

# CITY CHARTER



# WATERVILLE, MAINE



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## **ARTICLE I.**

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

#### **Section 1. Incorporation.**

The inhabitants of the City of Waterville in the County of Kennebec, within the corporate limits as now established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Waterville, hereinafter also referred to as "City".

#### **Section 2. Form of government.**

It is recognized that there is a division of powers of the City between those of a policy and legislative nature and those powers which are exercised administratively.

The policy and legislative functions include the development and adoption of ordinances, orders and resolutions and the establishment of policy, the purpose of which is to determine a course of conduct for City government and to formulate rules of operation consistent therewith. Policy powers shall be exercised by the Mayor and City Council, and legislative powers shall be exercised by the City Council.

The administrative powers exist for the purpose of implementing the ordinances, orders, resolutions and policies adopted through the legislative process by the Mayor and City Council and managing the operations of City government in accordance therewith. The City Manager shall exercise these administrative powers.

Neither the Mayor, the City Council, nor any City Council member shall direct or request that the City Manager appoint or remove any person from any City office or in any manner take part in the appointment or removal of Department Directors and/or employees in the administrative service of the City, except as otherwise provided in this Charter.

Except for the purpose of inquiry, the Mayor, the City Council, and any member thereof shall deal with the administrative officers and employees of the City only through the City Manager. The Mayor, the City Council, and any member thereof are prohibited from giving orders to any subordinates of the City Manager, either publicly or privately.

#### **Section 3. General powers of City.**

The City shall have and exercise all powers, functions, rights and privileges possessed by the City of Waterville prior to the adoption of this Charter; also all powers, functions, rights and privileges granted to municipal corporations by the constitution and statutes of the State of Maine together with all the implied powers necessary to carry into execution all the powers granted; also, except as prohibited by the constitution or statutes of this State or restricted by this Charter, all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The City may acquire property, real or personal, for any City purpose, in fee simple, or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require.

## **ARTICLE II.**

### **THE MAYOR**

#### **Section 1. Qualifications of Mayor.**

The Mayor shall be an inhabitant of the City and a registered voter therein.

#### **Section 2. Mayor's election and term.**

The Mayor shall be elected by the inhabitants of the City as provided in Article X of this Charter. The term of office shall be for three (3) years commencing with induction into office on the first Tuesday of January, after New Year's Day, next following the municipal election and until a successor is elected and inducted.

#### **Section 3. Mayor's salary.**

The salary of the Mayor shall be five thousand dollars (\$5,000.00) per year. The Mayor's salary may be changed by ordinance, provided that such ordinance is passed prior to the Mayoral election and will take effect on January 1 following said election.

#### **Section 4. Vacancy in office of Mayor.**

The office of Mayor shall be deemed vacant if the Mayor:

- A. Fails to qualify within fourteen (14) days after notification of election,
- B. Dies or resigns,
- C. Has a conflict of interest as defined in Article VI, Code of Ethics, Section 2 or is found to be in violation of Article VI, Code of Ethics, Section 4,
- D. Is removed from office,
- E. Re-establishes primary residency outside the City of Waterville,
- F. Is continuously absent from his or her official duties for more than three (3) months,
- G. Is convicted of a Class A, Class B or Class C crime, or any crime involving moral turpitude,
- H. Has violated Article 1, Section 2; or
- I. Violates any of the duties of office, which by the provisions of this Charter, render the office vacant.

If the City Clerk believes one or more of the above criteria are met, the City Clerk shall in writing inform the City Council and notify the Mayor (unless deceased).

A vacancy shall be declared if the City Council determines by a two-thirds vote of the members present that one or more of the above criteria are met.

The Chair of the City Council shall exercise the powers and perform the duties of the office of Mayor until a Mayor is elected and inducted as the result of a special municipal election. The Chair of the City Council shall continue to have a vote in the City Council but shall not have the veto power. Such special election shall be called for the purpose of electing a Mayor to fill the vacancy. This election shall be called within thirty (30) days of the vacancy, unless the vacancy occurs within three (3) months prior to the next regular municipal election.

### **Section 5. Mayor's powers and duties.**

The Mayor shall:

- A. Ensure that the provisions of this Charter are faithfully executed;
- B. Preside at the meetings of the City Council and in instances where there is a tie vote on any matter before the City Council, cast the tiebreaking vote;
- C. Accept items for City Council agendas from himself/herself, the City Manager, and any City Councilor and determine the order of items on said agendas. Requirements for timing of agenda item submissions and the form in which submissions are made shall be determined by ordinance;
- D. Have the power to veto any ordinance, order or resolution, excepting rules or orders of a parliamentary character, an ordinance revising ward boundaries and matters where a veto is prohibited by Charter; have power to veto any severable portion of any appropriation order other than the City budget, without affecting the validity of the remainder of the order;

If the Mayor vetoes any such measure, such measure, with written objections, shall be returned at the next meeting of the City Council, and the City Council shall proceed to reconsider the same. If, upon such reconsideration, it shall be passed by an affirmative vote of not less than five (5) members of the City Council, it shall have the same validity as if signed by the Mayor;

- E. Receive an operating and capital budget for the next fiscal year from the City Manager at least sixteen (16) weeks prior to the start of the next fiscal year. The Mayor shall review, but not revise, said budget, prepare a budget message and submit the budget and message to the City Council for its consideration and approval at least twelve (12) weeks prior to the start of said fiscal year;
- F. Upon service of notice, summons or process, in any action or proceeding against the City, notify the City Solicitor and City Clerk and shall inform the City Council not later than the next meeting;
- G. Appoint, with approval of a majority of the City Council members present, members of boards and commissions;
- H. Exercise such other powers and perform such other duties as may be prescribed by this

Charter, by ordinance or by applicable state law; and

- I. Call special meetings of the council, when necessary, by general notice in local media in the City, and by causing a summons or notification to be given in hand, or left at the usual dwelling place of each member thereof.

### **ARTICLE III.**

#### **CITY MANAGER**

##### **Section 1. Appointment of City Manager; qualifications.**

The City Manager shall be chosen as provided in Article V section 9, for a term not to exceed five (5) years, on the basis of character, executive and administrative qualifications, experience and technical knowledge of municipal management.

The City Manager shall, during tenure of office, reside within the City.

##### **Section 2. Salary of City Manager.**

The appointed City Manager shall be paid a salary of an amount to be fixed by the City Council.

##### **Section 3. Powers and duties of City Manager.**

The City Manager shall be the chief administrative officer of the City, responsible to the City Council for the management of all City affairs placed in the Manager's charge by or under this charter. The City Manager shall:

- A. Appoint and suspend or remove all City employees except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this charter. The City Manager may authorize any administrative officer subject to the Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's Department, office or agency. Notwithstanding the above, the powers and authority granted to the City Manager in this clause shall not apply to the position of City Solicitor;
- B. Direct and supervise the administration of all Departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- C. Attend all City Council meetings unless excused by the City Council Chair. The City Manager shall have the right to take part in discussion but shall not vote;
- D. Ensure that all acts of the City Council and all laws, subject to enforcement by the City Manager or by employees subject to the Manager's direction and supervision, are faithfully executed;
- E. Prepare the annual budget and capital improvement plan in consultation with the City Finance Committee and Department Directors, submit said budget to the Mayor at least sixteen (16) weeks prior to the end of the fiscal year, and implement the final budget approved by City Council to achieve the goals of the City;

- F. Make recommendations to the City Council and Mayor concerning the affairs of the City and facilitate the work of the City in developing policy and long term goals for the City and strategies to implement these goals;
- G. Submit to the City Council and Mayor, and make available to the public, a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- H. Make such other reports as the City Council may require;
- I. Keep the City Council and Mayor fully advised as to the administrative activities, financial condition and future needs of the City;
- J. Promote partnerships among City Council, Mayor, staff, and citizens in developing public policy and building a sense of community; and
- K. Perform such other duties as are specified in this charter or may be required by the City Council, State or Federal law.

