

# **CHAPTER 200**

## **TOWN OF SCARBOROUGH, MAINE**

### **CHARTER**

#### **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 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).