



Town of Cumberland

Council
Manager
Charter

**TOWN OF CUMBERLAND
COUNCIL MANAGER CHARTER
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TOWN OF CUMBERLAND
Council Manager Charter

ARTICLE I

Grant of Power to the Town

Section 1. Incorporation

The inhabitants of the Town of Cumberland, 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 Town of Cumberland.

Section 2. Powers and duties

The town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises of municipal corporations incorporated under the laws of the State of Maine. The town shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon the town as a municipal corporation or upon the inhabitants or municipal authorities thereof. The town may enact reasonable bylaws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and the laws of the State of Maine, and may impose penalties for the breach thereof, to be recovered for such uses as said bylaws, regulations or ordinances shall provide. The town may acquire property within or without its municipal boundaries for any town purpose, in fee simple or any lesser, interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, mortgage, hold, manage 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 town would have if the particular power were not mentioned. The charter shall be liberally construed in favor of the town to the end that the town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the town may assume pursuant to the Constitution and the laws of the State of Maine.

Section 3. Intergovernmental Relations

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil subdivisions or agencies thereof, or with the United States or any agency thereof.

ARTICLE II

Town Council

Section 1. Number, election term

The administration of all fiscal, prudential and municipal affairs of the town, with the government thereof, except the general management, care, conduct, and control of the schools of the town, and also except as otherwise provided by this charter, shall be vested in one body of seven members, which shall constitute and be

called the Town Council. All members of the Council shall be inhabitants of the town, and shall be sworn in the manner hereinafter prescribed. Each member of the Council shall be elected by the registered voters of the entire town. Four members shall be considered "at large" Councilors and shall be residents of any area of the town. Three members shall be considered "area" Councilors, and one "area" Councilor shall be a resident of each of the following areas of the town:

(a) Cumberland Foreside, Basket Island and Sturdivant Island, which shall consist of the area bounded on the south by the Atlantic Ocean, on the west by Falmouth, on the east by Yarmouth and on the north by the railroad now or formerly known as the Grand Trunk Railroad (railroad located between Middle Road and Route One);

(b) Cumberland Center, which shall consist of the area bounded on the south by the railroad now or formerly known as the Grand Trunk Railroad, on the west by Falmouth, on the east by Yarmouth and North Yarmouth, and on the north by a line bisecting the Bruce Hill Road and extended west to the Falmouth town line and east to the North Yarmouth town line;

(c) West Cumberland, which shall consist of the area bounded on the south by a line bisecting the Bruce Hill Road and extended west to the Falmouth town line and east to the North Yarmouth town line, on the west by Falmouth, on the north by Windham and Gray, and on the east by North Yarmouth.

Each member shall be elected for a term of three (3) years and until a successor is elected and qualified.

Section 2. Qualifications, vacancies

- (a) Councilors** shall be qualified voters of the town and must have been residents of the town for one year immediately prior to the time of election, and shall reside in the town during their term of office.
- (b) Holding other office:** Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Councilor shall hold other town elected office or employment, and no Councilor shall serve on a Council-appointed committee, except as an ex-officio member, during the term for which he or she was elected to the Council. No former Councilor shall hold any compensated appointed town office or employment until one year after the expiration of the term for which he or she was elected to the Council. With the exception of the Fire Chief and Rescue Chief, membership in the Cumberland Fire and Rescue Department, alone, shall not be grounds for disqualification from holding office as a Councilor.
- (c) Forfeiture of Office:** A Councilor shall forfeit office if he or she:
 - 1) Lacks at any time during his or her term of office any qualification the office prescribed by this charter or by law,
 - 2) Violates any express prohibition of this charter,
 - 3) Is convicted of a crime or offense which is reasonably related to an inability to serve as a Councilor; or
 - 4) Fails to attend three consecutive regular meetings of the Council without being excused by the Council.

An “area” Councilor shall forfeit office if he or she ceases to be a resident of the area of town which he or she was elected to represent.

