

# Town of Lubec

Lubec, Maine

## Charter

**Amended: Annual Town Meeting August 6, 2013**

**Amended: Special Town Meeting June 12, 1995**

**Enacted at Special Town Meeting: May 31, 1995**

Attested: *Betty R. Case, Lubec Town Clerk*

*8/15/13*

Charter  
For  
Town of Lubec

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## INTRODUCTORY LETTER

Town Charter-Town of Lubec, Maine

Dear Citizens of Lubec:

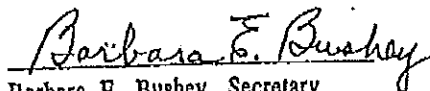
As provided by Referendum Question No. 1 of the Warrant of Town Meeting of 1993, the Lubec Charter Commission was established. Six members were elected and three were appointed by the Selectmen. The Commission held many meetings and two public hearings. The final draft was submitted to the Selectmen on March 23, 1995. This charter will be presented to the Town of Lubec for acceptance at the Special Town Meeting in 1995 and, if passed, the charter will take effect 30 days after said Town Meeting.

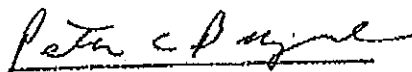
Federal and State Law along with our Town Charter governs our Town Government. Some sections of our Town Charter are, in fact, State Law. The purpose of our Town Charter is to more clearly define and put into effect laws which govern our Town Government. We want to maximize accountability and responsiveness to our citizens. We have worked hard to form a Town Charter that will provide the foundation for the most democratic Town Government. We wish to thank you, the citizens of Lubec, for the opportunity we have had to serve you on the Charter Commission.


Respectfully yours,

  
Paul C. Crandall, Chairman

  
Annie Gerrish, Vice Chairman

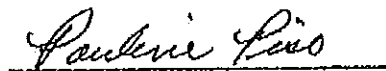
  
Barbara E. Bushey, Secretary

  
Peter Boyce

  
Bruce Davis

  
Donald Hampton

  
Charles Lookabaugh

  
Pauline Piso

  
Robert B. Reynolds

February 25, 1995

Lubec Charter Commission

## **PREAMBLE**

We, the citizens of Lubec, realizing our responsibilities inherent in the adoption of this charter, also recognize that strict moral ethics must be practiced by all people, particularly those in positions of authority. These moral obligations require honesty, integrity, and high ethical standards on the part of all elected and appointed officials.

Honest, responsible, dedicated leadership in all phases of our community is essential if Lubec is to continue to be a better place in which to live.

The Town of Lubec was incorporated on June 21, 1811. The purpose of this charter is to clarify the rights and responsibilities of the Town of Lubec; and to add others required by present needs and by changes in State statutes; and to assemble all this into readable, acceptable format.

This charter may be amended in the future, as cause or need requires.

## **ARTICLE 1**

### **POWERS OF THE TOWN OF LUBEC**

#### **Section 1.01 GENERAL GRANT AND EXERCISE OF POWERS**

The Town shall have all the powers possible for a municipality to have under the constitution and laws of Maine. The powers of the Town under this charter shall be construed liberally in favor of the Town, and no mention of particular powers in the charter shall be construed to be exclusive or as limiting in any way the general power stated in this article.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or of the United States or agencies thereof to the extent permitted by law.

## **ARTICLE II TOWN MEETINGS**

#### **Section 2.01 PURPOSE**

The purpose of Town Meetings is to provide that the voters may exercise their powers under the town meeting form of government and to provide for the election of municipal officers and other elected officials, appropriation of funds, approval of warrants, adoption of bylaws and ordinances, and any other business that may legally come before the meeting.

##### **a. Annual Town Meeting**

The Annual Town shall be held within 45 days after the end of the fiscal year to elect Selectmen, school committee, other municipal officials and (if practical) appropriate funds. Notice of the Annual Town Meeting shall be given as provided by the state statutes for town meetings. Registered voters attending and voting at the Annual Town Meeting shall be verified by the voter list.

## **b. Specil Town Meetings**

The Board of Selectmen may call Special Town Meetings whenever deemed necessary, or on petition of the voters. A special town meeting may also be called by a Notary Public in the county on the written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the town at the last gubernatorial election, but in case less than ten (10) voters. Notice of Special Town Meeting shall be conspicuous and in compliance with State Statute. Quorum for all Special Town Meetings shall be 25 registered voters.

