# *CITY CHARTER*

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Office of City Clerk
***City of Eastport***

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# EASTPORT CITY CHARTER

## ARTICLE I
## POWERS OF THE CITY

### Section 1.01 POWERS OF THE CITY, CITY CHARTER and CITY MEETINGS

The City of Eastport shall have all powers possible for a city to have under the Constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. All powers of the city are vested in the City Council, unless otherwise provided by law or by this charter.

### Section 1.02 CONSTRUCTION

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article.

### Section 1.03 INTERGOVERNMENTAL RELATIONS

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

### Section 1.04 SEPARABILITY

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

### Section 1.05 CHARTER REVISION and AMENDMENT

(a) Proposal of Amendment. Amendments to this charter may be framed and proposed in the manner provided by state law. Charter amendments and revisions must be approved by the voters in accordance with the procedures provided by state law.

(b) Effective Date. Charter revision or new charters adopted by the voters shall become effective immediately but only for the purpose of conducting necessary elections; otherwise charter revisions and new charters become effective on the first day of the next succeeding municipal year.

**Section 1.06 NOTICE and MINUTES of MEETINGS**

All boards, agencies, authorities and committees of this city at their organizational meeting each year shall fix a time and place of regular meetings and shall publish same in the local paper. Thereafter all meetings will be posted in at least three public places as directed by the City Clerk and electronically via the city's website, at least 48 hours in advance of the meetings, together with the agenda. Boards, commissions or committees which meet on call shall notify the City Clerk as to date, time, place and purpose of meeting and may include the agenda. Minutes will be kept in the office of the City Clerk at City Hall and available to the public within seven working days, after approval by the board.

## ARTICLE II
## CITY COUNCIL

**Section 2.01 COMPOSITION, ELIGIBILITY, ELECTION AND TERMS**

(a) Composition. There shall be a City Council of five members elected by the qualified voters of the city at large.

(b) Eligibility. Only qualified voters of the city shall be eligible to hold the office of councilor.

(c) Election and Terms. The regular election of councilors shall be held on the first Tuesday of November in each year, in the manner provided in Article VII. The terms of councilors shall be for three years and shall begin the first Monday of January after their election.

**Section 2.02 POWERS AND DUTIES**

(a) At the first meeting of the calendar year, the City Council shall:

1. ensure that all councilors, board and committee members are sworn in;
2. review Code of Conduct and charter section on ethics with councilors, board, and committee members and make provisions for their enforcement;
3. make all appointments as necessary;
4. appoint liaisons to various committees and boards, making sure that liaison positions are fairly distributed among councilors;
5. ensure that all councilors, board and committee members complete all required training within 120 days of election or appointment.

(b) At the beginning of the fiscal year, the City Council shall:

1. appoint members to the budget committee, as necessary;

2. determine the amount above which a competitive bid process must occur to complete any job or contract;

3. provide for an annual audit;

(c) The City Council shall have the power to:

1. regulate the making of bids;

2. regulate the sale of city property, according to ordinance;

3. appoint and remove the City Manager and conduct an annual performance review;

4. enact, adopt and repeal municipal ordinances;

5. adopt the budget, raise revenue, make appropriations, and regulate bond elections, issuance of bonds, sinking funds, the funding of indebtedness, and all other fiscal business of the city;

6. regulate elections, initiatives, referendums and recall;

7. create, change and/or abolish any offices, departments, and agencies of the city government other than the offices, departments, and agencies created by this charter; and assign additional powers, duties, and functions consistent with this charter to offices, departments, and agencies created by this charter.

8. make or confirm all appointments to permanent and adhoc boards, commissions and committees;

9. establish, by ordinance, fines and penalties for the violation of the city's ordinances;

10. conduct investigations into the operation of any office or department administering the affairs of the city, or on any subject upon which it may legislate. In conducting the investigations, the City Council shall have the right to administer oaths, subpeona witnesses and compel the production of evidence.

11. be the judge of the election and qualifications of councilors;

12. enact whatever powers and duties which are already in the charter or which are accorded by state law.

**Section 2.03 COMPENSATION; EXPENSES**

Councilors shall receive only their actual and necessary expenses incurred in the performance of their duties of office.

**Section 2.04 OFFICERS**

(a) President. At the first meeting of the calendar year, or as soon thereafter as possible, the City Council shall elect by majority vote one of its members as president of the council, who shall serve at the pleasure of the council, and/or until his/her successor is elected and qualified.

If the president shall fail because of sickness, disability, absence from the city or other cause to attend to and perform the duties incumbent on him/her as such president, the remaining members of the City Council may, by unanimous vote, after notice and hearing, terminate the term of office of said president, and remove him/her therefrom and thereupon by majority vote may elect another member of said City Council as president, and such newly elected member shall thereupon and thereafter hold the office and perform the duties of president.

The president shall preside at all meetings of the council and shall perform such other duties, consistent with his/her office as the council may provide. He/she shall be entitled to vote, and his/her vote shall be counted upon all matters and things as a vote of other members of the council. The president shall be recognized as the official head of the city for ceremonial purposes, and shall have the power and authority given to and will perform the duties required of mayors of cities for all purposes of military law, and shall act in lieu of the mayor in so far as representation is provided for the city by the mayor, upon any board or commission, by any statute, or in any case where the Mayor is nominated or appointed in any trust capacity by virtue of any trust heretofore or hereafter created.

(b) Vice President. The City Council shall elect a vice president on an annual basis to act in the absence of the president and to serve as chair in the event of a disciplinary action against the president. The vice president shall have all of the duties of the president in the absence of the president.

**Section 2.05 PROHIBITIONS**

(a) Holding Other Office. Except where authorized by law and except for membership in the Eastport Volunteer Fire Department, no councilors shall hold any other city office or employment by the city during the term for which he/she was elected to the council. Councilors may be appointed as non-voting liaisons to other boards appointed by the council.

