



*P.O. Box 187, Oakland, Maine 04963 • Ph. 207-465-7357 • Fax 207-465-9118*

## OAKLAND TOWN COUNCIL AGENDA

April 24, 2024

6:00 pm

Fire Station – Atlantic Room

- I. Call to order
- II. Pledge of Allegiance
- III. Roll Call
- IV. To consider approving the minutes from April 10, 2024, and signing the weekly payables warrant.
- V. Business Agenda:
  1. 67-2024 Signing of Sewer Commitment
  2. 68-2024 Confirmation of Ballot Clerks for Upcoming Election
  3. 69-2024 Charter Discussion

Other Business: (If Necessary)

### **Adjournment**

Upcoming Meetings:

- 4/25/24 - Department Head Meeting 10am Police Station
- 4/25/24 - TIF Committee Meeting 3pm, Police Station
- 5/2/24 - ATV Meeting, 4pm, Police Station
- 5/7/24 – Annual Town Meeting – 6pm Messalonskee Performing Arts
- 5/8/24 – Council Meeting 6pm -Fire Station
- 5/13/24 – Memorial Hall Committee 4pm -Police Station
- 5/22/24 – Council Meeting 6pm Fire Station
- 5/30/24 – TIF Committee 3pm – Police Station

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability." (Not all prohibited bases apply to all programs) To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 {voice} or (202) 720-6382 {TDD}

*In the Heart of the Belgrade Lakes Region, Maine's Famous Summer Resort*

# OAKLAND TOWN COUNCIL MINUTES

April 10, 2024

I. The meeting was called to order at 6:00 p.m.

II. Pledge of Allegiance

III. Roll Call

Council members present:	Michael Perkins, Chairman	Dana Wrigley
David Groder	Donald Borman	

Others present:	Kelly Pinney Michaud, Town Manager	
Abby Marshall, IT	Janice Porter, Town Clerk	Phyllis Capanna
Kathleen Paradis, Dep Town Clerk	Dr. Michelle Fontaine	Officer Chris Cowan
Anita Chadderton	Janet Lund	Laura Tracy
Michael Tracy	Nathan Smart, Code Enforcement Officer	
Max Bojarski	Dan Brewer	Caleb Daigneault
Zachary White	Matt Gilley	Brooke Blackler
Don Ponitz	Jean Ponitz	Chief Rick Stubbert
Geoffrey Ponitz	Alyssa Williams	Kelly Roderick
Sabrina Jandreau	Garvan Donegan	Raymond Gruber

IV. Moved by Dana Wrigley seconded by David Groder and voted 4-0 to approve the minutes from the March 27, 2024, meeting, and signing the weekly warrant.

V. Business Agenda:

Order:

63-2024 - Thomas College Student presentation

A group of Thomas College students conducted interviews with approximately 166 individuals.

The purpose of the survey was concentrating on the use of the “Bank Block” with questions addressing:

- \*What type of business would you like to see occupy the Bank Block and adjacent properties?
- \*If you chose food service/drinking establishment, what specific type of establishment would you like to see?
- \*What type of business would you NOT like to see move into the properties in downtown Oakland?
- \*What businesses do you find yourself frequenting the most in your daily life?
- \*How important do you think occupying Bank Block and the adjacent properties is to the overall health of downtown Oakland?
- \*Do you know of a business that may be interested in viewing the properties? If yes, please let us know who/which business?

Students discussed several of the survey results and noted that most responses were very extensive.

Overwhelming, the surveys showed that there is a need/want for a food/beverage establishment locating on Main Street.

Students personally provided tours of the Bank Block to some business owners.

Matt Gilley, Thomas College advisor, stated that the results of all surveys, will be sent to the Town Office, in excel format, for distribution. There are plans for Channel Five to visit the Bank Block to highlight the building and discuss possible prospects for use.

Mr. Ponitz expressed his appreciation to the group for all of the work thus far with this project.

64-2024 -Approval of Downtown TIF Agreement & Guidelines and Application

Moved by Dana Wrigley seconded by Donald Borman and voted 4-0 approving the Downtown TIF Agreement, Guidelines and Application along with the statutory requirements. All applications for the CEA will be considered by the Town Manager, TIF Committee and the Town Council with final approvals after a public hearing by the Town Council.

65-2024 - MMA Internship Grant \$3,500 – Awarded to Town of Oakland - Environmental Svcs Dept.