### **Section 2.02 QUALIFICATION OF VOTERS**

Eligibility of voters shall be as determined by the statutes of the State of Maine.

### **Section 2.03 TOWN ELECTIONS**

Provisions of the laws of the State of Maine relating to the qualifications of voters, registration, the manner of voting, the duties of the elected officers and all other particulars respective to preparation for, conduct of and management of elections, so far as they may be applicable, shall govern all town elections, except as otherwise provided in this charter. Qualifications must be consistent with Maine Statutes Title 21A and Title 30A.

### **Section 2.04 PROCEDURE**

Town Meetings shall be initiated and conducted in the manner provided statute. On request of a registered voter and the consent of at least 10 additional registered voters of the Town, a vote by written ballot shall be granted on any proposition at any legal town meeting.

### **Section 2.05 WARRANT ARTICLES BY PETITION OF VOTERS**

Articles for the warrant of the Annual Town Meeting or a Special Town Meeting may be requested of the Board of Selectmen. If the Board of Selectmen decline, the article or articles shall be inserted in the warrant of the next annual or special meeting upon the written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the town at the last gubernatorial election, but in no case less than (10) voters.

**ARTICLE III  
SCHOOL BOARD OF DIRECTORS  
AND MUNICIPAL OFFICIALS**

**Section 3.01 SCHOOL BOARD OF DIRECTORS-DUTIES, COMPOSITION, TERMS, AND ELIGIBILITY**

The School Board of Directors shall be responsible for the management of the schools including education and the custody and care, including repairs and insurance on school buildings, of all school property in Lubec, and any other statutory duties. The Board shall consist of five members, elected to their positions by the registered voters of the Town of Lubec. The terms are for three years and staggered. Only qualified voters of the town who are at least 18 years of age shall be eligible to hold the office of School Board member and they shall maintain a place of principal residence in the town during their term of office.

**Section 3.02 BOARD OF SELECTMEN-COMPOSITION, TERMS, AND ELIGIBILITY**

The Board of Selectmen shall be composed of five members, each of whom shall be elected by the registered voters of the town and will serve three-year staggered terms. At each annual or special municipal election, Board members shall be elected to fill those positions that have expired and/or have become vacant. Only qualified voters of the town shall be eligible to hold the office of Selectman. Selectmen shall maintain a place of principal residence in the town during their term of office.

**Section 3.03 QUALIFICATIONS**

Elected municipal officials shall be qualified voters of the town during their term of office. Candidates for office shall be nominated by the filing of nomination papers with the Town Clerk signed by a number of qualified voters as determined by statute. Qualifications must be consistent with Maine Statutes Title 21A and Title 30A

**Section 3.04 COMPENSATION OF THE BOARD**

Changes in the annual compensation for the Selectmen shall be established from time to time by recommendation from the Budget Committee with such recommendations as part of the annual administration budget article to be approved by Annual Town Meeting. Members serving unexpired terms of a vacated seat shall be paid on a pro rata basis for time served. Individual board members shall receive reimbursement for expenses incurred in the performance of their duties as authorized by the Board of Selectmen. Compensation for the Selectmen shall be paid biannually, one-half on the final warrant of the calendar year and the remainder at the end of the Fiscal Year.

**Section 3.05 REGULAR AND SPECIAL MEETINGS**

**a. Limitations of Board Action**

The Board of Selectmen in a regular or special meeting shall act as a unit settling all questions by formal vote. Members must not individually direct any Town employees(s) or purchase or commit town funds for goods and/or services unless some duty has been delegated to a member or members by a majority vote of the full Board of Selectmen. A formal minority report may be issued by Board members in the minority, which shall be recorded in the minutes of the Board of Selectmen's meetings.