(b) Appointments and Removals. Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his/her subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) Interference with Administration. Except for the purpose of inquiries and investigations under Section 2.07, the council or its members shall deal with the city officers and employees who are subject to the direction and supervision of the City Manager, solely through the City Manager, and neither the council nor its members shall give orders to any such officer or employee, whether publicly or privately.

(d) Enforcement. When the City Council has a reasonable understanding that a provision of this charter or of any city policy or rule has been violated by an elected official or an official appointed by the City Council, the City Council may issue any of the following forms of sanctions (from least to most severe):

1. Oral reprimand.
2. Written reprimand. (A written reprimand is less formal than a formal sanction. It may be issued by consensus during executive session .and subject to privacy)
3. Formal sanction, with penalties to be determined by City Council. (A formal sanction is public and the official may have an attorney involved in the proceedings.)
4. Expulsion or removal from office.

**Section 2.06 VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES**

(a) Vacancies. The office of a councilor shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

(b) Forfeiture of Office. A councilor shall forfeit his/her office after a public hearing, if he/she:

(1) lacks at any time during his/her term of office any qualification for the office prescribed by this charter or by law;
(2) violates any express prohibition of this charter;
(3) is convicted of criminal homicide, 1st or 2nd degree, a Class A, B, or C crime or any crime involving moral turpitude;
(4) fails to attend three consecutive regular meetings of the council without being excused by the council.
(5) accrues three sanctions or written reprimands during his/her terms in office.

(c) Fillings of Vacancies. A vacancy in the council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy, but the council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within 30 days following the occurrence of the vacancy, a special election must be held to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VII. If the number of members is reduced to fewer than a quorum, the remaining councilors by majority action may appoint additional members for the purpose of filling vacancies.

**Section 2.07 JUDGE OF QUALIFICATIONS**

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Whenever any council member is so charged, he/she shall not be entitled to vote on questions concerning his/her removal. Decisions made by the council under this section shall be subject to review by the courts.

**Section 2.08 INVESTIGATIONS**

The council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a civil violation punishable by a fine of not more than $100.00.

**Section 2.09 INDEPENDENT AUDIT**

The council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountants or firm annually or for a period not exceeding three years. If the State makes such an audit, the council may accept it as satisfying the requirements of this section.

**Section 2.10 PROCEDURE**

(a) Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the president or of three or more members and upon not less than 48 hours notice to each member. All meetings shall be public; however, the council may recess to executive session at any time for the reasons and purposes set forth in Title 1, MRSA Section 405, as may be amended from time to time.

Emergency meetings may be held on the call of the council president or of three (3) council members. If possible, such notice shall be given not less than six (6) hours before the emergency meeting. The local media, as determined by the City Council, must also be advised of the meeting. When possible, notice should be posted in at least three public places, including online notification via the city website, prior to the meeting. All business conducted at the emergency meeting shall be reviewed at the next regularly scheduled meeting of the City Council. All effort should be made to contact all councilors.

(b) Rules and Journal. The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Three members of the council shall constitute a quorum, but a smaller number may publicly compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council shall be valid or binding unless adopted by the affirmative vote of three or more members of the council.

**Section 2.11 ACTION REQUIRING AN ORDINANCE**

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code or establish, alter or abolish a city department, office or agency;
(b) Provide for a fine or other penalty or establish, a rule or regulation for violation of which a fine or other penalty is imposed;
(c) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;
(d) Grant, renew or extend a franchise;
(e) Regulate the rate charged for its services by a public authority;
(f) Adopt with or without amendment an ordinance proposed under the initiative power; and
(g) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of the ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution, or order.

No provision of this section shall be constructed to undo or render invalid any act or ordinance enacted previous to the adoption of this charter.

## Section 2.12 ORDINANCES IN GENERAL

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be "The City of Eastport hereby ordains . . . " Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter to be inserted by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each council member and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the council may designate, and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least ten days, and may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the City Clerk shall have it published again together with a notice of its adoption.

(c) Effective Date. Except as otherwise provided in this charter, every adopted ordinance and/or resolution shall become effective at the expiration of fifteen (15) days after adoption or at any later date specified therein.

(d) "Publish" Defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the city:
(1) the proposed ordinance (or a brief summary thereof) and,
(2) the places where copies of it have been filed and the times when they are available for public inspection.

## Section 2.13 EMERGENCY ORDINANCE

(a) To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b).

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to subsection 5.09(b).

(b) Shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

**Section 2.14 CODES OF TECHNICAL REGULATIONS**

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be prescribed for ordinances generally except that:

(a) The requirements of Section 2.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(b) The copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to subsection 2.15(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

**Section 2.15 AUTHENTICIATION AND RECORDING; CODIFICATION; PRINTING**

(a) Authentication and Recording. The City Clerk shall authenticate by his/her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the council.

(b) Codification. Within 18 months after adoption of this charter and at least every five years thereafter, the council shall provide for the preparation of effect of law. The general codification shall be adopted by the council by ordinances and shall be published promptly in bound or loose leaf form, together with this charter and any amendments, thereto, pertinent provisions of the Constitution and other laws of the State of Maine, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Eastport City Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

(c) Printing of Ordinances and Resolutions The council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions, and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Eastport City Code and at all times thereafter, the ordinances, resolutions, and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Maine, or the codes of technical regulations and other rules and regulations included in the code.

## ARTICLE III
## CITY MANAGER

### Section 3.01 APPOINTMENT; QUALIFICATIONS; COMPENSATION

The council shall appoint a City Manager for a term specified by contract, not to exceed three years, and fix his/her compensation. The manager shall be appointed solely on the basis of his/her executive and administrative qualifications and shall be subject to an annual review by City Council. With the approval of the council, he/she may reside outside of the city while in office. A newly appointed City Manager shall complete a six-month probationary period,, during which time either party, the City Manager or the City Council, may terminate the contract. If the City Manager decides to resign, he/she must give one month's notice.

### Section 3.02 REMOVAL

The council may remove the City Manager from office in accordance with the following procedures:

(1) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution, which must state the reasons for removal and may suspend the City Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the City Manager.