**Section 4. Communication between the municipal Departments and the public schools.**

The City Manager shall be allowed and encouraged to attend meetings of school administrators.

**Section 5. Limitation of political activity of City Manager.**

The City Manager is forbidden to use official authority or influence for the purpose of interfering with an election or a nomination for municipal office or affecting the result thereof, or directly or indirectly to coerce, attempt to coerce, command or advise any other appointed municipal officer or servant or employee to pay, lend or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency or person for municipal political purposes.

**Section 6. Removal and discharge of City Manager.**

The removal of the City Manager will be by approval of two-thirds (2/3) of the City Council members present, after a hearing held upon notice for this purpose. The removal of the City Manager shall not be subject to Mayoral veto.

**Section 7. Appointment of Acting City Manager.**

During any temporary vacancy in the office of City Manager, or during the absence or disability of the City Manager as determined by an affirmative vote of five City Councilors, the City Council may, by a majority vote of members present, designate a properly qualified person, who may be a Department Director, to serve and perform the duties of Acting City Manager with appropriate compensation. While so acting, such person shall have the same powers and duties as those given to and imposed on the City Manager. The appointment of an Acting City Manager shall not be subject to Mayoral veto.

## **ARTICLE IV.**

### **THE CITY COUNCIL**

#### **Section 1. Number; terms.**

The City Council shall have seven (7) members, one elected from each ward, as provided in Article X of this Charter. The term of the City Councilors shall be varied as provided in Article X, Section 13.

#### **Section 2. Qualifications.**

City Councilors shall be inhabitants of the City and registered voters therein. They shall, at the time of and for three (3) months previous to the election, have been residents of the respective wards from which they are elected.

#### **Section 3. Salary.**

City Councilors shall be paid fifty (\$50.00) for each City Council meeting actually attended. The salary of City Councilors may be changed by ordinance, provided that such ordinance is passed prior to the general municipal election and to take effect on January 1 following said election.

#### **Section 4. Vacancies.**

The office of a City Councilor shall be deemed vacant under one or more of the following conditions. If the City Councilor:

- A. Fails to qualify within 14 days of the official notification of election,
- B. Dies or resigns,
- C. Has a conflict of interest as defined in Article VI, Code of Ethics, Section 2 or is found to be in violation of Article VI, Code of Ethics, Section 4,
- D. Is absent from City Council meetings on three consecutive and unexcused occasions,
- E. Is convicted of a Class A, B or C crime, or of any crime involving moral turpitude,
- F. Re-establishes primary residency outside of the ward from which elected,
- G. Has violated Article I, Section 2; or
- H. Violates any of the duties of office, which by the provisions of the Charter, renders the office vacant.

If the City Clerk believes one or more of the above criteria are met, the City Clerk shall in writing inform the City Council and notify the affected City Councilor (unless deceased).

A vacancy shall be declared if the City Council determines by a two-thirds vote of the members present that one or more of the above criteria are met.

Following solicitation of interested candidates, vacancies in the City Council shall be filled by the City Council through appointment of a registered voter residing in the ward in which the vacancy occurs. The City Council shall confirm the appointment by a majority vote of the members present. Said appointment is not subject to a Mayoral veto.

The appointed City Councilor shall serve until the regularly scheduled City election and a successor is elected and sworn. Said successor shall serve the balance of the term.

**Section 5. Meetings of City Council.**

The first meeting of the City Council for each newly elected City Councilor, for induction into office, shall be held at 7:00 p.m. on the first Tuesday of January after New Year's Day next following its election, after which the City Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the City Council shall be open to the public, except as provided by state statute. The City Council shall keep a complete record of its proceedings which shall be a public record, except as limited by state statute.

**Section 6. Organization; procedures.**

The City 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 the production of records, but the decision of the City Council in any such case shall be subject to review by the courts. At the first meeting of the City Council each January, the City Council shall choose a Chair, who shall serve at the pleasure of the Council. Selection of the Chair is not subject to Mayoral veto. The Chair shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor and the Chair, the City Council shall choose a Chair, pro tempore, who shall exercise the powers of a permanent Chair. The City Council shall determine its own rules and order of business.

At any meeting of the City Council, five (5) members shall constitute a quorum, but a lesser number may adjourn from time to time. An abstaining Councilor is considered present for meeting quorum requirements. The City Council shall provide, by ordinance, a means by which a minority may compel the attendance of absent members. Special meetings of the City Council shall be called by the Mayor at the Mayor's discretion or upon petition of five (5) or more City Councilors to the Mayor. In the Mayor's absence from the City, the Chair of the City Council, upon petition of five (5) or more City Councilors, shall call such special meeting. A copy of said petition shall be filed with the City Clerk.

The City Clerk shall be secretary of the City Council. The secretary shall give notice of City Council meetings, shall keep the record of its proceedings, shall authenticate by signature and record in full, in a book kept for the purpose, all ordinances, orders and resolutions, and shall perform such other duties as shall be required by this Charter or by ordinances.

**Section 7. Powers.**

All legislative powers of the City shall be vested in the City Council and shall be exercised by it in the manner and subject to the limitations set forth in this Charter. Without limitation to the foregoing, the City Council shall have power to:

- A. Adopt the annual budget of the City and appropriate money for all City purposes;
- B. Authorize the issuance of bonds by a bond order;

- C. Consider recommendations from the Search Committee and approve, by a majority vote of the City Councilors present, appointment of a City Manager and a City Solicitor and the contracts specifying the terms of employment. If necessary, remove the City Manager and City Solicitor in accord with provisions set forth in this Charter;
- D. Establish administrative Departments pursuant to the provisions of this Charter, establish appropriate minimum qualifications for Department Directors, and revise the administrative code by ordinance;
- E. Adopt, upon recommendation of the City Manager, a pay plan for all persons employed by the City, except those whose compensation is fixed by this Charter or by state statute, and adopt by ordinance the rules and regulations of a municipal personnel policy;
- F. Provide, by ordinance, for appropriate boards or commissions as it shall deem advisable to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances;
- G. Confirm, by a majority vote of the City Councilors present, all appointments made by the Mayor to boards or commissions;
- H. Conduct investigations of the operation of any office or Department administering the affairs of the City, or on any subject upon which it may legislate. In conducting investigations, the City Council shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers pertinent thereto;
- I. Authorize, by ordinance, executive and administrative officers of the City to issue licenses and permits;
- J. Authorize, by ordinance, executive and administrative officers of the City to make contracts pursuant to duly enacted appropriation orders. Said ordinance shall specify a threshold dollar amount above which executive and administrative officers will be required to return to the City Council for approval; and
- K. Establish, by ordinance, fines and penalties for the violation of its ordinances.

