public Hearing on the proposed Municipal and School budgets. The City Manager shall post notice of the public hearing(s) as soon as possible by publishing in one or more newspapers of general circulation in the city a notice stating:

- a. The time and places where copies of the bonding proposal(s) are available for inspection by the public;
- b. The time, place and purpose of the public hearing(s) which is to be held not less than two weeks after such publication;
- c. A statement that all residents interested in speaking on the proposed bond (s) shall have an opportunity to be heard at the public hearing.

### **705.4**

The City Clerk shall prepare the necessary ballots for said budget validation referendum. Such ballots shall state at least the following for each project proposed for bonding:

1. A brief summary and general description of the proposed capital project;
2. The sum of money required for each capital project;
3. A statement of the maximum cost of the capital project;
4. A statement of the total net debt of the City after issuance of the bonds therein authorized;
5. The question:

"Shall the City Treasurer, with the approval of the City Council, be authorized to issue bond/s in the amount of \_\_\_\_\_ for the purpose of \_\_\_\_\_?  
Yes\_\_\_\_\_ No\_\_\_\_\_ "

## **705.5**

All capital projects of the municipal and school departments may become effective thirty (30) days after such referendum, provided a majority of the voters of the City voting in such election shall have voted in the affirmative.

### **ARTICLE VIII**

### **TAX ADMINISTRATION**

#### **Section 801. Assessor**

There shall be established a Department of Assessment, the head of which shall be the City Assessor. The City Assessor, appointed as provided in Article III of this Charter, shall perform all duties and responsibilities provide for assessors under the laws of the State of Maine and this Charter. The City Assessor shall be hired on the basis of training and experience and must be certified by the State of Maine.

#### **Section 802. Method of Assessment**

All assessments and taxation, their methods, definitions, exceptions and exemptions, for the City shall be prescribed by the statutes of the State of Maine.

#### **Section 803. Board of Assessment Review; Appointment; Vacancies.**

##### **803.1**

There shall be a Board of Assessment Review consisting of no fewer than three (3) members and not more than five (5) members. The members of the Board of Assessment Review shall not otherwise be connected with city government and shall be appointed by the City Council for staggered terms of three (3) years. Board of Assessment Review members shall be appointed as the terms of their office expire. Compensation, if any, to such members shall be determined by the City Council. Vacancies in the membership of such board shall be filled by appointment by the City Council for the unexpired term.

##### **803.2**

A minimum of three (3) members of the Board of Assessment Review shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of resuming such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken. Every act of the Board of Assessment Review that requires a vote shall require an affirmative vote of the majority of those present and voting.

### **803.3**

At its first meeting or as soon thereafter as practicable the Board of Assessment Review shall elect, by majority vote of the entire Board, one of its members for the ensuing year as chairperson and one of its members as Vice-chairperson, and the Board of Assessment Review shall fill, for an unexpired term, any vacancy in the office of chairperson or Vice-chairperson that may occur. No member of the Board of Assessment Review shall be eligible for re-election as Chairperson or Vice-chairperson for more than three (3) consecutive one-year terms. For purposes of this section, election to an unexpired term of less than six (6) months shall not be considered a term.

### **Section 804. Board of Assessment Review, Qualifications**

All members of such board shall be selected upon the basis of their knowledge of the subject of taxation and property values and shall at the time of their appointment have been residents of the City for at least three years (3) immediately preceding and shall continue as residents during their terms of office. If a member of such board shall cease to be a resident, their office shall thereby become vacant.

### **Section 805. Board of Assessment Review: Powers, and Duties**

The Board of Assessment Review shall:

#### **805.1**

Review appeals from decisions of the Assessor regarding applications for abatements of property taxes and make determinations with respect to assessments in accordance with the general laws of the State of Maine.

#### **805.2**

Have the power to administer oaths, take testimony, and hold hearings as may be required in carrying out its functions.

#### **805.3**

Adopt, subject to the approval of the City Council, rules and regulations for the transaction of its business consistent with 30-A M.R.S.A. § 2691(3), as amended from time to time.

