



**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – AUGUST 18, 2010**  
**REGULAR MEETING – 7:00 P.M.**

**NO NEW BUSINESS SHALL BE TAKEN UP AFTER 10:00 P.M.**

**Item 1.** Call to Order.

**Item 2.** Pledge of Allegiance.

**Item 3.** Roll Call.

**Item 4.** General Public Comments. (\*Please see **NOTICE** at the end of the agenda.)

**Item 5.** Minutes: July 21, 2010 – Regular Meeting.

**Item 6.** Adjustment to the Agenda.

**Item 7.** Items to be signed: a. Treasurer's Warrants.

**Procedure for Addressing Council**, please see end of agenda.

**Order No. 10-66, 7:00 p.m. Public hearing** and action on the new request from G. Kevin McQuinn d/b/a Two Sisters Fruit & Produce and Seven Sisters Seafood d/b/a Great Ledge Lobster, both located at 340 Pine Point Road.

**OLD BUSINESS:** Not as this time.

**NEW BUSINESS:**

**Order No. 10-67.** First reading and schedule a public hearing on the proposed amendments to Chapter 313 –the Town of Scarborough Property Tax Assistance Ordinance; Sections 1, 3, 4 and 5.

**Item 8.** Non Action Items.

a. Review of proposed amendments to Chapter 200 – Scarborough Town Charter.

**Item 9.** Standing and Special Committee Reports and Liaison Reports.

**Item 10.** Town Manager Report.

**Item 11.** Council Member Comments.

**Item 12.** Adjournment.

## **\*NOTICE Procedure for Addressing Council.**

### **202.0: PROCEDURES FOR ADDRESSING THE COUNCIL.**

Any person wishing to address the Town Council will be given an opportunity to do so in accordance with the following procedures:

#### **202.1: Procedure.**

A Public Comment Period shall be conducted prior to the start of any Council business at each regular Town Council meeting, at which time citizens shall be given the opportunity to be heard on matters concerning Town business in general. Additional public comment shall be allowed during public hearings and on agenda items. Such public forums and/or public comment periods may be waived if no member of the public wishes to speak. Persons wishing to speak will preface their comments by giving their name and address.

#### **202.2: Time Limit.**

All such public forums, public comment periods and public hearings shall be conducted under the following guidelines:

**202.2.a: General Public Comment:** Persons addressing the Town Council during the public comment period at the beginning of the meeting shall limit their comments to (3) three minutes. Individuals may be permitted to speak more than once at the discretion of the Chair of the Council. The first (30) thirty minutes of the Council meeting will be allocated for general public comment. If it appears that the public comment period will exceed (30) thirty minutes, public comment may be suspended by the Chair, so the Town Council can conduct its business, in any case to occur prior to adjournment. (amended 10/21/09)

**202.2.b.: Public Hearing Comment:** Persons addressing the Town Council during a public hearing shall limit their comments to the particular agenda item and shall limit their comments to (3) three minutes. Individuals may be permitted to speak more than once at the discretion of the Chair of the Council. (amended 04/18/01; amended 10/21/09)

**202.2.c: Public Comment on Agenda Items:** Following the reading of each agenda item, the Chair shall ask if any member of the public wishes to speak on that item. Persons who have previously addressed the Town Council during the public comment portion and wishes to speak on an agenda item may do so only if there is new and pertinent information to be added and limit their comments to (3) three minutes. (amended 10/21/09)

#### **202.3: Decorum.**

Persons present at Council meetings are requested not to applaud or otherwise express approval or disapproval of any statements made or action taken at such meeting.

**202.3.a:** Citizens will strive to be accurate in their statements, avoid personalities, and conduct themselves in a manner expected of all meeting participants. (amended 04/18/01).

**202.3.b.:** It shall be at the discretion of the Council Chair to ask any persons making in-appropriate statements, and/or conducting themselves in a disrespectful manner to cease such action or risk being asked to be seated or removed.

## **AGENDA**

### **SCARBOROUGH TOWN COUNCIL WEDNESDAY – JULY 21, 2010 REGULAR MEETING – 7:00 P.M.**

**Order No. 10-66, 7:00 p.m. Public hearing** and action on the new request from G. Kevin McQuinn d/b/a Two Sisters Fruit & Produce and Seven Sisters Seafood d/b/a Great Ledge Lobster, both located at 340 Pine Point Road, as follows:

**TO:** Town Council Members  
**FROM:** Yolande P. Justice, Town Clerk  
**DATE:** August 13, 2010  
**RE: Requests for Food Handlers License**

The following applicant is requesting approval of a new Food Handlers License for the following establishments:

G. Kevin McQuinn d/b/a Two Sisters Fruit & Produce and Seven Sisters Seafood d/b/a Great Ledge Lobster, both located at 340 Pine Point Road.