Moved by David Groder seconded by Dana Wrigley and voted 4-0 to accept the Internship Grant, in the amount of \$3,500, from the Maine Municipal Association. The intent of this grant program is to promote and support internships as a way of encouraging more young people in Maine to pursue municipal careers. Oakland Environmental Services, Boyd Snowden, has hired an intern who will assist this summer, working with Boyd while work/ construction continues in April replacing sewer lines lower Oak Street and additional work being completed on Railroad Avenue, upper Oak Street and Sawtelle Road.

66-2024 -FY25 Fuel Bid Results

Moved by Dana Wrigley seconded by Donald Borman and voted 4-0 to approve the Town Manager's recommendation for the propane and #2 fuel bid from Fabian Oil and the gas and diesel from Dennis K.Burke.

- VI. Moved by Dana Wrigley seconded by Donald Borman and voted 4-0 to enter Executive Session per Acquisition of real property or economic development, 1 MRSA § 405(6)(c) at 6:29 pm.  
The council came out of executive session at 6:42 pm. Moved by David Groder seconded by Dana Wrigley and voted 4-0 to proceed with the sale of a parcel of tax acquired property.

**Adjournment** – Moved, seconded, and voted 4-0 to adjourn at 6:53 pm.

**CERTIFICATE OF COMMITMENT OF SEWER USER RATES**

**To: Kelly Pinney-Michaud, the Treasurer of Oakland, Maine.**

**We the undersigned municipal officers of the municipality of Oakland hereby certify and commit to you a true list of the sewer bills based on the rate established by us pursuant to 30-A M.R.S.A., § 3406 for those properties, units and structures required by Local and State law to pay a sewer bill to the municipality, for the period beginning January 1, 2024, thru March 31, 2024. This list is comprised of the pages numbered 1- 32 (Rate Key #178) inclusive, which are attached to this certificate. You are hereby required to collect from each person named the total sum being \$131,088.76. You are hereby required to charge interest at a rate of 8% per annum for the billing representing January 1, 2024, through March 31, 2024, on any unpaid account balance. You are hereby authorized to collect these rates and any accrued interest by any means legally available to you under State law.**

**Given under our hands this 24th day of April 2024.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Municipal Officers  
of the  
Town of Oakland**

## CHARTER DISCUSSION – Town Council Meeting 4-24-2024

Last Review was 2004

### Kelly Pinney -Michaud Recommendations

#### Sec. 102 Powers of the Town

- The 2<sup>nd</sup> Paragraph: The Town may acquire property - **Should we add in the new law regarding foreclosures?**

#### Sec 204 Filing

- Nomination papers shall be filed with the Town Clerk at least 50 calendar days prior to the date of the election and may not be circulated earlier than 90 days prior to the election. **Change # of days 60 and 100**

#### Sec. 303 When action of Town Meeting required.

- The annual budget, and any appropriation of **\$10,001** or more in addition to or supplemental to the annual budget appropriation shall become effective only after being adopted at a town meeting by a vote of a majority of those voting at such meeting. The Town Meeting shall not increase the amount of any appropriation above that recommended by the Council, and it shall not increase the amount of any bond issue above the amount recommended in the warrant. **Increase dollar amount to \$24,999**

#### Sec. 602 Preparation and Submission of the Budget.

The Town Manager, by February 15<sup>th</sup> of each year, shall submit to the Council a budget for the ensuing budget year, ~~based on information furnished by the various department heads on forms, which may be designated by the Council.~~ The Manager's recommended budget shall contain all of the information necessary for the Council to have a complete financial accounting for the town's needs for the upcoming fiscal year. **Change to: The Town Manager, by February 1<sup>st</sup> of each year, shall submit to the Council and Budget Advisory Committee a budget for the ensuing budget year. The Manager's recommended budget shall contain all of the information necessary for the Council to have a complete financial accounting for the town's needs for the upcoming fiscal year.**

#### Sec. 603 Budget Review.

- ~~The budget proposed by the Manager shall be reviewed by the Council and approved with or without amendments, by March 15<sup>th</sup>. The Budget and Advisory Committee shall review and make recommendations on the proposed budget no later than April 15<sup>th</sup>.~~  
**Change to: The Council and B & A shall review and make recommendations on the proposed budget, no later than March 20<sup>th</sup>. Voting on Warrant Articles shall be at the last Council meeting in March, the B & A committee will vote First and the Council will Vote Second. Signing of the warrant at the first Council meeting in April.**

### **Kelly Roderick Recommendations**

- Term Limits
- Spending Cap on one item, currently it's \$10,001
- Understanding council duties and rolls
- Town Meeting Date or Town Meeting at all
- Elected officials receiving pay other than council member pay
- Budget advisory process

### **Angela Jurdak Recommendations**

- Term Limits
- \$10,001 council approve -increase
- Budget Committee votes before Council.



