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ARTICLE 1. INCORPORATION; FORM OF GOVERNMENT; POWER

Section 1.1. Incorporation.

The inhabitants of the Town of Newmarket in the County of Rockingham shall continue to be a body corporate and politic under the name of the Town of Newmarket as incorporated on December 15, 1727. *(Amendment May 9, 1995, inserted entire paragraph.)*

Section 1.2. Form of Government.

Newmarket has a Town Council form of government with a Town Administrator under RSA 49-D:3. The administration of the fiscal, prudential, municipal, and other affairs of the Town, with the governance thereof, shall be vested in a Town Council, shall be directed by a Town Administrator, and shall consist of the various departments of the Town as established ~~by this Charter and from~~ time to time by the Town Council. Except as expressly authorized by this Charter, no Councilor shall participate in the conduct of the administrative affairs of the Town.

Section 1.3. Construction.

The powers of the municipality under this Charter are to be construed liberally in favor of the Town, and the specific mention of particular powers is not intended to limit in any way the general powers of the municipality as stated in Section 1.1.

Any word in this Charter, which may be construed to be either masculine or feminine gender, shall be considered gender free.

Section 1.4. Inter-Governmental Relations.

Subject only to express limitations in the construction of the New Hampshire statutes, the Town may exercise any of its powers or perform any of its functions under this Charter and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of New Hampshire or any political subdivision or agency thereof, or the United States of America or any agency thereof.

ARTICLE 2. ELECTIONS; ELECTION OFFICIALS; CONDUCT OF ELECTIONS

Section 2.1. Composition of Board of Election Officers.

The Supervisors of the Checklist, the Moderator, and the Town Clerk shall constitute the Board of Election Officers. The Moderator shall chair the Board. The Town Clerk shall serve as the Clerk of the Board.

Section 2.2. Moderator.

There shall be a Moderator of the Town who shall have all the powers and duties granted to him by this Charter and State law. He shall be elected on an at-large basis to a term of two (2) years at the Town election. Without limitation to the foregoing, for election purposes, the Moderator shall have the power to appoint all election officials except those, which must be elected or otherwise appointed. The Moderator shall determine whether all ballots from all polling places are to be counted in one or more locations. Vacancies in the office of Moderator shall be filled by appointment made by the Supervisors of the Checklist.

Section 2.3. Supervisors of the Checklist.

A. There shall be three (3) Supervisors of the Checklist who shall hold office for six (6) years (and until their successors are elected and qualified) on a staggered basis so that one Supervisor is elected every two years at the Town election.

B. Vacancies in the Supervisors of the Checklist shall be filled pursuant to RSA 669:64. The person so appointed shall hold office until the vacancy for the unexpired term is filled at the next Town election.

C. The Supervisors shall elect a chair for a term of two (2) years. ~~He may not succeed himself.~~

Section 2.4. Duties and Sessions of the Supervisors of the Checklist.

The Supervisors of the Checklist shall have such powers and duties as are specified under New Hampshire law.

Section 2.5. Conduct of Elections.

A. The election of officers, whose duty it is to conduct regular elections, shall use a non-partisan official ballot system as detailed in the election laws of the State of New Hampshire, on the second Tuesday in March to choose Councilors and such other officials as are specified by this Charter, each of whom shall be elected by the voters of the entire Town.

B. At all Town elections the polls shall be open ~~from 7:00 a.m. to 8:00 p.m.~~ during hours designated by the Town Council in consultation with the Supervisors of the Checklist and the Town Moderator.

C. The election laws of the State of New Hampshire shall govern voter qualifications.

D. The Town Council shall specify the polling places of the Town.

(Amendment May 9, 1995 – Art 2, Sec. 2.5.B.) (Amendment December 20, 2011 – Art. 2, Sec. 2.5.A.)

Section 2.6. Preparation of Ballots.

The Town Clerk shall prepare separate ballots to be used at all local referenda and at elections at which Town officers are chosen. The ballots shall contain in appropriate sections the names of all candidates, listed in accordance with State law, without party designation. Below the list of names of the candidates of each office there shall be as many blank spaces as there are offices to be filled at the election. No titles, military, professional or otherwise, shall accompany the name of any candidate on the ballot.

Section 2.7. Preservation of Ballots.

All the ballots cast at each election shall be preserved, maintained and sealed as required by the election laws of the State of New Hampshire.

Section 2.8. Contested Elections.

Contested elections shall be resolved in accordance with State law. Tied elections for any elected office shall be determined by lot in a manner as decided by the Town Clerk in the presence of the tied candidates.

Section 2.9. Display of Campaign Materials at Polling Place.

Persons as candidates for elected office or as representing or working for a candidate for office or promoting a petition, resolution, referendum or measure on the ballot may not solicit votes, display, exhibit or distribute any campaign materials in violation of local ordinances

or State statutes. The Moderator shall exercise his powers under State law relative to the conduct of elections, distribution of campaign materials and electioneering within the polling place.

ARTICLE 3. TOWN COUNCIL

Section 3.1. Membership; Term of Office.

A. Except as otherwise provided in this Charter, all of the powers of the Town shall be vested in a Town Council (hereinafter referred to as the "Council") of seven (7) Councilors. The Councilors shall be elected from the Town at-large for a three (3) year term of office.

A.B. Except as provided in Article 12, all members shall take office on the first Monday following the second Tuesday in March following their election and shall hold office until their successors are duly elected and qualified.

(Amendment December 20, 2011 – Art. 3, Sec. 3.1.B.)

Section 3.2. Organizational Meeting.

Except as provided in Article 12, the Councilors so chosen shall meet in their capacity as the Council on the first Monday following the second Tuesday in March next following their election for the purpose of taking their respective oaths of office, adopting rules, and for the transaction of business required by law or ordinance to be transacted at such meeting. The Town Clerk shall act as the Clerk of the Council, and the Moderator shall preside without vote at the first organizational meeting of the Council following enactment of this Charter.

(Amendment December 20, 2011.)

Section 3.3. Selection of Chair and Vice-Chair.

The Council shall, by the affirmative vote of at least four (4) members, at its first regular meeting in March following each election, choose one of its members to chair the Council for a term of one (1) year. The Council shall choose one of its members to be Vice-Chair, for a term of one (1) year, who shall act in the absence or disability of the Chair. In the event of a vacancy occurring in the office of Chair, the Vice-Chair shall serve out the unexpired term. The Chair of the Council shall be the official head of the Town for all ceremonial purposes; he shall preside at all meetings of the Council and may speak and vote at such meetings.

(Amendment December 20, 2011.)

Section 3.4. Qualifications of Councilors.

Only voters who at all times during their term of office are and remain residents of the Town shall be eligible to hold the office of Councilor. To be eligible for election to the office of Councilor, a candidate must be of voting age and must have been a resident of the Town for at least one hundred eighty (180) days immediately before the election. The Council is the sole judge of qualification for office. The Council shall declare a vacancy in the event that a member is convicted of committing a Federal or State crime punishable by imprisonment for more than one (1) year. A majority of the Council may after investigation and hearing declare a vacancy if a member has missed three (3) regularly scheduled meetings in sequence without leave of the Council; has missed one-third (1/3) of all meetings within a calendar year without leave of the Council; has interfered with

administration, falsified records, misapplied Town funds or property, or is guilty of public conduct the result of which would bring loss of respect for the Council or the Town of Newmarket. No Councilor shall, during his term, be eligible to hold any other Town position of remuneration nor shall he transact any business with the Town except pursuant to Article 7 of this Charter.

Section 3.5 Vacancies

Vacancies occurring in the office of Councilor at any time shall be filled, by appointment, until the next regular election, by the Council at its next regular meeting, by majority vote of four (4) Councilors.

Section 3.6. Salaries and Compensation.

Councilors shall receive as salary the sum of one thousand five hundred (\$1,500.00) dollars per year. The Chair shall receive an additional five hundred (\$500.00) dollars per year. Councilors shall receive reimbursement for reasonable mileage and expenses incurred in the performance of Town business outside the Town limits of Newmarket according to rules of the Council.