## **ARTICLE IX**

## **MUNICIPAL DEVELOPMENT**

### **Section 901. Director of Planning**

There shall be a Planning Director appointed as provided in Article IV of this Charter. The Planning Director shall be the regular technical advisor of the Planning Board, may also be designated its executive secretary, and shall have such other authority, duties and responsibilities under the direction and control of the City Manager as the City Manager may require and establish.

### **Section 902. Director of Public Works**

There shall be a Public Works Director appointed as provided in Article IV of this Charter. The Public Works Director shall be responsible for the performance of all public works activities of the City placed under the control of the Public Works Department by the Charter, by by-law or ordinance, or otherwise, including but not limited to refuse collection and disposal, forestry services, and protection of natural resources.

### **Section 903. Planning Board**

#### **903.1**

There shall be a City Planning Board consisting of seven (7) members, who shall be appointed by the City Council from among the qualified voters of the City for staggered terms of three (3) years. Planning Board Members shall be appointed as the terms of their office expire. Vacancies in the membership of such board shall be filled by appointment by the City Council for the unexpired term.

#### **903.2**

The Planning Board shall have such powers and perform such duties as are provided by the ordinances of the City and the general laws of the State of Maine.

#### **903.3**

A majority of the Planning Board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken. Every act of the Planning Board that requires a vote shall require an affirmative vote of the majority of those present and voting.

## **903.4**

At its first meeting or as soon thereafter as practicable, the Planning Board shall elect, by majority vote of the entire Board, one of its members for the ensuing year as chairperson and one of its members as Vice-chairperson, and the Planning Board shall fill, for an unexpired term, any vacancy in the office of chairperson or Vice-chairperson that may occur. No member of the Planning Board shall be eligible for re-election as Chairperson or Vice-chairperson for more than three (3) consecutive one-year terms. For purposes of this section, election to an unexpired term of less than six (6) months shall not be considered a term.

## **Section 904.                   Zoning Ordinance**

There shall be a zoning ordinance as provided by the laws of the State of Maine.

## **Section 905.                   Board of Appeals**

### **905.1**

There shall be a Zoning Board of Appeals consisting of seven (7) members, who shall be appointed by the City Council from among the qualified voters of the City for staggered terms of three (3) years. Zoning Board of Appeals members shall be appointed as the terms of their office expire. Vacancies in the membership of such board shall be filled by appointment by the City Council for the unexpired term.

### **905.2**

The Zoning Board of Appeals shall be organized and empowered as provided by the laws of the State of Maine.

### **905.3**

A majority of the Zoning Board of Appeals shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of resuming such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken. Every act of the Zoning Board of Appeals that requires a vote shall require an affirmative vote of the majority of those present and voting.

### **905.4**

At its first meeting or as soon thereafter as practicable, the Zoning Board of Appeals shall elect, by majority vote of the entire Board, one of its members for the ensuing year as Chairperson

and one of its members as Vice-Chairperson, and the Zoning Board of Appeals shall fill, for an unexpired term, any vacancy in the office of chairperson or Vice-Chairperson that may occur. No member of the Zoning Board of Appeals shall be eligible for re-election as Chairperson or Vice-Chairperson for more than three (3) consecutive one-year terms. For purposes of this section, election to an unexpired term of less than six (6) months shall not be considered a term.

## **ARTICLE X**

## **PERSONNEL SYSTEM**

### **Section 1001. School Personnel**

#### **1001.1**

This Article X shall govern the personnel system for all non-school department officials and employees.

#### **1001.2**

The personnel system procedures and rules applicable to school officials and school employees shall be governed and administered by the School Committee and Superintendent of Schools in accordance with State law.

