

**FINAL REPORT  
OF THE  
CARIBOU CHARTER COMMISSION  
REVISIONS TO THE  
CARIBOU CITY CHARTER  
September 9, 2011**

## **Executive Summary of Proposed Revisions To the Caribou Charter**

The Caribou Charter Commission composed of Roy Alden, Patricia Collins, Sandra Huck, David Martin, James Savage, John Swanberg, Scott Walker, Ronald Willey and Bryan Thompson, worked through the Charter, Article by Article, considering all the suggestions that were presented at the Public Hearings held on December 15, 2010 and June 14, 2011. Individual members of the Commission did considerable research on many of the Charter topics, finding models in other Maine cities and large towns.

Dated language that referred to the initial Charter was removed; references to State Laws were updated; and the reality of the Schools being now part of RSU 39 was recognized. A new Preamble was written and a new Article X Transitional Changes was required.

In accordance with State law, the question shall read as follows on the ballot.

### **“SHALL THE MUNICIPALITY APPROVE THE CHARTER REVISION RECOMMENDED BY THE CHARTER COMMISSION?”**

The following is a brief summary of the changes in each Article:

#### **ARTICLE I POWERS OF THE CITY – NO CHANGE**

#### **ARTICLE II CITY COUNCIL – MAJOR CHANGES**

- Eligibility: added a requirement for City Councilors to be current for all city taxes
- Compensation:
  - a modest increase in compensation to go in effect in 2013
  - a new provision allowing a councilor to decline compensation
- Meeting attendance: required attendance by Councilors at meetings of the Council and assigned Committees unless excused
- Forfeiture of office:
  - added two new reasons for forfeiture of office: failure to pay city taxes and failure to attend meetings as required unless excused
  - a new procedure for the Council to follow in expelling a Councilor
- Regular meeting procedures:
  - Robert’s Rules of Order to be used as appropriate
  - meetings of the Council and Committees except for Personnel and Executive to be open to the public
  - the agenda for Council meetings to be available the Friday before the scheduled meeting
  - a new provision for a 15 minute time slot at the start of Council meetings for public input
- Acts requiring ordinances: sections of this rewritten to be more explicit
- Recall provision: a new procedure for citizens to recall a Councilor

### ARTICLE III CITY MANAGER – Minor Changes

- Replaced School Dep't with Regional School Unit

### ARTICLE IV ADMINISTRATIVE DEPARTMENTS – Minor Changes

- Removed School Dep't & Cary Medical as being served by the City's legal officer

### ARTICLE V FINANCIAL PROCEDURES – MAJOR CHANGES

- Entire budget procedure rewritten:
  - more detailed information provided for the Citizens to use when reviewing the annual budget
  - the Expense Budget and the Capital Expense Budget to be considered at the same time and finalized before the start of the new fiscal year
  - new deadlines established to provide more opportunity for Citizen input before the Budget is voted on by the Council

### ARTICLE VI APPROPRIATION FOR PUBLIC EDUCATION – MAJOR CHANGES

- Article VI rewritten to reflect that Caribou is now a part of RSU 39 and the City's responsibility is only to raise moneys for the assessment; the title was also changed.

### ARTICLE VII NOMINATIONS AND ELECTIONS – Minor Change

- Added reference to Maine Law

### ARTICLE VIII ORDINANCE INITIATIVE AND REFERENDUM – Grammatical changes only

### ARTICLE IX GENERAL PROVISIONS – MAJOR CHANGES

- Prohibitions: defined that the prohibition on city employees from participating in political activity refers only to City elections
- Added definition of an amendment and revision
- Added Rules for Taking Action or Filing Claims Against the City

### ARTICLE X TRANSITIONAL PROVISIONS – MAJOR CHANGES

- Struck entire language and added new provisions based on input from our Municipal Attorney.
  - Added Effective date of this Revision
  - Added Effect of this Revision on Existing Law
  - Added Effect of this Revision on Existing Ordinances and Contracts
  - Added Separability Clause
  - Added Expiration of Term of Present Elected Officials
  - Added Continuance of Employees & Appointed Officials

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September 9, 2011

Caribou Charter Commission  
25 High Street  
Caribou, ME 04736

Attn: Patricia Collins, Chair

RE: Charter Revision

Dear Ms. Collins:

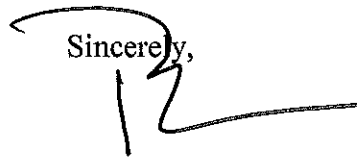
I have reviewed the charter revision prepared by the Commission with changes effective through September 9, 2011.

It is my opinion, that the charter revision does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

In accordance with Title 30-A MRS Section 2103, the municipal officers are required to order the proposed charter revision to be submitted to the voters at the next regular or special municipal election held at least 35 days after the final report is filed.

If you or any members of the Commission have any further questions, please advise.

Sincerely,



RICHARD D. SOLMAN

RDS/ams

# CHARTER

## ARTICLE I POWERS OF THE CITY

### Sections

- 1.01 Powers of the City
- 1.02 Construction
- 1.03 Intergovernmental Relations

## ARTICLE II CITY COUNCIL

- 2.01 Composition, Eligibility, Election and Terms
- 2.02 Compensation; Expenses
- 2.03 Mayor – Council Chairperson
- 2.04 General Powers and Duties
- 2.05 Prohibitions
- 2.06 Vacancies; Forfeiture of Office; Filling of Vacancies
- 2.07 City Clerk
- 2.08 Investigations
- 2.09 Independent Audit
- 2.10 Procedure
- 2.11 Action Requiring an Ordinance
- 2.12 Ordinances in General
- 2.13 Emergency Ordinances
- 2.14 Authentication and Recording; Codification; Printing
- 2.15 General Information
- 2.16 Board of Assessors
- 2.17 Public Library Committee
- 2.18 General Powers and Duties of the Hospital Board
- 2.19 Organization of City Council and Election of Officers
- 2.20 *Recall Provision*

## ARTICLE III CITY MANAGER

- 3.01 Appointment; Qualifications; Compensation
- 3.02 Removal
- 3.03 Acting City Manager
- 3.04 Powers and Duties of the City Manager

## ARTICLE IV ADMINISTRATIVE DEPARTMENTS

- 4.01 General Provisions
- 4.02 Personnel System

4.03 Legal Officer

## ARTICLE V FINANCIAL PROCEDURES

- 5.01 Fiscal Year
- 5.02 Money Expended
- 5.03 Bonds of Officials
- 5.04 Submission of Budget and Budget Message
- 5.05 Budget Message
- 5.06 Budget
- ~~5.07 Capital Program~~
- ~~5.07 Council Action on Expense and Capital Expense Budget~~
- ~~5.08 Council Action on Budget~~
- ~~5.09 Council Action on Capital Program~~
- ~~5.08 Public Records~~
- 5.09 Amendments After Adoption
- 5.10 Lapse of Appropriations
- 5.11 Administration of Budget

## ARTICLE VI ~~BOARD OF EDUCATION~~ APPROPRIATION FOR PUBLIC EDUCATION

- ~~6.01 Composition~~
- ~~6.02 Term of Office~~
- ~~6.03 Powers; Duties; Organization~~
- ~~6.04 School Budget; Hearing Appropriations; Audit of Accounts~~
- ~~6.01 Council Action on Appropriation for Public Education~~

## ARTICLE VII NOMINATIONS AND ELECTIONS

- 7.01 City Elections
- 7.02 Nominations
- 7.03 Voting Machines
- 7.04 Availability of List of Qualified Voters
- 7.05 Ballots for Ordinances and Charter Amendments