Section 3.7. Exercise of Powers; Meetings; Rules of Procedure.

A. Exercise of Powers. Except as otherwise prohibited by law or this Charter, the powers of the Council may be exercised in a manner determined by it.

B. A quorum of the Council for the transaction of any business shall be four (4) of the members currently in office. However, a smaller number may adjourn the meeting to another time or date.

C. Meetings. All meetings of the Council shall be public as required by RSA ch. 91-A. Regular meetings shall be held on such day or days of each month at such time as the Council shall by ordinance or resolution direct. Special meetings may be called by the Chair. Special meetings also may be called at the written request of the Town Administrator or at least four (4) Councilors, and upon such request the Chair of the Council shall call such special meeting. Written notice of said meeting shall be delivered to each Councilor at least twenty-four (24) hours prior to the call of the meeting. The method of delivery of notice for special meetings shall be established by Council rule.

D. Rules of Procedure. The Council shall establish rules for its proceedings not inconsistent with this Charter. Every matter coming before the Council for action shall be put to a vote and all members shall vote "aye", "nay", or abstain and give reason for abstaining. The results of such voting shall be duly recorded. All votes shall be recorded by roll call except votes on procedural matters.

Section 3.8. Ordinances and Resolutions.

A. An ordinance or resolution may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance or resolution, the Town Clerk-Administrator or his designee shall distribute a copy to each Councilor and to the Town Administrator, shall file a reasonable number of copies in the office of the Town Clerk and post a copy in such other public places as the Council may designate.

B. Every proposed ordinance of the Council shall be introduced in writing and in the form required for adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Each ordinance shall be identified by a number and a short title. The enacting clause shall be "The Town of Newmarket ordains . . .". Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections, or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics.

C. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least seven (7) calendar days. Publication for purposes of this Section shall mean the publication of a notice in any paper distributed in the Town of Newmarket as well as the posting of the notice in at least two (2) other public venues as the Town Council may designate, one of which may be the Town's website, stating the number and title of the ordinance and either the text of the ordinance in full or if the full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance. Final action on said ordinance shall not be taken by the Town Council until at least seven (7) calendar days after the public hearing on it.

~~B. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least five (5) working days. Publication for purposes of this Section shall mean the publication of a notice in any paper distributed in the Town of Newmarket, stating the number and title of the ordinance, and either the text of the ordinance in full or if the full text is not published, then an adequate explanation of the proposed ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance.~~

D. Every ordinance, including zoning ordinances, adopted by the Council, shall take effect upon passage and publication as ordinances required by law, or at a later date as specified in the ordinance. No ordinance shall be introduced and adopted during the same meeting.

E. All ordinances, including any amendments thereto, shall be recorded in full, uniformly, and permanently, by the Town Clerk, and each ordinance so recorded shall be authenticated by affixing the signatures of the Council Chair and the Town Clerk and the Town Seal, and kept on file in the office of the Town Clerk. The Town Clerk shall be responsible for the systematic indexing, printing, publication, and maintenance of the ordinances of the Town. Copies of any or all ordinances shall be available to the public, and the Town Clerk may charge a fee to defray the printing costs.

C.F. Every proposed resolution of the Council shall be introduced in writing and in the form required for adoption. No resolution shall contain more than one subject, which shall be clearly expressed in its title. Each resolution shall be identified by a number and short title. The resolution shall have a clause or clauses that explain the reason for the action, followed by the substance of the resolution. Notice, reading, and adoption requirements shall be as specified in rules adopted by the Council.

Section 3.9. Emergency Ordinances.

Notwithstanding other provisions of this Charter, to meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by a public utility for its services, or authorize the borrowing the money except as provided in Section 3.10 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but an affirmative vote of four (4) Councilors shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption. Every emergency ordinance, except one made pursuant to

Section 3.10 of this Charter, 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 a repealing ordinance adopted in the same manner specified in this Section for adoption of emergency ordinances.

Section 3.10. Emergency Appropriations.

To meet a public emergency affecting life, health, property, the public peace, or to satisfy a court judgment, casualty loss, or other valid mandated expense, the Council, in accordance with ~~RSA 32:10~~ [RSA 32:11](#), and with prior approval of the Budget Committee, may make emergency appropriations as part of an emergency ordinance. 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 thereof occurring in any fiscal year shall be paid not later than the last day of the fiscal year next succeeding the year in which the emergency appropriation was made.

Section 3.11. Codification of Ordinances.

The Town Council shall prepare a revision or codification of the ordinances of the Town which are appropriate for continuation as local laws of the town and at least every ten (10) years perform a comprehensive review of the codification.

(Amendment May 9, 1995)

Section 3.12. Existing Ordinances.

All by-laws, ordinances, rules, restrictions, and regulations of the Town of Newmarket which are in effect as of the date of adoption of this Charter, and not inconsistent with this Charter, shall remain in effect after the adoption of this Charter until they expire by their terms or are repealed, modified, or amended by the Council.

Section 3.13. Powers and Duties.

Except as herein otherwise provided, the Town Council shall have all the powers conferred upon and discharged all the duties imposed upon Town Councils, Town Meetings, Boards of Mayor and Aldermen, and Selectmen of Towns by law, except the adoption of a Town budget, which prerogative is vested in the Town Meeting. All offices and members of all boards, commissions, and committees, and vacancies thereto, shall be appointed by the Council from among Town residents unless otherwise provided by this Charter.

Section 3.14. Delegation of Powers.

The Council may delegate to one (1) or more Town agencies the powers vested in the Council by this Charter and State and Federal law to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such Town agency, and may in its discretion rescind any such delegation without prejudice to any prior action which has been taken.

Section 3.15. Inquiries and Investigations.

The Council by majority vote may require of any Town official, department head or employee, official appointed or confirmed by the Council, or member of a Town board or commission to appear before it,

and give such information as it may require in relation to this office, its function, and performance. The Council shall give at least forty-eight (48) hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this Section. The Council may make investigation into the affairs of the Town and into the conduct of any Town agency or department, and for this purpose may administer oaths and require the production of evidence.

Section 3.16. Board Procedures.

Except as expressly prohibited by statute, the Council shall establish rules of attendance and forfeiture of office for all Town appointed boards and commissions.

Section 3.17. Authority to Establish Village Districts. The Town Council may establish one or more village districts in accordance with RSA ch. 52.

**ARTICLE 4
ADMINISTRATION OF GOVERNMENT**

Section 4.1. Town Administrator.

The chief administrative officer of the Town shall be the Town Administrator (hereinafter called the "Administrator"). The Council shall appoint a person especially qualified by experience and training, who receives the votes of at least four (4) members of the Council, to be Administrator. The Administrator shall serve at the pleasure of the Council which shall fix the Administrator's salary and terms of employment.

Section 4.2. Qualifications.

~~The Administrator shall be chosen solely on the basis of educational, executive, and~~

~~administrative qualifications and need not be a resident of the Town or the State at the time of appointment. The Council may reimburse the Administrator for reasonable relocation costs in connection with his establishing residence in the Town. The Administrator shall be chosen appointed solely on the basis of qualification for that office, with special reference to education, training, and previous experience in public or private office. educational, executive, and administrative qualifications and need not~~ The Administrator need not be a resident of the Town or the State at the time of appointment. The Administrator shall devote full time to the office and shall not hold any other public office, elective or appointive, except as authorized by this Charter or State law, not engage in any other business or occupation unless with the approval of a majority of the Council. The Council may reimburse the Administrator for reasonable relocation costs in connection with his establishing residence in the Town.

Section 4.3. Annual Review of Administrator.

One (1) year after his initial appointment, and at least annually thereafter, the Administrator shall be reviewed by the Council. As a part of ~~such an annual~~ review, the Council and the Administrator shall mutually and in writing agree on goals and objectives for the Town and the Administrator for the coming year, review the extent to which the Administrator has succeeded in meeting the goals and objectives for the preceding year, and determine the reasons why any goals were changed or not met during the year. More frequent reviews may be conducted when, in the sole discretion of the Council, such periodic reviews are desirable.