### **Section 1002. Merit Principle.**

All appointments and promotions of City officials and employees not covered by a collective bargaining unit shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

### **Section 1003. Personnel Director**

The City Manager, or an appointee of the City Manager, shall be the Personnel Director. The Personnel Director shall administer the personnel system, procedures and rules applicable to municipal officials and municipal employees in accordance with State Law

### **Section 1004. Personnel Rules.**

The Personnel Director shall prepare personnel rules, which shall govern all municipal employees. When approved by the City Manager, the rules shall be proposed to the City Council, and the Council may adopt them with or without amendment. These rules shall provide for:

- a. The classification of all City positions, based on the duties, authority and responsibility of each position with adequate provisions for reclassification of any position whenever warranted by changed circumstances;
- b. A pay plan for all City positions;
- c. Methods of determining the merit and fitness of candidates for appointment or promotion, demotion or dismissal;
- d. Policies and procedures regulating reduction in force and removal of employees;
- e. A retention and retirement plan for City employees;
- f. Hours of work, attendance and regulations and provisions for sick and vacation leave;
- g. Policies and procedures governing persons holding provisional appointments;
- h. Policies regarding in-service training programs;
- i. Policies and procedures governing relationships with employee organizations;
- j. Grievance procedures including procedures for the hearing of grievances; and
- k. Other practices and procedures necessary to the administration of the City personnel system or as directed by the City Council.

## **ARTICLE XI**

## **NOMINATIONS AND ELECTIONS**

### **Section 1101. Municipal Elections**

The regular election for members of the City Council, the Mayor, and the School Committee shall be held on the first (1st) Tuesday following the first (1st) Monday in November. All Municipal and School elections shall be conducted on a nonpartisan basis and without party designation on the election ballot.

### **Section 1102. Establishment and Review of Voting Districts**

#### **1102.1**

The boundaries of the wards shall be reviewed and, if deemed necessary by the City Council, wholly or partly revised by the City Council whenever it is apparent from census data or other

official information that the number of Voters in any one ward varies by ten percent (10%) or more from the total number of Voters of the city divided by the number of wards, and at least once in every ten (10) years. The wards shall be divided into as nearly an equal number of voters as possible. The territory of each ward shall be defined as near as possible by the center line of known streets or other well defined limits.

## **1102.2**

Within twenty (20) days following any ward revision, the City Council shall file a report on the revisions with the City Clerk, the Registrar of Voters and the Assessor. The report shall include a map(s) and a list of the Voters' names and addresses. The City Council shall also post the map and list in the City Hall and in at least one public place in each precinct. On every election day there shall be posted at every voting place in the City a map and description of the wards, and for each ward a list of the names and addresses of the Voters of that ward.

## **1102.3**

The ward revision shall be effective on the date it is filed with the City Clerk, and the Clerk shall notify the Secretary of State of the revision in writing, stating the number and designation of such wards.

## **1102.4**

The City Council shall have the authority to consolidate wards for purposes of voting for any regular or special elections.

## **Section 1103.           Nomination**

Registered Voters of the City shall be nominated for elected City offices by the use of nomination papers in accordance with the laws of the State of Maine, except as otherwise provided in this Charter. Nomination papers for the offices of Mayor, City Council, and School Committee shall bear no political designation and shall be signed by not less than fifty (50) registered voters of the City. Nomination papers shall be filed with the City Clerk at least forty five (45) days prior to the date of the election except that the City Council may, by order, modify the filing date for special elections to fill vacancies.

## **Section 1104.           Conduct of Municipal Elections**

The provisions of the statutes of the State of Maine relating to the qualifications of voters, the registration of voters, the nomination for any office, the manner of voting, the duties of election officials, and all other particulars relative to preparation for, conducting and management of

elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Charter.

### **Section 1105. Voting Place**

The voting places for municipal elections shall be those which have been or may hereafter be established for state elections or pursuant to section 1102.4.

### **Section 1106. Election Officials**

The City Council shall, at least ten (10) days before any election, appoint an Election Warden and an Election Clerk, in addition to the regular ballot Clerks, for each voting place. No elected official of the City may serve as Election Warden, Election Clerk or Ballot Clerk.

