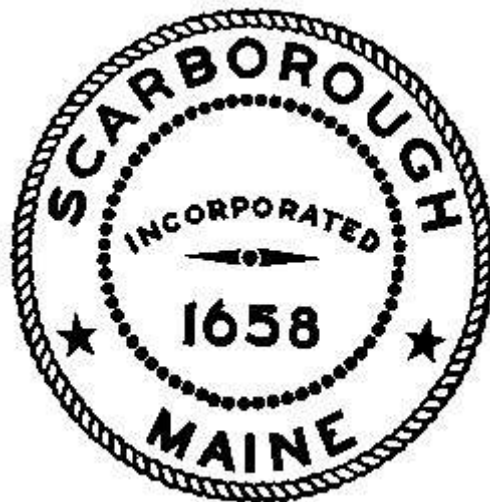


# TOWN OF SCARBOROUGH, MAINE

## Chapter 200

### Charter of the Town of Scarborough



Adopted November 3, 1992 - Effective Date July 1, 1993 (unless otherwise noted)

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# Town of Scarborough

## Chapter 201 - Charter

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# **COUNCIL-MANAGER CHARTER OF THE TOWN OF SCARBOROUGH**

## **ARTICLE I - GRANT OF POWERS TO THE TOWN**

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

The inhabitants of the Town of Scarborough 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 Town of Scarborough.

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

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

102.1 The Town may acquire property within or without its corporate limits 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.

102.2 In this Charter, mention of a particular power shall not 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 interpreted to mean 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 state laws and to the provisions of the State Constitution.

## **ARTICLE II - TOWN COUNCIL**

### **Section. 201. Number, Election, Term.**

The Town Council shall be composed of seven (7) members who shall be nominated and elected by the registered voters of the entire Town according to the provisions of this Charter for a term of three (3) years and who shall serve until their successors are elected and qualified.

### **Section. 202. Qualifications and Vacancies.**

Members of the Town Council shall be registered voters of the Town and shall reside in the Town during their term of office. During their term of office, members of the Town Council shall not hold any other compensated Town office or Town employment, except as on-call emergency personnel. No member of the Town Council shall serve as a trustee of the Scarborough Sanitary District. If a member of the Town Council is recalled, or shall cease to possess any of these qualifications or shall be finally convicted of a crime punishable by imprisonment for more than six months, the office shall immediately become vacant. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]

### **Section. 203. Powers and Duties.**

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

### **Section. 204. Enumeration of Powers.**

204.1 Appoint and remove the Town Manager, Assessor and Town Attorney and appoint and remove members of the Board of Assessment Review, the Board of Appeals and the Planning Board, and all statutory or advisory boards. Except where prohibited by law, the Town Council shall provide for at least two (2) alternate members for each appointed board of the Town. Alternate members shall serve in the absence of regular members and shall be given preference to fill vacancies.

204.1.1 The Town Council may remove any board appointee and appoint a successor for the unexpired term of any member who fails to attend four (4) consecutive regular meetings or who fails to attend seventy-five percent (75%) of all meetings during the preceding twelve (12) month period. The Town Council may waive attendance provisions for due cause.

204.2 By ordinance, create, change and abolish offices, departments or agencies, other than the offices, departments, and agencies established by this Charter. The Town Council, by ordinance, may assign additional functions or duties to offices, 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 Town Council may, however, vest in the Town Manager all or part of the duties of any office, except the Department of Education.

204.3 Enact, amend, and repeal ordinances.

204.4 Inquire into the conduct of any office, department, or agency of the Town and make investigation as to municipal affairs.

204.5 Perform an annual performance review of the Town Manager within sixty (60) days following the first day of each new Municipal Year. (amended November 7, 2000; effective January 1, 2001).

204.6 Provide for an annual audit as defined in Section 215 of this Charter.

204.7 Act as the general legislative body of the Town with all the powers of a Town meeting, including any power heretofore vested in a Town meeting.

### **Section. 205. Compensation.**

205.1 Members of the Town Council shall receive \$1,500 per year for their services, except the Chair who shall receive \$1,750 per year, and their compensation shall be paid quarterly. Such compensation may be changed by ordinance, but no ordinance increasing the compensation of members of the Town Council shall take effect during the then current municipal year.

205.2 The Town Council by order shall fix the salaries of officials appointed by the Town Council.

205.3 Salaries of the appointees of the Town Manager shall be fixed by the Town Manager.

**Section. 206. Induction of Council into Office.**

Councilors elect shall be sworn to the faithful discharge of their duties by the Town Clerk or the Town Clerk's designee and shall assume their duties at the commencement of the second meeting (2<sup>nd</sup>), whether regular, special, or emergency, of the Town Council following the regular Town election. (amended November 7, 2000; effective January 1, 2001).