(2) Within five days after a copy of the resolution is delivered to the City Manager, he/she may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than 15 days nor later than 30 days after the request is filed. The City Manager may file with the council a written reply not later than five days before the hearing.

(3) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the City Manager if he/she has not requested a public hearing, or at any time after the public hearing if he/she has requested one.

The City Manager shall continue to receive his/her salary and benefits until the effective date of a final resolution of removal.

**Section 3.03 ACTING CITY MANAGER**

During a long-term absence or disability of the City Manager, the City Council shall designate an interim qualified person to exercise the powers and perform the duties of the manager during his/her temporary absence or disability. The interim City Manager shall not be a city councilor. During absences of the City Manager for short periods of time, the Assistant City Manager or the City Clerk may perform such duties of the City Manager as he/she is qualified to perform.

**Section 3.04 POWERS AND DUTIES OF THE CITY MANAGER**

The City Manager shall be the Chief Administrative Officer of the city. He/she shall be responsible to the council for the administration of all city affairs placed in his/her charge by or under this charter. He/she shall have the following powers and duties:

(1) He/she shall appoint an official of the city who shall have the title of City Clerk. The City Clerk shall give notice of the council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to him/her by this charter or by the City Manager.

(2) He/she shall appoint and, when he/she deems it necessary for the good of the service, suspend or remove all city employees and appointive administrative officers provided by or under this charter, except as otherwise provided by this charter or personnel rules adopted pursuant to this charter. He/she may authorize any administrative officer who is subject to his/her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(3) He/she shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

(4) Except with the council's permission to be absent, he/she shall attend all council meetings. He/she shall have the right to take part in discussion but may not vote.

(5) He/she shall see that all laws, provisions of this charter and acts of the council, subject to enforcement by him/her or by officers subject to his/her direction and supervision, are faithfully executed.

(6) He/she shall prepare and submit the annual budget and capital program to the council.

(7) He/she shall prepare and make available to the public an annual report of the City of Eastport..

The report shall contain:

(a) A complete report on the finances and administrative activities of the city during the fiscal year immediate preceding;

(b) A full report from each of the city's administrative officers, elected or appointed, detailing the transactions and activities of his/her department during the preceding fiscal year, as well as his/her evaluations of these activities of his/her department and recommendations for the future.

(8) He/she shall make such other reports as the council may require concerning the operations of city departments, offices and agencies subject to his/*her* direction and supervision.

(9) He/she shall keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he/she deems desirable.

(10) He/she shall perform such other duties as are specified in this charter or may be required by the council.

(11) He/she shall be responsible for maintaining a complete and current inventory of all city property, capital equipment, as well as all other materials and supplies.

(12) He/she shall ensure that all required training for all city employees is completed within the required period of time.

(13) He/she shall maintain executive summary project files on each major project in the city, including all grants, funded capital programs, emergency funds and disaster appropriations. Received grants and authorized capital improvement programs are to be reported on monthly.

## ARTICLE IV
## ADMINISTRATIVE DEPARTMENTS

### Section 4.01 GENERAL PROVISIONS

(a) Creation of Departments. The council may establish city departments, offices or agencies, in addition to those created by this charter, and may prescribe the functions assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

The following officers shall be appointed by the City Council and can only be removed by the council: City Manager; Sealer of Weights & Measures; Health Officer; City Treasurer; Tax Assessor; Code Enforcement Officer; Building Inspector; Collector of Taxes; Purchasing Agent; and Public Access Officer.

(b) Direction by City Manager All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them. All city departments, offices and agencies will be under the direction and supervision of the City Manager. Supervision may include temporary suspension of council appointed personnel, subject to the council's review and final action, which may include termination.

The City Manager shall appoint the Chief of Police with the consent of the council.

The following other employees shall be appointed by the City Manager:

Chief of Fire Department; Department Head of Public Works (which shall encompass the Highway and Sewer Departments); Police Officers; Firefighters; all other Department Heads whose positions may be created; and all minor officers and employees. Employees need not be residents of the City of Eastport except that police officers and firefighters are required to reside within a reasonable response time from the City of Eastport.

(c) All officers appointed by the council or appointed by the City Manager whose terms of service are specified herein shall be removable by the powers naming them for cause, after notice and hearing.

All other appointive officers may be removed for cause after notice and hearing.

**Section 4.02 PERSONNEL SYSTEM**

(a) Merit Principle. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(b) Personnel Director. There may be a Personnel Director appointed by the City Manager as provided in section 4.01, who shall administer the personnel system of the city. The City Manager shall serve as the Personnel Director until such time as the City Council shall direct the City Manager to appoint a Personnel Director.

(c) Personnel Board. At the discretion of the City Council there shall be a personnel board consisting of three members appointed by the council for terms of three years from among the qualified voters of the city. Members of the board shall hold no other city office. The Personnel Director shall provide necessary staff assistance for this personnel board. Initially the terms shall be for three, two and one year.

(d) Personnel Rules. The Personnel Director shall prepare personnel rules. The manager shall refer such proposed rules to the personnel board which shall report to the manager its recommendations thereon. The rules shall then be proposed to the council, and the council may by ordinance adopt them with or without amendment. If the personnel board has not been appointed, the personnel rules shall be proposed by the City Manager directly to the City Council. These rules shall provide for:

(1) The classification of all city positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;

(2) Methods for determining the merit and fitness of candidates for appointment or promotion;

(3) The policies and procedures regulating reduction in force and removal of employees;

(4) The hours of work, attendance regulations and provisions for sick and vacation leaves;

(5) The policies and procedures governing persons holding provisional appointments.

(6) The policies and procedures governing relationship with employee organization;

(7) Policies regarding in-service training program;

(8) Grievance procedures; and

(9) Other practices and procedures necessary to the administration of the city personnel system.