## ARTICLE VIII INITIATIVE AND REFERENDUM

- 8.01 General Authority
- 8.02 Commencement of Proceedings; Petitioners' Committee; Affidavit
- 8.03 Petitions
- 8.04 Procedure After Filing
- 8.05 Referendum Petitions; Suspension of Effect of Ordinance
- 8.06 Action on Petitions
- 8.07 Results of Election

## ARTICLE IX GENERAL PROVISIONS

- 9.01 Personal Financial Interest
- 9.02 Prohibitions
- 9.03 Charter *Revisions and* Amendment
- 9.04 Separability
- ~~9.04~~9.05 *Rules for Taking Action or Filing Claims Against the City*

## ~~ARTICLE X TRANSITIONAL PROVISIONS~~

- ~~10.01 Officers and Employees~~
- ~~10.02 Departments; Offices and Agencies~~
- ~~10.03 Pending Matters~~
- ~~10.04 State and Municipal Laws~~
- ~~10.05 Schedule~~

~~Emergency Clause; Referendum; Effective Date; Certificate to Secretary of State and Resubmission to the Voters~~

## ARTICLE X TRANSITIONAL PROVISIONS

- 10.01 *Effective date of this Revision*
- 10.02 *Effect of this Revision on Existing Law*
- 10.03 *Effect of this Revision on Existing Ordinances and Contracts*
- 10.04 *Separability Clause*
- 10.05 *Expiration of Term of Present Elected Officials*
- 10.06 *Continuance of Employees & Appointed Officials*

**AN ACT TO PROVIDE A CITY COUNCIL - MANAGER FORM OF GOVERNMENT  
FOR CARIBOU**

**Emergency Preamble**

~~We the people of the City of Caribou, County of Aroostook, State of Maine, grateful for the freedoms we enjoy, working together for our common good and in order to secure for ourselves all the benefits of local government conferred by the Constitution and the laws of the State of Maine do hereby enact this charter for the City of Caribou. Whereas, acts passed by the legislature do not become effective until 90 days after adjournment of the legislature; and~~

~~Whereas, it is very desirable that the following act be voted upon by the inhabitants of the Town of Caribou at the annual town election in March, 1967; and~~

~~Whereas, it is vitally necessary that the Charter provided for in the following act be put into operation as soon as possible; and whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it enacted by the people of the State of Maine, as follows:~~

**ARTICLE I POWERS OF THE CITY**

**Sec. 1.01 Powers of the City.**

The City 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.

**Sec. 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.

**Sec. 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 the United States or any agency thereof.

**ARTICLE II CITY COUNCIL**

**Sec. 2.01 Composition, Eligibility, Election and Terms.**

(a) *Composition.* There shall be a City Council of seven (7) members elected by qualified voters of the City at large ~~to serve staggered for a term of~~ three (3) years ~~terms~~ each.

(b) *Eligibility.* Only qualified voters of the City, ~~who are current for all annual personal and real property taxes due to the city on or before December 31<sup>st</sup> of the previous year,~~ shall be eligible to hold the office of Councilor.

(c) *Election and terms.* The regular election of municipal officials shall be held on the first Tuesday of November after the first Monday in each year, in the manner provided in Article VII, ~~except that all present municipal officials shall retain their office for their elected term. City Councilors shall be elected as follows:~~

~~First City Election— 2 for 3 years and 2 for 2 years.~~

~~Second City Election— 2 for 3 years.~~

~~Thereafter, all City Councilors shall be elected for three year terms.~~ The terms of municipal officials shall begin the first Monday of January.

(d) *Officers of City.* The members of the City Council shall be and constitute the municipal officers of the City of Caribou for all purposes required by statute.

## **Sec. 2.02 Compensation; Expenses.**

The annual salary of Councilors shall be as follows:

Each Councilor shall receive ~~\$30.00~~\$50.00 for each regular meeting, *budget workshop meeting, or meeting of committees to which they have been assigned,* and ~~\$25.00~~\$30.00 for each special meeting for a maximum of ~~\$800.00~~\$1,500.00 per year. The Mayor shall receive \$500.00 and the Deputy Mayor shall receive \$150.00 additional pay as a result of the position. *Increases are to be effective on the first council meeting in January 2013. -Councilors shall receive their actual and necessary expenses incurred in the performance of their duties of office.*

*A councilor may elect to receive or not to receive compensation for a calendar year.*

The annual salary of Councilors, Mayor and Deputy Mayor and any adjustments in salaries shall be in accordance with the following procedures:

The Council may determine the annual salary of Councilors by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilors elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. ~~Councilors shall receive their actual and necessary expenses incurred in the performance of their duties of office.~~

~~(Amended: 4/3/73; 11/08/94)~~

## **Sec. 2.03 Mayor-Council Chairperson.**

The Council shall elect from among its members, officers of the City who shall have the titles of Mayor or Council Chairperson, and Deputy Mayor or Council Vice Chairperson, each of whom shall serve an annual term. The Mayor or Council Chairperson shall preside at meetings of the Council, shall be recognized as head of the City Government for all ceremonial purposes and by the governor for purposes of Military law, but shall have no administrative duties. ~~The Mayor s~~ Shall, subject to the approval of the City Council, appoint all Council Committees, name the Chairperson of said Committees and determine the duties of said Committees. The Deputy Mayor or Council Vice Chairperson, shall act as Mayor or Council Chairperson, during the absence or disability of the Mayor or Council Chairperson.

~~(Amended: 11/08/94)~~

## **Sec. 2.04 General Powers and Duties.**

All powers of the City shall be vested in the Council except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

*Councilors are expected to attend all regular meetings, budget workshop meetings, and meetings of committees to which they have been assigned, unless excused by the council.*

## Sec. 2.05 Prohibitions.

(a) *Holding other office.* Except where authorized by law, no Councilor shall hold any other City Office or hold a position that has its salary determined by the City Council or its designee(s).

~~(Amended: 6/12/07)~~

~~(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 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 Manager, anything pertaining to appointment and removal of such officers and employees.~~

(c) *Interference with administration.* Except for the purpose of inquiries and investigation under Section 2.08, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager, solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

## Sec. 2.06 Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) *Vacancies.* The office of a Councilor shall become vacant upon death, resignation, removal from office in any manner authorized by law for forfeiture of office.

(b) *Forfeiture of office.* A Councilor shall forfeit office if he/she:

~~(1) lacks at any time during term of office any qualification for the office prescribed by this Charter or by law,~~

~~(2) violates any *express prohibition provisions* of the Charter,~~

~~(3) is convicted of a crime involving moral turpitude,~~

~~(4) fails to attend three consecutive regular meetings of the Council without being excused by the Council,~~

~~(5) ~~or~~ willfully discloses information discussed, observed or perused during any executive session, properly called and voted upon by a majority vote of the Council,~~

~~*(6) fails to pay all annual personal and property taxes on or before December 31<sup>st</sup> of the previous year.*~~

~~*(7) or fails to attend, in a calendar year, at least 80% of budget workshop meetings and meeting of committees to which they have been assigned, unless excused by the council.*~~

~~*(c) Procedure: The Council shall notify offending councilor of the alleged forfeiture offense during open council session and in writing. A copy of the written offense shall also be delivered to the City's legal counsel for review.*~~

~~*(1) A hearing regarding the alleged forfeiture offense shall be held during open session of the next regularly scheduled Council meeting. The Council shall be the sole judge of the qualification of its members and of the grounds of forfeiture, but the decision of the Council shall be subject to review by the Court.*~~

~~*(2) The forfeiture shall be stated for the records/journal.*~~

~~*(3) The offending councilor shall be given the opportunity to state his/her case.*~~

~~*(4) At the conclusion of the hearing, the Council shall vote on whether or not a forfeiture of office has occurred. If the Council vote affirms that a forfeiture of office has occurred, the offending councilor shall have the opportunity to resign his/her office.*~~

~~*(5) If a resignation is not forthcoming, the Council shall call for a vote for dismissal.*~~

~~(d) *Filling of vacancies.* A vacancy in any elected office shall be filled for the remainder of the unexpired term, if any, at the next ~~regular~~ *regular or special municipal election or referendum held following* not less than 60 days upon the occurrence of the vacancy, but the Council, by a majority vote~~

of its members, shall appoint a qualified person within 30 days of a vacancy to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. This provision shall also apply to the position of Mayor, Council Chairperson, (or) Deputy Mayor.