- (d) **Vacancies:** The office of Councilor shall become vacant upon nonacceptance, resignation, abandonment, death, recall, or removal from office in any manner authorized by law, forfeiture of office, or permanent physical or mental disability causing inability to perform required duties after reasonable accommodation has been made by the town pursuant to state and federal law.
- (e) **Filling of Vacancies:** If a seat on the Town Council becomes vacant more than six (6) months prior to the next regular election, the Council shall call a special election to fill the unexpired term to be held within sixty (60) days from the date that the vacancy occurred. If a seat on the Council becomes vacant less than six (6) months prior to the next regular election, the Council shall, at its option, either:
 - 1) Call a special election to fill the unexpired term to be held within sixty (60) days from the date that the vacancy occurred; or
 - 2) Appoint a qualified voter of the town to serve as Councilor until the next regular election, at which time an election shall be held to fill the unexpired term; provided that the appointment must be made within sixty (60) days from the date that the vacancy occurred.

If a vacancy occurs in a seat previously held by an “area” Councilor, the person elected or appointed to fill the vacancy must be a resident of that same area.

Section 3. Enumeration of powers

Without limitation of the foregoing, the Council shall have power to:

- (a) Appoint the Manager for an initial term not to exceed three years, reappoint the Manager for additional terms not to exceed three years, and remove the Manager for cause by a majority of its members. At least thirty (30) days before such removal shall become effective, the Council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for the Manager’s removal. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing if one be requested, and after full consideration, the Council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the Council may suspend the Manager from duty, but the regular salary of the Manager shall continue to be paid to the Manager during the period of suspension. If removal is voted the Council shall cause to be paid to the Manager, forthwith, any unpaid balance of his salary for the next one calendar month. The Council shall review annually the performance of the Town Manager and present said review to the Town Manager in executive session.
- (b) Appoint the Town Attorney and the Town Auditor to serve at the will of the Council.

- (c) Appoint the Board of Assessment Review, the Board of Adjustment and Appeals, the Planning Board, the Personnel Appeals Board, and all statutory and advisory boards to serve such terms of office and subject to removal under such conditions as may be established by ordinance or statute.
- (d) Appoint the Town Assessor for an initial term not to exceed three years, reappoint the Assessor for additional terms not to exceed three years, and remove the Assessor by a majority of Council members.
- (e) Create, change, and abolish offices, departments and agencies, other than the offices, departments and agencies established by this charter. The Council may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency. The Council may, however, where not prohibited by law, vest in the Town Manager all or part of the duties of any office under this charter.
- (f) Make, alter and repeal ordinances, including the power to enact ordinances providing for the grant of licenses and permits for the conduct of any business, as set forth in the laws of the State of Maine, for such periods of time and in accordance with such rules and regulations not inconsistent with the law and upon payment by the licenses of such fees as the Council may establish in such ordinance.
- (g) Make investigations into the affairs of the town and the conduct of any town department, office or agency. For this purpose the Council shall enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths, the taking of testimony, and the compulsory production of evidence.
- (h) Adopt, modify and carry out plans proposed by the Planning Board.
- (i) Adopt the annual budget.
- (j) Provide for an annual audit.
- (k) Exercise all the legislative, financial, borrowing and other powers now or hereafter given by statute to inhabitants of towns acting town meeting; and also exercise all the powers now and hereafter given by statute to municipal officers of towns.
- (l) Establish the salaries of officials appointed by the Council, including the salary of the Town Manager.
- (m) Provide for necessary and actual expenses of the town officers and officials in the exercise of their official duties.

Section 4. Compensation

Councilors shall receive \$100.00 for each Council meeting attended, not to exceed in the aggregate \$2,000 per year in full for their services, and shall be paid quarterly. The Council Chairman shall receive \$2,400 per year. Such compensation shall be changed by ordinance, but no such ordinance increasing the salary of members of the Town Council shall take effect during the then current municipal year.

Section 5. Induction of Council into office

The Council shall meet at the municipal building on the first Monday following the regular town election, and at said meeting Councilors-elect shall be sworn to the faithful discharge of their duties by a Notary Public or by the Town Clerk.