**Section 8. Ordinances, orders and resolutions.**

The City Council may act by ordinance, order or resolution. All acts making regulations of a permanent nature shall be by ordinance. All acts appropriating money or legislation of a temporary nature shall be by order. Where obligations have been incurred by ordinance or order, payment may be ordered by resolution. Licenses may be granted by resolution. The powers conferred by Article VII may be exercised by resolution. All amendments and repeals of ordinances shall be by ordinance. Every ordinance, order and resolution shall be in writing and available to the public. The first two public readings of an ordinance or order may be by title only. The third reading of an ordinance or order, and the only reading of resolutions, shall be in their entirety, including, if any, all amendments, before a vote is taken thereon provided however, that a unanimous vote of City Council members present may dispense with the reading in its entirety, including all amendments, of an ordinance or order. Votes shall be by decision, except that votes on third readings of orders and ordinances shall be by roll call. All votes shall be recorded. The subject of every ordinance and order shall be set out clearly in the title thereof, and no ordinance or order,

except one making appropriations, shall contain more than one subject. Orders making appropriations shall be confined to the subject of appropriations. The enacting clause of all ordinances shall be in the words, "Be it enacted by the City Council of the City of Waterville, as follows:"

At least fourteen (14) days before City Council consideration is given to any ordinance, order or bond issue, the total cost of which is in excess of one-half of one (0.5) percent of the City's debt limit, the City Council shall hold a special public hearing. This special hearing shall receive public notice in local media in the City. Notice shall be given not more than ten (10) days nor less than three (3) days prior to the date of hearing.

### **Section 9. Procedure for passage of resolutions, ordinances and orders.**

Resolutions shall have one public reading, and unless otherwise stated in the Charter, shall be passed by a majority of the City Council members present.

Every ordinance or order, other than emergency ordinances or orders, shall have three (3) public readings, not more than two (2) of which shall be on the same day.

After the third public reading, the City Council may finally adopt an ordinance or order by the affirmative vote of a majority of the membership of the City Council present, provided, however, when an ordinance amends the zoning ordinance, an affirmative vote of two-thirds (2/3rds) of the membership of the City Council present will be required for adoption.

An abstention does not count in determining the majority necessary for the adoption of a resolution, order or ordinance.

An emergency ordinance or order is an ordinance or order for the immediate preservation of the public peace, health or safety in which the emergency is defined and declared in a preamble thereto, separately accepted by majority vote, and receiving the unanimous vote of all members of the City Council present at the meeting, and shall be adopted with only one public reading.

Ordinances, orders and resolutions not subject to Mayoral veto shall take effect upon approval by the City Council.

Ordinances, orders and resolutions adopted by the City Council and subject to Mayoral veto shall be submitted to the Mayor who shall, within ten (10) days, either approve the same by affixing his/her signature thereto, or return it to the secretary of the City Council with written objections, and at the next meeting the City Council shall proceed to reconsider the same. No ordinance, order or resolution shall take effect without the Mayor's approval unless the Mayor fails to return the ordinance, order or resolution to the secretary of the City Council within ten (10) days after it has been presented to the Mayor, or unless the City Council, upon reconsideration thereof at the next meeting following its return by the Mayor, shall, by a vote of not less than five (5) of the members thereof, resolve to override the Mayor's veto. The Mayor may veto in like manner any severable item of expenditure in any appropriating order, other than the City Budget, and approve the balance of such appropriating order.

### **Section 10. Publication; recording of ordinances.**

Every ordinance shall be published at least once in a newspaper having general circulation in the City within ten (10) days after its passage and approval, except that in the case of a lengthy ordinance, the City Council may, by the affirmative vote of five (5) members, order a summary of the ordinance to be made

by the Solicitor and said summary shall be published instead, provided that the publication contains notice that copies of the full document are available at the Clerk's office upon request.

Every ordinance, after its enactment, shall be recorded in a book kept for that purpose, which record shall be preserved in the office of the City Clerk.

**Section 11. Effective date of ordinances.**

Ordinances or orders making the annual tax levy, ordinances or orders relating to local improvements and assessments, and emergency ordinances shall take effect immediately upon their passage and approval. All other ordinances shall take effect ten (10) days after the date of their publication, as required by Article IV, section 10, of this Charter, unless a later date is fixed therein, in which event they shall take effect at such later date.

**Section 12. Independent annual audit.**

Prior to the end of each fiscal year the City Council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit their report to the City Council. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of its officers. They shall not maintain any accounts or records of the City business but, within specifications approved by the City Council, 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 City government.

**ARTICLE V.**

**ADMINISTRATIVE ORGANIZATION**

**Section 1. Departments established.**

The administration of the City shall be distributed among the following Departments: Finance, Records, Personnel, Public Works, Public Health and Welfare, Police, Fire, Assessment, City Clerk or such other Departments as may be established by ordinance of the City Council.

**Section 2. Directors of Departments.**

Each Department shall be headed by a Director, or appropriate City employee, who shall have control and provide direction for the Department. The Director of each Department shall, with the approval of the City Manager, have the power to appoint and remove all officers and employees of their respective Departments

The City Manager shall supervise all Directors or appropriate City employees.

Two (2) or more Departments may be headed by the same individual, and the City Manager may head one or more Departments, provided that one employee always be designated as City Clerk and one employee as Tax Assessor who will be Directors of Departments.

Each Department Director shall possess the necessary qualifications to ensure efficient administration of

such Department. The Director of Public Works shall be, or shall appoint to the Department, a registered civil engineer to serve as City Engineer. The Director of Public Health and Welfare shall be, or shall appoint to the Department, a doctor of medicine or osteopathy licensed to practice in the State of Maine, to serve as Health Officer. The City Council may, by ordinance establish further minimum qualifications for Department Directors.

### **Section 3. Duties of City Clerk.**

The City Clerk shall be the secretary of the City Council and shall perform such duties as are usually performed by Clerks of municipal corporations, and all such duties as are required by the laws of the state and by this Charter, and, in addition, shall perform all such other duties as are required of the City Clerk by the City Council. The City Clerk shall be the custodian of the official seal of the City.

### **Section 4. Tax Assessor and Board of Assessment Review.**

There shall continue to be a single Tax Assessor and a Board of Assessment Review under provisions of Title 30-A M.R.S.A. Section 2552, as amended.

### **Section 5. City Solicitor.**

The City Solicitor shall:

- A. Be an attorney admitted to practice law in all the courts of the State of Maine, as shall be any assistants to the City Solicitor;
- B. Be the legal advisor of the Mayor, City Council, the City Manager, the officers, Departments and all boards of the City in matters pertaining to the governance of the City;
- C. Under the direction of the City Council, prosecute all suits for, and defend all suits brought against the City, and may prosecute all persons accused of any violation of the City ordinances;
- D. Perform such other and further duties as are required by the laws of the State of Maine, by the provisions of this Charter or by City Council; and
- E. In special cases, request of the City Council that additional legal services be provided.

The removal of the City Solicitor will be by approval of two-thirds (2/3) of the City Council after a hearing held upon notice for this purpose. The removal of the City Solicitor shall not be subject to Mayoral veto.

### **Section 6. Salaries of employees.**

All persons employed by the City, and paid either in part or in whole by appropriations made by the City Council, except those under the supervision of the Board of Education and those whose compensation is fixed by this Charter or by statute, shall be compensated only in accordance with a pay plan, or plans, recommended by the City Manager and adopted by ordinance.

### **Section 7. Boards and commissions.**

The City Council may provide, by ordinance, for appropriate boards or commissions, as it shall deem advisable, to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances. Members of such boards shall be appointed by the Mayor with the approval of a majority of the City Council members present, and may be removed for cause, after a hearing, by a two-thirds (2/3) vote of the City Council members present. Members of such boards shall be appointed for definite and overlapping terms. Appointive members of such boards shall not hold any other public office, the salary of which is payable by the City.