~~(Amended: 11/8/77; 11/08/94)~~

### **Sec. 2.07 City Clerk.**

The Council shall appoint an officer of the City who shall have the title of City Clerk and the City Clerk shall be the ex officio ~~the~~ secretary of the Council. If the said City Clerk fails to act, the Council can elect anyone qualified to said office. The acting secretary or the City Manager shall give notice of Council meetings to its members. City Clerk shall appoint a Deputy Clerk with the approval of the City Council.

~~(Amended: 11/08/94)~~

### **Sec. 2.08 Investigations.**

The Council may make investigations into the offices 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 misdemeanor and punishable by a fine of not ~~more~~ less than \$50.00 or by imprisonment for not more than 30 days or both.

### **Sec. 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 and must use accounting practices defined to be used as national standards for municipal governments.

The Council ~~may, shall require without requiring~~ competitive bids, designate such accountant 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.

~~(Amended: 11/08/94)~~

### **Sec. 2.10 Procedure.**

(a) *Meetings.* The Council shall conduct Regular Meetings at least once in every month at such times and places as the Council may prescribe by rule. Special Meetings or Workshop Meetings may be held on the call of the Mayor, Council Chairperson, or a majority of the members of the Council. This section shall not apply to the call of Council Committee Meetings having less than three Councilors constituting the committee. Whenever practicable, all meetings shall be called with no less than twelve (12) hours notice to each member. All Council and Committee meetings, except for personnel and executive sessions, shall be open to the public and televised when held in Council Chambers; All meetings shall be open to the public; however, the Council may call an executive session in accordance with the provisions of Maine State Law, as amended from time to time. A majority of the members of the Council shall constitute a quorum for the transaction of business.

i) Regular Meetings shall be those Council meetings as prescribed by rule for the normal and anticipated business of the City at which legislative action by vote is anticipated to be necessary.

a. Agenda will be made available to the public by 12:00 p.m. on Friday, prior to regularly

scheduled meeting.

b. There shall be a time slot of at least 15 min available at the beginning of each regularly scheduled meeting, for input from residents or tax payers of Caribou. The council will maintain a Rule of Procedure to allow public comment on agenda and non-agendas item at the start of each council meeting. All requests will be honored.

i) ~~There shall be a 15 minute time slot at the beginning of each regularly scheduled meeting for general public input.~~

- ii) Special Meetings shall be those called pursuant to 2.10(a) in addition to Regular Meetings due to the necessity of time at which legislative action by vote is anticipated to be necessary.
- iii) Workshop Meetings shall be those called pursuant to 2.10(a) at which legislative action by vote will not be made and the meeting is expressly for the receipt of information or the development of work products which may require future legislative action by vote at either a Regular or Special Meeting.
- iv) Council Committee Meetings shall be those Council appointed committees having three or more Councilors as part of the committee constituting a public meeting and the necessity to call pursuant to 2.10(a) as a Regular, Special or Workshop meeting. Less than three Councilors participating in a committee shall not necessitate the call under this section.

(b) Rules and journal. The rules contained in the current edition of Roberts' Rules of Order Newly Revised shall govern the Council in all cases to which they are applicable and in which they are not inconsistent with this Charter and any special rules of order that the Council may adopt. The Council shall ~~determine its own rules and order of business and shall provide for~~ keeping a journal of its proceedings. The journal shall be a public record.

(c) Voting. Voting, shall be by show of hands or roll call. The yeas and nays shall be recorded in the journal. A secret ballot shall be allowed only in the selection of the Mayor and Deputy Mayor. (Amended: 11/08/94; 11/06/01; 11/04/08)

## **Sec. 2.11 Action Requiring an Ordinance.**

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

- (1) Adopt or amend an administrative code or establish, alter, or abolish any City department, office or agency.
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- (3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget.
- (4) Grant, renew or extend a franchise.
- (5) Regulate the rate charged for its services by a Municipal Public Utility.
- (6) An ordinance is required to ~~Authorize the~~ borrowing of money except that a resolution is sufficient in the following circumstances: for sums authorized by general referendum and except that notes in anticipation of taxes and notes in anticipation of approved bond issues, may be authorized by resolution effective upon adoption.
  - (a) to borrow money for a project authorized by a voter referendum;
  - (b) for notes in anticipation of taxes;
  - (c) in anticipation of municipal bond revenues which have already been approved.
- (7) Convey or lease, ~~or authorize the conveyance or lease of~~ any lands owned by of the City of

~~*Caribou except for tax acquired property which shall be retained, sold or otherwise disposed of in accordance with any ordinance enacted by the City for retention or disposition of tax-acquired property, except in the case of tax acquired property, which must when sold, however, be sold by public bid, after the previous owner has first been given notice, if possible, that said property may be recovered after payment of all taxes thereon, interest, and all costs.*~~

(8) Adopt with or without amendment ordinances proposed under the initiative power, and

(9) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power. Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

*(10) Changes in the personnel policy.*

~~*(Amended: 11/8/77)*~~

## **Sec. 2.12 Ordinances in General.**

(a) *Adoption notice.* The City Council shall pass such municipal ordinances as they think necessary and proper, governed by the authority which cities have to enact ordinances under the *State of Maine, Title 30-A, revised* statutes ~~of 1964~~ and amendments thereto; provided that any such ordinances shall be properly adopted if a public hearing has been held thereon after not less than seven (7) days notice thereof, which notice need only contain the title of the proposed ordinance and a brief summary of its contents together with the time and place of said hearing.

(b) *Existing ordinances.* All existing ordinances of the City of Caribou shall be retained as active ordinances under this City Charter.

(c) *Procedure.* An ordinance may be introduced by any member at any regular or special meeting of the Council providing it is in writing in the form required for final adoption and contains only one subject which is clearly expressed in its title and upon introduction of an 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 City Clerk and such other public places as the Council may designate, and shall publish the ordinance together with notice setting out the time and place for a public hearing which shall follow the publication by at least seven days, 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 procedures hereinbefore 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.

(d) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(e) *"Publish" defined.* As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the City, *in addition be posted to the City's website and public access station, when available*: (1) the ordinance or a brief summary thereof, and (2) the places where copies have been filed and the times when they are available for public inspection.

~~*(Amended: 11/08/94)*~~

## **Sec. 2.13 Emergency Ordinances.**

(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 municipal public utility for its services or

authorize the borrowing of money except as provided in subsection 5.~~0709~~(b) [5.~~0911~~(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. 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.

(b) Every emergency ordinance except one made pursuant to Section 5.~~0911~~(b) herein shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment 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.  
(Amended: 11/08/94)

### **Sec. 2.14 Authentication and Recording; Codification; Printing.**

(a) *Authentication and recording.* The City Clerk shall authenticate by signature and record in full in a properly indexed book, kept for that purpose, all ordinances and resolutions adopted by the Council.