**b. Executive Sessions**

The Board of Selectmen may recess for the purpose of discussing in a closed or executive session any matter which is an allowable topic for executive sessions under the laws of Maine. No ordinances, orders, rules, resolutions, regulations, contracts, appointments, or other official actions shall be finally approved at executive sessions. Statutes for Executive Sessions are as of August 6, 2013 the following:

Personnel Matters	1 M.R.S.A. § 406 (6) (A)
Suspension or Expulsion of a public school student	1 M.R.S.A. § 406 (6) (B)
Acquisition of real property or economic development	1 M.R.S.A. § 406 (6) (C)
Labor Negotiations	1 M.R.S.A. § 406 (6) (D)
Consultation with legal counsel	1 M.R.S.A. § 406 (6) (E)
Discussion of confidential records	1 M.R.S.A. § 406 (6) (F)
Discussion of examination	1 M.R.S.A. § 406 (6) (G)
Consultation with code enforcement officer on Pending enforcement matter in district court	1 M.R.S.A. § 406 (6) (H)

**c. Voting**

All present Selectmen shall not abstain from a vote unless legally required to do so due to conflict of interest.



### **Section 3.06 GENERAL POWERS AND DUTIES OF THE SELECTMEN**

The Board of Selectmen shall have the following specified powers, in addition to those powers granted to the Board at a regular or Special Town Meeting and to those powers provided by law.

- a. Supervisory authority over the affairs of the Town of Lubec.
- b. The Selectmen shall make appointments to all boards and commissions, except when other wise specified by state law, and also fill vacancies caused by unexpired terms of appointed officials or elected officials who have left office. The Selectmen also have the right to establish boards or commissions as they deem necessary for town affairs. The Board of Selectmen have no authority to fund any board or commission.
- c. Selectmen shall serve as Overseers of the Poor and Assessors of the Town. The Board of Selectmen may appoint an Assessor's Agent, and/or an Overseer of the Poor Agent.
- d. The Board of Selectmen shall review and evaluate application for all Town positions to insure capable and qualified candidates.
- e. The Board of Selectmen shall make temporary and full-time appointments of employees. All such appointees will be under a six-month probationary period. The Board shall also have the authority to remove for cause, after notice and hearing, all such employees whom the Board is authorized to appoint.
- f. The Board of Selectmen shall maintain and update the Personnel Policy of the Town according to all Federal and State laws.

### **Section 3.07 PROHIBITIONS**

No Selectman, during his term of office, shall receive direct or indirect personal compensation for goods or services provided or for employment with the Town unless such compensation for goods or services or employment shall not exceed \$1,000.00 or is the result of competitive bidding, and the bid selected by the Town shall be approved by a majority vote of the Board of Selectmen (three Selectmen). Any Selectmen bidding shall not participate in discussion and/or voting on such bidding.

### **Section 3.08 VACANCY OR FORFEITURE OF ELECTED OFFICE**

#### **a. Vacancy**

The office of any elected municipal official/officer shall become vacant as follows: recall, non-acceptance, resignation, death, failure to qualify for the office within 10 days after election, forfeiture of office, failure to maintain a place of residency in Lubec, or failure of the municipality to elect a person to office.

#### **b. Forfeiture of Office**

A forfeiture of office shall be made by a majority vote of the full Board of Selectmen. An elected municipal official/officer shall immediately forfeit the office if he:

1. Lacks at any time during his time of office any qualification for the office prescribed by this Charter or by law;
2. Intentionally violates any expressed prohibition of this Charter;
3. Is convicted of a crime or offense which is reasonably related to his ability to serve as an elected municipal official/officer;
4. Fails to maintain a place of primary residency in the Town of Lubec.  
Residency is described as established fixed and primary home where an individual plans to return after a temporary absence.

#### **c. Process to File Vacancy**

If a seat on the Board of Selectmen becomes vacant more than 4 months prior to the next annual Town Meeting, the Board of Selectmen shall call a special election to fill the unexpired term. If such a vacancy occurs 4 months or less prior to the next annual Town Meeting, that seat shall be filled at the next annual Town Meeting and/or general election.

### **Section 3.09 INVESTIGATIONS**

Investigations shall be authorized by a majority vote of the full Board of Selectmen. The Board of Selectmen, or authorized committees, or commissions of its own members, or of citizens appointed by the Board, or any ad hoc citizens committees may make investigations into the business of the town and the conduct of any town department, office, or agency, subject to laws protecting confidentiality.