### **Section 1107. Ballot Position of Candidates for City Offices**

The names of the candidates for City office shall be placed on the ballot in numerical sequence based upon a random number drawn by the candidate or their representative at the time of the filing of nomination papers. This number shall be affixed to the nomination papers of the candidate in his or her presence or in the presence of his or her representative by the City Clerk. In the event the candidate or their representative cannot be present for this drawing of ballot position, the City Clerk shall draw for the candidate.

### **Section 1108. Restrictions on Offices**

Except as indicated in this Charter, no elected or appointed official may hold more than one City office recognized and established by this Charter. Elected or appointed City officials shall be defined as follows:

- a. Elected Officials- one elected by ballot to a City office established by this charter, or to a City board, City authority, or City commission established by the general laws.
- b. Appointed Official- one appointed by an elected official, elected board, or appointed by the City Manager to an appointed City office specifically established by this charter, or to a City board, City authority, or City commission established by the general laws.

### **Section 1109. Restrictions on Election**

#### **1109.1**

No person may be a candidate for more than one City government office at each election. No candidate for the offices of Mayor, City Council, or School Committee shall be elected to office unless he or she receives at least fifty (50) votes.

## **1109.2**

To be considered a declared write-in candidate, a person must file a declaration of write-in candidacy with the City Clerk, on a form approved by the City Clerk, on or before 5 p.m. on the 10<sup>th</sup> day prior to the election. The candidate must meet all the other qualifications for that office.

## **1109.3**

The determination of an election or referendum question shall be governed by 21-A M.R.S.A. § 723, as amended.

### **Section 1110. Date New Officials Take Office**

Elected City Officials shall take office on the first day of January of the year following their election, except in the case of special elections to fill vacancies.

## **ARTICLE XII**

## **RECALL OF ELECTED OFFICIALS**

### **Section 1201. Holders of an Office may be Recalled**

Any elected Municipal or School official may be recalled and removed from office by the Voters, as hereinafter provided.

### **Section 1202. Recall Petition**

Five (5) or more Voters may begin the recall proceedings by a request in writing to the City Clerk for blank petition forms. Said Voters shall be referred to as the "Recall Committee." All copies of the petition shall be uniform in size and style and 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 Recall Committee shall have thirty (30) days from the date of issuance of appropriate petition blanks to cause the petition to be signed by five percent (5%) of the registered Voters of the City. Each registered Voter who signs a petition shall include place of residence, providing either the street and number or a description sufficient to identify the place. Each petition shall have attached to it, when filed with the City Clerk, an affidavit executed by the circulator of the petition stating that he/she personally circulated the attached petition; that it was at no time in the hands of any person other than the circulator; the number of signatures thereon; that all the signatures were affixed in the circulator's presence; that the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and that each signer had an

opportunity before signing to read the full text of the statement of the reasons for the recall of an elected official.

Within ten (10) days after the circulation period ends the City Clerk shall certify to the City Council as to whether the petition has been signed by not less than five percent (5%) of the Voters. Should less than five percent (5%) of the Voters 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 one hundred eighty (180) days from the end of the previous filing period.

### **Section 1203. Resignation of Official; Election as to Recall**

If the petition is found and certified by the City Clerk to be sufficient, he or she shall submit it with his or her certificate to the City Council without delay. The City Council shall within three (3) business days give written notice to the person named in the recall petition of the receipt of the recall petition and the Clerk's certificate. If the Official sought to be removed does not resign within five days, the City Council shall order an election to be held within forty-five (45) days after receipt of the City Clerk's certificate that a sufficient petition is filed.

If any other City election is to occur within sixty (60) days after the date of said certificate the City Council may, at its discretion, postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided in this section.

### **Section 1204. Nomination of Candidates**

Any official whose recall is sought may not be a candidate in the recall election. Unless otherwise provided in this charter, the nomination of candidates, the publication of the warrant for the recall election, and the conduct of the recall election shall be conducted in accordance with the provisions of state law relating to elections and Article XI of this Charter.

### **Section 1205. Incumbent to Continue Duties Until Recalled**

Any elected official against whom recall proceedings have been initiated may continue to hold office until the recall election. If the official is not recalled in the election, he or she shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this Article.

