

Proposed Amendments to the “Charter of the Town of Eliot, Maine, Article 2: Select Board”

Annual Town Referendum Election, June 11, 2024

Warrant Article 15

Ballot Question 13

“Shall the Town Charter “Proposed Amendments to Article 2 Select Board, Sections 2.10 Procedure, 2.11 General Administrative Ordinances, 2.13 Petition for Articles in Warrant, 2.15 Authentication and Recording of Ordinances, and 2.16 Codification of Ordinances” be enacted?”

Select Board so recommend (5-0)

Rationale: The intent of the amendments is to clarify and simplify the Eliot Town Charter as called for in the Charter itself and is common practice.

New text underlined in bold

~~Deleted text in strikethrough~~

ARTICLE 2 SELECT BOARD

Section 2.1 Composition

The Select Board shall consist of five (5) members. The members of the Select Board shall be the Municipal Officers of the Town.

2.2 Eligibility and Qualifications

Only qualified voters of the Town shall be eligible to hold the office of member of the Select Board.

No Select Board member shall hold any other elected Town office, any Town position for which compensation is provided, with the exception of the Fire Department, or any other full or permanent part time Town employment during the term for which he/she is elected to the Board. No former Select Board member shall hold any compensated Town Office or be employed in any Town Department until one (1) year after his/her resignation or expiration of the term for which he/she is elected. No Select Board Member shall serve as a member of any other Town Board, Committee or Commission.

2.3 Election and Terms

Select Board members shall be elected to serve staggered three-year terms. New members shall be elected to fill vacated positions at the Annual Town Meeting. In the event a Select Board member cannot serve out his or her term and more than 180 days remain in that term, a special election shall be held to fill the vacancy. If less than 180

days remain, the Select Board, at its discretion, may call a special election to fill the vacancy.

2.4 Organizational Meeting

The newly constituted Select Board shall be sworn in by the Town Clerk immediately following the adjournment of the Annual Town Meeting. The newly constituted Select Board shall organize by electing by ballot, a Chair, Vice-Chair and Secretary. A time and place for regular Board Meetings shall be established with appropriate notice to the public. The positions of Chair and Vice Chair are offices of merit rather than seniority.

2.5 Compensation

Members of the Select Board shall each receive annual compensation for their services as approved at the annual Town meeting. Members serving unexpired terms shall be paid on a prorated basis for time served. Members shall receive reimbursement for actual and authorized expenses incurred in the performance of the duties of office as approved by the Select Board.

2.6 Chairperson

The Chair, or Vice-Chair in his or her absence, shall with the assistance of the Town Manager, set the agenda, preside at meetings of the Select Board, and be responsible for the legal and orderly transaction of Board business at all regular and special meetings. The sitting chair shall exercise his or her vote as a regular member of the Board on all issues before the Board which require a vote.

The Chair, or Vice Chair in his or her absence, shall be recognized as head of Town Government for all ceremonial purposes and by the Governor for purposes of military law, but shall, in this capacity, have no regular administrative duties.

The Chair or Vice Chair may call special meetings of the Board when such meetings are warranted. In the absence of the Chair and Vice Chair the remaining three members of the board may call meetings chaired by the Secretary.

2.7 Powers and Duties of Select Board

The duty of the Select Board is to execute the legal will of the people, to manage Town affairs, and to provide leadership and oversight on issues of importance to the Town.

The Select Board shall act as a unit by formal vote in authorized meetings. Members must not act individually as a representative of the Board unless specific authority related to a particular duty has been delegated to that member by the Select Board. A formal minority report may be issued by a Board member(s) voting in the minority.

The specific powers and duties of the Select Board shall include, but are not limited to:

- A. Appoint Town Officials as described in Article 4, Section 4.1
- B. Remove for cause the Town Manager, as well as members of all other boards, commissions and committees appointed by the Select Board, after notice and hearing, in accordance with State law, Town Ordinance and this Charter. At either party's request, sworn testimony and the opportunity for cross-examination of witnesses will be allowed. The hearing will be held in executive session unless the party charged requests in writing that it be held in public.
- C. Create, change and abolish offices, departments and committees, other than the offices, and departments established by this Charter. The Select Board may assign additional functions or duties to offices, departments or committees established by this Charter, but may not discontinue or assign to any office, department or committee any function or duty assigned by this Charter to a particular office, department or committee.
- D. Inquire into the conduct of any office, department, board, commission or committee and conduct investigations into municipal affairs, following policies established for such an inquiry.
- E. Call the Annual Town Meeting and any additional town meetings required and prepare the warrants for the meetings.
- F. Adopt an annual budget and recommend it at the Annual Town Meeting for approval.
- G. Provide for an annual audit.
- H. Fill vacancies for elected positions by calling a special election as described in Section 2.3 above, with the exception of the Budget Committee and School Board members.
- I. Provide oversight, liaison, and leadership to the volunteer committees, boards and advisory groups which serve to accomplish the town's needs and purposes.
- J. Be the sole negotiating and contract authority for the Town of Eliot in labor negotiations.
- K. Consider consent agreements for land use violation, only when such a violation has been brought to the Select Board by the Code Enforcement Officer.