Section 6. Council to judge qualifications of its members

The Council shall be the judge of the election and qualifications of its members and for such purposes shall have power to subpoena witnesses and require production of records. The Council shall also determine whether the office of Councilor has become vacant or has been forfeited as provided herein; provided however, that the Council shall conduct a public hearing and give notice and an opportunity to be heard prior to determining that a seat on the Council has become vacant or has been forfeited.

Section 7. Regular Meetings

The Council shall establish a regular place and time for holding its regular meetings, and shall meet regularly at least once a month. It shall also provide a method for calling special meetings. During each meeting there shall be opportunity for public discussion upon each item on the agenda. The agenda for each Council meeting shall be posted and distributed in such public places and private establishments as the Council shall determine.

Section 8. Rules of Procedure: Journal

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

Section 9. The Presiding Officer

The Council shall elect from among its members, officers of the town who shall have the titles of Chairman and Vice Chairman, each of whom shall serve at the pleasure of the Council. The Chairman shall preside at meetings of the Council, shall be entitled to vote on all questions and shall be recognized as head of the town government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no administrative duties. The Vice Chairman shall act as Chairman during the absence or disability of the Chairman.

Section 10. Quorum

A majority of the Council shall constitute a quorum for the transaction of business. At least four (4) votes shall be registered in favor of passage of any ordinance, order or resolution. A smaller number may adjourn from

time to time or may compel attendance of absent members by subpoena. 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 adjournment was taken.

Section 11. Ordinances in general

- (a) **Form:** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be “The Town of Cumberland hereby ordains...”. Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.
- (b) **Procedure:** A proposed ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Secretary to the Council shall distribute a copy to each Council member and to the Town Manager; shall file a reasonable number of copies in the office of the Clerk and such other public places as the Council may designate, and shall publish the same as defined in Section 11 (d) together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven (7) calendar days, or by such longer period as may be required by statute, and may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it; but if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure herein before required in the case of a newly introduced ordinance.
- (c) **Effective Date:** Except as otherwise provided in this Charter, every adopted ordinance shall become effective immediately when adopted or at such other date as established by the Town Council in its adoption.
- (d) **“Publish” Defined:** As used in this section, the term “publish” means to print in one or more newspapers of general circulation in the town:
 - 1) The ordinance or a brief summary thereof prepared by the Council Secretary,
 - 2) The places where copies of it have been filed and the times when they are available for public inspection, and
 - 3) The date, time and place of the public hearing.
- (e) **Emergency Ordinances:** To meet a public emergency affecting life, health, property or public peace, the Council may adopt one or more emergency ordinances. 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 the majority plus one member shall be required for adoption. After its adoption the ordinance shall be posted in three public places. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency notes shall stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

- (f) **Authentication and Recording:** All ordinances adopted by the Council shall be authenticated by the signature of the Secretary of the Council and recorded in full in a properly indexed book kept for that purpose.
- (g) **Codification:** At least every ten (10) years after adoption of this charter the Council shall provide for the preparation of a general codification of all ordinances. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose leaf form, together with this charter and any amendments thereto, and any pertinent provisions of the Constitution and the laws of the State of Maine as the Council may specify. Any codification ordinance may be published by title. This compilation shall be known and cited officially as the Cumberland Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.
- (h) **Printing of Ordinances:** The Council shall cause each ordinance, and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Cumberland Code and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Maine, or other rules and regulations included in the code.

Section 12. Council Secretary

The Town Manager shall appoint a Council Secretary who shall serve as the recorder of the Council meetings and keep record of all Council proceedings.

Section 13. Independent annual audit

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

ARTICLE III

Town Manager

Section 1. Town Manager, qualifications

The Town Manager shall be chosen by the Council solely on the basis of character and executive and administrative qualifications with special reference to actual experience in, or knowledge of accepted practice in respect to the duties of the office as hereinafter set forth. At the time of appointment, the Manager need not be a resident of the town or state. The Manager may reside outside the Town of Cumberland while in office only with the approval of the Town Council.