**Section. 207. Town Council to Judge Qualifications of its Members.**

The Town Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require production of records.

**Section. 208. Regular Meetings.**

The Town Council shall establish a regular place and time for regular meetings at least once a month. It shall also provide a method for calling special meetings.

**Section. 209. Chair.**

209.1 After Councilors elect have been sworn in under Section 206, the Town Council shall elect, by majority vote of the entire Town Council, one of its members for the ensuing year as chair. The Town Council may fill, for an unexpired term, any vacancy in the office of chair that may occur. The chair shall preside at the meetings of the Town Council, and shall be recognized as head of the Town government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties.

209.2 After election of the chair under Section 209.1, the Town Council shall elect, by majority vote of the entire Town Council, one of its members for the ensuing year as vice-chair. The Town Council may fill, for an unexpired term, any vacancy in the office of vice-chair that may occur. In the temporary absence or disability of the chair, the vice-chair shall exercise all the powers of chair during such temporary absence or disability. In the temporary absence or disability of both the chair and the vice-chair, the Town Council may elect a chair pro tempore from among its members, who shall exercise all the powers of the chair during such temporary absence or disability.

**Section. 210. Quorum and Vote.**

A majority of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. 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 ordinance, order, and resolve shall require on final passage the affirmative vote of four (4) members of the Town Council.

**Section. 211. Vacancies.**

If a seat on the Town Council becomes vacant more than six (6) months prior to the next regular Town election, the vacancy shall be filled for the unexpired term by a special election held within sixty (60) days from the date the vacancy occurred. If a seat on the Town Council becomes vacant within six (6)

months prior to the next regular Town election, the vacancy may, at the option of the Town Council, be filled for the unexpired term by a special election however, no election shall be held within sixty (60) days prior to the date of the regular election.

**Section. 212. Rules of Procedure; Journal.**

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

**Section. 213. Public Hearings on Ordinances.**

Prior to the enactment of any ordinance, the Town Council shall hold at least one (1) public hearing, notice of which shall be given at least seven (7) days in advance by publication in a newspaper having a circulation in said Town and by posting notice in a public place. However, nothing contained herein shall be deemed to require publication of the ordinance itself. The passage of said ordinance shall be effective at 12:00 A.M. on the day following enactment or at such other date specified therein.

213.1 Emergency Ordinances.

The Town Council may, by vote of five (5) of its members, pass emergency ordinances, to take effect at the time indicated therein. Such ordinance shall contain a section in which the emergency is set forth and defined, but the declaration of such emergency by the Town Council shall be conclusive. No public hearing or notice thereof shall be required prior to the passage of an emergency ordinance. Every emergency ordinance shall automatically stand repealed as of the ninety-first (91<sup>st</sup>) day following the date on which it was adopted; however, this shall not prevent one (1) re-enactment of the ordinance in the manner specified in this section if the emergency ordinance 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 ordinance.

**Section. 214. Town Clerk.**

The Town Clerk shall be appointed by the Town Manager and confirmed by the Town Council. The Town Clerk shall act as Clerk of the Town Council and shall keep a public record of all proceedings of the Town Council, including all roll-call votes.

**Section. 215. Independent Annual Audit.**

215.1 Prior to the end of each fiscal year, the Town Council shall designate the appropriate agency of the State of Maine 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 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 the Department of Finance and any separate or subordinate accounts kept by any other office, department, or agency of the Town government. The audit shall be completed and delivered to the Town Council not later than December 30<sup>th</sup> following the end of the municipal year of the subject audit. The Town Council shall present an overview of the findings of the audit at the next regular meeting of the Town Council following receipt of the audit. (amended November 7, 2000; effective January 1, 2001) (amended November 2, 2004; effective December 1, 2004).

215.2 Not later than the first regular Town Council meeting in February, the Town Manager and the Superintendent of Schools, through the Board of Education shall present an “Audit Action Plan” with remedies as appropriate, to the Town Council for review and approval. (amended November 7, 2000; effective January 1, 2001)(amended November 2, 2004; effective December 1, 2004).

## **ARTICLE III - TOWN MANAGER**

### **Section. 301. Qualifications.**

The Town Manager shall be chosen by the Town 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. The Town Manager may be appointed for an indefinite term or, by contract, for a definite term. At the time of initial appointment, the Town Manager need not be a resident of the Town or state but, after one year following the date of initial appointment, the Town Manager shall not reside outside of the Town of Scarborough, Maine without the approval of the Town Council. No member of the Town Council shall be appointed Town Manager during a term of office, nor within one (1) year after the expiration of a term, nor shall any member of the Town Council act in that capacity.

### **Section. 302. Removal of Town Manager.**

The Town Manager may be removed for cause by the Town Council in accordance with the method and procedure set forth in the general laws of Maine.