State Law Reference: Title 30-A, MRS, Section 2635

2.8 Prohibitions

The Select Board shall direct to the Town Manager all inquiries, concerns, or complaints regarding the administration, delivery, and/or procurement of any Town or municipal services, any Town employee, Board or Committee, or individual members thereof. Neither the Select Board nor individual members of the Board shall, either publicly or privately, instruct, order, direct, or make any demands of any Town official or employee, who is subordinate of the Town Manager regarding the delivery or procurement of Town services or with respect to their duties as a Town official or employee.

- A. Appointments and Removals. Neither the Select Board nor any of its members shall dictate the appointment or removal of any administrative officials, Department heads or employees whom the Town Manager or other persons in authority are empowered to appoint or employ.
- B. Interference with Administration. The Select Board and its individual members shall deal with Department Heads or employees through the Town Manager or such other person as directed by the Town Manager. Neither the Select Board, nor its members, shall give orders to any such official or employee either publicly or privately.

State Law Reference: Title 30-A, MRS, Section 2635

2.9 Vacancies; Forfeiture of Office; Filling of Vacancies

- A. Vacancies. The office of a Select Board member shall become vacant by one or more of the following means:
 - 1. Non-acceptance;
 - 2. Resignation;
 - 3. Death;
 - 4. Failure to qualify for the office within 10 days after written demand by Municipal Officers
 - 5. Failure of the municipality to elect a person to this office;
 - 6. Forfeiture of the office;
 - 7. Recall and removal; or
 - 8. Any other manner authorized by this Charter;
- B. Forfeiture of Office. Refer to Article 7 sec. 11
- C. Filling of Vacancies. A vacancy on the board must be filled in accordance with Section 2.3.
- D. Tied election result. The Select Board shall schedule a special run – off election to be held within 60 days..

State Law Reference: Title 30-A, MRS, Section 260

2.10 Procedure

A. Meetings. The Select Board shall, at its organizational meeting or as soon thereafter as possible, establish a time and place for holding its regular meetings and shall meet ~~regularly at least twice a month~~ **as needed to perform the business of the Town.** Special meetings shall be determined by the Select Board and shall be held at such time and place as is legal and proper to conduct the necessary business at hand. All meetings of the Select Board shall be open to the public; however, the Select Board may, by a three-fifths vote, discuss matters in an executive session to the extent that the matter is a permitted deliberation pursuant to Title 1, Section 405(6) Maine Revised Statutes, and in accordance with the procedures specified in that statute or any other applicable existing statute. Final action on any matter taken up in such closed sessions, except those matters which are permitted or required by law to be acted upon in closed session, shall not be taken by the Select Board until such matter is placed on the agenda of a regular or special meeting and voted upon thereafter, unless an emergency exists and three Board members vote to suspend the rules to add the item to the agenda.

B. Rules, Record Keeping and Minutes. The Select Board shall keep an accurate permanent recording of all its meetings and maintain a record of its proceedings; such recordings and minutes to be public records.

The Select Board shall keep minutes of its proceedings which shall include the meeting time, place, and the name of each member in attendance and member(s) absent, a list of all correspondence, the subject matter under discussion and all motions made and seconded and by whom, along with a roll call vote on all motions listing the name, his or her vote, and reason for abstention, if applicable. The minutes shall be written in such a way as to provide sufficient background to understand the reasons for the motions, proposals, resolution, votes and all other actions of the Board, being careful to convey exactly what the majority decision is, however the entire discussion (verbatim) does not need to be recorded. The minutes shall be written or typed legibly and become the permanent record of the actions of the Select Board.

C. Voting and Quorum. Voting, except on procedural motions, shall be by roll call and the ayes and nays and abstentions shall be identified and recorded in the minutes. Three members of the Select Board shall constitute a quorum. Any action of the Board receiving less than 3 affirmative votes may be brought up for reconsideration by any member at the next regularly scheduled meeting. Each Board member in attendance shall vote on all issues and questions presented for vote except when a valid reason to abstain clearly exists. If any member does abstain from a vote, other than because of a valid reason to abstain, including the appearance of a conflict, he or she shall be considered to have cast a vote in the affirmative and the record shall so show.