## Revisions and Amendments

Maine law also sets out specific procedures for revising or amending a municipal charter. A recent Maine Supreme Judicial Court case, *Fair Elections Portland, Inc. v. City of Portland*, 2021 ME 32, directly addresses the distinction between a charter "revision" and a charter "amendment." While both involve a change short of complete charter replacement, a charter "revision" is a more significant change than a charter "amendment." According to the Court, the "critical question" is "whether the proposed change is significant enough to require a [potentially] years-long inquiry into all aspects of the municipality's government." The distinction is essentially one of scope focusing on the breadth and the depth of the proposal's impact.

Prior to the *Fair Elections* decision, there were very few Maine cases addressing this distinction. A 2006 Maine Superior Court decision held that a proposal to limit the number of special town meetings on budget issues and limit the manner of voting to referendum only was a charter revision as it substantially altered the existing budget process in the town. *Karytko v. Town of Kennebunk*, 2006 WL 2959505 (York Cty., Oct.10, 2006). Courts in other states with similar statutory schemes have held that an amendment "only amends, alters, or improves within the lines of the original charter," while a revision "totally disrupts, cancels, abrogates or makes inoperable the original charter." *Midland v. Arbury*, 38 Mich.App.771 (1972)(finding a provision making city manager subject to voter recall a revision). See also, *Albert v. Laconia*, 134 NH 355 (NH 1991)(changes that eliminated council seats but left council/manager form of government unchanged were amendments).

For additional discussion on the distinction between charter revisions and amendments, see "Charter Revision or Charter Amendment?" *Maine Town & City*, "Legal Note" linked in the "Charters Resource Links" section of this Information Packet. The difference is important because, while revisions are subject to the same procedures as for charter adoptions, including the establishment of a charter commission, amendments do

not require a commission and may be initiated directly, either by order of the municipal officers or through a petition process (30-A M.R.S. § 2104). 733 signatures

### ***Revision Procedure***

A revision may be initiated in the same way that charter adoption is initiated: (1) the municipal officers may order a referendum question asking the voters to establish a charter commission to revise the charter, or (2) the same citizen petition process applicable to creation of a charter (i.e., affidavit of petitioner's committee, petition, etc.) may be used to start the revision process. The same procedures and time frames for electing and appointing commission members is also used. See "Adoption Procedure," above.

### ***Amendment Procedure***

Charter amendments may be initiated by order of the municipal officers, or may be proposed through a citizen petition process. Each amendment must be limited to a single subject, but more than one section of a charter may be amended as long as the amendments are germane to a single subject. If the municipal officers initiate an amendment, they must, by order, provide for notice and hearing on the proposed amendment(s). Hearing notice must be published in a newspaper at least 7 days in advance and must contain the text and a brief explanation of the proposed amendment. Within 7 days after the hearing, the municipal officers must order the proposed amendments placed on a ballot at the next regular municipal election held at least 30 days after the order is passed, or they may order a special election to be held at least 30 days after the order. As noted above, it is recommended that the 60 day filing deadline contained in 30-A M.R.S. § 2528 be adhered to as well.

At least 2 weeks before the election, the municipal officers must have the proposed amendment and any summary of the amendment printed, make copies available to the voters in the clerk's office, and post the amendment and any summary in the same manner that proposed ordinances are posted. 30-A M.R.S. § 2105.