The completed application is on file with Clerk's Office. There are no outstanding issues and it is recommended that the requests be approved.

## **AGENDA**

### **SCARBOROUGH TOWN COUNCIL**

**WEDNESDAY – JULY 21, 2010**

**REGULAR MEETING – 7:00 P.M.**

**Order No. 10-67.** Move approval of the first reading on the proposed amendments to Chapter 313 –the Town of Scarborough Property Tax Assistance Ordinance; Sections 1, 3, 4 and 5 and schedule a public hearing and second reading for Wednesday, September 1, 2010.

**PROPOSED AMENDMENTS**  
**TO CHAPTER 313**  
**TOWN OF SCARBOROUGH**  
**PROPERTY TAX ASSISTANCE ORDINANCE**

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Chapter 313, the Property Tax Assistance of the Town of Scarborough, Maine, be and hereby is amended by adding the underlined text and deleting the text shown in strikeover type, as shown below:

**Section 1. Purpose**

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons ~~65~~ 62 years of age and over who reside in the Town of Scarborough. Under this program, the Town of Scarborough will provide supplemental cash refund payments to those individuals who qualify as Scarborough resident beneficiaries of the State of Maine Residents Property Tax Program pursuant to Chapter 907 of Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance.

**Section 2. Definitions**

**Homestead:** A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

**Qualifying applicant:** A qualifying applicant is a person who is determined by the Tax Assessor or his designee, after review of a complete application under Section 4 of this Ordinance, to be eligible for a refund payment under the terms of this Ordinance.

**Section 3. Criteria for Participation**

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- a. The applicant shall be ~~65~~ 62 years of age or more at the time of application.
- b. The applicant has received a refund under the provisions of Chapter 907 of 36 M.R.S.A.
- c. The applicant has been a resident of the Town of Scarborough for at least ten years immediately preceding the date of application for participation in the Program.

**Section 4. Application and Payment Procedures**

Persons seeking to participate in the Property Tax Assistance Program shall submit a written request to the Tax Assessor no later than ~~September 15th~~ October 15th. Applications are required every year to participate in this program. The Tax Assessor shall provide an application form for the program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof and dollar amount (copy of check) of State Refund under Chapter 907 of Title 36 (State Circuit Breaker Program). The Tax Assessor shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Tax Assessor shall notify an applicant if an

application is determined to be incomplete. The Tax Assessor's decision on eligibility to participate in the Program shall be final.

### **Section 5. Determination of eligibility and amount of eligibility**

If the Tax Assessor determines that the applicant is eligible to participate in the Program, he shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

- a. The amount of the refund awarded by the State under Chapter 907, Title 36 M.R.S.A. (Maine Circuit Breaker Program) or;
- b. Available monies in the Town Circuit Breaker fund or;
- c. \$500.00.

The Tax Assessor shall report to the Town Council at their first meeting in ~~October~~ December each year the projected payments and number of eligible applicant requesting assistance for the program fund.

### **Section 6. Program Fund - Limitations upon payments**

Payments under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants under this Ordinance, payments shall be limited to the amounts available in the Fund. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

### **Section 7. Creation of the Program Fund**

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the Town Council shall annually appropriate monies from the general fund or other sources to support this program. Any surplus monies available after all payments have been made shall revert to the general fund.

### **Section 8. Timing of Payments**

A person who qualifies for payment under this Program shall be mailed a check for the full amount (or pro-rated amount if inadequate funds are available) no later than December 15<sup>th</sup> for the year in which participation is sought.

### **Section 9. Limitations upon payments**

Only one qualifying applicant per household shall be entitled to payment under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Tax Assessor shall be disbursed to another member of the household as determined by the Town Assessor or the Town Manager. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

**AGENDA**

**SCARBOROUGH TOWN COUNCIL  
WEDNESDAY – JULY 21, 2010  
REGULAR MEETING – 7:00 P.M.**

**Item 8. Non Action Items.**

**a. Review of proposed amendments to Chapter 200 – Scarborough Town Charter.**

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

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

**Section. 101. Incorporation.**

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

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

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

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

102.2 In this Charter, mention of a particular power shall not be construed to be exclusive or to restrict the scope of the powers; which the Town would have if the particular power were not mentioned. The Charter shall be liberally ~~construed to the end~~ interpreted to mean that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to state laws and to the provisions of the State Constitution.