### **Section. 303. Town Manager, Chief Administrator.**

The Town Manager shall be the chief administrative officer and the head of the administrative branch of the Town government, and shall be responsible to the Town Council, for the proper administration of all affairs of the Town. The Town Manager shall have the power and shall be required to:

- 303.1 Appoint all statutory officers required by law to be appointed, provided, however; that appointments to the head of any office, department or agency shall require prior confirmation by the Town Council.
- 303.2 Appoint, prescribe the duties of, and remove all officers and employees of the Town appointed by the Town Manager, except as otherwise provided herein, and except as the Town Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office.
- 303.3 Prepare an annual budget, submit it to the Town Council and be responsible for its administration after adoption and keep the Town Council advised of the financial condition and future needs of the Town and make recommendations.
- 303.4 Prepare and submit to the Town Council as of the end of the fiscal year, a complete report on the finances and administrative activities of the Town for the preceding year, and cause such annual Town report to be published and made available to the public as promptly as possible after the close of the fiscal year.
- 303.5 Attend the meetings of the Town Council, except when removal of the Town Manager is being considered.
- 303.6 See that all laws and ordinances governing the Town are faithfully administered.



- 303.7 Oversee purchasing for all departments of the Town, except the School Department.
- 303.8 Perform such other duties as may be prescribed by this Charter or required by the Town Council not inconsistent with this Charter.
- 303.9 Prepare an administrative code, submit it to the Town Council and be responsible for its administration after adoption.

**Section. 304. Town Council Not to Interfere in Appointments or Removals.**

Neither the Town Council nor any of its members shall direct or request the appointment of any person to or removal from office by the Town Manager or by any subordinate of the Town Manager. Except for the purpose of inquiry, the Town Council and its members shall deal with the administrative service solely through the Town Manager, and neither the Town Council nor any member thereof shall give orders to any subordinates of the Town Manager, either publicly or privately.

**Section. 305. Absence of Town Manager.**

The Town Manager may, with the consent of the Town Council, designate by letter filed with the Town Clerk, a qualified administrative officer of the Town to perform the duties of the Town Manager during temporary absence or disability. In the event of failure of the Town Manager to make such designation, the Town Council may by resolution appoint any administrative officer of the Town to perform the duties of the Town Manager until the Town Manager returns or the disability ceases.

**Section. 306. Appointees.**

All appointees of the Town Manager shall serve at the will and pleasure of the Town Manager.

**ARTICLE IV - DEPARTMENT OF EDUCATION**

**Section. 401. Board of Education.**

The Department of Education shall be administered by a Board of Education, which shall consist of seven (7) members who shall be nominated and elected by the registered voters of the entire Town according to the provision of this Charter for a term of three (3) years and who shall serve until their successors are elected and qualified.

**Section. 402. Qualifications.**

Members of the Board of Education shall be registered voters of the Town and shall reside in the Town during their term of office. No member of the Board of Education shall serve as a Trustee of the Scarborough Sanitary District. During their term of office, members of the Board of Education shall not hold any other compensated Town office or Town employment, except as on-call emergency personnel. If a member of the Board of Education is recalled or shall cease to possess any of these qualifications or shall be finally convicted of a crime punishable by imprisonment for more than six months, the office shall immediately become vacant. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]

**Section. 403. Vacancies.**

If a seat on the Board of Education becomes vacant more than six (6) months prior to the next regular Town election, the vacancy shall be filled for the unexpired term by a special election held within sixty

(60) days from the date the vacancy occurred. If a seat on the Board of Education becomes vacant within six (6) months prior to the next regular Town election, the vacancy may, at the option of the Board of Education, be filled for the unexpired term by a special election however, no election shall be held within sixty (60) days prior to the date of the regular election.

**Section. 404. Organization, Qualifications, Quorum.**

The members of the Board of Education shall be sworn in by the Town Clerk or the Town Clerk's designee upon certification of the election by the Town Council and seated at the first Board of Education meeting after certification. The majority of the whole number of the Board of Education shall be a quorum and they shall elect their own chair. Every vote of the Board shall require the affirmative vote of at least four members. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]

**Section. 405. Powers and Duties.**

The Board of Education shall have all the powers, and perform all the duties in regard to the care and management of the public schools of the Town, which are now conferred and imposed upon School Committees by the general laws of the State, except as otherwise provided in this Charter. At least seventy (70) days prior to the beginning of the fiscal year, the Board of Education shall submit to the Town Council budget estimates of the various sums required for the support of public schools for the ensuing fiscal year. The Town Council shall review the proposed budget and make appropriations for the support of public schools in accordance with the provisions of the general laws of the State and this Charter.