A recalled official shall be deemed removed from office upon the qualification and swearing of his successor, who shall hold office for the remainder of the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of his or her election, the incumbent shall thereupon be deemed removed and the office vacant.

**Section 1206. Form of Ballots for Recall**

The form of the ballot for the recall election shall be as follows:

“Shall (name of person being subject to recall) be removed from the office of (name of office)?”  
Yes \_\_\_\_\_ No \_\_\_\_\_

The Voters shall indicate their choice by completing their ballot as instructed.

After the propositions shall appear the word "Candidates" and the names of the candidates nominated. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question of recall is in the negative, the ballots for candidates need not be counted.

**Section 1207. Limitations on Petitions**

No recall petition shall be filed against an Official within six (6) months after he or she takes office, nor, in the case of an Official subjected to a recall election and not removed thereby, until at least six (6) months after that election.

**Section 1208. Prohibition Against Appointment of Recalled Officials.**

No person who has been recalled from an office or who has resigned from office while recall procedures were pending against that person shall be appointed to any city office within two years after such removal by recall or resignation.

**ARTICLE XIII**

**INITIATIVE AND REFERENDUM**

**Section 1301. Petition for Enactment of Ordinances**

The Voters shall have power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it in an election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, salaries of municipal officials or employees, or ordinances that by law are exclusively reserved to the municipal officials.

Five (5) or more Voters may begin the initiative proceedings by a request in writing to the City Clerk for blank petition forms. Said Voters shall be referred to as the "Enactment Committee." All copies of the petition shall be uniform in size and style and shall include the complete text of the proposed ordinance and the names of the Enactment Committee.

The Enactment Committee shall have thirty (30) days from the date of issuance of appropriate petition blanks to cause the petition to be signed by five (5%) percent of the Voters.

Each Voter who signs a petition shall include a place of residence, providing either the street and number or a description sufficient to identify it.

Each petition shall have attached to it, when filed with the City Clerk, an affidavit executed by the circulator of the petition stating that he/she personally circulated the attached petition; that it was at no time in the hands of any person other than the circulator; the number of signatures thereon; that all the signatures were affixed in the circulator's presence; that the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and that each signer had an opportunity before signing to read the full text of the proposed ordinance.

Within ten (10) days after the circulation period ends the City Clerk shall certify to the City Council as to whether the petition has been signed by not less than five percent (5%) of the Voters. Should less than five percent (5%) of the Voters sign the petition, the petition shall be deemed to have failed and shall have no further force or effect.

If the City Clerk certifies that a minimum of five percent (5%) of the Voters have signed the petition, the Council shall hold a public hearing within thirty (30) days of receipt of the City Clerk's certification. The Council shall thereafter submit the proposed ordinance to a referendum vote at the next regular election, which shall be held at least thirty (30) days following the public hearing unless the Council first enacts the ordinance. Otherwise, an ordinance adopted by referendum shall take effect thirty (30) days after the certification of the election results relating to said referendum, provided a majority of those voting thereon shall have voted in favor of the proposed ordinance.

Any such proposed ordinance shall be examined by the City Attorney before being submitted to a referendum. The City Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy, clearness and precision of wording, and consistency with City ordinances.

## **Section 1302.           Petition for Overrule of Action of Council**

With the exception of emergency ordinances enacted pursuant to Section 214.1, and Council actions making appointments or removals or regulating exclusively the internal procedure of the Council, all ordinances, resolutions or orders of the Council shall be subject to overrule by a citizen referendum as follows:

After the adoption of an ordinance, resolution or order by the Council, the voters may file a petition requesting that such ordinance, resolution or order be put to a referendum vote.

Five (5) or more registered voters may begin the proceedings by submitting a request in writing to the City Clerk for blank petition forms. Said voters shall be referred to as the "Overrule Committee." All copies of the petition shall be uniform in size and style and shall include the complete text of the ordinance, resolution or order adopted by the Council and the names of the Overrule Committee.