**ARTICLE II - TOWN COUNCIL**

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

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

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

Members of the Town Council shall be registered voters of the Town and shall reside in the Town during their term of office. During their term of office ~~M~~members of the Town Council shall not hold any other compensated Town office or Town employment, except as on-call emergency personnel; ~~during their term of office.~~ No member of the Town Council shall, ~~during their term of office,~~ 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.

### **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 ~~of the appointee's board~~. 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 ~~Make Enact, alter 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 ~~elected~~ appointed by the Town Council, ~~including the salary of the Town Manager as defined in Section 204.1.~~

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

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

Councillors elect shall be sworn to the faithful discharge of their duties by the Town Clerk or the Town Clerk's designee 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 At its first (1<sup>st</sup>) meeting ~~after certification of the election or as soon thereafter as practicable~~, the Town Council shall elect, by majority vote of the entire Town Council, one of its members for the ensuing year as chair, ~~and T~~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. ~~In the temporary absence or disability of the chair, the Town Council may elect a chair pro tempore, from among its members who shall exercise all the powers of chair during such temporary absence or disability. Should a vacancy in the office occur, the Town Council may fill the unexpired term of the chair.~~

209.2 ~~At its first (1<sup>st</sup>) meeting after certification of the election, the Town Council shall elect, by majority vote of the entire town Council, one of its members for the ensuing year as vice-chair. and T~~the Town Council may fill, for an unexpired term, any vacancy in the office of vice-chair ~~chair~~ that may occur. ~~In the temporary absence or disability of the chair, the Town Council may elect a chair pro tempore, from among its members who vice-chair shall exercise all the powers of 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 ~~but~~ 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.**

~~At least one (1) public hearing, 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, shall be held by the Town Council before any ordinance shall be passed, but~~ However, nothing contained herein shall be deemed to require publication of the ordinance itself. The passage of ~~such said~~ ordinance shall be effective at 12:00 A.M. on the day following enactment or at ~~any later~~ such other date specified therein. ~~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, but 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.~~

#### **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,; but however, this shall not prevent one (1) re-enactment of same 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 ~~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, ~~not later than the first regular Town Council meeting in February,~~ 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).

### ~~Section. 216. Assessments.~~

~~Within ninety (90) days after the effective date of this Charter, the Town Council shall enact an ordinance providing for notice to affected property owners in the event that a capital expenditure is proposed to be funded, in whole or in part, from assessments upon real property.~~

## ARTICLE III - TOWN MANAGER

### Section. 301. ~~Town Manager,~~ Qualifications.

The Town Manager shall be chosen by the Town Council solely on the basis of character, and executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of ~~his~~ the office as hereinafter set forth. The Town Manager may be appointed for an indefinite term or, by contract, for a definite term. At the time of initial appointment, the Town Manager need not be a resident of the Town or state but, after one year following the date of initial appointment, the Town Manager shall not reside outside of the Town of Scarborough, Maine without the approval of the Town Council. No member of the Town Council shall be appointed Town Manager during a term of office, nor within one (1) year after the expiration of a term, nor shall any member of the Town Council act in that capacity.

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

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

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

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

303.1 Appoint all statutory officers required by law to be appointed, provided, however; that appointments to the head of any office, department or agency shall require prior confirmation by the Town Council.

303.2 Appoint, prescribe the duties of, and remove all ~~officers and~~ employees of the Town appointed by the Town Manager, except as otherwise provided herein, ~~and except as the~~

~~Town Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office.~~

- 303.3 Prepare ~~the budget annually~~ an annual budget, submit it to the Town Council and be responsible for its administration after adoption and keep the Town Council advised of the financial condition and future needs of the Town and make such recommendations as appropriate.
- 303.4 Prepare and submit to the Town Council as of the end of the fiscal year, a complete report on the finances and administrative activities of the Town for the preceding year, and cause such annual Town report to be published and made available to the public as promptly as possible after the close of the fiscal year.
- 303.5 Attend the meetings of the Town Council, except when removal of the Town Manager is being considered, ~~and keep the Town Council advised of the financial condition and future needs of the Town and make such recommendations as may seem desirable.~~
- 303.6 See that all laws and ordinances governing the Town are faithfully administered.
- 303.7 ~~Act as~~ Oversee purchasing ~~agent~~ for all departments of the Town, ~~except the School Department.~~
- 303.8 Perform such other duties as may be prescribed by this Charter or required by the Town Council not inconsistent with this Charter.
- 303.9 Prepare an administrative code, submit it to the Town Council and be responsible for its administration after adoption.