**Section. 406. Compensation.**

Members of the Board of Education shall receive one thousand five hundred dollars (\$1,500) per year for their services, except the Chair who shall receive one thousand seven hundred and fifty dollars (\$1,750), and their compensation shall be paid quarterly. Such compensation may be changed by ordinance, but no ordinance increasing the compensation of members of the Board of Education shall take effect during the then current municipal year.

**ARTICLE V - BUDGET**

**Section. 501. Fiscal Year.**

The municipal fiscal year of the Town shall be established from time to time by order adopted by the Town Council. Such municipal fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the municipal fiscal year for which any particular budget is adopted and in which it is administered.

**Section. 502. Preparation and Submission of the Budget.**

502.1 At least sixty (60) days prior to the beginning of each fiscal year, the Town Manager shall submit to the Town Council a budget and an explanatory budget message. The budget authority of the Town Council shall include the authorization to set line item appropriations for all offices, agencies and departments of the Town, with the exception of the Department of Education. The Town Council shall only have total appropriation authority for the Department of Education. This budget shall be compiled from detailed information

furnished by the administrative officers and boards in a format of which shall be designated by the Town Manager and shall contain:

- 502.1.1 An exact statement of the financial condition of the Town.
- 502.1.2 An itemized statement of appropriations recommended for current expenses, and for permanent improvements; with comparative statements in parallel columns of projected expenditures for the current year and actual expenditures for the most recent audited fiscal year. An increase or decrease in any item shall be indicated by dollar amount and percentage change.
- 502.1.3 An itemized statement of estimated revenue from all sources, other than taxation; and a statement of taxes required, comparative figures from current and preceding year.
- 502.1.4 Such other information as may be required by the Town Council. The proposed budget prepared by the Town Manager, as well as the school budget, shall be reviewed by the Town Council, which shall approve the total budget with or without amendments. The Town Council shall fix the time and place for holding a public hearing on such budget, and shall give public notice of such hearing.
- 502.1.5 At the head of the budget, there shall appear a summary of the budget, which need not be itemized, further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized by departments and kinds of expenditures in such manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.
- 502.1.6 The budget for all departments, including the Department of Education, shall include all proposed expenditures. The Town Council shall make appropriations for each department, including the Department of Education, for the ensuing fiscal year. The appropriation for each department shall not be exceeded except by consent of the Town Council, but the school budget shall be expended under the direction of the Board of Education subject to the provisions of Article IV and V hereof.
- 502.1.7 After the adoption and before the beginning of the budget year, the head of each office; department or agency shall submit to the Town Manager, upon request, 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 of the appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

### **Section. 503. Town Council Adoption of the Budget.**

The Town Council shall thereafter review the budget and adopt it with or without change no later than sixty (60) days from the date of its submission to the Town Council. In the event the Town Council shall fail to adopt the budget within said sixty (60) day period, the budget as presented by the Town

Manager and by the Board of Education shall automatically become the budget for the fiscal year or as otherwise provided by State law.

**Section. 504. Budget Established Appropriations.**

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

**Section. 505. Budget Establishes Amount to be Raised by Property Tax; Certification to Town Assessor.**

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

**Section. 506. Transfer of Appropriations.**

Following approval of the budget and at the request of the Town Manager, transfer of appropriations between offices, agencies or departments shall be presented by order to the Town Council in public session, and shall require approval of the majority of the Town Council. Adjustments to or transfers of appropriations within the Department of Education budget shall be determined by the policies of the Board of Education, but may not exceed the total appropriation authorized by the Town Council.

**ARTICLE VI - TAX ADMINISTRATION**

**Section. 601. Assessor.**

There shall be established a Department of Assessment, the head of which shall be the Town Assessor. The Assessor, acting under the administrative control of the Town Manager, shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several Towns and cities in the state may exercise, and may now, or hereafter be subject to, under the laws of the state.

**Section. 602. Board of Assessment Review: Appointments and Vacancies.**

There shall be a Board of Assessment Review consisting of five (5) regular members and two (2) alternate members who shall be appointed by the Town Council for a term of 3 years. Compensation, if any, to such members, shall be determined by the Town Council. Vacancies in the membership of such board shall be filled by appointment by the Town Council for the unexpired term.

**Section. 603. Board of Assessment Review: Powers, and Duties.**

The Board of Assessment Review shall:

- 603.1 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.
- 603.2 Have the power to administer oaths, take testimony, and hold hearings as may be required in carrying out its functions.

