

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 486

H. P. 361

House of Representatives, January 21, 1965

Referred to the Committee on Legal Affairs, sent up for concurrence and 2,000 copies ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mr. Lent of Scarborough.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT to Grant a New Charter for the Town of Scarborough.

Be it enacted by the People of the State of Maine, as follows:

COUNCIL-MANAGER CHARTER OF THE TOWN OF SCARBOROUGH

ARTICLE I

Grant of Powers to the Town

Sec. 1. Incorporation. The inhabitants of the Town of Scarborough, within the limits as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by the name of the Town of Scarborough, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said town as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable bylaws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof, not exceeding \$100 in any one case, to be recovered for such uses as said bylaws, regulations or ordinances shall provide.

Sec. 2. Powers and duties. The administration of all the fiscal, prudential and municipal affairs of said town, with the government thereof, except the general management, care, conduct and control of the schools of said town which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this charter, shall be and are vested in one body of 13 members, which shall constitute and be called the town council, all of whom shall be inhabitants of said town, and shall be sworn in the manner hereinafter prescribed.

The members of the town council shall be and constitute the municipal officers of the Town of Scarborough for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers under the laws of this State.

All other powers now or hereafter vested in the inhabitants of said town, and all powers granted by this charter, except as herein otherwise provided, shall be vested in said town council.

ARTICLE II

Town Council

Sec. 1. Town to be divided into election districts. For the purpose of electing members of the town council, the town shall be divided into 6 districts, to be defined as follows:

DISTRICT NO. 1.

Beginning at the Scarborough-Saco town line at a point 400 feet southerly of the southerly side line of Holmes Road; thence proceeding easterly along a line 400 feet southerly of and parallel to the southerly side line of Holmes Road to a point 400 feet westerly of the westerly side line of Two Rod Road; thence proceeding southerly along a line 400 feet westerly of and parallel to the westerly side line of Two Rod Road to the Maine Turnpike; thence proceeding northeasterly along the northerly side of the Maine Turnpike to a point 400 feet southwesterly of the Gorham Road; thence proceeding northwesterly along a line 400 feet westerly of and parallel to the westerly side line of Gorham Road to a point 400 feet southerly of the southerly side line of Beech Ridge Road; thence northeasterly along a line 400 feet from and parallel to the easterly side line of Beech Ridge Road to a point 400 feet southerly of County Road; thence proceeding northeasterly along a line 400 feet southerly of and parallel to the southerly side line of County Road to the Westbrook line; thence proceeding northwesterly along the Scarborough-Westbrook border to the Gorham line; thence southwesterly and northwesterly along the Gorham-Scarborough line to the Buxton line; thence southwesterly along the Buxton line to the Scarborough-Saco line; thence southeasterly along the Scarborough-Saco town line to the point or place of beginning.

DISTRICT NO. 2.

Beginning at a point on the northerly side of U. S. Route 1, said point being 400 feet westerly of the westerly side line of Gorham Road; thence proceeding northerly and northwesterly along a line 400 feet westerly of and parallel to the westerly side line of said Gorham Road to a point 400 feet southerly of the southerly side line of Beech Ridge Road; thence proceeding northerly along a line 400 feet southeasterly of and parallel to Beech Ridge Road to a point 400 feet southerly of County Road; thence proceeding northeasterly along a line 400 feet southerly of and parallel to the southerly side line of County Road to the Westbrook line; thence proceeding southeasterly along the Westbrook and South

Portland boundaries to the Boston and Maine Railroad track; thence southerly and southwesterly along said Boston and Maine Railroad to a point 400 feet northeasterly of the side line of Black Point Road; thence proceeding westerly and northerly along a line 400 feet easterly of and parallel to the easterly side line of Black Point Road to the northerly side of U. S. Route 1; thence proceeding westerly along the said U. S. Route 1 to the point or place of beginning.

DISTRICT NO. 3.