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

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

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

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

#### **Section. 306. Appointees.**

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

### **ARTICLE IV - DEPARTMENT OF EDUCATION**

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

The Department of Education shall be administered by a Board of Education, which shall consist of seven (7) members who shall be nominated and elected by the registered voters of the entire Town

according to the provision of this Charter for a term of three (3) years and who shall serve until their successors are elected and qualified.

~~401.1 Transitional Provision. This section shall become effective upon its approval by the voters for the purpose of electing the two additional members of the Board of Education at a special municipal election to be called and held on or before January 12, 1993. The two additional members shall be sworn to the faithful discharge of their duties at the next regular meeting of the Town Council following the date of their election. The terms of office of the two additional members so elected shall expire at the 1994 regular annual election, at which time their successors shall be elected for terms of three (3) years. Members of the Board of Education elected prior to July 1, 1993 shall continue to serve until the expiration of their respective terms.~~

#### **Section. 402. Qualifications.**

Members of the Board of Education shall be registered voters of the Town and shall reside in the Town during their term of office. During their term of office Members of the Board of Education shall not hold any other compensated Town office or Town employment, except as on-call emergency personnel, ~~during their term of office.~~ No member of the School Board of Education shall serve as a trustee of the Scarborough Sanitary District. If a member of the Board of Education is recalled or shall cease to possess any of these qualifications or shall be finally convicted of a crime punishable by imprisonment for more than six months, the office shall immediately become vacant.

#### **Section. 403. Vacancies.**

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

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

The members of the Board of Education shall ~~meet jointly with the Town Council~~ be sworn in by the Town Clerk or the Town Clerk's designee upon certification of the election by the Town Council and seated at the first Board of Education meeting after certification. ~~at the Town Council's second meeting, whether regular, special or emergency, following the regular Town election and, at said meeting, the members elect shall be sworn to the faithful discharge of their duties by the Town Clerk or its designee.~~ The majority of the whole number of the Board of Education shall be a quorum and they shall elect their own chair. Every vote of the Board shall require the affirmative vote of at least four members.

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

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

sums required for the support of public schools for the ensuing fiscal year. The Town Council shall review the proposed budget and make appropriations for the support of public schools in accordance with the provisions of the general laws of the State and this Charter.

#### **Section. 406. Compensation.**

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

### **ARTICLE V - BUDGET**

#### **Section. 501. Fiscal Year.**

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

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

502.1 ~~The Town Manager,~~ At least sixty (60) days prior to the beginning of each fiscal year, ~~the Town Manager~~ shall submit to the Town Council a budget and an explanatory budget message. The budget authority of the Town Council shall include the authorization to set line item appropriations for all offices, agencies and departments of the Town, with the exception of the Department of Education. The Town Council shall only have total appropriation authority for the Department of Education. This budget shall be compiled from detailed information furnished by the administrative officers and boards ~~on blank forms in a format~~ of which shall be designated by the Town Manager and shall contain:

502.1.1 ~~An~~ Exact statement of the financial condition of the Town.

502.1.2 An itemized statement of appropriations recommended for current expenses, and for permanent improvements; with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the ~~preceding fiscal~~ most recent audited and projected expenses for the current year. An increase or decrease in any item shall be indicated by dollar amount and percentage change.

502.1.3 An itemized statement of estimated revenue from all sources, other than taxation; and a statement of taxes required, comparative figures from current and preceding year.

502.1.4 Such other information as may be required by the Town Council. The proposed budget prepared by the Town Manager, as well as the school budget, shall be reviewed by the Town Council, which shall approve the total budget with or without amendments. The Town Council shall fix the time and place for holding a public hearing on such budget, and shall give public notice of such hearing.

- 502.1.5 At the head of the budget, there shall appear a summary of the budget, which need not be itemized, further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized by departments and kinds of expenditures in such manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.
- 502.1.6 The budget for all departments, including the Department of Education, shall include all proposed expenditures. The Town Council shall make appropriations for each department, including the Department of Education, for the ensuing fiscal year. The appropriation for each department shall not be exceeded except by consent of the Town Council, but the school budget shall be expended under the direction of the Board of Education subject to the provisions of Article IV and V hereof.
- 502.1.7 After the adoption and ~~B~~before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Manager, upon request, a work program of the year, which ~~The~~ program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments of the appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

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

502.2 The Town Council shall thereafter review the budget and adopt it with or without change no later than sixty (60) days from the date of its submission to the Town Council. In the event the Town Council shall fail to adopt the budget within said sixty (60) day period, the budget as presented by the Town Manager and by the Board of Education shall automatically become the budget for the fiscal year or as otherwise provided by State Law.