603.3 Adopt, subject to the approval of the Town Council, rules and regulations for the transaction of its business.

## **ARTICLE VII - MUNICIPAL DEVELOPMENT**

### **Section. 701. Planning Board.**

There shall be a Town Planning Board, which shall consist of five (5) regular members and two (2) alternate members appointed by the Town Council. The Planning Board shall act as the Town's primary municipal development review authority and shall have such powers and perform such duties as are provided by the ordinances of the Town and the general laws of the State of Maine. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]

### **Section. 702. Zoning Ordinance.**

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

### **Section. 703. Board of Appeals.**

There shall be a Board of Appeals, which shall consist of five (5) regular members and two (2) alternate members appointed by the Town Council. The Board shall have such powers, and duties as are provided by the ordinances of the Town and the general laws of the State of Maine. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]

### **Section 704. Long Range Planning Committee.**

There shall be a Long Range Planning Committee, which shall consist of five (5) regular members and two (2) alternate members appointed by the Town Council. The regular members and alternate members must be either residents of the Town or owners of real property situated within the Town. The Long Range Planning Committee shall be advisory and shall act as the primary committee to develop and recommend plans for the growth and development of the Town in accordance with the Comprehensive Plan, the ordinances of the Town and the general laws of the State of Maine. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]

## **ARTICLE VIII - NOMINATIONS AND ELECTIONS**

### **Section. 801. Municipal Elections.**

The regular election for the choice of members of the Town Council and the Board of Education shall be held on the first (1<sup>st</sup>) Tuesday following the first (1<sup>st</sup>) Monday in November. All elections shall be conducted on a nonpartisan basis and without party designation on the election ballot.

### **Section. 802. Nomination.**

Registered voters of the Town shall be nominated for the Town Council or the Board of Education only by the use of nomination papers in accordance with the laws of the State of Maine, except as otherwise provided in this Charter. For regular elections under Section 801 of this Charter, the Town Clerk shall make nomination papers available to prospective candidates no later than the first Wednesday in August prior to the election and nomination papers shall be filed with the Town Clerk no later than the first Wednesday in September prior to the election. For special elections to fill vacancies, the dates for availability and filing of nomination papers shall be as set forth in the laws of the State of Maine, except that the Town Council may, by order, modify such dates. (amended November 2, 2004; effective December 1, 2004).

**Section. 803. 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. 804. Voting Place.**

The voting places for municipal elections shall be those which have been or may hereafter be, established for state elections by the affirmative vote of the Town Council pursuant to state law.

**Section. 805. Election Officials.**

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

**Section. 806. Limitation of Terms of Office.**

Following the effective date of this Charter, the following elected and appointed officials shall serve for no more than three (3) consecutive full terms of office: members of the Town Council; members of the Board of Education; and full voting members of the Planning Board or the Board of Appeals.

**Section. 807. Rules and Procedures for Local Elections.**

The Town Council shall establish local rules and procedures for the administration of municipal elections. Said rules and procedures shall not be in conflict with State Statute. The Town Council shall certify the results of municipal elections.

**ARTICLE IX – REFERENDUM, INITIATIVE AND RECALL [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

**Section. 901. Petition for Overrule of Action by Town Council.**

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

- 901.1 All ordinances.
- 901.2 Orders or resolves appropriating one hundred thousand dollars (\$100,000) or more for a single capital improvement or capital equipment.
- 901.3 Orders or resolves authorizing bond issues of one hundred thousand dollars (\$100,000) or more for capital improvements or capital equipment.
- 901.4 Any order or resolve authorizing a conveyance of Town-owned real property, other than property acquired due to non-payment of taxes or assessments, if the value of the property listed in the Town Assessor’s records at the time of enactment of the order or resolve, exceeds \$400,000. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]
- 901.5 If within twenty (20) days after the enactment of any such ordinance, order or resolve, a petition complying with section 904, is filed with the Town Clerk requesting its reference to a referendum, The Town Clerk shall examine the petition pursuant to section 905 and, if the

Clerk determines that the petition is sufficient and has been signed by a number of registered voters of the Town equal to at least twenty-five (25%) of the number of votes cast in Scarborough in the last gubernatorial election, shall so certify to the Town Council in writing, and the Council shall thereafter submit the ordinance, order or resolve to the voters of the Town in accordance with section 906. Pending action by the voters of the Town, the referred ordinance, order or resolve shall not become effective until it has received a vote of the majority of the voters voting on said question. In the event that the total number of votes cast for and against the question is less than a number of registered voters equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, the action of the Town Council shall be deemed to be approved.

901.6 The ballot question for overrule of an ordinance, order or resolve under shall be substantially as follows:

“Shall the [ordinance] [order] [resolve] entitled “ \_\_\_\_\_ ” be approved?”

901.7 A petition under this Section 901 must be limited to a single ordinance, order or resolve. If more than one ordinance, order or resolve is sought to be overruled, a separate petition must be file for each.