**Section 4.03 LEGAL OFFICER**

There shall be a legal officer or officers of the city, appointed by the City Council as provided in section 4.01, who shall serve as chief legal advisers to the council, the manager, and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by this chapter or by ordinance. The council may employ other attorneys when it is deemed to be in the best interests of the city.

## ARTICLE V
## FINANCIAL PROCEDURES

**Section 5.01 FISCAL YEAR**

The fiscal year of the city shall begin on the first day of July and end on the last day of June.

**Section 5.02 BUDGET COMMITTEE**

At the first meeting of the fiscal year, the City Council shall appoint a budget committee of at least five residents who shall act in an advisory capacity to the council and the City Manager throughout the year in preparation of the budget.

a. Five members of the budget committee shall be appointed to three-year terms.

    1. Upon adoption of this provision, the council shall appoint at least one resident to a three-year term, at least one resident to a two-year term, and at least one resident to a one-year term.
    2. Thereafter, each appointee will serve for a period of three years.

b. In addition to the five residents serving staggered three-year terms, the council may appoint two to four residents to serve for the current fiscal year. The council also shall appoint a non-voting liaison to the budget committee from the City Council. The Eastport School Committee also shall appoint a non-voting liaison to the budget committee.

c. The budget committee shall make its report on the annual budget for the ensuing fiscal year to the council on or before May 1st.

d. The budget committee shall make its report on the five-year capital lan to the council by December 1st.

**Section 5.03 BUDGET MESSAGE**

On or before the regularly scheduled council meeting in February of each year, the manager shall submit to the council a draft proposed budget for the ensuing fiscal year and accompanying message.

The City Manager's message shall explain the budget and a proposed three-year plan both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the city's debt position and include such other material as the City Manager deems desirable.

**Section 5.04 BUDGET**

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and shall be in such form as to fulfill the following requirements: it shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the estimated property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arrange as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections;

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs and the method of financing such expenditures;
(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditures; and
(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

**Section 5.05 CAPITAL PROGRAM**

(a) Submission to Council. The City Manager shall prepare and submit to the council a five-year capital program at least six months prior to the beginning of the next fiscal year.

(b) Contents. The capital program shall include:

(1) A clear general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, methods of financing and recommended time schedules for each such improvement; and

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

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

**Section 5.06 COUNCIL ACTION ON BUDGET**

(a) Notice and Hearing. The council shall publish in one or more newspapers of general circulation in the city and electronically via: the city's website the budget as prepared according to section 5.04, and a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public, and

(2) The time and place, not less than seven days after such publication, for a public hearing on the budget.

(b) Amendment before Adoption. After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

(c) Adoption. The council shall adopt the budget by June 15 of the fiscal year currently ending. Adoption of the budget shall constitute appropriations of the amount specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

**Section 5.07 COUNCIL ACTION ON CAPITAL PROGRAM**

(a) Notice and Hearing. The council shall publish in one or more newspapers of general circulation in the city and electronically via: the city's website the general summary of the capital program and a notice stating;

*(1)* The times and places where copies of the capital program are available for inspection by the public, and

*(2)* The time and place, not less than seven days after such publication, for a public hearing on the capital program.

(b) Adoption. The council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the first Monday of May for the succeeding fiscal year.

**Section 5.08 PUBLIC RECORDS**

Copies of the budget and the capital program, as soon as adopted, shall be public records and shall be published in the form in which it was adopted as directed in 5.06(a) and 5.07(a), and shall be made available to the public at suitable places in the city.

**Section 5.09 APPROPRIATIONS**

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council by resolve may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency order in accordance with the provisions of section 2.14. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency order authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewal of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any other action taken by him/her and his/her recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.

(d) Limitations. Effective Date. No appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(e) Budget Adjustments. All adjustments made to the budget during the fiscal year must be approved by the City Council.

(f) Unbudgeted City Expenses. All unbudgeted city expenses must be approved by the City Council.

## Section 5.10 ADMINISTRATION OF BUDGET

(a) Work Programs and Allotments. At such times as the City Manager shall specify each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The City Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He/she may revise such allotments during the year if he/she deems it desirable and shall revise them to accord with any supplements, emergency, reduced or transferred appropriations made pursuant to section 5.09.

(b) Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Treasurer first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any such authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal; such action may be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

(c) Payments. Money shall be paid out only on warrants on the city treasury issued by the Treasurer and counter-signed by the City Council. The City Treasurer shall examine all payrolls, bills and other claims and demands against the city, and shall issue no warrant for payment until he/she finds that the claim is in proper form, correctly computed, duly certified and legally due and payable. The City Council, at its organizational meeting, shall set a maximum amount that the purchasing agent shall not exceed without city approval.

The Treasurer may require any claimant to make oath to the validity of his/her claim, may investigate any claim, and for each purpose or purposes may examine witnesses under oath.

## Section 5.11 SPECIAL ACCOUNTS AND BORROWING PROCEDURES

(a) Reserve Account. The City Council shall establish a reserve fund from which transfer shall be made only by the vote of the City Council and no transfer of any money shall be made from any fund other than this reserve fund until the end of the fiscal year. The balance in such reserve fund shall be based on the amount constituting one mill for the current year in which the amount is established.

At the end of the fiscal year after all warrants have been paid out of the various funds against which such warrants have been drawn, the Treasurer shall transfer to the reserve fund any balance or balances that remain in the various other funds except balances in the education account, capital account, and other non-appropriated accounts. The council may then authorize a transfer from the reserve fund account to any other account in which there is an overdraft.

The City Council shall then transfer to surplus that amount which exceeds the authorized amount in the reserve fund.

(b) Sinking Fund. Sinking funds, if required, will be established in accordance with Maine Revised Statutes as amended.

(c) Temporary Appropriations for Current Expenses. Before the annual appropriation resolve has been passed, the City Council may make appropriations for current department expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various units until the annual appropriation resolve is in force.

(d) Borrowing. The borrowing of money by and for the city shall be limited by the provisions of this charter and Maine Revised Statutes as amended.