### **Section. 5034. Budget Established Appropriations.**

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

### **Section. 5045. Budget Establishes Amount to be Raised by Property Tax; Certification to Town Assessor.**

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

### **Section. 505. Budget Summary. NOW SUBSECTION 502.1.5**

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

~~**Section. 506. Expenditures and Departmental Revenues.**~~ **NOW SUBSECTION 502.1.6**

~~The budget for all departments, including the Department of Education, shall include all proposed expenditures. The Town Council shall make appropriations for each department, including the Department of Education, for the ensuing fiscal year. The appropriation for each department shall not be exceeded except by consent of the Town Council, but the school budget shall be expended under the direction of the Board of Education subject to the provisions of Article IV and V hereof.~~

~~**Section. 507. Work Program; Allotments.**~~ **NOW SUBSECTION 502.1.7**

~~Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Manager, upon request, a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments of the appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.~~

**Section. 508~~6~~. Transfer of Appropriations.**

Following approval of the budget and at the request of the Town Manager, adjustments to ~~line item~~ appropriations across departments of any office, agency or department, excluding the Department of Education, shall be presented by order to the Town Council in public session, and shall require approval of the majority of the Town Council. Adjustments to the Department of Education budget shall be determined by the ~~Rules of Order Policy~~ of the ~~School~~ Board of Education, but may not exceed the total appropriation authorized by the Town Council.

**ARTICLE VI - TAX ADMINISTRATION**

**Section. 601. Assessor.**

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

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

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

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

The Board of Assessment Review shall:

- 603.1 Review appeals from decisions of the Assessor regarding applications for abatements of property taxes and make determinations with respect to assessments in accordance with the general laws of the State of Maine.
- 603.2 Have the power to administer oaths, take testimony, and hold hearings as may be required in carrying out its functions.
- 603.3 Adopt, subject to the approval of the Town Council, rules and regulations for the transaction of its business.

## **ARTICLE VII - MUNICIPAL DEVELOPMENT**

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

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

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

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

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

There shall be a Board of Appeals, which shall consist of five (5) regular members and two (2) alternate members ~~be~~ appointed by the Town Council as provided in the Town's Zoning Ordinance. The Board shall have such powers, and ~~perform such~~ duties as are provided by the Ordinances of the Town and the general laws of the State of Maine.

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

There shall be a Long Range Planning Committee or no less than five (5) members and two (2) alternate members of the Town who are residents or who are property owners in the Town which shall be appointed by the Town Council as provided in the Town Administrative Code. The Long Range Planning Committee shall be advisory and act as the primary committee shall to plan for the growth and development of the Town as provided by the Comprehensive Plan, Town Administrative Code and general laws of the State of Maine.

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

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

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

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

Registered voters of the Town shall be nominated for the Town Council or the Board of Education only by the use of nomination papers in accordance with the laws of the State of Maine, except as otherwise provided in this Charter. For regular elections under Section 801 of this Charter, the Town Clerk shall make nomination papers available to prospective candidates no later than the first

Wednesday in August prior to the election and nomination papers shall be filed with the Town Clerk no later than the first Wednesday in September prior to the election. For special elections to fill vacancies, the dates for availability and filing of nomination papers shall be as set forth in the laws of the State of Maine, except that the Town Council may, by order, modify such dates. (amended November 2, 2004; effective December 1, 2004).

### **Section. 803. Conduct of Municipal Elections.**

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

### **Section. 804. Voting Place.**

The voting places for municipal elections shall be those which have been or may hereafter be, established for state elections by the affirmative vote of the Town Council pursuant to 21-A M.R.S.A. §627.

### **Section. 805. Election Officials.**

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

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

Following the effective date of this Charter, the following elected and appointed officials shall ~~not~~ serve for no more than three (3) consecutive full terms of office: members of the Town Council; members of the Board of Education; and full voting members of the Planning Board or the Board of Appeals.

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

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

## **ARTICLE IX – INITIATIVE, ~~AND~~ REFERENDUM AND RECALL**

### **Section. 901. Petition for Overture of Action by Town Council.**

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

901.1 All ordinances.

901.2 Orders or resolves appropriating one hundred thousand dollars (\$100,000) or more for a single capital improvement or capital equipment.

901.3 Orders or resolves authorizing bond issues of one hundred thousand dollars (\$100,000) or more for capital improvements or capital equipment.