If an amendment is initiated by citizen petition, the same petition procedures for adoption of a new charter (i.e., affidavit of petitioners' committee, issuance of petition blanks, etc.) must be followed, except that petition blanks issued by the municipal clerk will contain language prescribed for amendment petitions. 30-A M.R.S. § 2104. After signatures are



collected and the petition is filed, if the petition is determined to be sufficient, the municipal officers must, within 10 days, provide for a public hearing on the proposed amendment(s), and publish newspaper notice of the hearing at least 7 days in advance. The notice must contain the text of the proposed amendment and a brief explanation. Within 7 days after the public hearing, the municipal officers (or a committee appointed by them) shall file with the municipal clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney licensed to practice in Maine that the proposed amendment does not violate general laws, the United States Constitution or the Constitution of Maine. Where a citizen-proposed charter amendment is unconstitutional and lacks an opinion from an attorney that it does not violate the law, the municipal officers may decline to submit the proposed amendment to the voters. *Nasberg v. City of Augusta*, 662 A.2d 227 (Me. 1995). The procedures for submitting amendments to the voters are outlined in the statute (See 30-A M.R.S. § 2104), and depend on the timing of the petition in relation to the end of the municipal year. The time frames applicable to scheduling referendum votes under 30-A M.R.S. § 2528 should also be followed.

At the request of the petitioners' committee, petition forms issued by the municipal clerk may contain a statement indicating that if the municipal officers determine that the proposed amendment would constitute a revision of the charter, the petition shall be treated as a request for a charter commission. Upon receipt of a petition containing this language, if the municipal officers determine, with the advice of an attorney, that the proposed amendment would constitute a revision of the charter, they must treat the petition as a request for a charter commission and follow the procedures applicable to that type of request. 30-A M.R.S. § 2104.

## **CHAPTER 5 - Municipal Charters**

When the preparation, revision, or amendment of a municipal charter is undertaken in a municipality, the clerk has many responsibilities including receiving any petitions involved, verifying their sufficiency, notifying charter commission members of their appointment, and overseeing any votes related to the charter. These responsibilities are set forth in full in 30-A M.R.S. §§ 2101-2109.

### **Municipal Charters, Generally**

Maine law does not specifically define “charter.” However, it is generally understood to mean a single document setting forth a plan of municipal government comparable to the state and federal constitutions. Historically, municipalities have had only those powers granted by the state legislature through “enabling laws.” However, since the adoption of “home rule” by Maine in 1969, Maine municipalities have had the power to adopt and amend municipal charters by local referendum election. See MMA’s Municipal Charters Information Packet (available by request or through the MMA website at: [www.memun.org](http://www.memun.org)) for more information regarding charters.

There are two distinct procedures by which the municipality may exercise its home rule charter powers: (1) new charters or revisions to existing charters may only be accomplished through the establishment of a charter commission to study the matter in detail and prepare the new charter or revision for a referendum vote. It is a lengthy, deliberative process. See 30-A M.R.S. § 2102-3; and (2) an amendment to an existing charter reaches voters directly upon citizen petition or initiative by the municipal officers. 30-A M.R.S. § 2104.

### **Revision or Amendment**

It is sometimes difficult to determine whether a proposed change is a revision or an amendment. The distinction is based on the degree of change contemplated. Generally, a revision is a fundamental change in the form of government, while an amendment is related to change of procedure, or other lesser matters. A detailed discussion of this issue may be found in the MMA Municipal Charters Information Packet.

### **Adoption of a New Charter or Revision of an Existing Charter**

#### **Initiation of Process**

The procedure to adopt a new charter or to revise an existing charter may be initiated in two different ways. First, the municipal officers may, by their own order, provide for a vote on the question of the establishment of a charter commission and provide for the election of

charter commission members. 30-A M.R.S. § 2102(1). In the alternative, the process may be begun by a written petition signed by a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election, but in no case signed by fewer than ten voters. If such a petition is received, the municipal officers must provide for a vote on the question and for the election of a charter commission. 30-A M.R.S. § 2102(2).

### **Initiation by Petition**

If a charter commission is sought by petition, the municipal clerk has numerous responsibilities.

- **Affidavit.** In order to begin the petition process, five voters of the municipality must file a certain affidavit with the clerk. An affidavit is a written statement of facts, confirmed by the oath or affirmation of the party or parties making the statement, where the oath or affirmation is given before a person with the authority to administer oaths. In this case, the affidavit must state that the five voters are the petitioners' committee and will be responsible for circulating the petition and filing it in proper form with the clerk. The affidavit must include the names and addresses of the members of the committee and the address where all notices to the committee are to be sent. The petitioners' committee may designate additional voters of the municipality to circulate petitions. Promptly after the affidavit is filed, the clerk must issue petition blanks to the committee. 30-A M.R.S. § 2102(3)(A). A sample petitioner's affidavit and petition form are included in Appendix 4.
- **Petition Blanks.** The petition blanks must be printed on paper of uniform size and may have as many sheets as are reasonably necessary. These petitions must be prepared by the clerk and paid for by the municipality. Each petition blank form must have bold lettering at the top of the front page stating:

**"Municipality of \_\_\_\_\_"**

In the instance of preparing a new charter, the wording at the top of the form must read:

"Each of the undersigned voters respectfully requests the municipal officers to establish a Charter commission for the purpose of preparing a new municipal charter."