(b) *Codification.* ~~Within five years after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a~~ The general codification of all City ordinances and resolutions having the force of and effect of law. ~~The general codification~~ shall be adopted by the Council by ordinance and shall be published promptly in electronic form and 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 Caribou 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.

~~(Amended: 11/08/94)~~

### **Sec. 2.15 General Information.**

There shall be in all: Seven (7) City Councilors; three (3) members of the Board of Managers of the Jefferson Cary Hospital Fund; ~~Six (6) members of the Board of Education;~~ seven (7) members of the Library Committee; nine (9) appointed directors of Cary Medical Center together with two ~~ex-officio~~ members, namely the City Manager and the chairperson of the Board of Managers of the Jefferson Cary Hospital Fund; three (3) members of the Board of Assessors; three (3) trustees of the Hospital District; ~~and~~ five (5) members of the Caribou Utilities District.

~~(Amended: 11/8/77; 11/08/94; 11/4/08)~~

### **Sec. 2.16 Board of Assessors.**

There shall be a three person Board of Assessors, appointed by the City Council. The Chairperson shall be elected from among the membership. Members shall hold office for a term of three (3) years or until their successors are appointed and qualified. The City Council shall appoint a member to the Board of Assessors to fill the unexpired term whenever a vacancy may occur on the Board of Assessors. The Assessors appointed as above provided shall exercise the powers as described in Title 36, M.R.S. Chapter 105, Section 701, et seq. "Powers and Duties of Assessor"

~~(Amended: 11/08/94 and 11/06/01)~~

## Sec. 2.17 Public Library Committee.

The City Council of Caribou shall appoint by a majority vote of the membership, a Public Library Committee of not exceeding seven (7) members, ~~as follows: One for one (1) year, one for two (2) years, one for three (3) years, two for four (4) years, and two for five (5) years, respectively; except that the present members of the Public Library Committee at its first meeting shall designate by lot the period of services for which each has been elected.~~ As each term expires, the City Council shall annually elect for five (5) years one or more members to fill, in the usual manner, the vacancies which have occurred. The Committee shall organize and designate its chairperson. The Caribou Public Library Committee shall be responsible for the management of the library and to submit reports as requested by the City Council.

~~(Amended: 11/08/94 and 11/06/01)~~

## Sec. 2.18 General Powers and Duties of the Hospital Board.

(a) There shall be a Board of Directors of the Cary Medical Center, composed of nine (9) members to be appointed by the City Council plus two additional ex-officio members, the City Manager and the Chairperson of the Board of Managers of the Jefferson Cary Hospital Fund; no less than eight of the eleven members of the Board of Directors of Cary Medical Center shall be residents of the City of Caribou.

(b) The Board of Directors shall organize annually and appoint its own Chairperson. The Board shall be charged with the responsibility of:

(1) Providing for, as a minimum standard, the delivery of patient care at a level consistent with full licensure by the State of Maine, and accreditation as necessary or appropriate.

(2) Maintaining medical records necessary for such accreditation and licensure.

(3) Maintenance and care of all City owned hospital buildings and grounds and compliance with maintenance obligations regarding any leased hospital building and ground.

(4) Maintaining financial records in accordance with generally accepted account principles and the requirements of applicable governmental third-party payors.

(5) Submitting ~~monthly~~ quarterly statements and periodical reports regarding capital improvements and general business to the City Council.

(6) Appointing hospital legal counsel and auditor; and

(7) Submitting to the City Council for final decision where required by, and in accordance with, Section 5.07, expenditures for capital improvements.

(8) Seeking to meet, to the extent reasonably possible, the basic medical needs of the community;

(c) ~~\*~~Notwithstanding any other provisions of this Charter, if it shall determine that doing so is in the best interests of the inhabitants of the City, the City Council shall, by ordinance, decide not to operate a municipal hospital, terminate any lease the City may have with the Caribou Hospital District, and convey, consistent with law and on such terms and conditions as it may determine, the hospital assets and liabilities of Caribou to appropriate others, specifically including any new, nonprofit corporation or corporations.

~~(Amended: 11/03/92; 11/08/94)~~

## Sec. 2.19 Organization of City Council and Election of Officers.

(a) The City Council shall meet on the first business day of January each year and organize

by electing by written ballot and by majority vote of the whole membership one of its members as Mayor or Chairperson and one of its members as Deputy Mayor or Vice Chairperson, and:

- (1) A City Treasurer to serve for the ensuing year who may at his/her option appoint a Deputy City Treasurer, subject to the approval of the City Council.
- (2) A City Clerk to serve for the ensuing year in accordance with Section 2.07.
- (3) An auditor in accordance with Section 2.09.
- (4) Tax Collector who shall serve, as provided for under the revised statutes of 1964 and amendments thereto. The City Manager may be Tax Collector if the Council so elects.
- (5) Overseer(s) of the General Assistance program.
- (6) Appoint all Boards and Commissions as required by this Charter.

~~(Amended: 11/08/94 and 11/06/01)~~

### **Sec. 2.20 Recall Provision**

Any member of the Caribou City Council may be recalled and removed from elected office by the voters of the City as herein provided.

#### (a) Procedure.

Any five (5) qualified voters of the City may begin the recall procedure by signing and filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, containing the name(s) of the member(s) of the City Council whose removal is sought. Thereafter, the Clerk shall, during regular business hours, for the following sixty (60) business days, keep the petition open for signature by registered voters of the City. In addition, the City Clerk shall also cause petition forms, together with copies of the attached affidavit, to be prepared and made available for circulation during said sixty (60) business days by any registered voters of the City. The number of petition forms and attached affidavit copies to be made available shall be able to accommodate signatures of at least twenty (20) per cent of the registered voters of the City. No voter may sign the petition more than once. At the expiration of said sixty (60) business days, the Clerk shall declare the petition closed. The circulating of petition forms and filing of the same with the Clerk must be accomplished prior to the expiration of said sixty (60) days. The City Clerk shall not accept any petition form circulated without also receiving an affidavit from said circulator stating that all of the signatures were affixed in the circulator's presence; that the circulator believes them to be genuine signatures of the persons they purport to be; and that every signor had an opportunity before signing to read the full text of the recall petition and affidavit.

#### (b) Certification of said recall petition.

Within ten (10) days after the closing of the petition, the Clerk shall ascertain whether or not the number of valid signatures on the petition is equal to at least twenty (20) percent of the registered voters of the City as of December 31st of the prior year. The Clerk shall attach to said petition, a certificate showing the results of such examination. If the petition is found to have insufficient signatures, the Clerk shall take no further action and the petition will be considered to be null and void.

#### (c) Calling of recall election.

If the petition shall be certified by the Clerk to have sufficient signatures, the Clerk shall submit the petition with the Clerk's certificate to the City Council at its next regular meeting and shall notify the member of the City Council whose recall is sought by such petition. The City Council shall

thereupon, within ten (10) days after the receipt of the City Clerk's certificate, order an election to be held not less than forty (40) nor more than sixty (60) days thereafter; provided that if a regular municipal election is to occur within ninety (90) days after the receipt of said certificate, the City Council may, at its discretion, provide for the holding of a recall election on the date of such municipal election. The recall election shall be called and held made as in other elections under this Charter except for the specific limitations of this section.

(d) Majority vote required; choosing of successor.

In case a majority of those voting in the recall election of any official shall vote in favor of recalling such official, he or she shall thereby be removed from office. The vacancy shall be filled in accordance with Article II, Sec. 2.06 (d).