901.4 Any order or resolve authorizing a conveyance of Town-owned real property, other than property acquired due to non-payment of taxes or assessments, if the value of the property listed in the Town Assessor's records at the time of enactment of the order or resolve exceeds \$400,000.

901.45 If within twenty (20) days after the enactment of any such ordinance, order or resolve, a petition signed by a number of registered voters equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, is filed with the Town Clerk requesting its reference to a referendum. If more than one action is being taken, a separate petition must be issued for each action.

901.6 For petition format and process refer to Section 904.

~~901.4~~ If within twenty (20) days after the enactment of any such ordinance, order or resolve, a petition signed by a number of registered voters equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, is filed with the Town Clerk requesting its reference to a referendum, the Town Council shall call a public hearing to be held within thirty (30) days from the date of filing of such petition with the Town Clerk and shall, within thirty (30) days after said public hearing, call and hold a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Any special Town election for a referendum vote required under this section within thirty (30) days of a regularly scheduled election shall be deferred to the date of the regularly scheduled election. Pending action by the voters of the Town, the referred ordinance, order or resolve shall not become effective until it has received a vote of the majority of the voters voting on said question. In the event that the total number of votes cast for and against the question is less than a number of registered voters equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, the action of the Town Council shall be deemed to be approved.

### **Section. 902. Form of Ballot.**

The form of the ballot for overrule of a referred ordinance, order or resolve under Section 901 shall be substantially as follows:

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

### **Section 9032. Petition for Enactment of Ordinance.**

9032.1 A number of registered voters equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, may at any time petition for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. If more than one action is being taken, a separate petition must be issued for each action.

9032.2 Any such proposed ordinance shall be examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetition, illegalities and unconstitutional provisions and to assure accuracy in its text and references and clearness and preciseness in meaning and effect.

902.3 Such ordinance shall take effect on the tenth day (10<sup>th</sup>) after the conclusion of such referendum, provided that the outcome complies with Section 908. Election Validation.

902.4 For petition format and process refer to Section 904.

~~903.1~~ A number of registered voters equal to at least twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election, may at any time petition

~~for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Town Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk and shall within thirty (30) days after said public hearing call and hold a special Town election for the purposes of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call of said Town election, such ordinance shall be enacted by the Town Council. Any special Town election for a referendum vote required under this section within thirty (30) days of a regularly scheduled election shall be deferred to the date of the regularly scheduled election. Such ordinance shall take effect on the tenth day (10<sup>th</sup>) after the conclusion of such referendum, provided a majority of those voting thereon shall have voted in the affirmative and provided that the total votes cast for and against the ordinance exceeds a number of registered voters equal to at least twenty five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election.~~

~~903.2 Any such proposed ordinance shall be examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetition, illegalities and unconstitutional provisions and to assure accuracy in its text and references and clearness and preciseness in meaning and effect.~~

#### **Section. 904. Form of Ballot.**

The form of the ballot for the proposed ordinance, or repeal of such ordinance, order or resolve under Section 903, shall be substantially as follows:

“Shall the ordinance, order or resolve entitled “\_\_\_\_\_” be adopted?”

#### **Section 903. Petition for Recall of Elected Official(s)**

This provision provides for a recall and removal of elected municipal officials with the exception of the Scarborough Sanitary Board of Trustees as noted in 38 M.R.S.A. §1140.2

903.1 Any twenty-five (25) qualified voters of the Town of Scarborough may initiate a recall petition by filing with the Town Clerk an affidavit containing the names, addresses and the address to which all notices are to be sent. Also included in the affidavit is the name of the elected official for whom the recall is sought and a statement of reason(s) for the recall or explanation of the action being taken.

903.2. If more than more than one elected official is to be recalled, a separate affidavit must be filed for each. Only one elected official can be named on a recall petition. The petition must contain the signatures of registered voters equal to no less than twenty-five percent (25%) of the number of votes cast in Scarborough in the last gubernatorial election.

903.3. The Town Clerk shall promptly prepare and issue the appropriate number of petitions needed to the petitioners.

903.4. If the elected official(s) has not resigned as noted in 905.6.1.a they continue to perform the duties of the office. If the elected official is defeated at the Recall Election they will continue to perform the duties until the Town Council certifies election results no later than the second (2<sup>nd</sup>) meeting after the recall election. Any vacancy shall be filled pursuant to Section 211.

903.5 For petition requirements and process refer to Section 904.

## **Section 904. Petition Format and Procedures**

904.1 The format for all petitions must meet the following requirements:

904.1.1. Every petition must have on its face, at the top, the word indicating they type of petition, i.e. Petition for Overrule of Action by Town Council - Petition for Enactment of Ordinance or Petition for Recall of Elected Official(s).