Section 4.4. Reprimand or Removal from Office. The Administrator may be reprimanded or removed for cause by the affirmative vote of at least four (4) members of the Council as herein provided. As used in this Section, "cause" shall include but not be limited to unjustifiable failure to meet the goals and objectives set forth in the preceding year's annual review, and/or violation of any of the provisions of Article 7 of this Charter. At least thirty (30) days before the proposed reprimand or removal of the Administrator, the Council shall adopt a resolution stating its intention to reprimand or remove him, the reasons therefore, and an effective date. A copy of the resolution shall be served forthwith on the Administrator who may, within ten (10) days, demand a public hearing, in which event the Administrator shall not be reprimanded or removed until such public hearing has been held. Upon or after passage of a resolution for removal, the Council may suspend the Administrator from duty, but his pay shall continue until removal. In case of such suspension, the Council shall, by affirmative vote, appoint an acting Administrator to serve at the pleasure of the Council for not more than ~~ninety-one hundred twenty (9120)~~ ninety (90) days. The action of the Council in removing the Administrator shall be final. Notwithstanding any provision of this Charter, the Council may in its discretion decline to extend or renew the Town Administrator's employment contract. The Council's decision not to extend or renew the Town Administrator's contract shall not be deemed to constitute removal from office under this Section.

Section 4.5. Acting Town Administrator.

If the Administrator is determined by a vote of at least four (4) members of the Council to be temporarily incapacitated or unable to act for any cause or the Council determines that the office has become temporarily vacant, the Council shall, within thirty (30) days from such determination, appoint an acting Administrator in the same manner as Section 4.1 who shall serve for not more than ninety (90) days or such lesser time until the disability shall be relieved. The acting Administrator shall have all the powers and perform all the duties of the Administrator except to the extent that said powers and duties may be specifically restricted by Council resolution. Said acting Administrator shall be paid such salary for his services hereunder as may be prescribed by the Town Council. The acting Administrator may be reappointed for an additional term of ninety (90) days. By a vote of at least four (4) Councilors, the Council may determine from credible medical or other evidence that the Town Administrator is incapacitated and unable to perform any or all duties of his office and the office may be declared vacant.

Section 4.6. Powers and Duties of Town Administrator.

~~The Administrator shall be the chief administrative officer of the Town and supervise and be responsible for the administrative and financial affairs of the Town and shall carry out the policies enacted by the Council. He shall be charged with the preservation of the health, safety, and welfare of persons and property and shall see to the enforcement of the ordinances of the Town, this Charter, and~~

~~the laws of the State of New Hampshire. He shall supervise and direct the administration of all of the Town departments and personnel therein. He shall be responsible for:~~

~~(a) Maintaining accounting control over the finances of the Town;~~

~~b) Making monthly financial reports to the Council and performing such other related duties as may be required by the Administrative Code;~~

~~(c) Assuring the audit and approval of all authorized claims and vouchers against the Town before paying the same, and supervising all Town procurement as provided in Section 5.12 of this Charter;~~

~~(d) Keeping the Council informed of the condition of the needs of the Town and making such reports and recommendations as he may deem advisable or may be required of him;~~

~~(e) The rental and use of all Town facilities under his control;~~

~~(f) The maintenance and repair of all Town property under his control;~~

~~(g) A full and complete inventory of all property of the Town, both real and personal;~~

~~(h) Convening the chairs of the administrative committees at least annually to discuss matters of common concern;~~

~~(i) Convening a quarterly meeting of the department heads with the Town Council to discuss matters of departmental concern; and~~

~~(j) Working with any consultants hired by the Town or by any Town department, board, or commission. He shall perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council, not inconsistent with this Charter. He shall have and perform such other~~

~~powers and duties not inconsistent with the provisions of this Charter as now are or hereafter may be conferred by municipal ordinance or conferred upon mayors of cities and selectmen of towns by general laws. He shall have the right to take part in the discussion of all matters coming before the Council, but not the right to vote.~~

~~-(Amendment May 9, 1995 - Art. 4., Sec. 4.6.(i).)~~

The Administrator shall be the chief administrative officer of the Town, and shall supervise and direct the administration of all of the Town departments and personnel therein. The Administrator shall be charged with the preservation of the health, safety, and welfare of persons and property, and the enforcement of the ordinances of the Town, this Charter, and the laws of the State of New Hampshire, and such other responsibilities as may be assigned by the Council by resolution. The Administrator shall have no authority, however, to supervise Town elections. [CDH1] The Administrator's responsibilities shall include, but not be limited to, the following:

- (a) The expenditure of appropriated funds for town purposes (RSA 37:5);
- (b) Maintaining accounting control over the finances of the Town;
- (c) Attending each regular meeting of the Council;
- (d) Maintaining full and complete records of the doings of his office;

~~— b) Making monthly financial reports to the Council and performing such other related duties as may be required by the Administrative Code;~~

(e) Assuring the audit and approval of all authorized claims and vouchers against the Town before paying the same, and supervising all Town procurement as provided in Section 5.12 of this Charter

~~— i~~

(f) Keeping the Council fully informed of the condition of the needs of the Town, within the scope of his duties, and making such reports and recommendations as he may deem advisable or may be required of him;

(g) examining or causing to be examined, with or without notice, the affairs of any department under his control, and for that purpose to have access to all the town books and papers;

(h) having charge, control and supervision, subject to the direction of the Council and to the Town Administrative Code, of the following matters:

(1) management of municipal water, sewer, and drainage works and systems,

- (2) construction, maintenance and repair of all town buildings and town roads, highways, sidewalks and bridges,
- (3) purchase of all supplies for the town,
- (4) police and fire departments,
- (5) maintenance and repair of sewer and drainage systems,
- (6) lighting of streets, highways and bridges,
- (7) sprinkling of streets and highways, the laying of dust, and the removal of snow,
- (8) the maintenance of parks, commons and playgrounds,
- (9) the care of cemeteries,
- (10) the letting, making and performance of all contracts for work done for the town,
- (11) the poor relief of the town, either directly or through a person or persons appointed by him,
- (12) ~~The~~ the rental and use of all Town facilities ~~under his control;~~
- (13) ~~The~~ the maintenance and repair of all Town ~~property~~ vehicles ~~under his control;~~ and
- (14) ~~A~~ maintaining a full and complete inventory of all property of the Town, both real and personal.;

(i) Convening the chairs of the administrative committees at least annually to discuss matters of common concern;

(j) Convening a quarterly meeting of the department heads with the Town Council to discuss matters of departmental concern; ~~and~~

(k) Working with any consultants hired by the Town or by any Town department, board, or commission; and-

(l) Applying for grants and accepting grant funds consistent with Town purposes.

The Administrator shall perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council, not inconsistent with this Charter. He shall have and perform such other powers and duties not inconsistent with the provisions of this Charter as now are or hereafter may be conferred by municipal ordinance or conferred upon mayors of cities and selectmen of towns by general laws. He shall have the right to take part in the discussion of all matters coming before the Council, but not the right to vote.

Section 4.7. Limitation of Authority.

Nothing in this Charter shall be construed to grant to the Administrator any legislative or judicial authority, which shall rest exclusively with the Town Council; nor shall the authority of the Administrator reduce any specific statutory power or responsibility of any other Town officer.

Section 4.8. Appointment of Department Heads. ~~Except as otherwise provided by~~

~~this Charter or Town ordinance, the Town Council shall have the power to appoint, subject to the provisions of this Charter, all Town department heads. The Town Council shall establish a recruitment and selection process and direct the Administrator of actions necessary to assist the Council in the appointment process. The Council shall appoint a person especially qualified by experience and training, who receives the majority vote of a quorum of the Council, as the appropriate department head (i.e. Public Works Director, Police Chief, Emergency Services Director).~~

The Administrator shall have the authority to appoint all Town Department Heads, subject to approval by the Council, and to fix their compensation. The Administrator shall appoint Department Heads solely on the basis of qualifications, training, and experience. For purposes of Article 4, the term "Department Head" shall be as defined in the Administrative Code, as amended from time to time. The Administrative Code shall include a job description for each Department Head.