A quorum of membership shall be required for all board and commission votes. The quorum shall be two-thirds (2/3) of the number of members eligible to vote. Minutes of every board and commission meeting shall be kept and filed with the City Clerk for public record.

Absence by any member from more than one-half (1/2) of the regular board or commission meetings in a six-month period shall be cause for termination of that member from that board or commission. Board and commission members shall receive proper notice two (2) weeks in advance of all regular meetings of such board or commission.

### **Section 8. Qualifications of City employees; bonding.**

The City Clerk shall notify all persons elected or appointed to a City office of their election or appointment within three (3) days thereafter, requesting them to qualify for office by signifying in writing to the City Clerk, willingness so to serve within fourteen (14) days from the date of such notification. Every City employee, elected or appointed, shall be duly sworn to the faithful and impartial performance of the duties of the office, by any person authorized to administer oaths, before entering upon the discharge of same, and a record of such oath shall be made in the office of the Clerk. When required, the employee shall give such bond as the City Council shall determine, unless otherwise provided by law or ordinance.

### **Section 9. Search Committee**

A Search Committee shall be created for the purpose of soliciting and evaluating candidates to fill vacancies in the positions of City Manager and City Solicitor. Upon completion of any required search process, the Search Committee shall then recommend a candidate for City Manager or City Solicitor to the City Council for its consideration and vote.

Membership on the Search Committee shall include the Council Chair, the Board of Education Chair, the Mayor, one member of the public appointed by the Council, and one City Department Director chosen from among themselves.

Rules and/or procedures governing operations of the Search Committee shall be established by ordinance.

## ARTICLE VI.

### CODE OF ETHICS

#### **Section 1. Generally.**

Public officials and employees of the City should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees, unless prohibited from so doing by law or by officially recognized confidentiality of their work.

#### **Section 2. Conflict of interest.**

No public official or employee of the City shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of any improvement, alteration or repair required by authority of the City, or any contract to which the City shall be a party, except compensation or salary as established for such official or employee. A violation of any of the provisions of this section, or any established common law doctrines, or statutory provisions under the State of Maine shall disqualify the offender to continue in office or employment of the City, and the official or employee shall be removed therefrom. Any contract in which an official or employee of the City is directly or indirectly interested shall become absolutely void, and any money which shall have been paid on such contract by the City may be recovered back from any or all the persons interested therein, by a joint or several action. The provisions of this section shall not apply to contracts made by bid pursuant to Article VII, section 5 of this Charter.

#### **Section 3. Use of public property.**

No public official or employee of the City shall request or permit the use of City-owned vehicles, equipment, materials or property for personal convenience or profit, except when such vehicles, equipment, materials or property are available to the public generally or are provided as a municipal policy for the use of such official or employee in the conduct of official business.

#### **Section 4. Prohibitions.**

- A. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, sexual orientation, disability, religion, or country of origin;
- B. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations;
- C. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion;
- D. No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City officer or employee;

- E. No appointed City official or employee shall knowingly or willfully make, solicit, or receive any contribution to the campaign funds of any political party or committee to be used in a City election or to campaign for funds to be used in support of or opposition to any candidate for election to City office or City ballot issue. Further, no appointed City official or employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for City office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

## **ARTICLE VII.**

### **CITY FINANCES**

#### **Section 1. Appointment, bond of Director of Finance; to be Treasurer.**

There shall be a Department of Finance, the Director of which shall be the Director of Finance, who shall be, or be appointed by, the City Manager. The Director of Finance shall provide a bond with such surety and in such amount as the City Council shall require by ordinance. The Director of Finance shall be the Treasurer and custodian of the funds of the City.

#### **Section 2. Powers and duties of Director of Finance.**

The Director of Finance shall have charge of the administration of the financial affairs of the City and to that end shall have authority and shall be required to:

- A. Compile the current expense estimates and the capital estimates for the budget;
- B. Supervise and be responsible for the disbursements of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- C. Maintain a general accounting system for the City government and each of its officers, Departments and agencies; keep books for and exercise financial budgetary control over each office, Department and agency; keep separate accounts for the items of appropriation contained in the City budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; required reports of receipts and disbursements from each receiving and spending agency of the City to be made daily or at such intervals as may be deemed to be expedient;
- D. Submit to the City Council, through the City Manager a monthly statement of all receipts and disbursements;
- E. Keep all books, papers and vouchers belonging to the Department at all times open and readily accessible for inspection during the annual City audit;
- F. Prepare annually, as of the end of the fiscal year, a complete financial statement and report;

G. Collect all taxes, special assessments, license fees and other revenues of the City and receive all money receivable by the City; and

H. Supervise and be responsible for the initial purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, Department or agency of the City government.

### **Section 3. Collection and custody of City moneys.**

All moneys received by any officer, employee or agent of the City belonging to the City, or for or in connection with the business of the City, shall daily, or in no event longer than one week, be paid by the officer, employee or agent receiving the same into the City treasury, and shall then be deposited by the Director of finance with some responsible banking institution to be chosen by the City Council. All interest from all deposits of money belonging to the City shall accrue to the benefit of the City.

### **Section 4. Disbursement of money; prohibitions.**

All disbursements, except principal and interest on bonds and certificates of indebtedness, shall be made only upon the order of the Director of Finance, countersigned by the City Manager, duly authorized by a resolution of the City Council and approved by the auditor. Every such order shall specify the purpose for which the disbursement is made and the fund out of which it is to be paid. No such order shall be issued unless the Director of Finance shall certify that there is an unencumbered balance of money sufficient to pay the same in the fund out of which it is to be paid. The Director of Finance shall examine all payrolls, bills and other claims against the City and shall issue no order for payment until the claim is in proper form, correctly computed and legally due and payable. Any order or resolution for the payment of money violating any provision of this section shall be void, and any officer of the City violating any provision of this section shall be personally responsible for the amount of such payment if any is made contrary to the provisions hereof. Nothing in this section, however, shall prohibit the City Council from authorizing interdepartmental transfers of funds previously appropriated.

### **Section 5. Making of bids and letting of contracts.**

The City Council shall regulate the making of bids and the letting of contracts by ordinance. Said ordinance shall be adopted and, as necessary, amended by a two-thirds (2/3) vote of the City Council members present.

### **Section 6. Borrowing in anticipation of taxes and bond issues.**

During any fiscal year, the City Council may, by resolution, authorize the borrowing of money in anticipation of receipts from taxes, but the aggregate amount of such borrowing at any one time shall not exceed eighty (80) percent of the revenue received from taxes during the preceding fiscal year. All such money borrowed shall be repaid out of receipts from taxes for the fiscal year in which the money is borrowed. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized. All such money borrowed shall be repaid within one (1) year and shall be subject to the provisions of the laws of the State of Maine in relation thereto.

### **Section 7. Bond issues.**

Money may be borrowed, within the limits fixed by the constitution and statutes of the State of Maine now or hereafter applying to the City of Waterville, by the issue and sale of bonds or notes pledged on the

credit of the City, the proceeds to be used for acquisition of land, the construction and equipment of buildings and other permanent public improvements, the acquisition of equipment of a lasting character, and the payment of refunding of bonds, notes and certificates of indebtedness previously issued or for any other purpose for which municipalities are or hereafter may be authorized to borrow money by general law.