Section 2. Town Manager, restrictions

No Councilor shall receive appointment to the office of Town Manager during the term for which he or she shall have been elected, not within one (1) year after the expiration of his or her term, nor shall any member of the Council act in that capacity. The Town Manager shall give bond for the faithful discharge of all duties to the Town of Cumberland in surety or sureties to be approved by the Council. The premium on the bond shall be paid by the Town.

Section 3. Powers and Duties of Town Manager

The Town Manager shall be the chief administrative officer of the town, and shall be responsible to the Council for the direction and administration of all town affairs and of all departments. The Manager shall have the following powers and shall perform the following duties:

- (a) Serve as Tax Collector, Town Treasurer, Overseer of the Poor, and Road Commissioner, and shall have and exercise all powers and perform all the duties conferred or imposed by law upon said respective officers.
- (b) Appoint and remove pursuant to the laws of the State of Maine or town ordinance the Town Clerk and department heads. The Manager shall appoint all other town employees, but may authorize a department head to appoint or remove subordinates in such department or office except as may otherwise be required by statute, by this charter, or by the personnel ordinance adopted by the Council.
- (c) Review the performance of the Town Clerk and department heads on an annual basis, and summarize the results of such reviews with the Town Council in executive session, within such restrictions or limitations as may be imposed by the laws of the State of Maine.
- (d) Perform all responsibilities assigned pursuant to the personnel ordinance adopted by the Council.
- (e) Establish initial salaries of appointees of the Manager, provided that such salaries shall not exceed the budgeted amount on a pro-rated basis.
- (f) Attend all public meetings and executive sessions of the Town Council, except when the annual evaluation of the Manager is being discussed or prepared. The Manager shall have the right to take part in discussions but may not vote.
- (g) Ensure that all laws and provisions of this charter and all acts and resolutions of the Council, subject to enforcement by the Manager or by department heads or town employees subject to the Manager's direction and supervision, are faithfully executed.
- (h) Prepare and submit the annual budget and capital program to the Council.
- (i) Submit to the Council and make available to the public a complete report on the finances and administrative activities of the town within one hundred twenty (120) days after the end of each fiscal year.
- (j) Prepare and submit to the Council such reports and perform such duties as the Council may require and make such recommendations to the Council concerning the affairs of the town as are deemed desirable.
- (k) Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative, and governmental practices.
- (l) Act as purchasing agent for all departments of the town and submit to competitive bids any transaction involving \$50,000 (fifty thousand dollars) or more except by order of the Council.

Section 4. Vacancy in office of Town Manager

During any vacancy in the office of Town Manager, and during the absence or disability of the Town Manager, the Council shall designate a properly qualified person, not a member of the Council, to perform the duties of Manager and fix compensation. The acting Town Manager shall have the same powers and duties as those given to and imposed on the Town Manager. Before entering duties, the acting Town Manager shall give bond to the Town of Cumberland in a sum and with surety or sureties to be approved by the Council. The premium on said bond shall be paid by the town.

ARTICLE IV

Personnel Management

Section 1. Personnel Ordinance

Within ninety (90) days after the effective date of this charter, the Town Council shall enact a personnel ordinance setting forth standards of conduct and performance for town employees, establishing generally recognized principles of progressive discipline, and establishing a procedure for appeals from disciplinary action. The Council shall thereafter review the personnel ordinance annually.

Section 2. Duties of Town Manager

The Town Manager shall be responsible for the administration of the town's personnel program, and shall perform all duties assigned pursuant to the personnel ordinance. The Manager shall update and review the personnel ordinance, and shall submit recommendations to the Council for its annual review of the ordinance.

Section 3. Personnel Appeals Board

There shall be a Personnel Appeals Board consisting of five members appointed by the Council from among qualified voters of the town. The members shall serve such terms of office as may be established by the personnel ordinance. The personnel ordinance may provide for alternate and replacement members. The Personnel Appeals Board shall hear appeals brought by any department head or employee of the town as the result of disciplinary action consisting of termination or suspension without pay for more than five days.