In the instance of revising an existing charter, the wording at the top of the form must read:

"Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of revising the Municipal Charter."

30-A M.R.S. § 2102(3)(B)(1). The clerk must note the date when each petition form is issued, because the petition will become null and void if not returned to the clerk by the 120<sup>th</sup> day after the date it was issued. 30-A M.R.S. § 2102(3)(B)(2). Each signature on the petition must be in ink or other indelible substance and must be followed by the place of residence, including the street and number if any. No petition may contain any party or political designation. 30-A M.R.S. § 2102(3)(B)(1).

- **Circulators' Affidavit.** Each petition form must have an affidavit printed on the back that each petition circulator must sign, stating that: (1) the named circulator personally circulated the petition; (2) the number of signatures collected on the petition; (3) all the signatures were signed in the circulator's presence; (4) the circulator believes them to be genuine signatures of the persons whose names they purport to be; (5) each signer has signed no more than one petition; and (6) each signer had a chance to read the petition before signing it. 30-A M.R.S. § 2102(3)(B)(3). The petition forms must be assembled together and filed at the same time with the clerk. 30-A M.R.S. § 2102(3)(C). A sample petition with affidavit is included in Appendix 4.
- **Petition Certification.** Once the petitions have been filed, the clerk has 20 days within which to certify whether the petitions are sufficient, and to complete a certificate as to the sufficiency of the petitions. If the clerk finds that the petitions are insufficient, the clerk must state the specific reasons why the petitions are defective. The clerk must send the certificate to the petitioners' committee by mail and file a copy with the municipal officers. 30-A M.R.S. § 2102(4). A sample is included in Appendix 4.

If a petition is certified insufficient because it doesn't have the required number of valid signatures, the petition committee may amend it once if the committee files notice of its intent to do so with the clerk within two days after receiving a copy of the clerk's certificate. The committee must then file a supplementary petition with the clerk within ten days after the date of filing its notice of intent. The supplementary petition must be of the same form and content as the original. 30-A M.R.S. § 2102(4)(A). The clerk then has five days after the filing of the supplementary petition within which to certify and file a certificate as to its sufficiency. 30-A M.R.S. § 2102(4)(B).

If any original or supplementary petition is certified insufficient, the petition committee may, within two days after receiving the clerk's certificate, file a request with the municipal officers for review. The municipal officers must inspect the petitions in essentially the same manner as that provided for a recount hearing under 30-A M.R.S. § 2531-B. The municipal officers must make a certificate as to the results of the inspection, a copy of which must be filed with the clerk and also mailed to the committee. The decision of the municipal officers is final. 30-A M.R.S. § 2102(4)(C).

Any petition which is determined insufficient is null and void and must be stamped "void" by the clerk, and then sealed and retained in the same manner required for secret ballots. 30-A M.R.S. § 2102(4)(D).

### **Submission of Charter Commission Question to the Voters**

Within 30 days after the municipal officers have either adopted an order to elect a charter commission, or are in receipt of sufficient petitions to do so, the municipal officers must, by order, submit the question of whether to establish a charter commission to the voters. Such an election must take place at the next regular or special municipal election held at least 90 days thereafter. 30-A M.R.S. § 2102(5).

The wording of the question before the voters must read:

In the instance of establishing a new charter: "Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?"

In the instance of revising a charter: "Shall a Charter Commission be established for the purpose of revising the Municipal Charter?"

## **Charter Commission**

### **Elected and Appointed Membership**

If the voters approve establishment of a charter commission by majority vote, a charter commission is established. The charter commission must consist both of several voters from the community and three people appointed by the municipal officers. The elected members must consist of either: (1) six people elected in the same manner as the municipal officers, except that they must be elected at-large and without party designations; (2) one member is elected from each voting district or ward, in the same manner as the municipal officers, except that each member must be elected without any party designations; or (3) voter members are elected both at-large and by district or ward, as long as the number of voter members is the same as the number of municipal officers in that community and the voter members are elected in the same manner as the municipal officers. 30-A M.R.S. § 2103(1)(A)(1)-(3).