(e) Form of ballot in recall elections.

Unless the official whose removal is sought shall have resigned within ten (10) days after the receipt by the City Council of the City Clerk's certificate, the form of the ballot shall be printed substantially as follows:

Form of ballot: "Shall \_\_\_\_\_ [name of elected official] be recalled"  
City Council Recall — Vote — Yes or No

## ARTICLE III CITY MANAGER

### Sec. 3.01 Appointment; Qualifications; Compensation.

The Council by a majority vote of its total membership shall appoint a City Manager for an indefinite term and fix his/her compensation. The Manager shall be appointed solely on the basis of executive and administrative qualifications. He/she need not be a resident of the City or State at the time of appointment, but may reside outside the City while in office only with the approval of the Council.

~~(Amended: 11/08/94)~~

### Sec. 3.02 Removal.

The Council may remove, for cause, 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 the 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 resolutions 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 fifteen 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 until the effective date of a final resolution of removal.

~~(Amended 11/06/01)~~

### Sec. 3.03 Acting City Manager.

By letter filed with the City Clerk the City Manager shall designate, subject to approval of the Council, a qualified City Administrative Officer to exercise the powers and perform the duties of Manager during his/her temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager shall return or his/her disability shall cease.

### **Sec. 3.04 Powers and Duties of the City Manager.**

The City Manager shall be the Chief Administrative Officer of the City. ~~He/she~~The Manager 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~~ The Manager shall have the following powers and duties:

(1) Administrative Officers appointed by City Manager. The City Manager shall appoint the following Administrative Officers:

- (a) Chief of Police for an indefinite period
- (b) Chief of Fire Department for an indefinite period
- (c) All other necessary City Administrative Officers

Such Administrative Officers shall hold office for an indefinite period or until their removal by the City Manager.

(2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(3) Attend all Council Meetings and shall have the right to take part in discussion but may not vote.

(4) 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.

(5) Prepare and submit the annual budget and capital program to the Council.

(6) Submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) 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.

(8) Keep the Council fully advised as to the financial conditions and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he/she deems desirable.

(9) Perform such other duties as are specified in this Charter or may be required by the Council.

(10) To act as superintendent of roads, streets, bridges and buildings with the exception of those buildings coming under the ~~School Department~~ Regional School Unit, Cary Medical Center and Jefferson Cary Hospital Fund.

(11) To act as a purchasing agent to said City and to purchase all supplies and materials for the City and for the several departments, with the exception of the ~~School Department~~ Regional School Unit, Cary Medical Center and Jefferson Cary Hospital Fund. All accounts for the purchase of supplies and materials and works performed for said City, with the exception of accounts for the purpose of supplies and materials and work for Cary Medical Center, ~~School Department~~ Regional School Unit and Jefferson Cary Hospital Fund, shall bear the approval of the City Manager when presented for payment. Capital purchases must have the approval of the City Council.

(12) Construction of this act. If any part of this act shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the act. The provisions of this act shall supersede all laws and ordinances not consistent herewith, insofar as the City of Caribou, in the County of Aroostook is affected thereby.

(Amended: 11/08/94 and 11/06/01)

## ARTICLE IV ADMINISTRATIVE DEPARTMENTS

### Sec. 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 of all departments, offices, and agencies, except that no function 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.

(b) *Direction by Manager.* All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the 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.

### Sec. 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 board.* There ~~may~~ shall be a personnel board consisting of the City Council or three members appointed by the Council for terms of three years from among the qualified voters of the City.

(c) *Personnel rules.* A personnel policy shall be prepared by the City Manager and submitted to the Council for approval, and the Council ~~may~~ shall by ordinance adopt them with or without amendment.

\_\_\_ The existing personnel policy shall continue in force until amended or repealed. Personnel 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) A pay plan for all City positions.

(3) Methods for determining the merit and fitness of candidates for appointment or promotion.

\_\_\_ (4) The policies and procedures regulating reduction in force and the removal of employees.

\_\_\_ (5) The hours of work attendance, regulations, and provisions for sickness, leave of absence and vacation leave.

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

(7) The policies and procedures governing relationships with employee organizations.

(8) Policies regarding in-service training programs.

(9) Grievance procedures.

(10) Other practices and procedures necessary to the administration of the City Personnel system.

(Amended: 11/08/94)

### Sec. 4.03 Legal Officer.

There shall be a legal officer of the city appointed by the City Manager subject to confirmation by

the City Council. The legal officer shall serve as chief legal advisor to the Council, the City Manager and all city departments, offices and agencies, ~~except the School Department and Cary Medical Center,~~ shall represent the city in all legal proceedings and shall perform any other duties prescribed by this charter or by ordinance.

~~(Amended: 11/08/94)~~

## ARTICLE V FINANCIAL PROCEDURES

### Sec. 5.01 Fiscal Year.

The fiscal year of the City shall begin on the first day of January and end on the last day of December.

### Sec. 5.02. Money Expended.

No money shall be paid out of the City treasury except by order issued and signed by a majority of the City Councilors, or their authorized representative and presented to the treasury for payment.

~~(Amended: 11/08/94)~~

### Sec. 5.03 Bonds of Officials.

The City Council shall require a bond by a reputable surety company satisfactory to said City Council from all persons trusted with the collection, custody or disbursement of any of the monies of said City, and may require such bond from such officials as they deem advisable; provided, however, that the City shall pay the cost of providing said bond.

~~(Amended: 11/08/94)~~

### ~~Sec. 5.04 Submission of Budget and Budget Message.~~

~~On or before the first Monday of February of each year the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.~~

~~(Amended: 11/08/94)~~

### ~~Sec. 5.05 Budget Message.~~

~~————The Manager's message shall explain the budget 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, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the Manager deems desirable.~~

~~(Amended: 11/08/94)~~

### ~~Sec. 5.06 Budget.~~

~~————The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination or expenditure classification by fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service for the ensuing fiscal year, and shall be so arranged 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:~~

~~(1) 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.~~

~~(2) 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.  
(Amended: 11/08/94)~~

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### **Sec. 5.07 Capital Program.**

~~(a) *Submission to Council.* The Manager shall prepare and submit to the Council a five year capital program at least three months prior to the final date for submission of the budget;~~

~~(b) *Contents.* The capital program shall include:~~

~~(1) A clear general summary of its contents;~~

~~(2) The capital improvements which are proposed to be undertaken during the five fiscal years ensuing, with appropriate supporting information as to the necessity for such improvements;~~

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

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

~~(c) *Submission of projects to voters.* All capital improvement projects involving \$500,000.00 or more of local tax dollars shall be submitted to the registered voters of the City of Caribou, by holding a referendum vote thereon.~~

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

~~(Amended: 11/8/77; 11/5/84; 11/08/94; 11/04/97)~~

### **Sec. 5.08 Council Action on Budget.**

~~(a) *Notice and hearing.* The Council shall publish in one or more newspapers of general circulation in the City, the general summary of the budget 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 two weeks 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 on or before the third Monday of March of the fiscal~~

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~~year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted as of the preceding fiscal year on a month to month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as property tax therein proposed.  
(Amended: 11/08/94)~~

**~~Sec. 5.09 Council Action on Capital Program.~~**

~~—(a) Notice and hearing. The Council shall publish in one or more newspapers of general circulation in the City 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 two weeks after such publication, for a public hearing on the capital program.~~

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~~—(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 day of March of the current fiscal year.~~