Beginning at a point on the southeasterly side of the Maine Turnpike, said point being 400 feet westerly of the westerly side line of Two Rod Road; thence proceeding in a general southerly direction along a line 400 feet from and parallel to the westerly side line of Two Rod Road to its intersection with Scottow Hill Road; thence continuing in a southeasterly and southerly direction along a line 400 feet from and southerly of the southerly side line of said Scottow Hill Road to U. S. Route 1; thence across U. S. Route 1 to the center line of Libby Road or Airport Road; thence northerly along the center line and the projection thereof of Libby Road or Airport Road to the Old Eastern Railroad bed; thence northeasterly along said railroad bed to Mill Brook; thence in a general southerly direction along Mill Brook as it bends and turns to Scarborough River; thence southeasterly along said Scarborough River to its confluence with the Nonesuch River; thence following said Nonesuch River upstream as it bends and turns to a point 400 feet from Black Point Road right-of-way; thence southeasterly along a line 400 feet from and parallel to the southwesterly side line of Black Point Road to a point which is 400 feet southerly of the projected southerly side line of Highland Avenue; thence proceeding easterly and northeasterly along a line 400 feet southerly of and parallel to the southerly side line of said Highland Avenue to the South Portland boundary; thence proceeding northwesterly along said South Portland boundary to the Boston and Maine Railroad track; thence southerly and southwesterly along said Boston and Maine Railroad to a point 400 feet northeasterly of the easterly side line of Black Point Road; thence proceeding westerly and northerly along a line 400 feet easterly of and parallel to the easterly side line of said Black Point Road to the northerly side line of U. S. Route 1; thence proceeding westerly along the said U. S. Route 1 to a point 400 feet westerly of the westerly side line of Gorham Road; thence proceeding northerly and northwesterly along a line 400 feet westerly of and parallel to the westerly side line of said Gorham Road to the Maine Turnpike; thence in a southwesterly direction along the said Maine Turnpike to a point 400 feet westerly of the westerly side line of Two Rod Road being the point or place of beginning.

DISTRICT NO. 4

Beginning at a point on the South Portland-Scarborough boundary, said point being 400 feet southerly of the southerly side line of Highland Avenue; thence proceeding southeasterly and southerly along the boundary of South Portland and the boundary of Cape Elizabeth to the ocean; thence southwesterly along the ocean front to Scarborough River; thence upstream to its confluence with the Nonesuch River; thence following Nonesuch River upstream as it bends and turns to a point 400 feet from Black Point right-of-way; thence southeasterly

along a line 400 feet from and parallel to the southwesterly side line of Black Point Road to a point which is 400 feet southerly of the projected southerly side line of Highland Avenue; thence easterly and northeasterly along a line 400 feet southerly of and parallel to the southerly side line of Highland Avenue the entire distance to the South Portland boundary and the point or place of beginning.

DISTRICT NO. 5.

Beginning at the intersection of the Old Eastern Railroad Bed with the boundary between Scarborough and Old Orchard Beach; thence proceeding northeasterly along the said Old Eastern Railroad Bed to Mill Brook; thence in a general southerly direction along Mill Brook as it bends and turns to Scarborough River; thence southeasterly along said Scarborough River as it bends and turns to the ocean; thence westerly along the ocean front to the boundary between the Town of Scarborough and the Town of Old Orchard Beach; thence proceeding northwesterly along said town boundary to the Old Eastern Railroad Bed being the point or place of beginning.

DISTRICT No. 6.