**Section 8. Sales of City-owned property.**

The City Council shall provide a method and procedure for the sale of City-owned property. The methods and procedures required by this section shall be by ordinance. Such an ordinance shall provide procedures for the sale of property that has been acquired by reason of the automatic foreclosure provisions of Title 36 MRSA, Section 943, as well as property acquired in any other manner than by the automatic tax foreclosure proceedings.

**Section 9. City Finance Committee.**

A Finance Committee shall be created for the purpose of promoting communication between the municipal and public school Departments. The Finance Committee shall serve to advise the city budget process by allowing its members to exchange information about current and foreseeable fiscal issues. The Finance Committee may, as it deems necessary, make reports to the City Council and the Board of Education.

Membership on the Finance Committee shall include the Superintendent of Schools, two members of the Board of Education selected by the Board of Education, the City Manager, two City Council members selected by the City Council, and the Mayor. The term of Board of Education and City Council members serving on the Finance Committee shall be one year;

The Chair of the Finance Committee shall be chosen from within the membership of the committee. The Finance Committee shall meet as needed, but no less than every other month. The Finance Committee is empowered to adopt rules and/or procedures governing its operations.

## **ARTICLE VIII.**

### **EMINENT DOMAIN, DISCONTINUANCE OF TOWN WAYS, VACATION OF PROPOSED TOWN WAYS, AND ASSESSMENTS FOR PUBLIC IMPROVEMENTS**

#### **Section 1. Powers granted.**

The City Council acting as the municipal officers shall have the power:

- A. To acquire real estate or easements shall be exercised fully unless prohibited by the state constitution or denied either expressly or by clear implication of state law, as those laws may be amended from time to time.
- B. To discontinue town ways, sidewalks and public easements or to vacate proposed town ways, sidewalks and public easements or to vacate proposed town ways in approved subdivisions that have not been accepted.
- C. To levy an assessment for the cost of providing or improving town ways, sidewalks, and public easements on properties adjacent to such improvements.

#### **Section 2. Procedures; determination of damages and assessments.**

The procedures, including, but not by way of limitation, for notice to property owners before takings, for discontinuances, and vacations, determination of damages and assessments, and collection of assessments that will be followed by the City Council in exercising the powers conferred in this Article VIII, section 1, shall be those applicable procedures set forth in Title 30-A M.R.S.A. section 3101; Title 6, M.R.S.A. section 122; Title 23 M.R.S.A. sections 3021 through 3029; Title 23 M.R.S.A. sections 3601 to 3607; 30-A M.R.S.A. sections 5108 through 5204 and 5228, as these laws may be amended.

## **ARTICLE IX.**

### **ADMINISTRATION OF SCHOOLS**

#### **Section 1. Number and terms for Board of Education.**

A Board of Education, composed of seven (7) members shall be elected from the wards as provided in Article X of this Charter. The terms of Board of Education members shall be varied as provided in Article X, Section 13.

#### **Section 2. Qualifications for Board of Education.**

Board of Education members shall be registered voters and, at the time of and for three (3) months previous to the election, shall have been residents of the respective wards from which they are elected.

Members of the Board of Education shall not hold any other public office, the salary of which is paid by the City, and shall be subject to Article VI of this Charter.

#### **Section 3. Salary for Board of Education.**

The members of the Board shall be paid fifty dollars (\$50.00) for each School Board meeting actually attended. The salary of members of the Board of Education may be changed by ordinance, provided that such ordinance is passed prior to the general municipal election and to take effect on January 1 following said election.

#### **Section 4. Vacancies on the Board of Education.**

The office of a member of the Board of Education shall be deemed vacant under one or more of the following conditions.

If the Board of Education member:

- A. Fails to qualify within fourteen (14) days after official notification of an election,
- B. Dies or resigns,
- C. Has a conflict of interest as defined in Article VI, Code of Ethics, Section 2, or is found to be in violation of Article VI, Code of Ethics, Section 4,
- D. Is absent from Board of Education meetings on three consecutive and unexcused occasions,
- E. Is convicted of a Class A, B or C crime, or of any crime involving moral turpitude;
- F. Re-establishes primary residency outside of the ward from which elected, or
- G. Violates any of the duties of office, which by the provisions of this Charter, renders the position vacant.

If the City Clerk believes one or more of the above criteria are met, the City Clerk shall in writing inform the Board of Education and notify the affected Board of Education member (unless deceased).

A vacancy shall be declared if the Board of Education determines by a two-thirds vote of the members present that one or more of the above criteria are met.

Following solicitation of interested candidates, vacancies in the Board of Education shall be filled by the Board of Education through appointment of a registered voter residing in the ward in which the vacancy occurs. The Board of Education shall confirm the appointment by a majority vote of the members present.

The appointed Board of Education member shall serve until the regularly scheduled City election and a successor is elected and sworn. Said successor shall serve the balance of the term.

### **Section 5. Powers and duties of Board of Education.**

The Board of Education shall have all the duties, rights and powers granted to such boards by the constitution and statutes of the State of Maine, and all the duties, rights and powers invested in the Board of Education of the City of Waterville before the adoption of this Charter, including the duty and power to:

- A. Annually elect a Chair from its membership;
- B. Appoint some suitable person, not a member of the Board, to be Superintendent of Schools and who also shall be the secretary and executive agent of the Board;
- C. Fix the salary of the Superintendent to be paid from the City treasury;
- D. Remove the Superintendent for good cause and appoint a successor; and
- E. Adopt such rules and regulations for the management of the schools as are not inconsistent with the laws of the state and ordinances of the City;
- F. Have the right and responsibility to direct the expenditure of all school moneys;
- G. Submit to the City Council and Mayor, and make available to the public, a complete report on the affairs and condition of the City schools within three (3) months after the end of the fiscal year;
- H. At least fourteen (14) weeks before the beginning of the next fiscal year, meet in a joint meeting with the City Council at such time as shall be fixed by the City Manager, due notice of which shall be given by the City Clerk;
- I. Issue copies of a detailed estimate in the form of a budget, of the amount needed for school purposes for the next fiscal year, to the Mayor, City Manager, and to each member of the City Council two (2) weeks before the date set for the joint meeting; and
- J. Provide full information with reference to all budget estimates and reasons for fixing the items thereof at the amounts therein stated.

**Section 6. Appropriations; audit of accounts.**

The City Council shall have the power to raise moneys for the support of public schools in the City and shall appropriate for the next fiscal year such sum, not less than the amount required by the state statute, as it may deem necessary for that purpose. Such sum shall be included with and assessed like other City taxes. The City Council may elect, by ordinance, to assess and bill for school needs separately.

The financial records of the Board of Education shall be reviewed as part of the annual independent City audit by the authorized representatives of the auditing firm conducting said audit. The financial records of the Board of Education may also be reviewed from time to time as directed by the City Council.

**Section 7. Communication between public schools and municipal Departments**

The Superintendent of Schools shall be allowed and encouraged to attend meetings of the municipal Department Directors.

**ARTICLE X.**

**ELECTIONS**

**Section 1. Wards.**

For the purpose of holding elections, the City shall continue to be divided into seven (7) wards divided along the boundary lines established by City ordinance.