(Amendment May 9, 1995.)

Section 4.9. Annual Review of Department Heads. One (1) year after their initial appointment, and at least annually thereafter, each department head shall be reviewed by the Administrator. In preparation for such a review the Administrator shall meet with the Council in order to establish the department's goals and objectives for the coming year. Such goals and objectives shall be communicated to the department head

and will be used as a basis for performance evaluation. The Administrator shall review the extent to which the department head has succeeded in meeting the goals and objectives of the preceding year and determine the reasons why any goals were changed or not met during that year. An annual report identifying the department's goals and objectives as well as the status of achieving such items shall be drafted by the department head, approved by the Administrator, and submitted to the Council to review and discuss at a meeting with the department head and the Administrator.

(Amendment May 9, 1995.)

Section 4.10. Suspension or Removal of Department Head.

The Administrator, for just cause, may ~~suspend or dismiss department heads or take other appropriate~~ disciplinary action against any Department Head according to procedures specified in the Town Personnel Plan. As used in this section, "cause" shall include but not be limited to unjustifiable failure to meet the goals and objectives set forth in the preceding year's annual review, and/or violation of any of the provisions of Article 7 of this Charter. ~~Said suspension, dismissal, or other disciplinary action shall be effective only upon the Administrator's presentation to the department head of a written specification of the reasons therefore at least ten (10) days before said action is taken. The department head involved may, within five (5) days, demand a hearing before the Council, in which event the department head shall not be removed until such hearing has been held. The Administrator may, however, suspend said department head~~

~~from duty during said period, with or without pay. Such hearing shall be private or public; as allowed under RSA Chapter 91-A, at the aggrieved party's request. The Council, by a vote of four (4) members, may override the Administrator's decision.~~

Section 4.11. Non-Interference with Town Administration.

~~No Councilor shall give orders to or interfere with the performance of the duties of any of the administrative officers or employees, either publicly or privately. Nothing contained in this Section shall prohibit the Council from meeting with the Administrator to discuss the operations or conduct of any department head or employee and to recommend an investigation and report by the Administrator of any complaint. Any violation of the provisions of this Section by a Councilor shall require a meeting of the Council to review such violation.~~

(Amendment May 9, 1995.)

Except as expressly provided elsewhere in this Charter, neither the Council nor any of its members shall direct or request the appointment of any person to office or employment; or direct the removal, suspension, discipline, adjustment in pay, benefits, or working conditions of any employee by the Administrator or of any of the Town department heads. No councilor shall give orders to or interfere with the performance of the duties of any of the administrative officers or employees, publicly or privately. Nothing contained in this section shall prohibit the Council from meeting with the Administrator to discuss the operation or conduct of any department head or employee and to recommend an investigation and report by

the Administrator of any complaint. Any violation of the provisions of this section by a Councilor shall constitute grounds for forfeiture of office pursuant to RSA 49-D:4.

Section 4.12. Departments and Administrative Code; Reorganization Plans.

~~The administrative service of the Town shall, by ordinance, be divided into such departments or other agencies as are necessary for the proper and efficient management of the affairs of the Town. Said ordinance shall define the function and duties of each Town department or agency and shall be known as the "Administrative Code." The Town Council may, by amendment to the Administrative Code ordinance, create, consolidate, or abolish departments or agencies and define or alter their functions and duties. The head of each department or agency established by the Administrative Code shall have and exercise supervision and control of his department or agency and the employees therein, subject to the authority of the Administrator, and shall have the power to prescribe rules and regulations not inconsistent with general law, this Charter, the Administrative Code, and the rules and regulations of the personnel plan; provided that the Administrator shall establish a progressive disciplinary code for all departments and agencies which shall be included under the personnel code under Section 6.2. A copy of all departmental rules and regulations promulgated under this Section shall be on file in the office of the Town Clerk and appropriate departments.~~

A. The Town shall have departments, divisions, boards or committees as may be established by this Charter or as the Council may establish by Ordinance. It shall be the duty of the Administrator to draft and submit to the Council within nine (9) months after assuming office, an ordinance consistent with this Charter to be titled "Administrative Code", which provides for the division of the administrative service of the Town into departments or agencies and define the functions and duties of each.

B. Upon recommendation of the Town Administrator, or upon the initiative of the Council, the Council may, by amendment to the Administrative Code, create, consolidate or abolish departments or agencies and define or alter their functions or duties. The head of each department or agency established by the Administrative Code shall have and exercise supervision and control of that department or agency and the employees therein, subject to the authority of the Town Administrator, and shall have the power to prescribe rules and regulations not inconsistent with general law, this Charter, the Administrative Code, and the Personnel Plan (Art. 6.2). A copy of all departmental rules and regulations shall be on file in the office of the Town Clerk and appropriate departments.

Section 4.13. Town Clerk/Tax Collector.

There shall be a Town Clerk/Tax Collector who shall be elected on an at-large basis at the Town election for a term of three (3) years. The Town Clerk/Tax Collector shall have the powers and duties prescribed by this Charter and State law.

Section 4.14. Town Attorney.

The Town Council shall engage as needed such attorneys as are deemed in the best interest of the Town to provide legal advice to the Council, Administrator, Town departments, boards, and other agencies and represent the Town in any legal proceedings. Such attorneys shall on Council direction perform any other duties prescribed by this Charter or by ordinance.

Section 4.15. Fiscal Affairs; Treasurer; Investment Advisor; Audit.

A. There shall be a Treasurer who shall be ~~elected on an at-large basis at the Town election for a term of three (3) years~~ appointed by the Town Administrator, subject to the consent approval of the Council. The Town Administrator shall appoint the Treasurer solely on the basis of qualifications, education, and experience to perform the duties of the office. The Treasurer shall have the powers and duties prescribed by this Charter and State law; provided, however, that in making investments of Town funds he shall follow any written investment policy as adopted or modified by the Town Council.

A.B. The Town Council may, after inviting requests for proposals and appropriate verification of qualifications, experience and integrity, retain the services of an Investment Advisor to advise the Council on adoption of a written investment policy and to make periodic recommendations to the Council on its modification. Said policy shall contain investment goals, strategies, permissible investments under State law, criteria for depository institutions, and such other matters as are deemed appropriate and necessary to maintain

the security of, liquidity of, and return on invested Town funds.

C. The Town Treasurer shall be responsible for the collection, accounting, deposit, and periodic reporting of all Town revenues and expenditures in a secure and business-like manner in accordance with generally accepted accounting practices.

B-D. The Town Council shall, after inviting requests for proposals and appropriate verification of qualifications, experience and integrity, select a certified public accountant or firm of same who shall perform an annual audit of all Town financial transactions after the close of each fiscal year. Said audit shall include all revenues, expenditures and accounts maintained by any officer, elected or appointed, agency, board, commission, or recipient of Town funds; may include a compliance audit to insure conformity with any State or Federal laws and regulations and Town work programs and policies; and shall include a management letter setting forth recommendations for changes and improvements in finance management systems as is deemed necessary. For purposes of cost and efficiency, an auditor may be retained for a period of years, but requests for proposals shall be sought at least once every three (3) years, and a new auditor shall be selected at least every six (6) years. Nothing contained herein shall prohibit the Town Council from ordering an entire audit, partial audits, or interim audits more frequently than once per year as it may deem prudent. Summaries of annual audits, when available in a timely manner, shall be printed in the annual Town Report

and complete copies shall be available for public inspection and copying in the Town office during normal business hours. If a summary of an annual audit is not available for printing in the Town Report, said summary shall be made available at the Town Meeting or as soon thereafter as practicable.

(Amendment May 9, 1995 – Art., 4.Sec. 15.A.) (Amendment May 13, 2008 – Art. 4.Sec. 15.D.)