~~(Amended: 11/08/94)~~

**Sec. 5.04 Submission of Budget and Budget Message.**

~~On or before the 15th of November of each year the City Manager shall submit to the City Council a final draft of the detailed expense budget and capital expense budget for the ensuing fiscal year and an accompanying message explaining the expense budget and the capital expense budget. In addition, on or before the 30th of April of each year the City Manager shall submit to the City Council a final draft of the income budget for the ensuing year and an accompanying message explaining the income budget. On or before the 31st of May of each year the City Manager shall submit to the City Council a final complete budget for income, expense, capital expense budget and an accompanying message explaining the complete budget.~~

**Sec. 5.05 Budget Message.**

~~The City Manager's message shall explain the budget 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 expense and income budget, together with the reasons for such changes, summarize the City's debt position and include such other material as the City Manager deems desirable.~~

**Sec. 5.06 Budget.**

~~The budget process shall be divided into three processes: Expense Budget, Capital Expense Budget, and Income Budget. The final complete budget shall provide a thorough financial plan of all City funds and activities for the ensuing fiscal year and shall be in such form as to provide detailed information by each general ledger account and general ledger sub-account.~~

**(a) Expense Budget.**

~~(1) In organizing the expense budget, the City Manager shall provide a historical~~

financial expense update on or before the 15th of September each year to the general public including the City Council. This update must provide the following detailed expense information for each main general ledger account and each general ledger sub-account: three year average of actual expenditures, previous year's expense budget, previous year's actual expenditure, current year expense budget, first eight months actual expenditures, and an annualized actual expenditure based on the eight month actual expenditure.

(2) Expense Budget Report. The City Manager will provide a series of Expense Budget Reports to the City Council and the general public in both a printed copy, available at the City Office, and in electronic form, available on the City's website. Each Expense Budget Report shall at minimum include for each City Department detailed expense information by each general ledger accounts and corresponding detailed sub-account information which will include a three year average of actual expenditures, previous year expense budget and actual expenditures, current year expense budget and actual available year-to-date expenditures, annualized current year actual expenditures, and proposed expense budget.

(3) Timeline. The City Manager will provide an Expense Budget Report on or before the following dates:

(i) On or before October 1st: The City Manager will have each City Department Head provide an initial written detailed Expense Budget Report for the ensuing year.

(ii) On or before November 1st: The City Manager will have each City Department Head present a written detailed Expense Budget Report to both the City Council and the City's citizens in a public forum where both the City Council and Caribou's citizens can ask questions and provide input to the City Manager and each Department Head.

(iii) On or before November 15th: The City Manager will provide the City's written detailed Expense Budget Report for the ensuing year to the City Council and Caribou's citizens in a public hearing.

(iv) On or before December 15th: The City Council will vote on the City's final detailed expense budget for the ensuing year.

(v) On or before January 31st: The City Manager will provide the City's written detailed Expense Budget Report for the new year to Caribou's citizens for their review updating the report with final year end expenditures.

**(b) Capital Expense Budget.**

(1) In organizing the Capital Expense Budget, the City Manager shall prepare and submit to the City Council and Caribou's citizens a five year Capital Expense Budget on or before the 15th of October.

(2) Capital Expense Budget Report. The City Manager will provide a series of Capital Expense Budget Reports to the City Council and Caribou's citizens in both a printed copy, available at the City Office, and in electronic form, available on the City's website. Each Capital Expense Budget Report shall at minimum include for each City Department detailed capital expense information by each general ledger account and corresponding detailed sub-account information which will include a three year average of actual expenditures, previous year capital expense budget and actual capital expenditures, current year capital expense budget and actual available year-to-date capital expenditures, annualized current year actual capital expenditures, and proposed capital expense budget for the next five years.

(3) Timeline. The City Manager will provide a Capital-Expense Budget Report on or before the following dates:

(i) On or before October 15th: The City Manager will have each City

Department Head provide a written detailed capital expense budget report for the next five years to the Capital Improvements Committee.

(ii) On or before November 1st: The City Manager will have each City Department Head present their written detailed Capital Expense Budget Report to both the City Council and Caribou's citizens in a public forum where both the City Council and Caribou's citizens can ask questions and provide input to the City Manager and each Department Head.

(iii) On or before November 15th: The City Manager will provide the City's written detailed Capital Expense Budget Report for the ensuing year to the City Council and Caribou's citizens in a public hearing.

(iv) On or before December 15th: The City Council will vote on the City's final detailed Capital Expense Budget for the ensuing year.

(4) Submissions of projects to voters. All capital improvement projects involving \$500,000 or more of municipal funds shall be submitted to the registered voters of the City of Caribou by holding a referendum vote thereon. A project is defined as a complete list of capital expense purchases combined together to build a building, purchase vehicles or machinery, provide a service to the citizens of the city, or a combination thereof, and not currently part of the schedule of City assets.

#### **(c) Income Budget.**

(1) In organizing the Income Budget, the City Manager shall provide a written estimated Income Budget for the current year to the City Council and Caribou's citizens on or before the 15th of February. This estimated Income Budget must provide the following detailed income information for each main general ledger account and each general ledger sub-account: three year average of actual income, previous year's income budget, previous year's actual income, proposed current year income budget, and proposed level of taxation for municipal budget based on previous year valuation.

(2) Income Budget Report. The City Manager will provide a series of Income Budget Reports to the City Council and Caribou's citizens in both a printed copy, available at the City Office, and in electronic form, available on the City's website. Each Income Budget Report shall at minimum include for each City Department detailed income information by each general ledger account and corresponding detailed sub-account information which will include a three year average of actual income, previous year income budget and actual income, proposed current year income budget, and proposed level of taxation for municipal budget based on current year valuation.

(3) Timeline. The City Manager will provide an Income Budget Report on or before the following dates:

(ij) On or before April 30th: The City Manager will provide an estimated written detailed Income Budget Report for current year.

#### **(d) Complete City Budget.**

The City Manager will finalize the complete City Budget for the current year including all three elements: expense, capital expense, and income on or before the 31st of May each year. The City Council has the opportunity to reduce the expense or capital expense budget if needed based on the current income budget, but cannot increase the expense or capital expense budget.

#### **(e) Set the Rate of Taxation.**

The City Council will set the rate of taxation for the City based on the approved budgets of the City, County and RSU 39 on or before the 30th of June each year.

### **Sec. 5.07 Council Action on Expense and Capital Expense Budget.**

**(a) Notice and Hearing.**

The City Council shall publish in one or more newspapers of general circulation in the City, in addition shall post to the City's website and public access station, when available, the detailed expense and capital expense budgets and a notice stating:

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

(2) The time and place, not less than two weeks after such publication, for a public hearing on the expense and capital expense budgets.

**(b) Amendments before adoption.**

After the public hearing, the City Council may adopt the expense and capital expense budget with or without amendment. In amending the expense and capital expense budgets, it may add or increase expense expenditures and may delete or decrease expenditures, except expenditures required by law or for debt service.

**(c) Adoption.**

City Council must adopt the expense and capital expense budgets on or before the 15th of December before the ensuing year.

**Sec. 5.1008 Public Records.**

Copies of the budget and the capital improvement program as adopted shall be public records and shall be made available to the public on the City's website and at suitable places in the City.

~~(Amended: 11/08/94)~~

**Sec. 5.1109 Amendments After Adoption.**

(a) *Supplemental appropriations.* If during the fiscal year the Manager certifies that there are available ~~for appropriation~~ revenues in excess of those estimated in the budget, these funds shall be used for next year's budget, except in situations outlined in section 5.09(b). ~~the Council by ordinance 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 ordinance in accordance with the provisions of Section 2.13. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes which may be renewed from time to time, but the emergency notes and renewals 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 Manager that the revenues available will be insufficient to meet the amount appropriated, ~~he~~ the Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by ~~him and his~~ the Manager with recommendations as to any other steps to ~~he~~ 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 by ~~ordinance~~ resolution reduce one or more appropriations.