(1) Bond Issues. Money may be borrowed within the limits fixed by the Constitution and Maine Revised Statutes, as amended, by the issue and sale of bonds pledged on the credit of the city, proceeds to be used for the payment of the indebtedness of the city contracted for acquisition of land, the construction of buildings, the purchase of equipment, the construction of roads and streets and other permanent public improvements, and the payment or refunding of bonds previously issued. No order providing of the issue of bonds shall be passed without a public hearing and the approval of 4/5 of all the members of the City Council.

Every issue of bonds shall be payable by annual installment with interest until the debt is extinguished and within a fixed term of years; if such bonds are issued in payment of indebtedness incurred for a permanent improvement the term of such bond shall not exceed the estimated period of utility of said improvement but the declaration of the City Council embodied in the order authorizing the issue shall be a conclusive determination of the estimated utility thereof; and the term within which all bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual serial installment of the principal and interest; and such amount shall be included in the tax levy for each year until the debt is extinguished. Bond issues in existence prior to passage of this charter shall remain in force and provisions for repayment shall be in accordance with the laws and regulations in existence at the time of the finalization of the bond issue.

(2) Notes. Money may be borrowed within the limits fixed by the Constitution and the Revised Statutes of Maine, as amended, by the issuance of notes pledged on the credit of the City of Eastport, the proceeds to be used for the payment of indebtedness of the city contracted for the acquisition of land, the construction of buildings, the purchase of equipment and supplies, the purchase of services, the construction of street supplies, the purchase of services, the construction of streets and roads and other permanent public improvement, and the payment or refunding of notes and certificates of indebtedness previously issued. No order or resolve providing for the issuance of a note, exceeding $50,000.00, except temporary loans for tax anticipation, shall be passed without a public hearing and the approval of 4/5 of all the council members.

Every note issued in payment of indebtedness incurred for a permanent improvement or purchase of major item of equipment shall be repaid on such terms and shall not exceed the estimated period of utility of the said improvement or item of equipment.

Notes issued shall be payable in equal, annual serial installments as pertains to principal, and interest shall be made payable semi-annually. There shall be a tax levy each year to provide for payment of the annual serial installments of principal and interest, and such amount shall be included in the tax levy for each year until the debt is extinguished. Notes in existence prior to passage of this charter shall remain in force, and provisions for repayment shall be in accordance with the laws and regulations in existence at the time of the finalization of the note or notes. Notes for money borrowed in anticipation of money to be received from the sale of bonds may be issued, provided that such bonds have been legally authorized and, provided further, that the first sentence of this paragraph shall not apply to such notes but all such loans shall be paid in full at the time the bond issue proceeds are received.

(3) Temporary Loans. Money may be borrowed in anticipation of tax receipts during any fiscal year after said fiscal year begins, but the aggregate amount of such loans outstanding at any one time shall not exceed 80% of the revenue received for taxes during the preceding fiscal year. All such loans shall be paid within the fiscal year out of receipts for the fiscal year in which said loans were made.

This section shall in no way limit the power granted to towns and cities to borrow money as contained in the Maine Revised Statutes as amended and acts amendatory thereof. Money borrowed in anticipation of tax receipts must be repaid with tax receipts.

(e) Capital Improvement Reserve. The municipal officers may from time to time establish reserve funds and provide for the investment of such funds for future usage. Such established reserve funds shall be designated for a specific capital improvement and shall cease when the need for which it was established shall no longer exist. If a reserve fund established for these purposes is terminated, the accumulated funds shall be applied to the budget as a receipt for the tax year following the year in which the reserve fund was terminated. If the reserve fund is terminated prior to the annual budget, the proceeds of the particular reserve fund will be applied as income to the budget in order to reduce the tax levy for that year.

## ARTICLE VI
## PLANNING

### Section 6.01 PLANNING DIRECTOR

There shall be a Planning Department which may be headed by a Director who shall be appointed by the City Manager as provided in Section 4.01 or may be headed by the City Manager. The Planning Director shall have the following responsibilities:

(1) To advise the City Manager on any matter affecting the physical development of the city.
(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.
(3) To review and make recommendations regarding proposed council action implementing the comprehensive plan pursuant to section 6.04.
(4) To participate in the preparation and revision of the capital program provided for in section 5.05, and
(5) To advise the city Planning Board in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

### Section 6.02 CITY PLANNING BOARD

There shall be a city Planning Board consisting of five members and two alternate members appointed by the council for terms of three years from among the qualified voters of the city. The City Manager, the Code Enforcement Officer, members of the City Council, the Zoning Board of Appeals, and the Historic Review Board shall not serve on the Planning Board. The board may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the city, shall be consulted on the comprehensive plan and the implementation thereof as provided in sections 6.03 and 6.04, and shall exercise all other responsibilities as may be provided by law.

### Section 6.03 COMPREHENSIVE PLAN

(a) Content and Modification. The comprehensive plan in force at the time of the adoption of this charter shall remain in force; it may from time to time be modified by the City Council.
The city Planning Board or a committee appointed by the council may recommend modifications of the existing plan. After receipt of the recommendations, the council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

(b) Effect. The comprehensive plan shall serve as a guide to all future council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

**Section 6.04 IMPLEMENTATION OF THE COMPREHENSIVE PLAN**

(a) Land Use and Development Regulations. The council may by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(b) Urban Renewal. The council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal program for: (1) the alleviation or prevention of slums, obsolescence, blight or other condition of deterioration, and (2) the achievement of the most appropriate use of land.

(c) Council Action. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvement, where such ordinance refers to a matter covered by the comprehensive plan, the council shall refer the proposal to the city planning board, which shall within a time specified by the council and prior to the public hearing on the proposed ordinance report its recommendation thereon. Upon adopting any such ordinance, the council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with such comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

**Section 6.05 ZONING BOARD OF APPEALS**

The council shall appoint a Zoning Board of Appeals consisting of seven members and an alternate member consisting of any of the qualified voters of the city and shall provide standards and procedures for such board to hear and determine appeals from administrative decisions regarding the zoning ordinance, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land, undue hardship, as defined by state law, and such other matters as may be required by the council or by law.