Section 4.16. Town Master Plan
The Master Plan shall be revised no less frequently than once every 10 years.

ARTICLE 5. FINANCE

Section 5.1. Fiscal Year.

The fiscal and budget year of the Town shall begin on the first day of July and end on the thirtieth day of June unless other dates shall be fixed by action of the Town Council.

Section 5.2. Budget Procedure.

Preparation and adoption of the budget shall be pursuant to [RSA ch. 32](#). At such time as may be requested by the Administrator or specified by the Administrative Code, each department head shall submit an itemized estimate of the expenditures for the next fiscal year for the departments or activities under his control to the Administrator. The Administrator shall, based on these estimates and other data, prepare a recommended budget which he shall, together with these department estimates, submit to the Council no later than October 15th. The Council shall review the budget and make such modifications and amendments as it

desires, and submit the proposed budget to the Budget Committee no later than November 15th, or at such other time as designated by the Budget Committee.

(Amendments: May 9, 1995; November 5, 1996; December 20, 2011.)

Section 5.3. Budget Hearing.

The Budget Committee shall hold in a convenient place a public hearing on the budget, at least twenty-five (25) days before the first session of the annual meeting. Notice of such public hearing, together with a copy of the budget as submitted, shall be posted in two public places. A copy of the budget shall be available to the public at the office of the Town Clerk during regular business hours. In addition, notices of such public hearing and Town Meeting shall be published by the Town Clerk in a newspaper of general circulation in the Town at least one (1) week prior to said meetings.

(Amendment November 5, 1996.)

Section 5.4. Use of the Official Ballot.

A. Notwithstanding [RSA 39:3-d](#) and [RSA 40:4-e](#), the Town of Newmarket shall utilize the official ballot for voting on all budgetary issues before the voters.

B. The warrant for any annual meeting shall prescribe the place, day and hour for each of 2 separate sessions of the meeting, and notice shall be given in accordance with [RSA 39:5](#).

C. The first session of the annual meeting, which shall be for the transaction of all business other than voting by official ballot shall be held between the first and second Saturdays following the last

Monday in January, inclusive of those Saturdays, at a time prescribed by the Town Council. The second Tuesday in March shall be deemed the annual meeting date for purposes of all applicable statutes pertaining to hearings, notice, petitioned articles, and warrants, including, but not limited to, [RSA 31:95-d](#), [32:5](#), [32:16](#), [33:8-a](#), [39:3](#), [39:5](#).

D. The first session of the meeting, governed by the provisions of RSA 40:4, 40:4a, 40:4b, 40:4f and 40:6-10, shall consist of explanation, discussion, and debate of each warrant article. Warrant articles may be amended, subject to the following limitations:

1) Warrant articles whose wording is prescribed by law shall not be amended.

2) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

E. Repealed.

F. All budgetary warrant articles shall be placed on the official ballot for a final vote.

G. The second session of the annual meeting, to elect officers of the Town by official ballot, to vote on questions required by law to be inserted on said official ballot, and to vote on all warrant articles from the first session on official ballot, shall be held on the second Tuesday in March.

H. The Town Clerk shall prepare an official ballot, which may be separate

from the official ballot used to elect officers, for all warrant articles. Wording shall be substantively the same as the main motion, as it was made or amended at the first session, with only such minor textual changes as may be required to cast the motion in the form of a question to voters.

I. "Operating budget" as used in this section means "budget" as defined in [RSA 32:3, III](#), exclusive of "special warrant articles", as defined in [RSA 32:3, VI](#).

J. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or the Town Council may hold a special meeting to take up the issue of a revised operating budget only; provided that [RSA 31:5](#) shall not apply to such a special meeting. If no operating budget article is adopted, the estimated revenues shall nevertheless be deemed to have been approved.

K. The wording of the article on the operating budget shall be as follows:

"Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles, the amounts set forth on the budget posted with the warrant, for the purposes set forth therein, totaling \$ _____ Should this article be defeated, the operating budget shall be \$ _____, which is the same as last year, with

certain adjustments required by previous action of the Town meeting, or by law or the Town Council may hold one special meeting, to take up the issue of a revised operating budget only."

L. Voting at the second session shall conform to the procedures for the nonpartisan ballot system as set forth in [RSA 669:19-29](#), including all requirements pertaining to absentee voting, polling place and polling hours.

M. Approval of all warrant articles shall be by simple majority except for questions which require a 2/3 vote by law, contract or written agreement.

N. Votes taken at the second session shall be subject to recount under [RSA 669:30-33](#) and [RSA 40:4-c](#).

O. Votes taken at the second session shall not be reconsidered except by warrant article at a subsequent annual or special meeting.

P. The warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than 28 days or more than 60 days following the first session. The first and second sessions shall conform to the provision of this subdivision pertaining to the first and second sessions of annual meetings. Special meetings shall be subject to [RSA 31:5](#), [39:3](#) provided that no more than one special meeting may be held to raise and appropriate money in any one calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to this

section shall not be subject to [RSA 31:5](#) and shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.

(Amendments: November 5, 1996; May 9, 2000; December 20, 2011.)

Section 5.5. Monthly Budget Reports [and 5 Year Forecasting.](#)

At the beginning of each month during the fiscal year, and more often if required by the Council, the Administrator or his designee shall submit to the Council data showing the relation between the estimated and actual income and expenses to date, together with outstanding indebtedness and estimated future expenses. [By October 1 of each year, the Town Administrator or his designee shall submit to the Town Council a five-year financial forecast consisting of at least expenses, revenues, and resulting tax impact, taking into consideration the capital expenditure forecasting provided by the Capital Improvement Plan.](#)

Section 5.6. Transfers.

After the budget has been adopted, no money shall be drawn from the treasury of the Town nor shall any obligation for the expenditure of money be incurred except pursuant to a budget appropriation. The head of any department, with the approval of the Administrator, may transfer any balance or any portion thereof from one fund or agency within his department to another fund or agency within his department. The Administrator, with the approval of the Council, may transfer any balance or any portion thereof from one department to another.

Section 5.7. Capital Improvement Plan.

A. The Capital Improvement Program Committee shall prepare and submit to the Council [and Budget Committee](#) a Capital Improvement Plan at least one (1) month prior to the final date for submission of the budget. The Capital Improvement Plan shall include:

- (1) A clear summary of its contents.
- (2) A list of all capital improvements including major replacements which are proposed to be undertaken during the next six (6) fiscal years, including, but not limited to, equipment, sewer and water mains or facilities, roads, [school facilities](#), sidewalks, bicycle paths or lanes, public open spaces and recreation facilities, new police and/or fire stations, and other new public facilities and major items of equipment, with appropriate supporting information as to the necessity for such improvements.
- (3) Cost estimates, methods of financing and recommended time schedule for each such improvement.
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

B. The Capital Improvement Plan shall be based on a period of not less than six (6) years and shall include reference to or be influenced by, where appropriate, the Town master plan.

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

D. At least annually, or more often as the Council may direct, the Administrator shall submit to the Council a status report on implementation of the Capital Improvement Plan for the current year and financial statements of all capital accounts.

E. A summary of the updated Capital Improvement Plan with estimated costs shall be included in the Town Report and such portion of the current year costs the Council deems appropriate included in the Town Budget.

(Amendment May 9, 1995, Art. 5., Sec. 5.7.D.) (Amendment May 11, 2004, Art. 5, Sec. 5.7.A.)

Section 5.8. Lapse of Appropriations.

Every appropriation, except an appropriation from dedicated funds, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Section 5.9. Depository.

The Council shall approve to the Treasurer the depository or depositories for Town funds and shall provide for the timely deposit of all Town monies. The Council may require such security for Town deposits as it deems necessary, except that personal surety bonds shall not be deemed proper security.

Section 5.10. Bonding of Officials.

Any Town officer elected or appointed by authority of this Charter shall be bonded in an amount as required by State law or dictated by prudent fiscal practice for the faithful performance of the duties of his office. The Administrator and all officers receiving or disbursing Town funds shall be so bonded. All official bonds shall be

corporate surety bonds, and the premiums thereon shall be paid by the Town. Such bonds shall be filed with the Town Clerk.