**Section 2. Revision of ward boundary lines.**

Within two (2) years of the federal decennial census, the City Clerk shall, based on the results of said census, determine if the number of inhabitants in any one ward exceeds the number of inhabitants in any other ward by ten (10) percent, and if it does, the City Clerk shall notify the City Council thereof. Within six (6) months after receiving such notification from the City Clerk, it shall be the mandatory duty of the City Council to redistrict the City by ordinance. Each ward shall constitute a contiguous territory and contain as nearly as possible a number of inhabitants equal to the factor obtained by dividing by seven (7) the total number of inhabitants of the City. A convenient voting place shall be designated by the administration with City Council approval for one (1) or more wards. If, at the expiration of the six-month period, the City Council has failed to redistrict the City as herein required, the members of the City Council shall not receive any salary until the City Council shall have adopted such ordinance, which may not be vetoed by the Mayor. If, in any such redistricting, the residence of any City Councilor is placed outside of the ward from which elected, the office shall not be deemed vacant on that account and the City Councilor shall continue to serve out the term for which elected.

**Section 3. Time and place of elections.**

On the Tuesday following the first Monday of November, the registered voters of each ward, at the voting places designated for that ward, shall ballot as needed for Mayor, one City Councilor, one Board of Education member, one Warden and one Ward Clerk from the ward in which they are resident. Each officer elected under this Charter shall be inducted and assume the duties of the office to which elected on the first Tuesday in January after New Year's Day, except that if New Year's Day falls on a Tuesday, they shall be inducted and assume the duties of office the following day.

#### **Section 4. Registration of voter.**

No person shall be allowed to vote at any municipal election unless duly registered as a voter in the City. A person may register as a voter by appearing before the Registrar and by proving qualifications to vote as required by the laws of Maine. The Registrar shall publish in a newspaper having general circulation in the City notice of the time schedule for registration before each regular or special municipal election. When the Registrar is not available, the City Clerk shall accept application for registration, except during the week immediately preceding any election. The Registrar shall prepare a printed list of voters for each ward and shall keep the list current at all times. Registration proceedings shall be conducted in the same manner as provided by the election laws of Maine, Title 21-A, as amended.

#### **Section 5. Notice of election; preparation of ballots.**

The City Council shall make notice of a regular or special municipal election by issuing a warrant, signed by a majority of City Councilors, containing a statement of the purpose of the election, the date and the time of opening and closing of the polls. Such warrant shall be served by the chief of police of the City by posting attested copies of said warrant at all designated voting places at least seven (7) days before the date of election. Such warrant, with the officer's return of service thereon, shall be returned to the City Clerk at least four (4) days before the date of election.

The City Clerk shall also cause notice of the election to be published in a newspaper having general circulation in the City at least seven (7) days before the date of the election. Notification of special ward elections shall be conducted in a similar manner.

Ballots for all regular or special municipal or ward elections shall be prepared by the City Clerk and shall be in substantially the same form as required by the election laws of Maine. At least seven (7) days before any municipal election, the City Clerk shall post a specimen ballot, prepared according to the regulations for state elections, at the voting place designated for each ward.

#### **Section 6. Election officials; counting of ballots; notification of elected officers.**

The Warden of each ward elected at the last previous municipal election shall supervise the voting for that ward on Election Day. Four (4) election Clerks, and additional Clerks, if necessary, nominated by the City committee of each major political party and appointed by the City Council, as required by the election laws of Maine, shall assist the Warden in distributing, receiving and counting ballots.

All regular and special municipal elections shall be conducted in the same manner as provided by the election laws of Maine, Title 21-A, as amended from time to time. As soon as the polls are closed, the election officials shall count the ballots publicly under the supervision of the Warden. The Ward Clerk shall record upon a tally sheet, procured from the City Clerk, the results of the balloting, certify the votes given, have the tally sheet attested by the Warden, and deliver it to the City Clerk forthwith.

The City Council of the City of Waterville shall constitute the canvassing board for the canvass of the votes and the determination of the result of every general or special municipal election held under the provisions of this Charter. The City Council shall meet as such canvassing board as soon as convenient after each election, at which time it shall receive the returns from the wards and shall, by resolution, certify and determine the result of such election as to each officer and matter voted upon at the election.

The candidate for Mayor having a plurality of the votes cast in all the wards shall be elected. The City Clerk shall deliver certificates of election to all municipal and ward officers elected, within three (3) days

of their election. If it shall appear that one or more of the offices to be filled by an election has not been filled, or if any person elected shall fail to qualify within fourteen (14) days of notification of his election, warrants for another and special election to fill such vacancy shall be issued forthwith, in substantially the same manner as provided in section 5 of this article.

### **Section 7. Recount and title to office.**

On the written application of a candidate in any municipal election, within ten (10) days after the election, the Clerk shall permit the candidate or his or her counsel to recount the ballots as provided in 30-A MRSA Section 2556 as amended. A person who claims title to any municipal or ward office may proceed against another who claims title to the office by proceeding in the manner provided in said 30-A MRSA Section 2556, as amended.

### **Section 8. Absentee voting.**

Absentee voting shall be permitted in all regular or special municipal elections, provided that such voting conforms to the regulations governing absentee voting provided in the Title 21-A M.R.S.A. Section 751, as amended.

### **Section 9. Nomination of candidates.**

Nomination of candidates for ward officers shall be made in the ward caucus of each political party in each ward or by petition as set forth in subsection I below. Nomination of candidates for Mayor shall be made in the City caucus of each political party or by petition as set forth in subsection I below. Ward caucuses and City caucuses shall be held not less than ninety (90) days prior to the day on which a municipal election is to be held. Notice of a caucus shall be published in a newspaper having general circulation in the City at least three (3) and not more than seven (7) days before it is to be held. The procedure for calling, giving notice, holding and voting at caucuses shall follow the provisions for municipal caucuses in Title 21-A M.R.S.A. Section 311 et seq., as amended. Each ward caucus shall nominate a candidate for Warden, Ward Clerk, City Councilor and member of the Board of Education. Each City caucus shall nominate one candidate for Mayor.

With the exception of the Wardens and Ward Clerks, access to the ballot for all candidates, including those nominated by the ward and City caucuses, for any public office of the City of Waterville shall be confirmed by petition. Title 21-A M.R.S.A. Section 351 et seq., as amended, are hereby incorporated by reference and made a part hereof, except as follows:

- A. *Number of signatures required.*
  - i. Office of the Mayor. Petitions must be signed by a number of registered voters of the City of Waterville equal to at least fifteen (15), but not more than twenty-five (25), from each of the seven wards of the City;
  - ii. Offices of City Council and Board of Education. Petitions must be signed by a number of registered voters of the City of Waterville equal to at least twenty-five (25), but not more than fifty (50) from the same ward as the candidate for office from that ward.
  
- B. *When signed.* The petition may not be signed more than one hundred twenty (120) days prior to the election in which it is to be used.

- C. *Declaration of candidacy.* A person who seeks nomination by petition must file a signed declaration of candidacy with the City Clerk by or before 4:30 p.m. on the sixtieth (60<sup>th</sup>) day before the election in which such person will be a candidate. The person filing a declaration of candidacy must include within the declaration the title of the office such person intends to seek. Failure to file such declaration prior to 4:30 p.m. on the sixtieth (60<sup>th</sup>) day before the election will result in that person's ineligibility to be a candidate for election to that office in that calendar year.
- D. *Filing of petition and candidate's consent.* Persons seeking nomination by petition and having submitted a declaration of candidacy in accordance with subsection (c) must file petitions and candidate's consent in the office of the City Clerk prior to 4:30 p.m. on the sixtieth (60<sup>th</sup>) day before the election. Persons nominated by caucus must file their petitions by the same deadline.
- E. *Verification of petition.* On receipt of a petition, the Registrar shall verify the signatures on the petition.
- F. *Review of petition.* On receipt of a petition, the City Clerk shall review it. If it is incomplete or incorrect on its face, the Clerk shall advise the candidate or the person who certified it and allow the candidate, or person, to correct it in accordance with the facts.  
  