Section 4. Town Council: Appointments

A majority of the Town Council must approve the initial appointment of all department heads when recommended for employment by the Town Manager. Except as specified above, the Council shall not otherwise participate in appointments, and neither the Council nor any of its members shall direct or request the appointment of any person to office by the Manager.

Section 5. Town Council: Discipline and Removals

The Council shall not participate in discipline and removals, and Council approval shall not be required for discipline and removals. Neither the Council nor any of its members shall direct or request that disciplinary action or proceedings for removal be undertaken against a department head or employee of the town.

Section 6. Town Council: Relations with Employees

Except for purpose of inquiry, the Council and its members shall deal with department heads and town employees solely through the Manager. Neither the Council nor any of its members shall give orders to any subordinates of the Manager either publicly or privately.

ARTICLE V

School Administrative District

Section 1. The management of public schools

The management of the public schools of the Town of Cumberland shall be vested in School Administrative District No. 51, in accordance with the laws of the State of Maine.

Section 2. Qualifications for the Board of School Directors

The members of the Board of School Directors of School Administrative District No. 51, representing the Town of Cumberland, shall be qualified voters of the town and must have been residents of the town for one (1) year immediately prior to the time of election, and shall reside in the town during their term of office. They shall hold no other elected office under the town charter or ordinances.

Section 3. Filling of Vacancies

If a seat representing the Town of Cumberland on the Board of School Directors becomes vacant, the Town Council shall appoint an interim director to fill the vacancy until the next regular election. The interim director shall serve until a successor is elected and qualified.

Section 4. Term of Office

The term of office for members of the School Board of Directors representing the Town of Cumberland shall begin on the first day of July following the annual municipal election.

ARTICLE VI

Budget

Section 1. Fiscal Year

The fiscal year of the Town of Cumberland shall be determined by the Council.

Section 2. Preparation and submission of the budget

The Town Manager, at least thirty five (35) days prior to the beginning of each budget year, shall submit to the Council a budget and an explanatory budget message. The budget authority of the Council shall be limited to the final determination of the total appropriation to be made to each of the several offices, departments and agencies of the town.

This budget shall contain:

- (a) Exact statement of the financial condition of the town;
- (b) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (c) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable and the proposed method of financing each such capital expenditure;
- (d) An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.
- (e) The Town budget shall include an appropriation in the amount of all principal and interest that is scheduled to become due and payable during the ensuing fiscal year on any general obligation bonds and notes, other than (i) bond anticipation notes; (ii) bonds which the town Council has ordered to be refunded, and (iii) principal and interest payments on bonds already funded by the Town such as by sinking fund payments, debt service reserve funds or otherwise.
- (f) Such other information as may be required by the Council.

Section 3. Capital Program

- (a) **Submission to the Council.** The Manager with the assistance of the Planning Board shall prepare and submit to the Council a five-year Capital Program at least three months prior to the final date for submission of the budget.
- (b) **Contents.** The Capital Program shall include:
 1. A clear general summary of its contents;
 2. A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 3. Cost estimates, method of financing and recommended time schedules for each improvement;
and

4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 4. Approval

The proposed budget prepared by the Manager shall be reviewed by the Council, which shall approve the budget with or without amendments. A general summary of the Town Budget as approved by the Council shall be printed and distributed and the Council shall fix the time and place for holding a public hearing on the budget, and shall give a public notice of such hearing as provided in this charter. The Council shall then review the budget and adopt the same, with amendments, if any, no later than sixty (60) days from the beginning of the fiscal year.

Section 5. Budget establishes appropriations

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

Section 6. Budget establishes amount to be raised by property tax: certification to Town Assessor

From the date of adoption of the budget, the amounts stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the levy for the purposes of the town in the corresponding fiscal year. A copy of the budget as finally adopted shall be certified by the Manager and filed by him with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding fiscal year.