Beginning at the intersection of the Old Eastern Railroad Bed with the boundary between Scarborough and Old Orchard Beach, thence proceeding northwesterly along the Scarborough-Old Orchard Beach boundary and the Scarborough-Saco boundary to a point 400 feet southerly of the Holmes Road said point being the boundary of District No. 1; thence proceeding easterly along a line 400 feet southerly of and parallel to the southerly side line of Holmes Road to a point 400 feet westerly of the westerly side line of Two Rod Road; thence proceeding southerly along a line 400 feet from and parallel to the westerly side line of Two Rod Road to its intersection with Sccttow Hill Road; thence continuing along a line 400 feet from and parallel to the westerly and southerly side of Sccttow Hill Road as it continues to U. S. Route 1; thence across U. S. Route 1 to the center line of Libby Road or Airport Road; thence southerly along the center line of the Airport Road or Libby Road and a prolongation thereof to the Old Eastern Railroad Bed; thence southwesterly along the said Old Eastern Railroad Bed to the Old Orchard Beach-Scarborough town line and the point or place of beginning.

Within one year after the publication of the findings of each decennial census, the town council shall, by ordinance, make such adjustments in district lines which, in the judgment of the town council, may be necessary to approximately equalize the population of the districts.

Sec. 2. Composition; election; tenure of office. The town council shall be composed of 13 members, each of whom shall be nominated and elected by the registered voters of the entire town and who shall hold office for a term of 2 years and until their successors are elected and qualified; except, however, that at the first election after the adoption of this charter, the member-elect of each district receiving the highest number of votes shall serve for 2 years, and the member-elect of each district receiving the next highest number of votes shall serve for one year. In case of an equal number of votes, the relative position

of the members-elect shall be determined by lot. One shall be nominated at large from the registered voters of the town, and 2 shall be nominated from the registered voters of each of the 6 districts heretofore provided. The councilman-at-large and the district councilmen shall be elected by the registered voters of the entire town.

Sec. 3. Qualifications. Councilmen shall be qualified voters of the town and district councilmen shall reside at the time of their election in the district from which they are elected. District councilmen shall continue to hold office for the remainder of their term if they move from one district in the town to another district. In case of a vacancy caused by death, resignation, removal from the town, or removal from office as hereinafter provided, of any member of the town council more than 6 months prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired portion of the term. In the event such vacancy occurs less than 6 months prior to the next regular municipal election, the vacancy may be filled by a special election for the unexpired portion of the term. Such election shall be called and held and nominations made as in regular municipal elections.

Councilmen shall hold no office of emolument or profit under the town charter or ordinances. Any member of the town council who shall be convicted of a felony or a misdemeanor involving moral turpitude while in office shall, after due notice and hearing before the town council and the production of the records of such conviction, forfeit his office.

Sec. 4. Enumeration of powers. Without limitation of the foregoing, the council shall have power to:

1. **Appointment of town manager and other statutory officers.** Appoint and remove the town manager and all statutory officers and department heads, with the exception of the chief of the fire department and the town clerk. The town clerk shall be nominated and elected in the manner provided for in the nomination and election of councilmen. All appointees of the council shall serve at the will of the council.
2. **Appointment of certain boards and commissions.** Appoint the members of the board of assessment review, the planning board, the board of zoning appeals and an advisory budget committee consisting of not less than 5 members.
3. **Create and abolish certain offices.** By ordinance create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.
4. **Ordinances.** Make, alter and repeal ordinances, including the power to enact ordinances providing for the grant of licenses and permits for the conduct of any business, as set forth in the statutes of the State of Maine, for such

periods of time and in accordance with such rules and regulations not inconsistent with law and upon payment by the licensee of such fees as the town council may establish in such ordinance.

5. **Investigations.** Inquire into the conduct of any office, department or agency of the town and make investigation as to municipal affairs.

6. **Annual audit.** Provide for an annual audit.

Sec. 5. Compensation. Councilmen shall receive \$10 for each council meeting upon attendance, not to exceed in the aggregate \$250 per year in full for their services, and shall not be eligible during the term for which each was elected for any other office, the salary of which is payable by the town, nor to hold the office of town manager, nor to act as town manager, nor shall any of said councilmen during such term hold any such office. The town council by order shall fix the salaries of officials appointed by the town council, including the salary of the town manager for his services as such and for all other services rendered by him. Salaries of the appointees of the town manager shall be fixed by the town manager, subject to approval of the council.