Corrections or additional signatures may not be submitted after 4:30 p.m. four (4) days after notification of the deficiency.
- G. *Challenge of validity of petitions.* Anyone desiring to challenge the validity of a petition shall notify the City Clerk of such challenge in writing by or before 4:30 p.m. four (4) days from the filing of the petition or corrected petition. Such written notice shall set forth the reasons for the challenge.

Procedures as herein set forth are in conformity with Title 21-A M.R.S.A. Section 351 et seq., as amended.

### **Section 10. Enrollment.**

No person shall vote at a ward or City caucus unless enrolled as a member of the political party holding the caucus. A person may enroll in a political party by filing an application with the Registrar of Voters or may enroll at any caucus, provided application is made in person to the caucus Chair and that the person swears to be a qualified voter and has not been enrolled in any other political party for fifteen (15) days prior to the date of said caucus. The caucus secretary shall record all enrollments and deliver such records to the City Clerk within one (1) week of the date of said caucus. The enrollment of voters shall follow the provisions of the election laws of Maine, Title 21-A M.R.S.A. Section 314, as amended.

### **Section 11. City committee.**

Each political party shall hold a ward caucus in each ward during February following a Mayoral election to elect the ward committee, and the ward committees so elected shall elect a City committee for each party. Each City committee shall meet within two (2) weeks of its election to elect a Chair and other officers and shall adopt rules and regulations for the conduct of its business.

## **Section 12. Special elections.**

Special elections may be called by the City Council for any purpose permitted by this Charter or by statutes. All special elections shall be called by order of the City Council authorizing the issuance of a warrant which shall fix the time therefore and shall state the offices to be filled, or the questions to be decided, and shall direct the Clerk to give the necessary notice and follow the same necessary procedures as for the holding of regular elections.

Elected candidate(s) shall be sworn in within ten (10) days of the City Council's certifying the election.

## **Section 13. Varied terms for City Council members, Board of Education members, Wardens and Ward Clerks.**

To implement varied terms, the November, 2003, regular election of City Councilors and Board of Education members was for initial terms of 1, 2 and 3 years depending on the ward.

To determine the term of office for City Councilors and Board of Education members for each ward for the 2003 regular election, the City Clerk at the first regular meeting of the City Council following the adoption of this amendment, chose, by random lot, two wards that had an initial term of one year for its City Councilor and Board of Education member, two wards that had an initial term of three years for its City Councilor and Board of Education member, and three wards that had an initial term of two years for its City Councilor and Board of Education member. Subsequent to the initial varied terms, all terms of office for City Councilors and Board of Education members for all wards shall be for three years. They shall serve until their successors are elected and qualified.

The term of the Warden and the Ward Clerk for each ward for the November, 2005, municipal election shall be coincident with the term of the School Board member and City Council member for the same ward. Thereafter, the terms of Wardens and Ward Clerks shall be for three years.

## ARTICLE XI.

### RECALL, REFERENDUM, INITIATIVE

#### Section 1. Power to recall.

Any elected official may be recalled and removed therefrom by the electors of the City as herein provided. The recall petition, to be effective, must be returned and filed with the City Clerk within twenty (20) days after the filing of the affidavit. The petition, before being returned and filed, shall be signed, in the case of a City Council member or a Board of Education member, by voters of the respective ward to the number of at least fifteen (15) percent of the number of registered voters in that ward as determined at the time of the last preceding regular municipal election. In the case of the recall of the Mayor, the petition shall be signed by the voters of the City to the number of at least fifteen (15) percent of the number of registered voters as determined at the time of the last preceding regular municipal election. Article XI, sections 4, 5, 6 and 7 shall also apply to this section.

- A. *Calling of recall election.* If the petition or amended petition shall be certified by the City Clerk to be sufficient, the City Clerk shall submit the same with the certificate to the City Council at its next meeting and shall notify the member or members whose removal is sought of such action. The City Council shall at such meeting order an election to be held in accordance with Article X, section 12. The recall election will be held no more than forty-five (45) days after the City Clerk notifies the City Council, unless said notification is within three (3) months of a scheduled election, in which case the recall election shall occur on the scheduled election day.
- B. *Form of ballot in recall election.* Unless the member or members whose removal is sought shall have resigned before the receipt by the City Council of the City Clerk's certificate, the form of the ballot at such election shall be as nearly as may be: "Shall "A" be recalled? Shall "B" be recalled?" etc., the name of the member or members whose recall is sought being inserted in place of "A", "B", etc. In case of a majority of those voting for and against the recall of any official shall vote in favor of the recall, such official shall be thereby removed and the City Council shall order an election as in the provision for vacancy in that office.
- C. *Procedure on refusal of City Council.* Should the City Council fail or refuse to order an election as herein provided, such election may be ordered by any justice of the supreme judicial court.

#### Section 2. Power of referendum.

The electors shall have power to approve or reject at the polls any resolution, order or ordinance passed by the City Council, such power being known as the referendum. Resolutions, orders or ordinances submitted to the City Council by initiative petition and passed by the City Council shall be subject to the referendum in the same manner as other resolutions, orders or ordinances. Within twenty (20) days after the enactment by the City Council of any resolution, order or ordinance which is subject to a referendum, a petition signed by at least fifteen (15) percent of the registered voters of the City of Waterville at the last regular municipal election may be filed with the City Clerk requesting that any such resolution, order or ordinance be either repealed or submitted to a vote of the registered voters.

**Section 3. Power of initiative.**

The registered voters shall have power to propose any resolution, order or ordinance, such power being known as the initiative. Such initiated resolution, order or ordinance may be submitted to the City Council within forty-five (45) days after the filing of the affidavit by a petition signed by registered voters of the City equal in number to at least fifteen (15) percent of the registered voters at the last regular municipal election.

**Section 4. Procedure for filing petition.**

Any voter or voters of the City may make and file with the City Clerk an affidavit containing their name or names, address(es) and the address to which all notices are to be sent. In the case of recall, the name(s) of the elected official(s) whose removal is sought and a general statement of the reasons why removal is desired shall be part of the affidavit. In the case of referendum or initiative, the affidavit shall include a general statement with explanations of the resolution, order or ordinance and reasons why the petition is to be circulated. The City Clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks, printed forms of which shall be kept on hand. Such blanks shall be issued by the City Clerk with the City Clerk's signature and official seal thereto attached; they shall be dated and addressed to the City Council, shall contain the name of the persons to whom issued, the number of blanks so issued; copy of the petition shall be entered in a record book to be kept in the office of the City Clerk.

**Section 5. Form of petitions.**

The petitions used to invoke the initiative or the referendum shall be substantially in the following form:

PETITION TO THE WATERVILLE CITY COUNCIL

"For the Submission to the People of the Question, 'Shall the proposed (resolution, order, ordinance), a copy of which is hereto attached, be adopted?', or, in the case of recall, 'Shall A be recalled?'"

"We, the undersigned voters of the City of Waterville, residing respectively at the addresses placed opposite our names, hereby petition the City Council to submit the foregoing question to the voters of the City of Waterville."