Section 7. Expenditures and departmental revenue

The budget for all departments shall include all proposed expenditures; and the Council shall make a gross appropriation for each department for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded except by consent of the Council.

Section 8. Transfers of appropriations

At the request of the Town Manager and within the last three (3) months of the budget year, the Council may by resolution transfer any unencumbered appropriations, balance or portion thereof between general classification of expenditures within a department. Following the close of the fiscal year the Council may also continue unexpended balances in capital accounts and prepaid items.

Section 9. Interim expenditures

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

Section 10. Work program: allotments

Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Manager a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in 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 11. Amendments after adoption

- (a) **Supplemental Appropriations.** If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council may make supplemental appropriations for the year up to the amount of such excesses.
- (b) **Emergency Appropriations.** To meet public emergency affecting life, health, property, or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available un-appropriated funds to meet such appropriations, the Council may by emergency ordinance authorize the issuance of temporary notes, which may be renewed from time to time, but the temporary notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

ARTICLE VII

Tax Assessment and Review

Section 1. Assessor

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

Section 2. Board of Assessment Review: appointments: vacancies

There shall be a Board of Assessment Review to consist of three (3) members, who shall be appointed by the Council for a term of three (3) years. Members may be removed for cause after hearing by the Council. Vacancies in the membership of the Board shall be filled by appointment by the Council for the unexpired term. The Board shall perform such duties and responsibilities as may be specified by the laws of the State of Maine or by town ordinances.

ARTICLE VIII

Nominations and Elections

Section 1. Municipal elections

The regular election for the choice of members of the Council and representatives to the Board of School Directors shall be held on the second Tuesday of June. Special elections for vacancies on the Town Council shall be held in accordance with Article II, Section 2 (e) of this charter. All regular and special elections shall be conducted on a nonpartisan basis and without party designations on the election ballot.

Section 2. Nomination

Any qualified voter of the town may be nominated for the Council or as a representative to the Board of School Directors, by the use of nomination papers in accordance with the laws of the State of Maine, subject to the provisions of Article II and Article V of this charter.

Section 3. Conduct of municipal elections

The provisions of the laws of the State of Maine relating to the qualifications of voters, the registration of voters, the nomination for any office, the manner of voting, the duties of election officers and all other particulars relative to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this charter.

Section 4. Voting places

The voting places for municipal elections shall be those, which have been or may hereafter be established for state elections.

ARTICLE IX

The Town Meeting

Section 1. Annual meeting There shall be no town meeting.

ARTICLE X

Initiative, Referendum and Recall

Section 1. Petition for overrule of action of Council

The following shall be subject to overrule by referendum as follows:

- (a) All Ordinances;

- (b) Orders or resolves appropriating \$100,000 or more for a single capital improvement or expenditure;
- (c) Orders or resolves authorizing bond issues of \$100,000 or more for capital improvements or expenditures.

If within thirty (30) days after the enactment of any such ordinance, order or resolve, a petition signed by not less than 10% of the registered voters of the Town of Cumberland is filed with the Town Clerk requesting its reference to a referendum, the Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk, and shall within fourteen (14) days after said public hearing call a special town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Pending action by the voters of the town, the referred ordinance, order or resolve shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said questions. The question for any overrule referendum shall be phrased in such a manner that a “yes” vote would support the Council’s action and a “no” vote would overrule it.

These provisions shall apply whether or not payment for a capital improvement or a single expenditure is to be made in more than one fiscal year.

Section 2. Petition for enactment of ordinances

No less than 10% of the registered voters of the town may at any time petition for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk, and shall within (30) days after said public hearing call a special town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call for said town election, such ordinance shall be enacted by the Council. Such ordinance shall take effect on the tenth (10th) day after the conclusion of such referendum, provided a majority of these voting thereon shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to ensure accuracy in its text and references and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

Section 3. Form of ballot for initiative or referendum

The form of the ballot for the proposed ordinance, or repeal of such ordinance, order or resolve, shall be substantially as follows:

“Shall the proposed ordinance, order or resolve be adopted?”