**Section 6.06 HISTORIC REVIEW BOARD**

The council shall appoint a Historic Review Board consisting of five members from any of the qualified voters of the city. The board shall be authorized to review alterations, re-locations, and demolition of designated historic properties under its jurisdiction. The board shall review all proposed new construction affecting historic properties and/or districts within its jurisdiction to determine if locally listed historic sites would be adversely affected.

**Section 6.07 FORFEITURE of OFFICE**

Any member of the Planning Board, the Zoning Board of Appeals, or Historic Review Board who fails to attend three consecutive meetings of the board without being excused by the board shall forfeit his/her office.

## ARTICLE VII
## NOMINATIONS AND ELECTIONS

### Section 7.01 CITY ELECTIONS

(a) Regular Elections. The regular city elections shall be held on the first Tuesday following the first Monday in November.

(b) Qualified Voters. All citizens qualified by the Constitution and laws of the State of Maine to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this charter.

(c) Conduct of Elections. Except as otherwise provided by this charter, the provision of the general election laws of the State of Maine shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter, and the election authorities may adopt, and if they adopt shall publicize, further regulations consistent with law and this charter and the regulations of the council.

### Section 7.02 NOMINATIONS

(a) Petitions. Candidates for election to all city offices shall be nominated by petition. Any qualified voter of the city may be nominated for election by a petition signed by qualified voters of the city not less in number than three per cent of the number of persons who voted in the city for the Office of Governor at the last gubernatorial election. The signatures to a nominating petition need not all be affirmed to one paper, but to each separated paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence and that he/she believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his/her signature the date of his/her signing and the place of his/her residence. Within five days after the filing of a nominating petition, the election authorities shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this charter. If a petition is found insufficient, the election authorities shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The election authorities shall keep on file all petitions found sufficient at least until the expiration date of the term for which the candidates are nominated in those petitions.

Keep on file all petitions found sufficient at least until the expiration date of the term for which the candidates are nominated in these petitions.

TO THE CITY CLERK OF THE CITY OF EASTPORT

We, the undersigned voters of the City of Eastport, hereby nominate_____ whose residence is_____for the office of_____to be voted for at the election to be held in the City of Eastport on the_____day of_____,_____; and we individually certify that we are qualified to vote for a candidate for the above and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto.

Name_____Street and Number_____ being duly sworn deposes and says that he/she is the circulator of the foregoing nomination petition containing_____signatures, and that the signatures appended thereto were made in his/her presence and are the signatures of the persons whose names they purport to be.

(Signed)_____

Subscribed and sworn to before me this day of_____20____.

Notary Public (Amended 11/4/2014)

If this petition is deemed sufficient by the City Clerk he/she shall be forthwith notified by mail _____at number_____Street_____.

ACCEPTANCE OF NOMINATIONS

I hereby accept the nomination for_____and agree to serve if elected.

Signature_____

Date_____

Section 7.02(b) Filing and Acceptance. Nomination papers shall be made available by the Municipal Clerk to prospective candidates during the 75 days prior to the final date of election. They shall be filed with the Clerk during business hours on or before the 60th day prior to the day of election.

**Section 7.03 BALLOTS**

(a) Names on Ballots. The full names of all candidates nominated for membership for any city office, except those who have withdrawn, died or become ineligible, shall be printed alphabetically by surname on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to cause confusion, their residence addresses shall be printed with their names on the ballot. A line will also be provided on the ballots for write-in candidates.

(b) Specimen Ballots. The City Clerk shall cause specimen ballots to be posted in public places and advertised in a newspaper with local circulation not later than ten days prior to the election. Such specimen ballots shall be printed on colored paper and marked "specimen ballots" and shall contain the names of the certified candidates, with the residence of each, instructions to voters, and such measures as may be submitted to voters by the legislature or by the City Council. Such ballot shall be without party mark or designation.

**Section 7.04 DETERMINATION OF ELECTION RESULTS**

(a) Number of Votes. Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled.

(b) Plurality of Votes. The person receiving a plurality of the votes cast at an election for any office, shall be elected to that office. The word "plurality" as used in this section shall mean the largest number of valid ballots cast for any candidate whose election is canvassed.

(c) Canvass of Returns. Upon receipt of the returns from the municipal elections under this charter, the city council shall determine the successful candidates as provided in this charter.

**Section 7.05 BALLOTS FOR ORDINANCES AND CHARTER AMENDMENTS**

An ordinance or charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear and concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by marking the box the voter may cast his/her vote.

**Section 7.06 VOTING MACHINE**

The council may provide for the use of mechanical or other devises for voting or counting the votes not inconsistent with law.

**Section 7.07 AVAILABILITY OF LIST OF QUALIFIED VOTERS**

If for any purpose relating to a general or city election or to candidates or issues involved in such an election, any organization, group or person requests a list of qualified voters of the city, the department, office or agency which has custody of that list shall either permit the organization, group or person to copy the voters' names and addresses from the list, or furnish a copy of the list for a nominal fee, which shall be set by the City Council.

**Section 7.08 WARDEN AND WARD CLERK**

(a) The Warden and Ward Clerk shall be nominated and elected as provided in this charter, shall be residents of the City of Eastport, and shall hold office for three years from the first Monday following their election and until others have been chosen and qualified in their stead. They shall be sworn to the faithful performance of their duties by a person qualified under state statute to administer oaths, and a certificate of said oath be entered upon the record of the city.

(b) Duties. As soon as the polls are closed the Warden shall immediately open the ballot boxes, take therefrom the ballots and sort, count, and declare them in open meeting in the presence of the Ward Clerk; and the Ward Clerk shall, from the list of persons voted for with the number of votes for each person against his/her name, make a fair record thereof in the presence of the Warden and in open meeting enter the total number thereof on a tally sheet, provided by the City Clerk. The Warden shall enter the number of votes opposite the name of each candidate on said tally sheet, and make return thereof to the City Clerk on a blank provided by said City Clerk.