Sec. 6. Induction of council into office. The town council shall meet at the usual place for holding meetings at 7:30 p.m. on the 2nd Monday in December of each year, and at said meeting councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk.

Sec. 7. Council to judge of qualifications of its members. The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require production of records, but the decision of the council in any such case shall be subject to review by the courts.

Sec. 8. Regular meetings. The town council shall, at its first meeting or as soon thereafter as possible, establish by resolution a regular place and time for holding its regular meetings, and shall meet regularly at least twice a month. It shall also provide a method for calling special meetings.

Sec. 9. Rules of procedure; journal. The council shall determine its own rules and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection.

Sec. 10. Chairman. At its first meeting or as soon thereafter as practicable the council shall elect, by majority vote of the entire council, one of its members for the ensuing year as chairman, and the council may fill, for an unexpired term, any vacancy in the office of chairman that may occur. The chairman shall preside at the meetings of the council, and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for purposes of military law, but he shall have no regular administrative duties. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. In the temporary absence or disability of the chairman, the town council may elect a chairman pro tempore, from among its members, and he shall exercise all the powers of chairman during such temporary absence or disability of the chairman.

Sec. 11. Quorum. Eight members of the town council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Sec. 12. Public hearing on ordinances. At least one public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in said town, shall be held by the council before any ordinance shall be passed, but nothing contained herein shall be deemed to require publication of the ordinance itself. The passage of such ordinance shall not be effective until 30 days after enactment.

The town council may, by vote of 10 of its members, pass emergency ordinances, to take effect at the time indicated therein. Such emergency ordinances shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the town council shall be conclusive.

Sec. 13. Town clerk. The town clerk shall be nominated and elected by the registered voters of the entire town annually in the manner provided for the nomination and election of councilmen. In addition to his statutory duties, the town clerk shall act as clerk of the council and he shall keep a public record of all proceedings of the council, including all votes. The salary of the town clerk shall be fixed by the town council.

Sec. 14. Fire department. The fire department shall consist of volunteer personnel who shall organize into 8 companies, and shall have headquarters in such areas as may be designated by the chief of the fire department and approved by the board of fire commissioners. The members of each fire company shall annually elect their own officers and a commissioner to serve on the board of fire commissioners. The fire chief shall be elected annually by the members of the fire department. The chief is authorized to make such rules and regulations and issue such orders not inconsistent with the state law or the provisions of this charter or any ordinances of the town that may be from time to time enacted. The board of fire commissioners are authorized to adopt bylaws which shall not be inconsistent with the state law or the provisions of this charter or any ordinances of the town that may be from time to time enacted. These bylaws shall be filed with the town clerk and shall be valid only after written approval by the town council.

Sec. 15. Independent annual audit. Prior to the end of each fiscal year, the council shall designate the State Department of Audit or, if unavailable, private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the town government and shall submit their report to the council and the town manager. Such accountants shall not maintain any accounts or records of the town business, but shall postaudit the books and documents kept by any office, officer, department or agency of the town government.

ARTICLE III**Town Manager**

Sec. 1. Appointment; qualifications; powers and duties. The town manager shall be chosen by the town council solely on the basis of his character and his executive and administrative qualifications, and may or may not be a resident of the Town of Scarborough or of the State of Maine at the time of his appointment. He shall give bond for the faithful discharge of his duties to the Town of Scarborough in such sum as the town council shall determine and direct, and with surety or sureties to be approved by the town council. The premium on his bond shall be paid by the town. He shall be the administrative head of the town and shall be responsible to the town council for the administration of all departments. His powers and duties shall be as follows:

1. **Budget.** Prepare the budget annually, submit it to the council and be responsible for its administration after adoption.
2. **Report of finances.** Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the town for the preceding year, and cause such annual town report to be published and made available to the public as promptly as possible after the close of the fiscal year.
3. **Attend meetings; exception.** Attend the meetings of the council, except when his removal is being considered, and keep the council advised of the financial condition and future needs of the town and make such recommendations as may seem to him desirable.
4. **Administer laws.** See that all laws and ordinances governing the town are faithfully administered.
5. **Purchasing agent.** Act as purchasing agent for all departments of the town, except the school department, and provide, in the case of the school department, for cooperative purchasing arrangements where feasible.
6. **Other duties.** Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.
7. **Administrative code.** Prepare an administrative code, submit it to the council and be responsible for its administration after adoption.