Section 5.11. Borrowing Procedure.

All borrowing by the Town shall be in accordance with the Municipal Finance Act, [RSA ch. 33](#).

Section 5.12. Purchasing Procedure.

The Administrative Code shall establish purchasing and contract procedure, including the assignment of all responsibility for purchasing to the Administrator or his designee, and the combination purchasing of similar articles by different departments. The Council shall establish dollar limits for purchases and contracts which must be by competitive bid and shall establish the bidding procedures. No competitive bids shall be required when purchasing through the State of New Hampshire or at State of New Hampshire bid prices. Requirements for bids may be waived in specific instances by the affirmative vote of four (4) members of the Council. The Council shall establish dollar amounts for purchases and contracts, over which no purchases shall be made or contracts entered into without the affirmative vote of a majority of the Council. If the Council has voted to make a purchase or enter into a contract, the Administrator shall carry out the vote of the Council and enter into such transaction on behalf of the Town.

Section 5.13. Trust Funds.

A. Trustees of the Trust Funds. There shall be three (3) Trustees of the Trust Funds who shall hold office for three (3) years and until their successors are elected and qualified on a staggered basis so that one (1) Trustee is elected at each

Town election. They shall have all the powers and duties granted to Trustees of Trust Funds by this Charter and State law.

B. Investments. Trust Funds, shall be invested by the Trustees in a manner consistent with [RSA 31:25-30](#). The Trustees shall seek the advice of the Council.

C. Vacancy. In the event of a vacancy in office, the Council shall fill such vacancy by appointment, such appointment to be effective until a successor to fill the unexpired term is elected at the next Town Election and is then qualified to serve.

(Amendment May 9, 1995 - Art. 5, Sec., 5.13.B.)

ARTICLE 6. PERSONNEL POLICIES

Section 6.1. Appointments.

Appointments and promotions to all positions in the service of the Town, other than those covered by an employee representative contract, shall be made solely on the basis of merit and only after consideration of the applicant's ability in accordance with procedures set forth in the Personnel Plan.

Section 6.2. Personnel Plan.

There shall be a set of rules and regulations providing for the establishment of a system of personnel administration known as the "Personnel Plan". The Plan shall include provisions with regard to classification, compensation, selection, training, promotion, grievances, discipline, vacations, retirement, and any other matters necessary to the maintenance of

efficient service and proper working conditions. The Personnel Plan shall continue in force, subject to amendments submitted from time to time by the Administrator. The Council shall consider and act on said amendments within ninety (90) calendar days after the submission, [failing which they are deemed to have been rejected](#). The Personnel Plan shall not apply to any elected officials, board and commission members, and other officers appointed solely by the Council. Each employee shall be provided with a written job description prepared by the Administrator and subject to Council review.

(Amendment May 9, 1995.)

Section 6.3. Compensation.

A. The compensation of any elected officials, board and commission members, and other officers appointed solely by the Council shall be established and modified by express resolution of the Council.

B. The rate of compensation of Council members may only be changed by a Charter amendment approved by the voters and shall not take effect until the first day of the next fiscal year. No vote on this matter may be taken within ninety (90) days of the Town election.

~~C. The compensation of all department heads and Town employees not fixed by other provisions of this Charter or collective bargaining shall be fixed in the Personnel Plan by a schedule of pay which shall include a minimum and maximum and such intermediate rates as~~

~~may be deemed desirable for each class of position provided for in said Plan.~~

Section 6.4. Certification of Payroll.

No compensation shall be paid without certification by the Administrator, or such others as he may direct, that the recipients are employed by the Town and that their rates of compensation comply with approved pay schedules have been approved by the Town Administrator.

ARTICLE 7. CONDUCT OF OFFICIALS

Section 7.1. Conditions for Holding Office.

A. Unless otherwise specified by State law, any person while in Town office convicted of a Class A felony in New Hampshire or its equivalent under the law of any other State or Federal law shall forfeit such office.

B. No ~~full time~~ full time employee of the Town shall be eligible to serve as a Councilor.

C. Except as otherwise provided by this Charter, no department head of the Town shall be appointed to a Town office, board membership, commission membership, or trusteeship.

Section 7.2. Conflicts of Interest.

A. Any elected or appointed officer or employee of the Town who has a financial interest, direct or indirect, in any planned or existing contract, job, work, or service to be performed for the Town or voluntary sale to the Town of any land, materials, supplies, equipment, or other property shall make full disclosure of such interest to the Council and Administrator prior to the

Town's deliberating on any such matter or transaction.

B. The person so financially interested in such matters or transactions shall not vote or advise on or otherwise participate in the Town's and Council's consideration of such matter or transaction.

Section 7.3. Disqualification from Decision-Making Process.

A. No elected or appointed officer or employee of the Town shall take part in a decision concerning the business of the Town in which he or a member of his family, directly or indirectly, has a financial interest, aside from his salary as such officer or employee, greater than any other citizen or taxpayer.

B. For the purposes of this Section, the word "family" shall mean an individual's spouse, his and her spouse's lineal ascendants and lineal descendants, and his and her spouse's siblings and their offspring.

Section 7.4. Private Use of Town Property and Personnel.

No elected or appointed officer or employee shall devote any Town property or labor to private use except as may be provided by authority of the Council.

Section 7.5. Acceptance of Gifts and Gratuities.

No elected or appointed officer or employee of the Town shall solicit or accept any gift or gratuity which could, in any manner, be construed to affect or influence the performance of his official duties.

Section 7.6. Disposition of Fees.

No elected or appointed officer or employee of the Town shall collect any fees, salaries, or other payments in connection with his official duties for his own use, except as provided for by ordinance or State law.

Section 7.7. Misuse of Information.

No elected or appointed officer or employee of the Town shall utilize or dispense information gained through said office or employment for his or another's personal profit.

**ARTICLE 8. CITIZEN CONCERNS;
INITIATIVE PETITION; REFERENDUM**

Section 8.1. Citizen Concerns.

A. Individual citizen concerns shall be directed to the Administrator to be relayed to the appropriate department(s) or individual(s) for consideration. Acknowledgment of the concern(s) shall be made to the citizen directly or in writing.

B. Any citizen wishing to appear before a regularly scheduled Council meeting shall request to be placed on the agenda in accordance with the rules of the Council.

(Amendment May 9, 1995.)

Section 8.2. Initiative Petitions.

A. The Council shall hold a public hearing and act, by taking a vote, on the merits of every initiative petition which concerns a matter in which the Town is empowered to act. The petition shall be addressed to the Council, shall contain a request for passage or repeal of a particular measure set forth in the petition, and shall be signed by not less than one hundred (100) registered voters.

The initiative petition shall include the personal signature and legible name and address of each petitioner and shall be filed with the Town Clerk as one instrument of endorsement. The Town Clerk shall verify the number of registered voters signing the petition and shall attach thereto a certificate showing the result of such examination. Within seven (7) days, the Town Clerk shall transmit the petition and certificate to the Town Council and shall send a copy of the certificate to the first signer of the petition.

The petition shall be considered valid following certification of sufficiency unless written objection regarding the number of signatures certified is made by a voter no more than seven (7) days after the certificate has been issued. The validity of any such objection shall be determined by the Council.

B. The Council shall hold a public hearing within thirty (30) days of the date of the certification of any measure proposed in any petition signed by one hundred (100) voters, unless a question of its legality is raised by a member of the Council. If a question of legality is raised by any Councilor, the measure shall be referred to the Town Attorney for review. If the measure proposed may be lawfully passed by the Council, the public hearing shall be scheduled within thirty (30) days of the date of the Attorney's opinion. If the measure may not be lawfully passed by the Council, it shall be returned to the petitioners with an explanation. The Town Clerk shall mail notice of the hearing to ten (10) petitioners whose names appear first on each petition at least seven (7) days prior to the hearing. Notice by publication of a summary of

contents of the petition at least seven (7) days prior to all such hearings shall also be made, and shall be at public expense.