**Section. 902. Petition for Enactment of Ordinance. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

902.1 A number of registered voters of the Town equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, may at any time petition for the enactment of any proposed lawful ordinance by filing such petition in compliance with Section 904, including the complete text and the title of such ordinance, with the Town Clerk. The Town Clerk shall examine the petition pursuant to section 905 and, if the Clerk determines that the petition is sufficient and contains the number of valid signatures required by this section, shall so certify to the Town Council in writing, and the Council shall thereafter submit the ordinance to the voters of the Town in accordance with Section 906. Such ordinance shall take effect on the tenth day (10<sup>th</sup>) after the conclusion of such referendum, provided a majority of those voting thereon shall have voted in the affirmative and provided that the total votes cast for and against the ordinance exceeds a number of registered voters of the Town equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election.

902.2 Any such proposed ordinance shall be examined by the Town Attorney before being submitted to the voters. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetition, illegalities and unconstitutional provisions and to assure accuracy in its text and references and clearness and preciseness in meaning and effect.

902.3 The ballot question for the proposed ordinance shall be substantially as follows:

“Shall the ordinance entitled “ \_\_\_\_\_ ” be adopted?”

902.4 A petition under this Section 902 must be limited to a single ordinance. If more than one ordinance is sought to be enacted, a separate petition must be filed for each.

**Section. 903. Petition for Recall of an Elected Official. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

- 903.1 Any 25 registered voters of the Town may initiate a petition to recall an elected official of the Town by filing with the Town Clerk an affidavit containing the names and addresses of the 25 voters signing the affidavit and designating the name and address of one such voter to receive notices from the Town. The affidavit must state the name of and the office held by the official sought to be recalled and must contain a statement of the reason or reasons for the proposed recall. Each of the 25 voters must sign the affidavit in the presence of a notary public or other person authorized to administer oaths under Maine law.
- 903.2 If more than one elected official is sought to be recalled, a separate affidavit must be filed regarding each. Only one official can be named on a recall petition.
- 903.3 Upon receipt of such affidavit, the Town Clerk shall promptly prepare and issue petition forms to the person designated to receive notices under Section 903.1. The petition forms prepared by the Clerk shall comply with the requirements of Section 904.
- 903.4 If, within 20 days after the date the Clerk issued the petition forms under Section 903.3, a petition is filed, the Clerk shall review the petition pursuant to Section 905, and if the Clerk determines that the petition is sufficient and contains the signatures of a number of registered voters of the Town equal to at least 25% of the number of votes cast in Scarborough in the last gubernatorial election, shall so certify to the Town Council in writing and give written notice of the certification to the official sought to be recalled.
- 903.5 Upon receipt of notice under Section 903.4, the official sought to be recalled may submit his or her resignation in writing to the Town Council or the Board of Education, as applicable, in which case the position shall become vacant as of the date of the written resignation and shall be filled pursuant to Section 211 or Section 403, as applicable.
- 903.6 If the official sought to be recalled does not resign from the office, the Town Council, upon receipt of the certification of the sufficiency of the petition from the Town Clerk, shall proceed to call and conduct a recall election in accordance with Section 906. At the public hearing required by Section 906.1, the official sought to be recalled shall have the right to be heard and the Town Council shall give the official a reasonable opportunity to respond to the reasons stated in the recall petition and to public comment. If the Town Council fails or refuses to order a recall election as required herein, the Town Clerk, or in the absence of the Town Clerk the Deputy Town Clerk, shall call the election.
- 903.7 The ballot question for a recall election shall be substantially as follows:  
“Shall [name of elected official] be recalled from the position of [name of position]?”  
If a majority of the voters voting in the recall election vote in the affirmative, the official shall be recalled, provided that the total number of votes cast for and against the question exceeds a number of registered voters of the Town equal to at least 30% of the number of votes cast in Scarborough in the last gubernatorial election.
- 903.8 An official sought to be recalled and who has not resigned under Section 903.5 shall continue to perform the duties of the office until the Town Council certifies the results of the recall election. If the official is recalled, the office shall become vacant immediately upon certification of the results of the election and shall be filled in accordance Section 211 or Section 403 of this Charter, as applicable.