Sec. 2. Removal. The town manager may be removed for cause by the council in accordance with the provisions of the statutes of the State of Maine relating to the removal of a town manager.

Sec. 3. Appointment of employees. All employees of the Town of Scarborough, other than those listed in Article II, section 4, shall be appointed by the town manager, subject to confirmation by the town council, and shall serve at the will of the town manager.

Sec. 4. Vacancy in office of town manager. During any vacancy in the office of town manager, and during the absence or disability of the town manager, the town council shall designate a properly qualified person to perform the duties of

manager and fix his compensation. While so acting, he shall have the same powers and duties as those given to and imposed on the town manager. Before entering his duties, he shall give bond to the Town of Scarborough in a sum and with surety or sureties to be approved by the town council. The premium on said bond is to be paid by the town.

ARTICLE IV

Department of Education

Sec. 1. Superintending school committee. The department of education shall be administered by a superintending school committee, hereinafter referred to as the school committee, which shall consist of 7 duly qualified voters of the Town of Scarborough, consisting of one member from each district of the town, and one member-at-large, each of whom shall be nominated and elected by the registered voters of the entire town according to the provisions of Article VII of this charter for a term of 3 years and who shall serve until their successors are elected and qualified; except, however, that at the first election after the adoption of this charter, the member-at-large, and the 2 district members-elect receiving the highest number of votes, shall serve for 3 years, the 2 district members-elect receiving the next highest number of votes shall serve for 2 years, and the 2 district members-elect receiving the highest number of votes shall serve for one year. In case of an equal number of votes, the relative position of the members-elect shall be determined by lot.

Sec. 2. Qualifications. Members of the school committee shall be qualified voters of the town and shall reside in the town during their term of office. They shall hold no office of emolument or profit under the town charter or ordinances. Any member of the superintending school committee who shall be convicted of a felony or a misdemeanor involving moral turpitude while in office shall, after due notice and hearing before the town council and the production of the records of such conviction, forfeit his office.

Sec. 3. Vacancy. If for any reason a vacancy shall exist in the membership of the school committee, it shall be filled by a majority vote of the council until the next municipal election, in the same manner as vacancies in the office of councilmen.

Sec. 4. Organization; qualification; quorum. The members of the school committee shall meet for organization on the 2nd Monday in December of each year. The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk, and a record made thereof. The majority of the whole number of the school board shall be a quorum and they shall elect their own chairman.

Sec. 5. Powers and duties. The superintending school committee shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the town, except as otherwise provided in this charter. The school committee shall prepare budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and

at least 45 days before the beginning of the budget year, the school committee shall furnish copies of such estimates to the manager. Each member shall receive \$10 for each committee meeting upon attendance, not to exceed in the aggregate \$150 per year in full for their services.

ARTICLE V

Budget

Sec. 1. Fiscal year. The fiscal year of the town government shall begin the first day of January and shall end on the 31st day of December of each calendar year. Such fiscal year shall constitute the budget and accounting year as used in this charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Sec. 2. Preparation and submission of the budget. The town manager, at least 35 days prior to the beginning of each budget year, shall submit to the council a budget and an explanatory budget message. The budget authority of the council shall be limited to the final determination of the total appropriation to be made to each of the several offices, departments and agencies of the town, including the department of education. This budget shall contain:

1. **Statement of financial condition.** Exact statement of the financial condition of the town.
2. **Appropriations.** An itemized statement of appropriations recommended for current expenses, and for permanent improvements, with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated.
3. **Revenue.** An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.
4. **Other information.** Such other information as may be required by the town council.