## ARTICLE VIII
## INITIATIVE, REFERENDUM and RECALL

### Section 8.01 GENERAL AUTHORITY

(a) Initiative. The qualified voters of the city shall have power to propose ordinance to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) Referendum. The qualified voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program, the issuance of bonds or notes or any emergency ordinance relating to the appropriation of money.

(c) Recall. The qualified voters of the city shall have power to effect the removal of a member of the City Council or a member of the School Board by utilizing the petition process and approving or rejecting the proposal at a city election.

### Section 8.02 PETITIONERS' COMMITTEE, AFFIDAVIT

Any five to ten qualified voters may commence initiative, referendum or recall proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for filing the petition in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and citing the language of the ordinance proposed, if an initiative; citing the ordinance to be reconsidered, if a referendum proceeding; or stating the names of the City Councilor or School Board member to be recalled, if a recall petition. Promptly after the affidavit of the petitioners' committee is filed, the City Clerk shall issue the appropriate petitions.

**Section 8.03 PETITIONS**

(a) Number of Signatures. Initiative, referendum and recall petitions must be signed by qualified voters of the city equal in number to at least 10 percent of the total number of qualified voters who cast a ballot at the previous general election.

(b) Time for Filing Referendum Petitions. Completed referendum petitions must be filed within 30 business days after adoption by the council of the ordinance sought to be reconsidered.

(c) Time for Filing Recall Petitions. Completed recall petitions must be filed within 90 business days after the affidavit to the petitioners' committee is filed.

**Section 8.04 PROCEDURE AFTER FILING**

(a) Certificate of Clerk; Amendment. Within 10 business days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two days after receiving the copy of the Clerk's certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary Petition shall comply with the requirements of subsection (a) and (b) of section 8.03, and within five days after it is filed the Clerk shall complete a Certificate to the Petitioners' Committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection (b) of this section within the time required, the Clerk shall promptly present the Clerk's certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council Review. If a petition has been certified insufficient or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination as to the sufficiency of the petition shall be final, subject to court review, if necessary.

(c) Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency of a petition, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

**Section 8.05 REFERENDUM PETITIONS, SUSPENSION OF EFFECT OF ORDINANCE**

When a referendum petition which has been certified as sufficient is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) The petitioners' committee withdraws the petition or,
(2) The council repeals the ordinance, or
(3) Thirty days have elapsed after a vote of the city on the ordinance.

**Section 8.06 ACTION ON PETITIONS**

(a) Action by Council. When an initiative, referendum or recall petition has been finally determined sufficient, the council shall promptly 1) consider the proposed initiative ordinance in the manner provided in Article II or 2) reconsider the referred initiative ordinance by voting its appeal; or 3) order and fix a date for holding the recall election, not less than 60 days nor more than 90 days from the date of the Clerk's certificate to the council that a sufficient petition is filed.

(b) Recall Election. Upon receipt of the Clerk's certificate to the council of the filing of a sufficient petition, the City Clerk shall make available nomination papers for the recall election. Nomination procedures are to follow section 7.02 of this charter, except that any person sought to be removed may be a candidate to succeed him/herself, and unless he or she requests otherwise in writing, the Clerk shall place his/her name on the official ballot without nomination. The City Council shall make or cause to be made publication of notice, and all arrangements for the holding of such election; and the same shall be conducted, returned, and the result thereof declared in all respects as other elections. The successor of any officer so removed shall hold office during the unexpired term of his or her predecessor.

(c) Submission to Voters. The vote of the city on a proposed or referred ordinance shall be held not less than 45 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election; except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(d) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the 45th day preceding the day scheduled for a vote of the city by filing with the City Clerk a request for withdrawal signed by a majority of the petitioner's committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**Section 8.07 RESULTS OF ELECTION**

(a) Initiative. If a majority of the qualified electorate voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be

treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certificate of the election results.

(c) Recall. At such election, if the incumbent receives the highest number of votes, he/she shall continue in office. If another candidate receives the largest number of votes, then the winning candidate shall be the successor and the incumbent shall be removed from office upon the qualification of the successor. If after the election, the winning candidate fails to qualify within ten days after receiving notification of the election, the office shall be deemed vacant.

## ARTICLE IX
## *ETHICS*

### Section 9.01 ETHICS POLICY

All who serve within the Eastport city government or are under its direct control will do so in a manner that both is and appears to be fair and impartial and that serves no goal other than the welfare and benefit of the people of Eastport.

It shall be the policy of the City of Eastport to prohibit the use of public office for personal gain; to prohibit city employees or contractors from using their positions for personal gain beyond the compensation specified in their contracts or employment agreements; to prohibit those in public office, city employees, or contractors from performing their duties with either favoritism or prejudice; to prohibit actions that would give the appearance of conflict of interest, favoritism or prejudice in the performance of the duties of public office or in the performance of city employees; and to encourage a high quality of life in the City of Eastport by maintaining a widespread and accurate impression that the city government functions in an ethical manner.

City officials shall prepare themselves for public issues, listen courteously and attentively to all public discussion before the body, and focus on the business at hand. Officials shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of the meetings.

### Section 9.02 PERSONAL FINANCIAL INTEREST

Any city officer, employee or member of any municipal board or committee or any relative thereof to the fourth degree who has a direct or indirect substantial financial interest, as defined in the Revised Statutes of Maine as ten percent, or by reason of ownership of stock in any company that has *a* contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest and shall refrain from voting upon or

otherwise participating in his capacity as a city officer or employee in the making *or advancement* of such sale or in the making or performance of such contract. With permission of the council, he/she may participate in the discussion of the matter only when physically located within the area designated for members of the public. Any city officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/*her* office or position. If a councilor or elected or appointed official is alleged to have a conflict of interest, and the councilor or official denies the conflict of interest, the City Council shall vote on the matter or decide to investigate further. The decision of the council shall be final. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the city will render the contract or sale voidable by the City Manager or the City Council.