The elected members may be chosen at the same municipal election as the referendum for the charter commission or at the next regular scheduled municipal or special municipal or state election. The decision on the date of election belongs to the municipal officers, and the clerk must be informed of that schedule at the earliest opportunity in order to issue nomination papers in a timely manner if the election will be by secret ballot (papers must be

available 85 days before election). The candidates' names must be arranged alphabetically by surname, and immediately below the question relating to the charter commission if the question is voted upon at the same time as the election. The *appointed* members do not have to be residents of the municipality. Only one appointed member may be a municipal officer. The appointments must be made within 30 days after the adoption of the charter commission. 30-A M.R.S. 2103(1)(B).

### **Organizational Meeting**

Immediately after receiving notice of the appointment and election of the charter commission members, the clerk must determine the date, time and place of the organizational meeting. The clerk must give at least seven days' notice of the date, time and location of the meeting to all commission members, as well as to the public. 30-A M.R.S. § 2103(2).

The commission must elect a chairperson, vice chairperson and secretary and file the names of its choices with the clerk. If a vacancy among the elected members occurs, the remaining commission members must vote to choose a new member from the municipal voters. The municipal officers must fill a vacancy of any of the appointed members. The commission may adopt rules and regulations governing its conduct as needed. Although no members will be paid, they may be reimbursed for lawful expenses from a fund specifically established for the commission.

### **Commission Resources**

The municipality's obligations to provide resources in the form of office space, access to facilities, and monetary support is described in 30-A M.R.S. § 2103(4). In addition, the commission may accept contributions from any public or private sources in order to finance its work. However, no contribution of more than \$5 may be accepted from any source other than the municipality unless a record of the contributor's name, address, and amount donated are reported in writing and filed with the clerk. 30-A M.R.S. § 2103(4)(A). Before terminating its existence, the commission must also file a complete account of its receipts and expenditures with the clerk which must be available for public inspection. 30-A M.R.S. § 2103(4)(B).

### **Commission Schedule**

The Charter Commission's activities and schedule for completing its responsibilities are outlined in 30-A M.R.S. § 2103(5). The events of note to the clerk are as follows: (1) within 30 days after its organizational meeting, the charter commission must hold a public meeting to receive information, views, comments, and other material related to its function; (2) within nine months of its election it must complete a preliminary report of its findings

and must provide the clerk with sufficient copies to permit distribution to each voter requesting a copy; and (3) within 12 months after its election (or, if granted an extension by the municipal officers, 24 months) the commission must submit a final report to the municipal officers. 30-A M.R.S. § 2103(5).

### **Charter Amendments**

Amendments to an existing charter may also be initiated either by order of the municipal officers or by petition of the voters. An amendment must be limited to a single subject, but more than one section of a charter may be amended as long as the amendments are germane to a single subject. Alternative statements of a single amendment are prohibited. 30-A M.R.S. § 2104(1).

### **Initiation by the Municipal Officers**

If the municipal officers determine that amendments to the charter should be considered, they may, by order, provide for notice and hearing on the proposed amendments. The notice of this hearing is to be published in a newspaper having general circulation (see 1 M.R.S. § 601) in the municipality at least seven days before the hearing. The published notice must contain the text of the proposed amendment and a brief explanation. Within seven days after the hearing, the municipal officers must order the proposed amendments placed on a ballot at the next regular municipal election held at least 30 days after the order is passed, or they may order a special election to be held at least 30 days after the order. 30-A M.R.S. § 2104(1).

### **Initiation by Petition**

If a charter amendment is initiated by the petition process the same requirements which pertain to petition for charter adoption/revision apply (see above). However, the petition forms, which are obtained from the clerk, are to read in bold lettering as follows:

**Municipality of \_\_\_\_\_**

**“Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the Municipal Charter as set out below.”**

No more than one charter subject may be included in a petition. 30-A M.R.S. § 2104(3). Also, if the clerk is so requested by the petitioners’ committee, the petition form shall also contain the following statement:

**“Each of the undersigned voters further requests that if the municipal officers determine that the amendment set out below would, if adopted, constitute a revision of the charter, then this petition shall be treated as a request for a charter commission.”**

If a petition containing the above language is received, and the municipal officers, with the advice of an attorney, do find that the proposed amendment would actually constitute a revision (See *Maine Townsman*, Legal Note in Appendix 4), they must treat the petition as a request for a charter commission and follow the applicable procedures. 30-A M.R.S. § 2104(4).