The town council shall fix a time and place for holding a public hearing upon the town and school budgets and shall give public notice of such hearing, which public hearing shall take place at least 10 days before the final enactment of the budget and the appropriation resolve. The council shall have the right to revise or amend both the town and school budgets, but the school budget as finally approved by the town council shall be expended under the direction and control of the superintending school committee.

Sec. 3. Budget establishes appropriations. From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies and purposes therein named.

Sec. 4. Budget establishes amount to be raised by property tax; certification to town assessor. From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determina-

tion of the amount of the levy for the purposes of the town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the manager and filed by him with the town assessor, whose duty it shall be to levy such taxes for the corresponding tax year.

Sec. 5. Budget summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized, further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized also by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

Sec. 6. Work programs; allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the town manager, when required by him, a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

Sec. 7. Transfers of appropriations. At the request of the manager and within the last 3 months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof between general classification of expenditures within an office.

Sec. 8. Interim expenditures. In the period between the beginning of the fiscal year and the appropriation of funds, the council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year when made, in amounts sufficient to cover the necessary expenses of the various departments.

ARTICLE VI

Tax Administration

Sec. 1. Assessor. There shall be established a division of assessment, the head of which shall be the town assessor. The assessor, appointed by the council as hereinbefore provided, shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the State may exercise, and may now or hereafter be subject to, under the laws of the State.

Sec. 2. Board of assessment review; appointments; vacancies. There shall be a board of assessment review to consist of 3 members who shall be appointed by the town council for a term of 3 years, except that of those first appointed one shall be for a term of 2 years and one for a term of 1 year. Compensation, if any, to such members shall be determined by the town council. Vacancies in

the membership of such board shall be filled by appointment by the council for the unexpired term.

Sec. 3. Board of assessment review; powers and duties. The board of assessment review shall have the power to:

1. **Review and revise assessments.** Review, on complaint of property owners, and revise assessments for the purpose of taxation of real and personal property within the town limits made by the town assessor;
2. **Administer oaths.** Administer oaths;
3. **Take testimony.** Take testimony;
4. **Hold hearings.** Hold hearings;
5. **Adopt regulations.** Adopt regulations regarding the procedure of assessment review, not inconsistent with statutory provisions.

ARTICLE VII

Nominations and Elections

Sec. 1. Municipal elections. The regular election for the choice of members of the town council, the superintending school committee and the town clerk shall be held on the first Monday of December in each year and shall be conducted on a non-partisan basis and without party designations on the election ballot.

Sec. 2. Nomination. Any qualified voter of the town may be nominated for the council, the superintending school committee or the town clerk, either by the use of nomination papers or by political caucus, in accordance with the statutes of the State of Maine.

Sec. 3. Conduct of municipal elections. The provisions of the statutes of the State of Maine relating to the qualification of voters, the registration of voters, the nomination for any office, the manner of voting, the duties of election officers and all other particulars respective to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this charter.

Sec. 4. Voting places. The voting places for municipal elections shall be those which have been established for state elections.

Sec. 5. Election officials. The town council shall, 10 days before any election, appoint a warden and a clerk, in addition to the regular ballot clerks, for each voting place.

ARTICLE VIII

Initiative and Referendum

Sec. 1. Petition for overrule of action of council. All ordinances, resolutions or votes, except those making appointments or removals or regulating ex-

clusively the internal procedure of the council, shall be subject to overrule by a referendum as follows:

If, within 10 days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than 10% of the registered voters of the Town of Scarborough is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall within 14 days after said public hearing call a special town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, resolution or vote. Pending action by the voters of the town, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question.