The Overrule Committee shall have thirty (30) days from the date of issuance of appropriate petition blanks to cause the petition to be signed by five percent (5%) of the registered voters of the City. Each Voter who signs a petition shall include a place of residence, providing either the street and number or a description sufficient to identify it.

Each petition shall have attached to it, when filed with the City Clerk, an affidavit executed by the circulator of the petition stating that he/she personally circulated the attached petition; that it was at no time in the hands of any person other than the circulator; the number of signatures thereon; that all the signatures were affixed in the circulator's presence; that the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and that each signer had an opportunity before signing to read the full text of the ordinance, resolution or order adopted by the Council. Within ten (10) days after the circulation period ends the City Clerk shall certify to the City Council as to whether the petition has been signed by not less than five percent (5%) of the Voters. Should less than five percent (5%) of the Voters sign the petition, the petition shall have no further force or effect.

The Council shall call a public hearing to be held within thirty (30) days of receipt of the City Clerk's certification, and shall submit the ordinance, resolution or order to a referendum vote at the next regular election at least thirty (30) days after the public hearing.

An ordinance, resolution, or order shall not be repealed unless a majority of those voting thereon shall have voted in the affirmative; and provided that the total number of votes cast for and against equals or exceeds 25% of the total number votes cast in Sanford in the last previous gubernatorial election, as certified by the City Clerk.

### **Section 1303. Form of Ballot**

The form of the ballot for the enactment or repeal of a proposed ordinance, resolution or order shall be as follows:

“Shall the proposed ordinance, (resolution or order), (brief description of ordinance, resolution, or order) be adopted (repealed)?”

The Voters shall indicate "yes" or "no" on their ballot, in the manner instructed on the ballot.

A copy of the proposed ordinance, resolution or order being voted upon at referendum shall be printed and made available within each of the voting places, libraries, and City Hall on the date of the referendum.

**Section 1304. Council not to Reenact or Reject**

The Council shall not reenact ordinances, orders, or resolutions rejected by Voters at referendum elections for a period of at least one (1) year from the date of the referendum. The Council shall not modify or abolish ordinance adopted by Voters at initiative elections for a period of at least one (1) year from the date of the referendum.

**ARTICLE XIV**

**GENERAL PROVISIONS**

**Section 1401. Oath of Office**

Every official of the City shall, before entering upon duties of office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Sanford and statutes of the State of Maine, and will faithfully discharge the duties of the office of \_\_\_\_\_."

**Section 1402. Severability**

The provisions of the Charter are severable. If any provision of the Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the 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 and circumstances shall not be affected thereby.

**Section 1403. Specific Provisions Prevail**

To the extent that any specific provisions of the Charter shall conflict with any provisions expressed in general terms, the specific provisions shall prevail.

**Section 1404. References to General Laws**

All references to the general laws contained in the Charter refer to the General Laws of the State of Maine, and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the Charter.

## **Section 1405. Computation of Time**

In computing time under the Charter, if seven (7) days or less, only business days not including Saturdays, Sundays or legal holidays shall be counted; if more than seven days, every day shall be counted.

## **Section 1406. Number and Gender**

Words importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and words importing the masculine gender shall include the feminine gender.

## **Section 1407. Rules and Regulations**

A copy of all Rules and Regulations adopted by any City agency shall be filed in the office of the City Clerk, and in the case of the School Department, the Superintendent's office, and made available for review by any person who requests such information.

## **Section 1408. Repealing Clause**

All acts and parts of acts of the private and special laws of Maine relating to the City of Sanford, inconsistent with the provisions of this Charter, are repealed.

## **Section 1409. Disclosure of Interest**

### **1409.1. Financial Interest**

A City Official, or employee who has a financial interest in any contract with the City or in the sale, purchase or lease of any land, material, supplies or services to or from the City, shall disclose the interest and abstain from negotiating, voting upon or otherwise participating in decisions involving such contract, sale, purchase or lease, unless the contract, lease or sale is awarded through a competitive bidding process. Similarly, a City Official who has a financial interest in any matter before the body, committee, subcommittee or commission of which they are a member, shall disclose the interest and abstain from voting on any matter involving the interest. A copy of the disclosure and the abstention shall be recorded with the City Clerk. A City Official, , or employee has a "financial interest" within the meaning of this section if the Official, Member or employee owns at least a ten percent interest in the business or economic entity or ten percent or more of the stock of the corporation involved in the pending transaction or matter.