YES

NO

OR

YES ← → NO ← →

(The voters shall indicate their options by a cross or check mark placed in the box under the words “YES” or “NO”, or by completing the arrow next to the words “YES” or “NO”.)

Section 4. Council not to reenact or reject

The Council shall not reenact ordinances, orders, resolves rejected by voters at referendum elections for a period of at least one (1) year. The Council shall not modify or abolish ordinances adopted by voters at initiative elections for a period of at least one (1) year.

Section 5. Recall

Upon written request from one or more qualified voters of the town, the Town Clerk shall issue appropriate petition blanks for the commencement of proceedings to recall a Town Councilor or a member of the Board of School Directors of School Administrative District #51 representing the Town of Cumberland, or any other elected town official. All copies of the petition shall contain the name of the person or persons who obtained the petition. Each petition shall be limited to the recall of a single individual.

Any petition issued by the Clerk must be returned and filed with the Clerk no later than thirty (30) days from the date of issuance. The petition shall be signed in the presence of the Clerk by the individual or individuals who requested the petition. Within ten (10) days after the circulation period ends, the Clerk shall certify to the Council whether the petition has been signed by not less than twenty percent (20%) of the registered voters of the town. Should less than twenty percent (20%) of the registered voters of the town sign the petition, the petition shall have no further force or effect, and no new petition for the recall of the same individual can be initiated until one hundred eighty (180) days from the filing of the previous petition.

Should twenty percent (20%) or more of the registered voters of the town sign the petition, the Council shall, upon receipt of certification, call a special election on the question of recall to be held within thirty (30) days of the certification. The Council or member of the Board of School Directors shall be recalled when a majority of those voting thereon have voted in the affirmative. Any Councilor or member of the Board of School Directors against whom the recall proceedings have been initiated may continue to hold office until recalled. A recalled Councilor or member of the Board of School Directors may not be appointed to serve the balance of the unexpired term, and may not run as a candidate in a special or regular election to fill the balance of the unexpired term. A recalled Councilor or member of the Board of School Directors may seek election to a full term to the same or any other office at any election after the date of recall.

Section 6. Form of ballot for recall

The form of the ballot in a recall election shall be substantially as follows:

“Shall (name of elected official) be recalled from (name of the position to which elected) to which he or she was elected?”

YES

NO

OR

YES



NO



(The voters shall indicate their options by a cross or check mark placed in the box under the words “YES” or “NO”, or by completing the arrow next to the words “YES” or “NO”.)

ARTICLE XI

General Provisions

Section 1. Repealing clause

All acts and parts of Acts of the private and special laws of Maine relating to the Town of Cumberland, inconsistent with the provisions of this charter, are repealed.

Section 2. Separability clause

If any portion of this charter shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

Section 3. Short title

This charter shall be known and may be cited as the “Council-Manager Charter of the Town of Cumberland”. The Clerk shall cause it to be printed and made available to the public promptly.

Section 4. Existing contracts not invalidated, unless inconsistent

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

Section 5. Rights and privileges preserved

Nothing within this charter, unless otherwise specifically provided, shall affect or impair the rights or privileges of persons who are town officers or employees at the time of its adoption. All department heads and town employees shall continue in office or position subject to the laws of the State of Maine, existing town ordinances, and personnel ordinance to be adopted pursuant to Article IV, Section 1 of this charter.

Section 6. Oath of Office

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

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

Section 7. Ordinances not inconsistent continue in force

All ordinances of the Town of Cumberland in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Revised/adopted 11/07/95 – Effective – January 1, 1996

Amended 11/06/06 – Article II, Section 1 – Number, election term, Effective July 1, 2007

Article II, Section 4 – Compensation, Effective January 1, 2007

Article III, Section 3 – Powers and duties of Town Manager, Effective January 1, 2007

Article VI, Section 2 – Preparation and submission of the budget, Effective January 1, 2007