- **Public Hearing.** Within ten days after receiving a certificate from the clerk stating that a petition for an amendment is sufficient, the municipal officers must, by order, provide for a public hearing. Notice of this hearing is given in the same manner as for an amendment initiated by the municipal officers. (See above, 30-A M.R.S. § 2104(5)(A)). Within seven days after the public hearing, the municipal officers, or a committee appointed by them, must file with the clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the Maine Bar that the proposed amendment does not contain any provision prohibited by the general laws or the Constitution of Maine or the Constitution of the United States. If the report is a committee report, a copy must also be filed with the municipal officers. 30-A M.R.S. § 2104(5)(B).
- **Summary.** If the municipal officers, with the advice of an attorney, determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent its subject matter, they may include in their order for the election a summary of the amendment and an instruction to the clerk to include on the ballot the summary in lieu of the text of the proposed amendment. 30-A M.R.S. § 2104(6).

## **Vote on Charter Adoption, Amendment, Revision**

The vote on a charter adoption, amendment or revision must be by the “secret ballot” process set out in Title 30-A M.R.S. §§ 2528-2532. The secret ballot process must be used even if the municipality has not adopted the secret ballot method of voting for municipal elections. 30-A M.R.S. § 2105.

### **Charter Adoption or Revision**

In the case of a charter *adoption or revision*, at least two weeks before the date of the election the municipal officers must print sufficient copies of the commission’s final report. The report must be available to the public in the clerk’s office, and must be posted in the same manner as proposed ordinances are posted (see Chapter 6 of this manual). 30-A M.R.S. § 2105(3)(A). The wording of the question placed before the voters is prescribed in statute at 30-A M.R.S. § 2105(1). The wording must be “in substance” as follows:



“Shall the municipality approve the (charter revision) (new charter) recommended by the charter commission?”

However, if the charter commission finds that the existing charter needs only minor modifications, those changes may be submitted to the voters in as many separate questions as the commission finds practicable. The decision to submit revision questions to the voters through separate questions must be made by a majority vote of the charter commission. 30-A M.R.S. § 2105(1). In this case, the wording of the questions presented to voters should read as follows:

“Shall the municipality approve the charter modification recommended by the charter commission and reprinted (summarized) below?”

### **Charter Amendment**

In the case of a charter *amendment*, at least two weeks before the election, the municipal officers must print sufficient copies of the proposed amendment and any summaries of the amendment. Copies must be available to the public in the clerk’s office. The amendment and summary must be posted in the same manner that proposed ordinances are posted (see Chapter 6 of this manual). 30-A M.R.S. § 2105(3)(B). If a summary of a proposed amendment is prepared, the summary must fairly describe the content of the proposed amendment and must not contain any information designed to promote or oppose the amendment. 30-A M.R.S. § 2105(3)(C). The wording of the question presented to voters must be substantially as follows:

“Shall the municipality approve the charter amendment reprinted (summarized) below?”

### **Effective Date**

If a majority of the people who cast ballots approve the question, the new charter or charter revision becomes effective immediately only for the purposes of conducting necessary elections, but otherwise, the provisions do not take effect until the first day of the next succeeding municipal year. (Municipal year is defined by state law as the municipal fiscal year as determined by the municipal officers. See 30-A M.R.S. § 5651). Charter amendments become effective on the first day of the next succeeding municipal year or on the date specified in the question, whichever occurs first. However, a majority vote notwithstanding, no new charter, charter revision or amendment may become effective unless the total votes cast for and against the question equal or exceed 30% of the total votes cast for the office of Governor in the municipality at the most recent gubernatorial election. 30-A M.R.S. § 2105(4). The clerk may want to make the municipal officers aware of the 30% requirement before the municipal officers set the date for the vote on a charter question.

Within three days after the results of the election have been declared, the clerk is required to prepare and sign three identical certificates setting forth any charter that has been adopted or revised and any charter amendment approved. One certificate must be recorded in the office of the Secretary of State (148 State House Station, Augusta, ME 04333-0148), one certificate must be mailed to the Law and Legislative Reference Library (43 State House Station, Augusta, ME 04333-0043), and one certificate should be filed in the clerk's office. 30-A M.R.S. § 2106.