## **1409.2. Relationship**

A City Official is disqualified in any quasi-judicial matter before the body, committee, subcommittee or commission of which the Official is a member, if the Official is related to any of the parties to within the sixth degree (second cousin). The City Official shall disclose the interest and abstain from voting unless all parties waive the disqualification in writing.

## **1409.3. Appearance of Conflict**

A City Official shall avoid the appearance of a conflict of interest, whether there is a technical conflict or not, by disclosure of the facts underlying the potential conflict and, where appropriate, by abstaining from voting on the matter. If, after disclosure, the City Official believes the interest will affect the Official's ability to make a fair and impartial decision faithful to the public interest, the City Official shall abstain from voting.

## **1409.4. Participation**

An abstaining City Official may but need not remain in the meeting room during debate or votes on that issue. An abstaining City Official who wishes to be heard on a matter may join other members of the public and speak as a member of the public during that portion of the meeting when the public is being heard. In no case shall an abstaining City Official participate in discussions or deliberations or otherwise act in an official capacity in the matter as to which the City Official has abstained.

## **1409.5. Judgment of Qualifications**

If there is any doubt as to whether a City Official has a conflict of interest in any matter, the Chair shall determine the qualification of the challenged member. The decision of the City Board, Committee or Commission shall be final.

## **Section 1410. Procedures of Multiple Member Bodies**

### **1410.1**

All multiple member bodies of the City, whether elected, appointed or otherwise constituted shall meet at such times and places within the City as they may, by their own rules, prescribe. Special meetings of any multiple-member body shall be held on the call of the respective chairperson or, by a majority of the members thereof by suitable written notice delivered to the residence or place of business of each member at least twenty-four (24) hours in advance of the same set. A notice of each meeting shall be posted at least forty-eight (48) hours in advance on the City Bulletin Board. The Press shall be notified of all meetings of multiple member bodies at least twenty-four (24) hours in advance of a scheduled meeting. All meetings of the multiple-

member bodies shall, at all times, be open to the public and to the Press, unless in executive session, and except as may otherwise be authorized by law. If above terms are not met, no official action can take place at said meeting. All Regular meetings of the City Council, School Committee, and Budget Committee shall be televised whenever feasible.

## **1410.2**

Each multiple member body shall determine its own rules and order of business unless otherwise provided by the Charter or by ordinance, and shall provide for keeping a journal of its proceedings. These rules and journals shall be public records kept available in a place convenient to the public at all reasonable times, and copies shall be kept available in the Library.

## **1410.3**

Except on procedural matters, all votes of all multiple-member bodies shall be taken by a show of hands, or roll call vote, the results of which shall be recorded in the minutes. Except as otherwise provided in this Charter or by ordinance, a majority of the multiple member body must vote in the affirmative for an action to pass.

## **1410.4**

A majority of the members of the multiple-member body shall constitute a quorum, but a smaller number may adjourn from time to time.

### **Section 1411. Short Title**

This Charter shall be known and may be cited as the "2012 Sanford City Charter." The Clerk shall cause it to be printed and made available to the public.

### **Section 1412. Charter Amendments**

Amendments, modifications and revisions to this Charter shall be made pursuant to the applicable provisions of Maine State Law.