Hearings on two (2) or more petitions filed under this Section and addressing different substantive issues may be held at the same place and time. No hearing shall be held upon more than one (1) petition containing the same subject matter in any given twelve (12) month period.

C. Following the public hearing, the Council may: (1) pass said measure without alteration or with amendment, or (2) deny said measure with stated reasons.

Section 8.3. Referendum Petitions.

A. Referendum petitions must be filed with the Town Clerk within thirty (30) days after action by the Council on any measure or any part thereof sought to be reconsidered. Referendum petitions must be signed by at least four hundred (400) registered voters of the Town. The procedures of Section 8.2.(A) shall apply to referendum petitions.

B. When a referendum petition is filed with the Town Clerk, the measure or part thereof 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, (2) the filers of the petition withdraw it, or (3) the measure or part thereof is upheld by the voters.

C. When a referendum petition has been finally determined sufficient, the Council shall submit the referred measure or part thereof protested to the voters of the Town at a special election

to be held on a date fixed by the Council. Such special election shall be held not less than thirty (30) nor more than ninety (90) days after the date of the certificate heretofore mentioned; provided that if any election is to occur within one hundred twenty (120) days after the date of said certificate, the Council may at its discretion omit the calling of a special election and submit the referred measure or part thereof to the voters at such approaching election. The ballot used when voting upon a proposed measure under this Section shall state the nature of the referred measure or part thereof protested in terms sufficient to show its substance.

Section 8.4. Submission of Proposed Measure to Voters.

The Council of its own motion may submit any measure or proposition for repeal or amendment of a measure to the voters at any regular or special Town election.

Section 8.5. Measures with Conflicting Provisions. If two (2) or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

Section 8.6. Recall of Councilors.

~~Any individual Town Councilor who has completed at least six (6) months of his term of office and has more than six (6) months of his term remaining may be recalled therefrom by the voters as follows:~~

~~A. Two hundred fifty (250) or more voters may file a request for a recall petition with the Town Clerk. This request shall include the name of the Councilor and~~

the grounds for which the recall is sought together with the signature and a legible name and address of each voter.

B. The Town Clerk shall verify the names of the voters and promptly issue blank petitions for recall. Each petition shall be addressed to the Council, be dated, include the grounds for recall as stated in the request, the name of the voter to whom it is issued, the signature of the Town Clerk, and the Town Seal. The recall petitions bearing the signatures and legible names and addresses of at least seven hundred fifty (750) voters shall be returned to the Town Clerk within twenty (20) days. The Town Clerk shall promptly certify the number of voters who signed the petitions.

C. If the petitions are certified to be sufficient by the Town Clerk, he shall submit them to the Council together with his certification. The Council shall forthwith give written notice of the petition and certification to the Councilor whose recall is sought. If this Councilor does not resign within five (5) days after delivery of this notice, the Council shall order a recall election to be held no less than thirty (30) days nor more than sixty (60) days after the date the Town Clerk certified the petitions. If, however, any other Town election is scheduled within ninety (90) days of the date of the certification, the Council shall hold the recall election on the same date as the other Town election. The filing of candidates and the conduct of the election shall be in accordance with the provisions of this Charter and the election laws of the State of New Hampshire.

D. The proposition on the ballot shall be "For the recall of" or "Against the recall of (name of Councilor)."

E. If the incumbent is not recalled, he shall continue in office for the remainder of his unexpired term and may not again during that term be subject to recall. If he is recalled, he shall be deemed removed from office on the day after the recall election and the vacancy filled as provided by this Charter.

F. A separate recall petition, requiring two hundred fifty (250) signatures to initiate and seven hundred fifty (750) signatures to be certified, shall be required for each Councilor who is the subject of a recall; and, each said Councilor's recall shall be voted on as a separate question at the recall election^[CDH2].

Section 8.76. Budget Process.

Notwithstanding any other provisions of this Charter, this Section shall not apply to Article 5 of this Charter or any actions taken pursuant thereto.

ARTICLE 9.

TOWN REPORT; TOWN MEETING

Section 9.1. Town Report.

Each year the Town Administrator shall prepare a Town Report which shall include: (1) a statement of the past year's financial activities and a comparative statement of the previous and present budget, and (2) a review of all major Council actions, including a summary of ordinances enacted; and (3) Town vital statistics. There shall be a section which presents any actions which are in progress or pending before Town boards

or departments and the Town Council. The effective date of the Report shall be the end of the fiscal year and the Report shall be delivered to the voters of the Town not later than seven (7) days prior to the date of the Annual Meeting.

Section 9.2. Annual Town Meeting.

At the first session of the annual Town Meeting, the Town Moderator shall summon the voters of the Town to receive reports of the previous year's activities and of proposals for the current year by the Town Council and the Town Administrator, with opportunity for public discussion and amendment of warrant articles.

With appropriate notice, the public hearing requirements of Section 8.02 through Section 8.06 for initiative petitions and referenda may be met at this Meeting.

At the second session of the annual town meeting, the voters shall vote whether to raise and appropriate the total sum of money for the Town Budget as amended by the first session of the Town Meeting.

(Amendment November 5, 1996.)

ARTICLE 10. GENERAL PROVISIONS

Section 10.1. Certificate of Election And and Appointment.

Except as otherwise provided by law, before performing any act under his election or appointment, each person elected shall take and subscribe to an oath to qualify him to enter upon the duties of office. A record of the taking of such oath shall be made by the Town Clerk. Any oath required by this Section may be

administered by any officer authorized by law to administer oaths.

Section 10.2. Term Commencement; Notice of Election or Appointment.

A. Written notice of the election or appointment to any Town office or board shall be mailed to the individual involved by the Town Clerk, within three (3) business days after the appointment is made or the results of any vote are certified by the Board of Election Officers to the Council.

B. Unless otherwise set forth in this Charter all elected officials in the Town shall take or continue in office on the Monday following the second Tuesday in March following their election and shall hold office until their successors are elected and qualified.

(Amendment December 20, 2011 - Art. 10, Sec. 2.B.)

Section 10.3. Vacancies.

In addition to other provisions of this Charter, a vacancy shall be deemed to exist in any department, office, or board whenever an officer, member, or employee dies, resigns, is removed for just cause, is permanently, physically, or mentally incapacitated to the degree that he is unable to perform his duties, is judicially declared to be mentally incompetent or, for board members where residence in the Town is required, he moves from the Town. Unless otherwise provided in this Charter, vacancies occurring under this Section shall be declared to exist by the Council for board members, the Administrator for department heads, and by the department heads for departmental personnel.

Section 10.4. Public Records and Meetings.

All records of the Town and all meetings of the Council, boards, committees, commissions, authorities, or other municipal bodies shall be open to the public, and their minutes and other records shall be available to the public in accordance with the provisions of RSA ch. 91-A.

Section 10.5. Agreements with Other Municipalities.

The Council is authorized, as provided by New Hampshire law, to enter into agreements and regional compacts with neighboring cities and towns, state agencies, or private non-profit corporations for the purpose of resolving their common problems for the mutual advantage and benefit of the Town and its neighboring cities and towns.

Section 10.6. Specific Provisions to Prevail.

To the extent that any specific provision contained in this Charter conflicts with any provision expressed in general terms the specific provision shall prevail.

Section 10.7. Severability.

The Sections of this Charter and the parts thereof are separable. If any portion or Section of this Charter or the application thereof to any person or circumstance shall be held invalid by a court of competent jurisdiction, the remainder of the Charter shall not be affected thereby. If a clause, portion of, or Section of this Charter is so held invalid, then the applicable provisions of State law, if any, shall govern.

Section 10.8. Authentication of Charter; Copies to be Kept on File.