904.1.1.a If a Petition for Overrule of Action by Town Council is must refer to the ordinance, order or resolve under Section 901.

904.1.2.b If a Petition for Enactment of Ordinance it must contain information as noted in Section 902.

904.1.3.c If a Petition for Recall of Elected Official(s) it must contain information as noted in Section 903.

904.2 Each petition must have a space for registered voters to print their name, physical address, the date the petition was signed and a signature.

904.3 Each separate petition must contain a Certificate of the Circulator, which must state that the circulator personally circulated the petition; that all signatures were signed in the circulator's presence; that the circulator believes them to be genuine signatures of the qualified voters whose names they purport to be and that the signer had the opportunity to read the petition before signing.

904.4 Petition Circulation must be completed and returned to the Town Clerk within twenty (20) days after release of the petitions to the circulator.

904.4.1 The circulator must sign the Certificate of the Circulator in front of a notary after the signatures are obtained and prior to submission of the petition forms to the Town Clerk.

904.4.2 Petition forms shall be assembled as one instrument and filed at one time with the Town Clerk. The Town Clerk shall note the date and time of when the petition forms were received.

## **Section 905. Examination for Certification or Non Certification.**

Within ten (10) working days after the filling of the petitions and in accordance with Section 904.1.2 above, the Town Clerk shall verify that all petition forms are in compliance with Sections 904 above.

905.1 If a petition is found to be in non-compliance with Section 904, the entire petition will be invalid or if the Certificate of the Circulator has been altered in any way the entire petitions will be invalid.

905.2 If any petition has been signed by more persons than allowed on the petition, they will not be counted; however, if there are fewer signatures on the petition than what is allowed those signature will be accepted, unless void on other grounds.

905.3 If a registered voter signs more than one petition for the same issue, only the first signature will be counted.

905.4 If the Town Clerk finds that the petitions does not have the required number of qualified signatures, the petition is deemed insufficient and must notify, in writing, the circulators as to such finding and the petition may be amended anytime within five (5) days after

the giving of the notice by filing a supplementary petition upon additional papers, issued, signed and filed as provided herein for the original petition.

905.5 The Town Clerk shall follow the same process as noted in Section 905 with such amendment and attached thereto, the certification of the result. If the petition is still found to be insufficient, or if no amendment was made, the Town Clerk shall file the petition in the Town Clerk's office and shall notify each member of the circulators of such. The final finding of insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

905.6 After completing the examination of the petition(s), the Town Clerk shall certify the results thereof to the Town Council and shall forward to the Town Council a notice of such certification. If the petition is deemed sufficient the Town Council shall call a public hearing to be held within thirty (30) days from the date of the filing of the certificate of sufficiency with the Town Clerk.

905.6.1 If the petition certified is a recall petition and is deemed sufficient the Town Clerk shall notify the elected official(s) whose recall is being sought.

905.6.1.a If the elected official(s) whose removal is being sought shall have resigned before the filing of the certificate of sufficiency with the Town Council the Town Council shall refer to Section 211 or 403 above.

## **Section. 906. Form of Ballots.**

The form of the ballot for overrule of a referred ordinance, order or resolve under Section 901 shall be substantially as follows:

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

The form of the ballot for the proposed ordinance, or repeal of such ordinance, order or resolve under Section 902, shall be substantially as follows:

“Shall the ordinance, order or resolve entitled “\_\_\_\_\_” be adopted?”

The form of the ballot for the purpose of a recall of an elected official(s) under Section 903 shall be substantially as follows:

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

## **Section 9067. Call of Election.**

The Town Council shall within thirty (30) days after said public hearing call and hold a special Town election for the purposes as noted in Sections 901, 902 and 903 above.

9067.1 Any special Town election required under this section within thirty (30) days of a regularly scheduled election shall be deferred to the date of the regularly scheduled election.

9067.2 In the event of a Recall Election and the Town Council fails or refuses to order a recall election as herein provided, such election may be ordered by the Town Clerk, or in the absence of the Town Clerk, the Deputy Town Clerk shall call the election to be held under the same rules as noted in Section 906.1 above.

**Section 908. Election Validation.**

For a vote to be valid, the total number of votes cast for and against the question must not be less than twenty-five percent (25%) of the number of votes cast in the last gubernatorial election.