**Section 9.03 PROHIBITIONS**

(a) Activities Prohibited

(1) 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, sex, sexual orientation, political or religious opinions or affiliations, or personal connections or friendships.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certificate or appointment under the personnel 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.

(3) 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/her test, appointment, proposed appointment, promotion or proposed promotion.

(4) No City Councilor, employee or member of any municipal board or committee shall improperly use city property; withhold public information; accept cash, gifts or favors given in anticipation of any action by the public official or in reward for their past action; engage in improper supervisory conduct; or engage in improper political activities, including using one's official position to influence, interfere with or affect the results of any election; solicit funds or contributions from city employees; or distribute political pamphlets or handbills or digital political communications while performing official functions or duties for the city; or knowingly and willfully violate any provision of this charter or any rules of ethics or conduct adopted by the City Council.

(5) No councilor may publicly or privately give orders to any city employee who is subject to the direction and supervision of the City Manager, but the council may express its views and discuss with the City Manager anything pertaining to any city employee.

(6) City officials shall not, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city, nor shall any official use such information to advance the financial or private interest of the official or others.

(7) Information received or discussed during executive session shall be considered within the constraints of this section, and shall not be disclosed to any third person unless permitted by prior affirmative vote of the body.

(b) Penalties. Any person who by himself/herself or with others willfully violates any of the provisions of Sections 9.01, 9.02, and 9.03 shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of not more than *five* hundred dollars ($500.00). Any person convicted under this section shall be ineligible for a period of five years thereafter to hold any city office or position and, if he/she is an officer or employee of the city, shall immediately forfeit his/her office or position.

In the event that an individual is determined to have violated section 9.02 or 9.03, any votes or other actions in which the individual has participated and which are related to the violation may be rendered void and shall be subject to reconsideration as though the ethical question had been raised prior to the vote or other action.

## ARTICLE X
## TRANSITIONAL PROVISIONS

### Section 10.01 CITY OFFICERS, EMPLOYEES, AND CITY OFFICIALS

(a) Rights and Privileges Preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers, city officials or employees at the time of its adoption.

(b) Elected Officials. City Council and School Committee members who hold office at the time this charter is adopted shall serve out the full term to which they have been elected.

(c) Continuance of Office or Employment. Except as specifically provided by this charter, if at any time this charter takes full effect a city administrative office or employee holds any office or position which is or can be abolished by or under this charter, he/she shall continue in such office or position until the taking effect of some specific provision under this charter directing that he/*she* vacate the office or position.

(d) Personnel System. An employee holding a city position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in section 4.02.

### Section 10.02 DEPARTMENTS, OFFICES AND AGENCIES

(a) Transfer of Powers. If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the ity department designated by the City Council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its power and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices, or agencies designated by the council in accordance with this charter.

**Section 10.03 PENDING MATTERS**

All rights, claims, action, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

**Section 10.04 STATE AND MUNICIPAL LAWS**

In general, all city ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Maine permit, all laws relating to or affecting this city or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

## ARTICLE XI
## SCHOOL COMMITTEE

**Section 11.01 COMPOSITION, ELIGIBILITY, ELECTION, TENURE OF OFFICE, SPECIAL PROVISION, FORFEITURE OF OFFICE, COMPENSATION**

(a) Composition. The School Committee shall consist of five members elected by the legally qualified voters of said city.

(b) Eligibility. Only qualified voters of the city shall be eligible for election to the School Committee.

(c) Election, Tenure of Office, Special Provision. School Committee members shall hold office for a term of three years, except that at the first election held after the adoption of this charter the candidate having the highest number of votes shall be elected for a term of three years, and the candidate having the next highest number of votes shall be elected for a term of two years, and the candidate having the next highest number of votes shall be elected for a term of one year. Thereafter, two members shall be elected annually for a three-year term, excepting that every third year only one member shall be elected for a three-year term. Each member shall serve until his successor is duly elected or qualified. Any vacancy occurring due to death, resignation, removal from the city or removal from office shall be filled by a majority vote of the City Council, and the new members shall be appointed to fill the vacancy until the next general election.

(d) Forfeiture of Office. A School Committee member shall forfeit his/her office after a public hearing if he/she:
(1) lacks at any time during his/her term of office any qualification for the office prescribed by this charter or by law.
(2) violates any express prohibition of this charter.
(3) is convicted of criminal homicide 1st or 2nd degree, a Class A, B, C, or D crime or any crime involving moral turpitude, or
(4) fails to attend three consecutive regular meetings of the committee without being excused by the committee.

(e) Compensation. School Committee members shall receive only their actual and necessary expenses incurred in the performance of their duties of office.

**Section 11.02 ORGANIZATION, QUALIFICATION, QUORUM**

The School Committee shall meet for organization within seven days from date of election. The members elected shall be sworn to the faithful discharge of their duties. This will be by a Notary Public or by the City Clerk, and a record made thereof. A majority of the whole number elected shall be a quorum and they shall elect their own chairman. The School Committee shall appoint a non-voting liaison to the city budget committee.

**Section 11.03 POWERS, DUTIES**

The School Committee shall have all the powers, and perform all the duties in regard to the care and management of the public schools of said city, which are now conferred and imposed upon school committees by the laws of this state. They shall elect a superintendent of schools as provided for by the laws of this state, who shall have the care and supervision of said public schools, under their direction, and act as secretary of their committee; they shall fix his/her salary at the time of his/her election. They shall annually, as soon after the organization of their committee as practicable, furnish to the City Council an estimate in detail of the several sums required during the ensuing fiscal year for the support of the public schools. On the basis of such estimates the City Council shall make one gross appropriation for the support of public schools for the ensuing fiscal year, and such appropriation shall not be exceeded except by consent of the City Council, but the expenditure of said appropriation shall be under the direction and control of the School Committee.