### **Section 1413. Definitions**

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the Charter shall have the following meanings;

- a. Annual Election - The words "annual election" shall mean the election which shall take place on the first Tuesday following the first Monday of November of each year

- b. Charter - The word "Charter" shall mean this 2012 Sanford City Charter and any amendments made to it through any methods provided for in Maine State Law;
- c. City - The word "City" shall mean the City of Sanford.
- d. City Agency - The words "City agency" shall mean any board, commission, committee, department or office of the City government whether elected, appointed or otherwise constituted.
- e. City Bulletin Boards - The words "City Bulletin Boards" shall mean the bulletin boards on which official City notices are posted, including the City website.
- f. City Official - The words "City Official" shall mean any person, elected or appointed, serving on any body, committee, subcommittee or commission of the City of Sanford, who in the performance of his or her duties of office exercises some portion of the sovereign power of the City, whether great or small. A person may be a City Official whether or not he or she receives any compensation for his or her services.
- g. Cost Center – “Cost Center” means a distinct, identifiable department of the City whose manager(s) or department head(s) are responsible for all its associated costs and for ensuring adherence to its budget.
- h. Council - The word "Council" shall refer to the City Council of the City.
- i. Councilor - The word "Councilor" shall refer to a member of the City Council.
- j. Library - The word "Library" shall mean the Sanford Goodall Library and the Springvale Public Library and any branch or branches that may be established thereof.
- k. Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation within the City.
- l. Majority Vote - Unless otherwise stated in this Charter the words "majority vote" shall mean to all multiple member bodies, the affirmative vote of a majority of all its members shall be necessary to adopt any motion, order, appointment or approval to take any action not entirely procedural in nature.
- m. Manager - The word "Manager" shall refer to the City Manager appointed by the City Council of the City.
- n. Mayor-The word “Mayor” shall refer to the elected-at-large Mayor.

- o. Multiple Member Body - The words "multiple-member body" shall mean any official board, commission or committee consisting of two or more persons, whether elected or appointed.
- p. Municipal Budget Validation-“Municipal Budget Validation” shall mean the process by which the Voters approve or disapprove the City Council proposed municipal budget at a municipal election.
- q. School Budget Validation-“School Budget Validation” shall mean the process by which the Voters approve or disapprove the City Council proposed school budget at a municipal election.
- r. Voters - The word "voters" shall mean registered voters of the City.
- s. Ward - The word "ward" shall mean the areas into which the City is geographically divided for the equal apportionment of voters.

## **ARTICLE XV**

## **TRANSITIONAL PROVISIONS**

### **Section 1501. Ordinances consistent Continue in Force**

All ordinances of the City of Sanford in force at the time when this Charter takes effect, consistent with the provisions of this Charter, shall continue in force until amended or repealed.

### **Section 1502. Existing Contracts non Invalidated, Unless Inconsistent**

All rights, actions, proceedings, prosecutions, and contracts of the City or any of its departments, pending or unexecuted when this Charter goes into effect and consistent herewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

### **Section 1503. Continuance of Present Administrative Officials**

All persons holding City Office or employment at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance herewith for the performance of such duties or the discontinuance of such office or position. On the effective date of the 2012-Sanford City Charter, the Town Manager shall become the City Manager, pursuant to and for the term provided in the existing Town Manager's contract.

### **Section 1504. Expiration of Term of Present Elected Officials and Applicability**

The terms of the present elected City Council or School Committee members shall continue until the terms of their office expire. All provisions of this Charter, including the recall and

forfeiture of office provisions, shall apply to elected municipal or school officials, including those in office at the time of adoption of this Charter.

Upon approval of the 2012 Sanford City Charter any candidates on the 2012 ballot for the offices of Finance Committee and Town Meeting Member shall not take office in January 2013.

All elected Town Meeting members' terms shall expire on December 31, 2012.

### **Section 1505. First Election; Effective Date of 2012 Sanford City Charter**

Upon acceptance of this Charter by referendum vote in November 2012, this Charter shall become effective on January 1, 2013.

### **Section 1506. Recording**

Pursuant to State law, within three (3) days of the results of the election being declared, certified copies of this Charter are to be filed with the Secretary of State, the State Law and Reference Library and the Office of the City Clerk. Additionally certified copies shall be stored in the Library and the Office of the City Attorney. Electronic copies of the revised Charter shall also be kept in the City Clerk's office, the Library, the City Attorney's Office, and on the City of Sanford's web site. Electronic copies must be protected so that they may not be altered or change.