Sec. 2. Petition for enactment of ordinances. Subject to the provisions of section 1, not less than 10% of the registered voters of the town may at any time petition over their personal signatures for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the town clerk. The council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall within 30 days after said public hearing call a special town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call for said town election, such ordinance shall be enacted by the council. Such ordinance shall take effect on the 10th day after the conclusion of such referendum, provided a majority of those voting thereon, shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the town attorney before being submitted to referendum. The town attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy in its text and references and clearness and preciseness in its phraseology, but he shall not materially change its meaning and effect.

Sec. 3. Petition for submission of amendments of charter to the Legislature. Not less than 10% of the registered voters of the town may at any time petition, over their personal signatures, for the submission of an amendment of this charter to the next regular session of the Legislature by filing such petition at least 90 days prior to the next regular session of the Legislature, including the complete text of such amendment, with the town clerk. The council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall within 14 days after said public hearing call a special town election for the purpose of submitting to a referendum vote the question of the enactment of such charter amendment.

Sec. 4. Form of ballot. The form of the ballot for the proposed ordinance, resolution, vote or charter amendment shall be substantially as follows:

“Shall the proposed ordinance (resolution, vote or charter amendment), a copy of which is printed herein or attached hereto, be adopted?”

For the ordinance:

Against the ordinance:

The voter shall write a cross or a check mark in the appropriate box.

ARTICLE IX

General Provisions

Sec. 1. Repealing clause. All Acts and parts of Acts of the private and special laws of Maine relating to the Town of Scarborough, inconsistent with the provisions of this charter, are repealed.

Sec. 2. Separability clause. If any portion of this Act shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

Sec. 3. Short title. This charter shall be known and may be cited as the "Council-Manager Charter of the Town of Scarborough." The clerk shall cause it to be printed and made available to the public promptly.

Sec. 4. Expiration term of present elected officials. The term of the present town officials, the school committee and the town clerk shall expire on the 2nd Monday in December, 1965.

Sec. 5. Existing contracts not invalidated, unless inconsistent. All rights, actions, proceedings, prosecutions and contracts of the town or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent herewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 6. Summons before town council. The clerks of the Supreme Judicial and Superior Courts may issue a summons for witnesses to attend and produce books, documents and papers at any meeting of the town council for the Town of Scarborough at which a hearing is had in any matter regarding any alleged dereliction of duty by town officers or employees. On complaint of failure to obey summons filed with any Justice of the Superior Court, said justice, if he finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or by both.

Sec. 7. Oath of office. Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the charter and ordinances of the Town of Scarborough, and will faithfully discharge the duties of the office of _____."

Sec. 8. Ordinances not inconsistent continue in force. All ordinances of the Town of Scarborough in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Sec. 9. Removal of officers and employees. With the exception of the town manager, whose removal is provided for in accordance with the statutes of the State of Maine, any statutory officer, department head or employee may be removed by the appropriate appointing body or officer at any time. The decision of the appointing body or officer shall be final and there shall be no appeal therefrom to any other appointing body, officer or court.

Sec. 10. Continuance of present administrative officers. All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuation of such office.

Referendum; effective date; certificate to Secretary of State. This Act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the Town of Scarborough at any regular or special town election or state-wide election held on or before October 15, 1965, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said town to meet in said town, there to cast their ballot on the approval or rejection of this Act.

The town clerk shall prepare the required ballots, which shall be substantially as follows:

“Shall ‘An Act to Grant a New Charter for the Town of Scarborough,’ passed by the 102nd Legislature, be accepted?”

For the Charter:

Against the Charter:

The voter shall write a cross or a check mark in the appropriate box.

This act shall take effect for the purpose of nominating and electing officers hereunder immediately upon its acceptance by a majority of the legal voters voting at said election, and for all other purposes this Act shall take effect immediately following the first election held under the provisions of this charter on the first Monday in December, 1965, with the officers to be installed in office on the 2nd Monday of December, 1965.

The result of the vote shall be declared by the municipal officers of the Town of Scarborough and due certificate thereof shall be filed by the town clerk with the Secretary of State.