(d) *Transfer of appropriations.* At any time during the fiscal year the ~~m~~Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by ~~ordinance~~ resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred,

and 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 e~~Emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

~~(Amended: 11/08/94)~~

**Sec. 5.1210 Lapse of Appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

~~(Amended: 11/08/94)~~

**Sec. 5.1311 Administration of Budget.**

(a) *Work programs and allotments.* At such time as the 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 Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. ~~He~~ The Manager may revise such allotments during the year if ~~he~~ the Manager deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 5.0907 or ~~5.1109~~.

(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 Manager or designee 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 unless State Law permits an overdraft of certain accounts. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter, unless permitted by State Law, shall be void and any payment so made illegal, such action shall be cause for removal of any officers who knowingly authorized or made such payment or incurred such obligation unless permitted by State Law 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 notes 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~~ resolution.

~~(Amended: 11/08/94)~~

**ARTICLE VI ~~BOARD OF EDUCATION~~ APPROPRIATION FOR PUBLIC EDUCATION**

**~~Sec. 6.01 Composition.~~**

~~A Board of Education is created in said City to consist of six members elected in accordance with Article VII of this Charter.~~

**~~Sec. 6.02 Term of Office.~~**

~~The members of the Board of Education shall serve for a term of three years. At each annual City~~

~~election thereafter a sufficient number of members of the Board of Education shall be elected for a period of three years as may be necessary to fill the vacancies in said committee caused by expiration of the term of office of said members. A vacancy in the Board of Education shall be filled in accordance with Article II Section 2.06, Part (c) of this Charter.~~

**~~Sec. 6.03 Powers, Duties, Organization.~~**

~~—The Board of Education shall perform all the duties and be invested with all the rights and powers of the school committees of cities, including the expenditure of all school moneys in accordance with the requirements of Maine State Law.~~

~~—The Board shall elect a chairperson annually, and following applicable Maine State Laws appoint some suitable person, not a member of the Board, Superintendent of Schools, and may adopt such rules and regulations for the management of the schools and the conduct of the business of the Board as are not inconsistent with the laws of the State.~~

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~~The Superintendent shall be the secretary and executive agent of the Board, which shall fix his/her salary to be paid from the City Treasurer as salaries of teachers are paid, and may remove him/her and appoint a successor in accordance with the general laws of the State. The members of the Board of Education shall not be members of the City Council.~~

~~(Amended: 11/08/94 and 11/06/01)~~

**~~Sec. 6.04 School Budget; Hearing Appropriations; Audit of Accounts.~~**

~~The Board of Education shall annually prepare a report of the affairs and conditions of the City schools for the fiscal year ending and a detailed estimate in the form of a budget of the amount needed for school purposes for the current year and shall submit a copy of said report and estimate to the City Manager and to each member of the City Council as soon as possible, but no later than 30 days after final appropriation by the State Legislature. There shall be held at such time as shall be fixed by the City Manager a joint meeting of the Board of Education and the City Manager and the City Council, due notice of which meeting shall be given jointly by the City Manager and Superintendent of Schools to each member of the Board of Education and City Council, to consider such estimate, and said Board of Education shall give full information with reference to said estimate and their reasons for fixing the items thereof at the amounts therein stated. It shall be the duty of the City Manager and the members of the Board of Education and City Council to be present at said meeting. The City Manager and City Council, or any member thereof, or of the Board of Education, who do not concur in said estimate or any item thereof shall, unless said item or items are changed by said Board of Education, present their reasons for their nonconcurrence at the meetings of the City Council at which the appropriations of school moneys are made. The Council shall have the power to raise moneys for the support of public schools in said City and shall appropriate for the current year ending on the 31st day of December such sum, not less than the amount required by the general laws of the State, as they may deem necessary for that purpose in accordance with the Laws of the State of Maine. Such sum shall be included with and assessed like other City taxes, and all the provisions of law relating to the assessment and collection of taxes shall be applicable to such tax. All salaries, wages and bills contracted by the Board of Education in the usual and regular course during the period between the 31st day of December and the raising of said money for the current year, and for the payment of which school funds are not available, shall be~~

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~~paid by the City Treasurer and charged against the school appropriation for said current year. It shall be the duty of the City Auditor, under the direction of the City Manager and City Council to audit the books of the Board of Education as directed by the City Council. The City Council shall have the power to raise or borrow money for the building and reconstruction of school buildings and the purchase of lots therefore in accordance with Article V, Section 5.07 Part (b) of this Charter. The City Council shall control the appropriation of school funds in accordance with Article V, Section 5.08 of this Charter and the general laws of the State.~~

~~(Amended: 11/08/94 and 11/06/01)~~

### **Sec. 6.01 Council Action on Appropriation for Public Education**

The Council shall have the power to raise moneys for the support of public schools in said City and shall appropriate for the current year ending on the 31st day of December such sum, not less than the amount required by the general laws of the State, as they may deem necessary for that purpose in accordance with the Laws of the State of Maine. Such sum shall be included with and assessed like other City taxes, and all the provisions of law relating to assessment and collection of taxes shall be applicable to such tax.

## **ARTICLE VII NOMINATIONS AND ELECTIONS**

### **Sec. 7.01 City Elections.**

(a) *Regular elections.* The regular City election shall be held on the first Tuesday of November after the first Monday in each year.

(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 the Charter, the provisions of the general election laws of the State of Maine shall apply to elections held under this Charter. All elections provided for by this Charter shall be conducted by the elections 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 may 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.

~~(Amended: 11/08/94)~~

### **Sec. 7.02 Nominations.**

Candidates for elective offices shall obtain nomination papers from the City Clerk, in accordance with the ~~Laws of Maine as amended~~ Laws of the State of Maine and as Amended from time to time.

~~(Amended 11/06/01)~~

### **Sec. 7.03 Voting Machines.**

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

### **Sec. 7.04 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, as referenced in M.R.S.A., Title 21-A, section 196A.-

## ARTICLE VIII ORDINANCE INITIATIVE AND REFERENDUM

This article applies only to citizen initiatives and referendum for new or amended ordinances.

### Sec. 8.01 General Authority.

(a) *Initiative.* The qualified voters of the City shall have power to propose ordinances 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 or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes or salaries of city officers or employees.

### Sec. 8.02 Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any five qualified voters may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly ~~after~~ after the affidavit of the petitioners' committee is filed the clerk shall issue the appropriate petition blanks to the petitioners' committee.

### Sec. 8.03 Petitions.

(a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least 10 per-cent of the total number of votes cast in Caribou at the last gubernatorial election.

(b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence, that he/she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) *Time for filing referendum petitions.* Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered.

~~(Amended: 11/08/94)~~

#### **Sec. 8.04 Procedure After Filing.**

(a) *Certificate of clerk; amendment.* Within twenty 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 ~~his~~ *their* 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 subscription (a) and (c) of Section 8.03 and within five days after it is filed, the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such 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 (a) of this section within the time required, the Clerk shall promptly present his/her 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 and the petitioners' committee does not file notice of intention to amend it 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 shall then be a final determination as to the sufficiency of the petition.

(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, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### **Sec. 8.05 Referendum Petitions; Suspension of Effect of Ordinance.**

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

- (1) There is a final determination of insufficiency of the petition, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The Council repeals the ordinance, or
- (4) Thirty days have elapsed after a vote of the qualified voters of the City on the ordinance.