**Section. 904. Petition Format and Procedures. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

- 904.1 Petitions under Sections 901, 902 and 903 must be on forms issued by the Town Clerk. Before issuing a petition form, the Clerk shall obtain from the person or persons requesting the form the name of one registered voter who intends to sign the petition and who will be the Designated Petitioner for the purpose of receiving notices from the Town regarding the petition.
- 904.2 A petition may be circulated in multiple petition forms issued by the Clerk, each of which must meet the following requirements:
- 904.2.1 Each petition must have on its face, at the top of the page, the applicable designation of the type of petition as either “Petition for Overrule of Town Council Action,” “Petition for Enactment of an Ordinance” or “Petition for Recall of an Elected Official.” A Petition for Overrule of Town Council Action must identify the ordinance, order or resolve sought to be overruled. A Petition for Enactment of an Ordinance must contain the title and complete text of the proposed ordinance. A Petition for Recall of an Elected Official must identify the name of the official, the office held by the official and the reasons for recall as stated in the affidavit of 25 voters under Section 903.1.
- 904.2.2 Each petition form must have spaces for each voter signing the petition to print the voter’s name, print the voter’s physical address, affix the voter’s signature and indicate the date signed.
- 904.2.3 Each petition form shall contain an affidavit to be executed by the circulator stating that the circulator personally circulated the petition form; that all signatures contained on the petition form were signed in the circulator’s presence; that the circulator believes them to be genuine signatures of the registered voters whose names they purport to be; and that each person signing the petition form had an opportunity to read the petition before signing. The affidavit of the circulator must be attested by a notary public or other person authorized under Maine law to administer oaths prior to the petition being filed in the Town Clerk’s office.
- 904.3 Petition forms may be circulated by any registered voter of the Town of Scarborough.
- 904.4 The petition forms must be filed in the office of the Town Clerk during the normal business hours of the Clerk’s office. In order to be accepted for filing, the petition forms must be assembled as one instrument and filed together at the same time. The Town Clerk shall make a notation on the first page of the petition of the date and time of the filing.
- 904.5 If there is a deadline for filing the petitions set forth in another section of this Charter and such deadline falls on a Saturday, Sunday or a holiday on which the Town Clerk’s office is closed, the deadline for filing the petition is extended to the next day during which the Town Clerk’s office is open for business.

**Section. 905. Review of Petitions by Town Clerk. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

- 905.1 Within 10 working days (days on which the Town Clerk’s office is open for business) after a petition has been filed under Section 904.4 above, the Town Clerk shall determine

whether the petition is in compliance with the requirements of Section 904 and whether the required number of valid signatures has been obtained. In making those determinations, the Clerk shall apply the following criteria:

905.1.1 If any individual petition form fails to comply with the requirements of Section 904, that particular petition form is invalid.

905.1.2 If the affidavit of the circulator on any individual petition form has been altered or tampered with in any way, that particular petition form is invalid.

905.1.3 If any voter has signed more than one petition form, that voter's name shall be counted only once.

905.2 If, after applying the above criteria, the Town Clerk determines that the petition does not contain the required number of valid signatures or is otherwise insufficient, the Clerk shall notify, in writing, the person identified as the Designated Petitioner under Section 904.1 that the petition is insufficient and may be amended within 5 working days (days when the Town Clerk's office is open for business) after the date of such notice by filing additional, supplementary petition forms, issued, circulated and filed in the same manner as the original petition. Upon timely receipt of supplementary petition forms, the Town Clerk shall review them in the same manner as the Clerk reviews an original petition. If the Clerk finds that the petition is still insufficient, the Clerk shall notify, in writing, the Town Council and the Designated Petitioner of that determination. That determination by the Clerk shall not prevent the filing of a new petition for the same purpose.

905.3 If the Clerk determines that the petition is sufficient and contains the required number of valid signatures of registered voters of the Town, the Clerk shall so certify in writing to the Town Council and to the Designated Petitioner.

**Section. 906. Submission to Voters. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

906.1 Upon receipt of the certification of sufficiency and validity from the Clerk under Section 905.3, the Town Council shall call a public hearing to be held within 30 days of the date of the Clerk's certification. Notice of the public hearing shall be given in the same fashion as notice of proposed ordinances under Section 213.

906.2 Within 30 days after the date of the public hearing, the Town Council shall call and hold a special Town election for the purpose of submitting the petitioned question to the voters. If the date of such special election would fall within the 30 days immediately prior to a regular or previously scheduled special election, the election for the consideration of the petitioned question shall be deferred until the date of such regular or previously scheduled special election.

906.3 The Town Council shall certify the results of an election under this Article in the same manner as the Council certifies results for other municipal elections.

**Section. 907. Voter Referendum Required for Certain Bond Issues. [Amended November 2, 2010 (as noted) – Effective January 1, 2011]**

907.1 The Town Council shall submit orders or resolves authorizing the issuance of general obligation securities of the Town, or the appropriation and expenditure of funds derived solely from municipal revenue sources, or a combination of both, in a principal amount

greater than \$400,000 for a single capital improvement or item of capital equipment to voter referendum subject to the following:

907.1.1 The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligation of the Town; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the Town for streets, sidewalks, or storm or sanitary sewers or other public utilities; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster, or other declared emergency. For purposes of this section, the Town Council may by vote of five (5) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the Town Council shall be conclusive. (amended November 5, 2002; effective November 20, 2002)

907.1.2 Any order or resolve described in subsection 907.1 of this section shall be approved by separate action of the Town Council.