A copy of the affidavit filed with the City Clerk shall be attached to the petition. The affidavit shall be a general statement with explanations of the (resolution, order, ordinance) and reasons why this petition is being circulated.

NAMES	RESIDENCES	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____

"Name \_\_\_\_\_, Street and Number \_\_\_\_\_, being duly sworn, deposes and says that he/she is the circulator of the foregoing petition containing \_\_\_\_\_ signatures and that the signatures appended thereto were made in the circulator's presence and are to the best of the circulator's knowledge and belief the signatures of the persons whose names they purport to be.

Signed \_\_\_\_\_

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Justice of the Peace (or) Notary Public"

**Section 6. Signatures to petitions.**

The signatures to petitions need not all be affixed to one petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating that he/she, and he/she only, personally circulated the foregoing paper; that it bears a stated number of signatures; that each signature appended thereto was made in the circulator's presence and is to the best of the circulator's knowledge and belief the genuine signature of the person whose name it purports to be. With each signature shall be stated the same name printed, the place of residence of the signer, giving the street and number of the street or other description sufficient to identify the same.

**Section 7. Filing, examination and certification of petitions.**

All petition papers comprising a recall, initiative, or referendum petition shall be assembled and filed with the City Clerk as one instrument. Within ten (10) working days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors.

The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted, unless void on other grounds.

If the City Clerk's certificate shows the petition to be insufficient, the City Clerk shall forthwith so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within the five (5) days after the giving of the notice, by filing of a supplementary petition upon additional papers, issued, signed and filed as provided herein for the original petition. The City Clerk shall, within ten (10) working days after such amendment, make like examination of the amended petition, and attach thereto the certificate of the result. If then found to be insufficient, or if no amendment was made, the City Clerk shall file the petition in the City Clerk's office and shall notify each of the persons, designated thereon as filing it, of that fact. In the case of recall and initiative, the final ending of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

After completing examination of the petition, the City Clerk shall certify the result thereof to the City Council at its next regular meeting. If the City Clerk shall certify that the petition is insufficient, the particulars in which it is defective shall be set forth in the certificate.

**Section 8. Effect of referendum petition.**

Whenever there has been originated as aforesaid a petition for the reference to the people of any such ordinance passed by the City Council, and the required number of valid signatures has been obtained thereon for its presentation to the City Council, the same shall be suspended from going into operation.

## **Section 9. Consideration by City Council.**

Whenever the City Council receives a certified initiative or referendum petition from the City Clerk, it shall proceed at once to consider such petition. A proposed initiative resolution, order or ordinance shall be read and acted on as in accordance with the City Charter for passage without amendment. The City Council shall take final action on the initiative resolution, order or ordinance not later than sixty (60) days after the date on which such resolution, order or ordinance was submitted to the City Council by the City Clerk. A referred resolution, order or ordinance shall be reconsidered by the City Council and its final vote upon such reconsideration, which shall not be later than sixty (60) days after the date on which such certified referendum petition was submitted to the City Council by the City Clerk, shall be upon the question, "Shall the resolution, order or ordinance specified in the referendum petition be repealed?" In the case of the referendum, the entire repeal of the resolution, order or ordinance sought to be referred, and in the case of the initiative, the passage by the City Council of the desired resolution, order or ordinance shall put an end to all proceedings under said petition.

## **Section 10. Submission to electors.**

If the City Council shall fail to pass a resolution, order or ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefore, or if the City Council fails to repeal a referred resolution, order or ordinance, the proposed or referred resolution, order or ordinance shall be submitted to the electors not less than thirty (30) days nor more than one year from the date the City Council takes its final vote thereon.

There shall not be held under this section of the Charter more than one special election in any period of six (6) months, nor shall any such special election be called within sixty (60) days prior to any general municipal election.

## **Section 11. Publication.**

Whenever any resolution, order or ordinance is required by the provisions of this article to be submitted to the voters of the City at any election, the City Clerk shall cause a summary thereof to be published in a newspaper published or having a general circulation in the City of Waterville, such publication to be made not less than ten (10) days nor more than fifteen (15) days prior to the election, and shall have available for distribution to every voter who may so request a copy of the full text of such resolution, order or ordinance.

## **Section 12. Form of ballot.**

The ballots used when voting on such proposed resolution, order or ordinance shall set forth the title thereof in full and state its general nature, and shall contain the words: "For the (resolution, order, ordinance)," and "Against the (resolution, order, ordinance)."

## **Section 13. Result of election.**

If a majority of the qualified voters voting on said proposed initiative resolution, order or ordinance or said referred resolution, order or ordinance shall vote in favor thereof, such resolution, order or ordinance shall take effect ten (10) days after the declaration of the official canvass of the return of said election. A referred resolution, order or ordinance which is not approved by a majority of the electors shall thereupon be deemed repealed.

**Section 14. Conflicting resolutions, order or ordinances.**

Any number of proposed or referred resolutions, orders or resolutions may be voted upon at the same election. In the event that two (2) or more resolutions, orders or ordinances adopted at the same election shall contain conflicting provisions, the resolution, order or ordinance receiving the highest number of votes at such election shall prevail to the extent of such conflict.

**Section 15. Resolutions, orders or ordinances submitted to popular vote.**

The City Council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any resolution, order or ordinance except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the votes cast thereon at such election, such resolution, order or ordinance shall be enacted, repealed or amended accordingly.

**ARTICLE XII.**

**GENERAL PROVISIONS**

**Section 1. Rules for taking action or filing claims against the City.**

No action shall be maintained against the City on account of any injuries or damages to persons or property, except under the conditions set forth in Title 14 M.R.S.A. Section 8101 et seq., as revised from time to time.

**Section 2. Submission of modifications or revisions to referendum.**

Modifications or revisions to the Charter as proposed by a duly elected Charter Commission shall be submitted to voters for approval or revision in accordance with Title 30-A M.R.S.A. Section 2101, et seq., as amended.

**Section 3. Effective date of this Revision.**

The provisions of this Charter which are essential to the municipal election provided for herein shall go into effect immediately upon the approval of this Revision by a majority of qualified voters, as provided in section 2 of this article. The remaining provisions of this Revision shall go into effect on the first day of the municipal year following approval of this Revision.

**Section 4. Effect of this revision on existing law.**

In the event that this revision is approved in the manner herein provided, all acts and parts of acts inconsistent with the provisions of this Charter are hereby repealed and superseded. Insofar as the provisions of this Charter are the same in terms or in substance and effect as provisions of law in force when this revision shall take effect, the provisions of the revision are intended to be not a new enactment but in continuation of such provisions of law, and this revision shall be so construed and applied.

**Section 5. Effect of this revision on existing ordinances and contracts.**

All ordinances in force at the time when this revision takes effect not inconsistent with the provisions of this revision shall continue in force until amended or repealed. All rights, actions, proceedings,

prosecutions and contracts of the City pending or executed when this Charter goes into effect and not inconsistent therewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

**Section 6. Separability clause.**

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter, it being the intention that the remaining portions of this Charter shall stand, notwithstanding the unconstitutionality and invalidity of any such section, sentence, clause or phrase.

**Section 7. Review of Charter**

The City Council shall, in a manner consistent with applicable state statute, propose creation of a Charter Commission to the voters of the City of Waterville at a regularly scheduled election in 2012 and every 7 years thereafter.

The City Council may also, in a manner consistent with applicable state statute, propose creation of a Charter Commission to the voters of the City of Waterville at times other than those required by this section.