Wording for Recall Election if threshold is different:

[For a vote to be valid for recall election, the total number of votes cast for and against the question must not be less than PERCENTAGE of the number of votes cast in the last gubernatorial election.]

**Section. 9059. Voter Referendum Required for Certain Bond Issues.**

9059.1 The Town Council shall submit orders or resolves authorizing the issuance of general obligation securities of the Town, or the appropriation and expenditure of funds derived solely from municipal revenue sources, or a combination of both, in a principal amount greater than \$400,000 for a single capital improvement or item of capital equipment to voter referendum subject to the following:

9059.1.1 The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligation of the Town; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the Town for streets, sidewalks, or storm or sanitary sewers or other public utilities; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster, or other declared emergency. For purposes of this section, the Town Council may by vote of five (5) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the Town Council shall be conclusive. (amended November 5, 2002; effective November 20, 2002)

9059.1.2 Any order or resolve described in subsection 9059.1 of this section shall be approved by separate action of the Town Council.

9059.1.3 No order or resolve described in subsection 9059.1 of this section, not excepted by subsection 9059.1.1, shall become effective until approved by a majority of voters voting at a regular or special municipal election. In the event that the total number of votes cast for and against the question for the referred order or resolve should be less than 25% of the number of votes cast in Scarborough in the last gubernatorial election, then such order or resolve shall be deemed to be approved and effective.

909.1.4 Form of Ballot:

The form of the ballot question for the referred order or resolve under Section 909 shall be substantially as follows:

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

**ARTICLE X - GENERAL PROVISIONS**

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

~~Every officer of the~~ All elected Town ~~officials and all Town officials appointed by the Town Council under Section 204.1 of this Charter,~~ shall, before entering upon the duties of office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

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

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

At the request of the Town Council, the Clerk of Courts of Cumberland County may issue summons for witnesses to attend and produce books, documents and papers at any meeting of the Town Council for the Town of Scarborough at which a hearing is held on any matter relating to the administration of any Town affairs, which summons shall be served as summons are required to be served in matters before the Superior Court. On complaint of failure to obey the summons to any Justice of the Superior Court, which Justice is expressly given jurisdiction to hear such complaints, said Justice, if he/she finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or imprisonment for not more than thirty (30) days, or both fine and imprisonment. All rights of appeal as exist in the general laws of the State of Maine shall be available.

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

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

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

1003.3 The Personnel Appeals Board shall meet within ten (10) days from receipt of a notice of appeal for the initial consideration of the appeal. The Personnel Appeals Board shall issue its written decision within ten (10) days after the conclusion of the hearing on the appeal. Continuances may be granted by the Board for good cause shown. The Board

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

~~1003.4~~ ~~Within ninety (90) days after the effective date of this Charter, Tthe Town Council~~ shall enact a personnel ordinance setting forth standards of conduct for Town employees and establishing generally recognized principles of progressive discipline.

~~**Section. 1004. Ordinances not Inconsistent Continue in Force.**~~

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

~~**Section. 1005. Existing Contracts not Invalidated, Unless Inconsistent.**~~

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

~~**Section. 1006. Continuance of Present Elected and Administrative Officers.**~~

~~All persons holding elected and administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance herewith for the performance of such duties or the discontinuance of such office.~~

**Section. 1007.4. Short Title.**

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

**Section. 1085. Severability Clause.**

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

~~**Section. 1096. Repealing Clause.**~~

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

~~**Section. 10107. Charter Amendments.**~~

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

~~**Section. 10118. Charter Review.**~~

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

~~**Section. 10129. Disclosure of Interest.**~~

~~10129.1~~ Any person, elected or appointed, serving on any body, committee, subcommittee or commission of the Town of Scarborough, whether advisory or otherwise, shall publicly disclose any relationship that may create a conflict of interest or the appearance of

impropriety during the discussion or deliberation upon a matter before the body, committee, subcommittee or commission on which that person serves. State law regulating conflict of interest and appearance of impropriety shall be used as the basis to determine if a conflict or appearance of impropriety may exist.

10~~129~~.2 A person, acting in a legislative or judicial capacity, disclosing a potential conflict of interest shall recuse himself or herself from participating in the discussion or deliberations as is required by State Statute M.R.S.A. 30-A, Section 2605, amended from time to time. A majority of the other members of the body, committee, subcommittee or commission on which that person serves may disqualify the person from the deliberation, may disqualify the person from deliberating and voting if, after hearing the disclosure and making appropriate inquiry, they determine the person should be disqualified from acting upon the matter because of conflict of interest or the appearance of impropriety.

**Section. 10~~13~~10. Effective Date.**

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