Upon adoption, the official Charter, duly authenticated by affixing the signatures of all members of the Charter Commission and the Board of Selectmen, the Town Clerk and affixing the Town Seal, shall be filed with the Town Clerk and remain in the Town Clerk's office as the official Charter of the Town of Newmarket. At its first meeting the Town Council shall affirm the validity of the Town Charter. All amendments to this Charter shall be authenticated by the Town Council and be filed with and remain a part of the official Charter. The Town Clerk shall be responsible for the proper maintenance of the Charter, under the direction of the Town Attorney. Copies of the Charter shall be available to the public, and the Town Clerk may charge a fee to defray the printing costs.

Section 10.9. Charter Amendments.

Amendments to this Charter may be initiated either by the Council or by initiative petition, public hearing, and voter election pursuant to RSA 49-B:5.

Section 10.10. Violations and Penalties.

All willful violations of provisions of this Charter, unless otherwise provided, are hereby declared to be misdemeanors, and all such misdemeanors and all violations of Town ordinances for which no other punishment is provided shall be punishable in accordance with State law.

Section 10.11. Rules and Regulations.

A copy of all rules and regulations adopted by any Town agency, board, commission, or individual shall be filed in the Town Clerk's office and made available to

review by any person who requests such information.

Section 10.12. Reorganization Plans.

~~See Section 4.12. Except for those agencies established by this Charter or as otherwise prohibited by State law, the Council may reorganize, consolidate, or abolish any existing Town agency in whole or in part; establish new Town agencies and prescribe the functions of any Town agencies; provided that such action shall not eliminate the statutory duties of Town officials.~~

Section 10.13. Proposed Reorganization Plans by the Administrator.

~~See Section 4.12. The Administrator shall prepare and submit to the Council for its approval proposed reorganization plans which may, subject to applicable law and this Charter, reorganize, consolidate, or abolish any Town agency in whole or in part, or establish new Town agencies as he deems necessary or expedient. Such reorganization plans shall be accompanied by explanatory messages when submitted.~~

Section 10.14. Indemnification of Town Officers, Board Members, and Employees.

The Town shall undertake to indemnify and save harmless all its officers, officials, volunteers, boards, commissions, and employees from personal loss and expense, including reasonable legal fees and costs, if any, arising out of any claim, demand, suit, or judgment by reason of negligent acts or omissions if the indemnified person was acting in the scope of his office or employment and in good faith, in accordance with the provisions of State law.

Section 10.15. Prohibition.

A. No person shall be appointed to or removed from, or in any way favored or discriminated against, with respect to, any Town position or appointed Town administrative office because of age, race, sex, political, or religious opinions or affiliations.

B. No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment.

C. No person who seeks appointment or promotion with respect to any Town position or appointed Town 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 test, appointment, proposed appointment, promotion, or proposed promotion.

D. No person who runs for Town office 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 appointed Town position.

Section 10.16. Procedures.

A. Meetings. All properly constituted authorities, boards, commissions, committees, or other municipal bodies (hereinafter called committees) of the Town, either elected or appointed or otherwise constituted, shall meet regularly at such times and public places within the Town as they may prescribe. Except in emergencies, special meetings of these committees shall be held on the call of the respective committee chair or

by one-third (1/3) of the members thereof by written notice delivered to the residence or place of business of each member at least forty-eight (48) hours in advance of the time set. A copy of the said notice shall also be posted on the Town bulletin board. Except in cases of emergency otherwise authorized by the general laws, all meetings of these committees shall be open and public; however, these committees may meet in a closed or executive session as permitted by RSA 91-A.

B. Committee Organization. Each committee shall determine its own rules and order of business unless otherwise provided by the Charter or by law. The agenda and minutes shall be kept as required by RSA ch. 91-A. A chairperson and secretary shall be elected annually in accordance with the committee's rules or procedure.

C. Quorum. A majority of the members of a committee shall constitute a quorum, but a smaller number may adjourn from time to time until a quorum is achieved. No other action taken by a number of members smaller than the quorum shall be valid or binding.

D. Council. The provisions of Section 10.16 shall not apply to the Council to the extent that they are inconsistent with other provisions of this Charter.

Section 10.17. Land Use Ordinances. All land use regulations and ordinances must be adopted pursuant to State law.

ARTICLE 11. ADMINISTRATIVE AND JUDICIAL BOARDS.

Section 11.1. Administrative Committees.

A. Planning Board. There shall be a Planning Board consisting of six (6) elected members and one (1) appointed member. The Chair of the Town Council shall perform those duties assigned to the "Mayor" under RSA 672-677. Six (6) of these members shall be elected for terms of three (3) years, such terms to be staggered. The Planning Board shall have all the powers granted to planning boards by state law. Three (3) alternate members shall be appointed by the Planning Board, each serving three (3) year terms staggered.

B. Budget Committee. There shall be a Budget Committee consisting of eleven (11) members, nine (9) of whom shall be elected for three (3) year terms, such terms to be staggered. The Council and the School Board shall each appoint one (1) of their members to serve as a representative to the Budget Committee. These representatives shall have all the rights of membership except the right to hold office. Any vacancy in the elected membership shall be filled by a majority vote of a quorum of the Budget Committee for the unexpired term. The Budget Committee shall have all the powers granted to Budget Committees by state law.

C. Conservation Commission. The Conservation Commission shall consist of not less than 3 or more than 7 members appointed by the Town Council. The Conservation Commission shall have all

the powers granted to Conservation Commissions by State Law.

~~**D. Capital Improvement Committee.**~~

~~The Capital Improvement Program Committee shall include at least one member of the planning board and may include but not limited to other members of the planning board, the budget committee, or the town or city governing body.~~

E.D. CAPITAL IMPROVEMENT

PROGRAM COMMITTEE. There shall be a Capital Improvement Program committee consisting of up to six members. The Town Council shall appoint one council member and one alternate, the Budget Committee shall appoint one budget committee member and one alternate, the School Board shall be invited to appoint one member and one alternate, and the Planning Board will appoint one planning board member and one alternate, all to serve for one year terms. Two at large members shall be appointed by the Town Council for a term not to exceed three years. ~~committee.~~ The CIP Committee shall appoint all ex-officio members it feels are necessary to perform their duties subject to Town Council approval. The Capital Improvement Program Committee shall have all the powers granted to them under RSA 674:5 through 674:8.

F.E. Other Administrative

Committees. Other administrative boards and committees may be established or dissolved as necessary by the Town Council. These committees shall have such powers as determined by the Council or provided by State Law.

G.F. At least annually, in February and more often if Town affairs warrant, the Town Council shall meet with the Chairs of all standing Town committees to review significant actions taken by the committees, projects currently under discussion, and anticipated activity for the coming year.

H.G. At least annually, the Town Council shall invite meet with the School Board to a meeting to discuss projects currently under discussion and anticipated activity for the coming year. *(Amendment February 18, 1992., Art. 11, Sec. 11.1.A.) (Amendment May 9, 1995, Art. 11, Sec. 11.1.A and B) (Amendment May 13, 1997, Art. 11, Sec 11.1.C, D & E)*

Section 11.2. Judicial Board. Zoning Board of Adjustment.

There shall be a Zoning Board of Adjustment appointed by the Council, consisting of five (5) members each serving a three (3) year term and three (3) alternates each serving a three (3) year term. Such terms shall be staggered. The Council shall fill any vacancy for the period of the unexpired term. The Zoning Board of Adjustment shall have all the powers granted to such boards under State law.

Section 11.3. Terms of Office.

Except as otherwise provided by this Charter, the terms of office of all members of administrative committees shall begin on the first Monday following the second Tuesday in March, and they shall end on the first Monday following the second Tuesday in March in the year that their term expires. If a member received an appointment or was elected subsequent to the second Tuesday in March of the year in which the term of office originally commenced, the term to which the

person was appointed or elected will end on the first Monday following the second Tuesday in March in the year that it was scheduled to end.

(Amendment December 20, 2011.)

Section 11.4. Vacancies in Elected Office.

Unless otherwise specified in this Charter or by State law, in the event of a vacancy in an elected office, board or commission of the Town, the Council shall fill that vacancy by appointment, such appointment to continue until the next Town election.

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