907.1.3 No order or resolve described in subsection 907.1 of this section, not excepted by subsection 907.1.1, shall become effective until approved by a majority of voters voting at a regular or special municipal election. In the event that the total number of votes cast for and against the question for the referred order or resolve should be less than 25% of the number of votes cast in Scarborough in the last gubernatorial election, then such order or resolve shall be deemed to be approved and effective.

907.1.4 The ballot question for the referred order or resolve under Section 907 shall be substantially as follows:

“Shall the order or resolve entitled “ \_\_\_\_\_ ” be approved?”

## **ARTICLE X - GENERAL PROVISIONS**

### **Section. 1001. Oath of Office.**

All elected Town officials and all Town officials appointed by the Town Council under Section 204.1 of this Charter, 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 Scarborough and statutes of the State of Maine, and will faithfully discharge the duties of the office of \_\_\_\_\_”

### **Section. 1002. Summons Before Town Council.**

At the request of the Town Council, the Clerk of Courts of Cumberland County may issue summons for witnesses to attend and produce books, documents and papers at any meeting of the Town Council for the Town of Scarborough at which a hearing is held on any matter relating to the administration of any Town affairs, which summons shall be served as summons are required to be served in matters

before the Superior Court. On complaint of failure to obey the summons to any Justice of the Superior Court, which Justice is expressly given jurisdiction to hear such complaints, said Justice, if he/she finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or imprisonment for not more than thirty (30) days, or both fine and imprisonment. All rights of appeal as exist in the general laws of the State of Maine shall be available.

### **Section. 1003. Personnel Procedures.**

1003.1 The Town Manager may remove or suspend any officer or employee appointed by the Town Manager. In the case of an officer or employee whose appointment required confirmation by the Town Council under Section 303.1 above, removal by the Town Manager shall take effect upon ratification by the Town Council. Where the Town Manager has authorized the head of a department or office to appoint subordinates under Section 303.2, such department or office head may remove or suspend any such subordinate. The removal or suspension by the department or office head shall take effect upon ratification by the Town Manager. All removals or suspensions without pay shall be subject to appeal to the Personnel Appeals Board provided such officer or employee submits an appeal within ten (10) days of the effective date of such removal or suspension.

1003.2 There shall be a Personnel Appeals Board consisting of five (5) regular members and two (2) alternate members appointed by the Town Council from among the qualified voters of the Town for staggered terms of three (3) years. The majority of the whole number of the Personnel Appeals Board shall be a quorum, and every decision shall require the affirmative vote of at least three (3) members of the Board.

1003.3 The Personnel Appeals Board shall meet within ten (10) days from receipt of a notice of appeal for the initial consideration of the appeal. The Personnel Appeals Board shall issue its written decision within ten (10) days after the conclusion of the hearing on the appeal. Continuances may be granted by the Board for good cause shown. The Board may adopt, subject to the approval of the Town Council, rules and regulations for the transaction of its business.

1003.4 The Town Council shall enact a personnel ordinance setting forth standards of conduct for Town employees and establishing generally recognized principles of progressive discipline.

### **Section. 1004. Short Title.**

This Charter shall be known and may be cited as the “Council-Manager Charter of the Town of Scarborough.” The Town Clerk shall cause it to be printed and have copies available at the Town Office.

### **Section. 1005. Severability Clause.**

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

### **Section. 1006. Repealing Clause.**

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

**Section. 1007. Charter Amendments.**

Amendments to this Charter may be proposed and enacted in accordance with the general laws of the State of Maine.

**Section. 1008. Charter Review.**

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

**Section. 1009. Disclosure of Interest.**

1009.1 Any person, elected or appointed, serving on any body, committee, subcommittee or commission of the Town of Scarborough, whether advisory or otherwise, shall publicly disclose any relationship that may create a conflict of interest or the appearance of impropriety during the discussion or deliberation upon a matter before the body, committee, subcommittee or commission on which that person serves. State law regulating conflict of interest and appearance of impropriety shall be used as the basis to determine if a conflict or appearance of impropriety may exist.

1009.2 A person, acting in a legislative or judicial capacity, disclosing a potential conflict of interest shall recuse himself or herself from participating in the discussion or deliberations as is required by State Statute MRSA 30A, Section 2605, amended from time to time. A majority of the other members of the body, committee, subcommittee or commission on which that person serves may disqualify the person from the deliberation, may disqualify the person from deliberating and voting if, after hearing the disclosure and making appropriate inquiry, they determine the person should be disqualified from acting upon the matter because of conflict of interest or the appearance of impropriety.

**Section. 1010. Effective Date.**

Except as otherwise provided herein, this Charter shall become effective on July 1, 1993.