D. Training. Select Board members shall receive mandatory or statutory training on boardsmanship **board best practices** and municipal governance as provided by the Maine Municipal Association and Town Attorney, and may participate in other training opportunities, at the Town's expense and the Select Board's discretion.

2.11 General and Administrative Ordinances

The authority for the enactment of all ordinances authorized to be enacted by the municipality shall be held in the legislative body, Town meeting forum, except for emergency ordinances as provided in Section 2.15 **14** of this Article. Except for emergency ordinances, or those with dates specified by statute, ordinances shall become effective seven days after adoption unless otherwise specified therein. No Town ordinances, with the exception of emergency ordinances, shall be enacted unless the total vote is at least 10% of the number of votes cast in the Town at the last gubernatorial election. When brought to a town meeting, an emergency ordinance may be adopted or rejected with or without amendment.

State Law Reference: Title 30-A, MRS, Section 3001

2.12 Articles for the Warrant

The Select Board, on its own initiative, may, by majority vote, place on the Town Warrant any article relating to the health, safety and welfare of the municipality.

State Law Reference: Title 30-A, MRS, Section 2523

2.13 Initiative Petitions for Articles in the Warrant

Any qualified voter may make a request to the Select Board to place an article on the Town Warrant and shall present in written form the substance of the article. Should the Select Board decide against placing the article on the Warrant, citizen petitioners may submit a written petition with voter signatures equal to at least ten (10) percent of the number of votes cast in the Town at the last gubernatorial election. After certification of said petition by the Town Clerk, the Select Board shall include that particular article in the next Warrant issued **as presented by the petitioner**, or shall **may** call a special Town Meeting for its consideration ~~within 60 days~~. **Recommendation from Town boards or committees is not required.**

If an issue has been submitted to the voters by referendum, either as a citizen's initiative or by the Select Board, then the substantially same issue may not be resubmitted to the voters for ~~one (1) year~~ **seventeen (17) months** from the referendum vote, regardless of the outcome of that vote, as long as it meets the voting requirement of Article 2.11.

State Law Reference: Title 30-A, MRS, Section 2522

2.14 Emergency Ordinances

To meet a public emergency affecting life, health, safety, property or the public peace, the Select Board may adopt one or more emergency ordinances in the form and manner prescribed for the ordinances generally, but such emergency ordinances may not levy taxes or authorize the borrowing of money. When brought to a Town meeting, an emergency ordinance may be adopted or rejected with or without amendment. It shall become effective upon adoption or at such later time as it may specify. An Emergency ordinance so enacted shall be automatically repealed after the time specified in the ordinance, but not later than the sixty-first (61st) day following the date on which it was adopted. This shall not prevent reenactment of the ordinance in the manner specified in this section or at a Town meeting 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.

2.15 Authentication and Recording of Ordinances

All ordinances and resolutions adopted by the Select Board shall be authenticated by the signatures of the Select Board members and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.

All ordinances and resolutions adopted at the Annual Town Meeting or any special Town Meeting shall be authenticated by the Town Clerk and recorded in full by the Town Clerk in a properly indexed book kept for this purpose, and retained permanently, in accordance with State Statute.

All authenticated ordinances will appear in their final form on the Town of Eliot website initially as a notification on Clerk's page and incorporated into the codification platform as soon as possible.

2.16 Codification of Ordinances

~~Within three years~~ After adoption of this Charter, the Select Board shall provide for the preparation of a general codification of all ordinances and resolutions having the force and effect of law. The general codification shall be adopted by a majority vote of the Select Board and shall be ~~in loose-leaf form together with this Charter~~ **kept as an official hardcopy and as a file on the Town website under the direction and control of the Town Clerk** and any amendments thereto, and with such codes of technical regulations, **Town policies, agreements or contracts** and other rules and regulations as the Select Board may specify. This compilation shall be known as the Eliot Code.

The Eliot Code shall include all new ordinances and other pertinent material, including an indexed record of rescinded ordinances and other changes. At least every ten years a Charter Commission shall be formed pursuant to State law to review and update the Charter as necessary. Copies of the Code and of new ordinances as enacted shall be

made available on request to officials, libraries and public offices for public reference, and made available on the Town website or for purchase at a reasonable price fixed by the Select Board for a printed copy.

State Law Reference: Title 30-A, MRS, Section 3001

Municipal Officers' Certification of Official Text of a Proposed Charter Amendment

To the Town Clerk of the Town of Eliot, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of the proposed amendments to "**Article 2: Select Board of the Charter of the Town of Eliot, Maine**", which is to be presented to the voters for their consideration on June 11, 2024.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the Charter Article as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: April 11, 2024

Richard Donhauser, Chairman

William Widi, Vice Chairman

Lauren Dow, Secretary

Stanley Shapleigh

B. Cabot Trott

**Select Board
Town of Eliot, Maine**