#### **Sec. 8.06 Action on Petitions.**

(a) *Action by council.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

(b) *Ballots for ordinances.* An ordinance 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, 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 be adopted?”

Immediately below such question shall appear, in the following order, the words “yes” and “no”.

(c) *Submission to voters.* The vote of the City on a proposed or referred ordinance shall be held not less than 30 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 fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

~~(Amended 11/06/01)~~

### **Sec. 8.07 Results of Election.**

(a) *Initiative.* If a majority of the qualified electors 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 certification of the election results.

## **ARTICLE IX GENERAL PROVISIONS**

### **Sec. 9.01 Personal Financial Interest.**

Any City officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any 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/*her* capacity as a City officer or employee in the making of such sale or in the making or performance of such contract.

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. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the city shall render the contract of sale voidable by the City Manager or the City Council.

### **Sec. 9.02 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, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification 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 person shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive City position.

~~(5) No person who holds any compensated appointive City position shall make, solicit or receive any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, or candidate for public office, but he may exercise his rights as a citizen to express his opinions and to cast his vote. No city employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a city election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issued. Further, no city employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for city office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.~~

~~(b) Penalties. Any person who by him/her self or with others willfully violates any of the provisions of paragraphs (1) through (4) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$50.00 dollars or by imprisonment for not more than 30 days or both. Any person who by him/her self or with others willfully violates any of the provisions of paragraph (5) shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than fifty dollars (\$50.00). 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 an officer or employee of the City, shall immediately forfeit his/her office or position. The Council shall enact an ordinance prescribing the civil penalties for a violation of the provisions set forth in Section 9.02.~~

### **Sec. 9.03 Charter Revisions and Amendments.**

Revisions and amendments to this Charter may be framed and proposed in the manner provided by Title 30-A M.R.S.A. Section 2101 Et Seq., as amended from time to time. It shall be the determination of the City Council, with the advice of an attorney, if a petition or initiative to change the Charter shall be framed as an amendment or as a revision. In all cases, times will be framed pursuant to 30-A M.R.S.A. § 2101 Et. Seq.

a) An amendment to the City Charter implies a continuance of the general plan and purpose of the existing Charter, with corrections to better accomplish its purpose, but does not reframe the form of governance nor detract from the original intent of the Charter. If an action is determined to be an amendment, then actions will be framed in the manner provided by 30-A M.R.S.A. § 2104 Et. Seq.

b) A revision to the Charter implies a reexamination of the whole charter and/or a redraft without obligation to maintain the form, scheme, or structure of the existing. A revision suggests a convention to examine the whole subject and to prepare and submit a new instrument whether the desired changes from the old are few or many, without regard to retaining the current form of governance. If an action is determined to be a revision, then actions will be framed in the manner provided by 30-A M.R.S.A. §

2104 Et. Seq.

(Amended: 11/08/94 and 11/06/01)

#### **Sec. 9.04 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.

#### **Sec. 9.05 Rules for Taking Action or Filing Claims Against the City.**

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

### **ARTICLE X TRANSITIONAL PROVISIONS**

#### **Sec. 10.01 Officers and Employees.**

~~(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 or employees at the time of its adoption.~~

~~(b) *Continuance of Office or Employment.* Except as specifically provided by the Charter, if at the time this Charter takes full effect a City administrative officer 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.~~

~~(c) *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.~~

#### **Sec. 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 City department, office or agency designated in this Charter or if the Charter makes no provision, 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 powers 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.~~

#### **Sec. 10.03 Pending Matters.**

~~All rights, claims, actions, 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.~~

### **Sec. 10.04 State and Municipal Laws.**

~~(a) *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.~~

### **Sec. 10.05 Schedule.**

~~(a) *First election.* At the time of its adoption, this Charter shall be in effect to the extent necessary in order that the first election of members of the City Council may be conducted in accordance with the provisions of this Charter. The first election shall be held on the 2nd Tuesday of December. The Council (City officials to be designated) shall prepare and adopt temporary regulations applicable only to the first election and designed to insure its proper conduct and to prevent fraud and provide for recount of ballots in cases of doubt or fraud.~~

~~(b) *Time of taking full effect.* This Charter shall be in full effect for all purposes on and after the date and time of this first meeting of the newly elected Council as provided in subsection (c).~~

~~(c) *First Council meeting.* On the 1st Monday of January following the first election of Council members under this charter:~~

~~(1) For the purpose of electing the Mayor Council Chairperson and Deputy Mayor Council Chairperson, appointing or considering the appointment of a City Manager or acting City Manager, and choosing, if it so desires, one of its members to act as temporary Clerk pending appointment of a City Clerk pursuant to Section 2.07; and~~

~~(2) For the purpose of adopting ordinances and resolution necessary to effect the transition of government under this Charter and to maintain effective City government during that transition.~~

~~(b) *Temporary ordinances.* In adopting ordinances as provided in subsection (c), the Council shall follow the procedures prescribed in Article II, except that at its first meeting or any meeting held within 60 days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective City government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the Council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise~~

~~continued except by adoption in the manner prescribed in Article II for ordinances of the kind concerned.~~

~~(e)Initial expenses. The initial expenses of the Council, including the expense of recruiting a City Manager, shall be paid by the City on vouchers signed by the Mayor.  
(Amended: 11/08/94)~~

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~~**Emergency Clause: Referendum: Effective Date: Certificate to Secretary of State and Resubmission to the Voters.**~~

~~In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the Town of Caribou at the next annual town meeting to be held in March, 1967 or at a special meeting to be held not later than four (4) months after approval of this act. Such town meeting shall be called, advertised and conducted according to the law relating to town meetings. The Town Clerk shall prepare the required ballots, on which he shall reduce the subject matter of this act to the following question: "Shall the act to provide a City Council Manager Charter for the Town of Caribou, passed by the 103rd legislature be accepted?" The voters shall indicate by a cross or check mark placed against the words "yes" or "no" their opinion of the same. This act shall take effect for all the purposes hereof on the first Monday of January after its acceptance by a majority of registered voters, voting at said meeting: but only if the total number of votes cast for and against acceptance of this act at said election equals or exceeds twenty per cent of the total votes for all candidates for governor cast in said town at the last previous gubernatorial meeting. The result of the vote shall be declared by the municipal officers of the Town of Caribou and due certificate thereof filed by the Town Clerk with the Secretary of State.~~

~~In the event this Charter is not accepted by the legal voters of Caribou at the scheduled election, this Charter may then be resubmitted to registered voters of Caribou.~~

**ARTICLE X. TRANSITIONAL PROVISIONS**

**Sec. 10.01 Effective date of this Revision.**

*The provisions of this Revision shall go into effect on the first day of the municipal year following approval of this Revision, unless otherwise noted.*

**Sec. 10.02 Effect of this Revision on Existing Law.**

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

**Sec. 10.03 Effect of this Revision on Existing Ordinances and Contracts.**

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

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

**Sec. 10.04 Separability Clause.**

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

**10.05 Expiration of Term of Present Elected Officials**

All elected officials holding office on the effective date of this Charter shall continue to hold office until the expiration of their terms and shall remain in office until their successors are elected and qualified.

**10.06 Continuance of Employees & Appointed Officials**

Nothing in this Charter, except as specifically stated, shall affect or impair the rights or privileges of persons who are municipal employees at the time of its adoption. All persons serving on any board or committee on the effective date of this Charter shall continue to hold said position until the expiration of their terms and shall remain in office until their successors are elected and qualified.