## ARTICLE IV

### TOWN ADMINISTRATOR

#### **Section 4.01 QUALIFICATIONS, APPOINTMENT, COMPENSATION**

The Town Administrator shall be chosen by the Board of Selectmen on the basis of his administrations and integrity of character for a specific term, as specified by contract, the first six months of which shall be probationary. The Board of Selectmen shall, by contract, fix the compensation, benefits, holidays, vacation, and other terms, and provide for the reimbursement of the actual and necessary expenses incurred in the performances of the Administrator's duties. The Administrator need not be a resident of the town at the time of appointment and may reside outside the town while in office, provided that the Board of Selectmen in office at the time of his appointment approves, by majority vote, said approval not to be rescinded during that Administrator's term of office. The Town Administrator may not serve as Moderator, Selectman, Assessor or member of the School Board of Directors, and except as provided in Section 4.02 below.

#### **Section 4.02 POWERS AND DUTIES OF THE TOWN ADMINISTRATOR**

The Town Administrator shall be responsible to the Selectmen for assistance in the administration of all departments of the Town over which the Selectmen under this act and general statutes have control. His powers and duties, where not otherwise herein provided, shall be as follows:

- a. The Town Administrator shall make recommendations to the Board of Selectmen for the hiring or part-time and full-time help.
- b. Maintain his office in the municipal building. All documents, books and records pertaining to town offices shall be maintained in the municipal building.
- c. Act as purchasing agent for all departments of the Town.
- d. Attend the meetings of the Selectmen, recommend for adoption such measures as he may deem expedient and may assign someone other than himself to record the minutes.
- e. Keep the Selectmen advised as to the business, operations, and needs of the town.

- f. Perform such other duties as may be prescribed by the Selectmen, or this charter.
- g. Assist the Selectmen in the administrative control of all departments created herein or that may be created hereafter either by general law or ordinance.
- h. Provide administrative support when requested to town boards and committees, to attend public hearings and meetings when appropriate.
- i. Make application for State, Federal and other aid grants for the benefit of the town as approved by the Board.
- j. In the absence of the Town Administrator (not to exceed two weeks), the Chairman of the Board will carry on with the duties of the Town Administrator. In the Chairman's absence, the Vice Chairman will assume these duties. For a long-term absence, the Board shall appoint an Interim Administrator or a Selectman at an equitable salary to be negotiated.

#### **Section 4.03 BONDS**

The Board of Selectmen shall require a bond by a reputable surety company, or other acceptable sureties satisfactory to the Board, from all persons trusted with the collections, custody or disbursement of any moneys of the Town. The Town, however, shall pay the costs of providing such bonds.

#### **Section 4.04 REMOVAL OF TOWN ADMINISTRATOR**

The removal of the Town Administrator shall be done in accordance with the employment contract between the Town Administrator and the Board of Selectmen.

#### **Section 4.05 NON-INTERFERENCE**

Selectmen, individually, or as a Board, shall not give orders to any subordinate of the Town Administrator either publicly or privately.

**ARTICLE V  
BUDGET**

**Section 5.01 FISCAL YEAR**

The Town's fiscal year shall begin July 1 and terminate the last day in June unless changed by the voters.

**Section 5.02 BUDGET COMMITTEE**

In addition to articles in the Town Warrant for the election of officials required in the Charter, there shall be an article for the election of a committee of citizens, as specified in Section 3.03, to be known as the Budget Committee. Three members from the public at large to be elected to staggered three-year terms. The Budget Committee shall make recommendations to the Town on proposed expenditures and aid the municipal officers in determining recommended expenditures. In addition, the Budget Committee shall make recommendations to the School Board of Directors on proposed expenditures and aid the School Board of Directors in determining recommended expenditures.

**Section 5.03 ANNUAL WARRANTS AND REPORTS**

Each Town Report and Annual Meeting Warrant shall contain the total budget expenditures for the two previous years, together with the recommendations for the ensuing fiscal year of the Budget Committee and the Board of Selectmen.

**ARTICLE VI**

**GENERAL AND ADMINISTRATIVE ORDINANCES**

**Section 6.01 ORDINANCES**

Ordinances shall be enacted by the legislative body (registered voters), acting through the Town Meeting, except those ordinances which the municipal officers can, by law, enact. Except for emergency ordinances, or those with dates specified by statute, ordinances shall become effective seven days after adoption unless other wise specified therein.

**a. Articles for the Warrant**

The Board of Selectmen on their own initiative may by majority vote place on warrant any article relating to the welfare of the municipality.

## **Section 6.02 EMERGENCY ORDINANCES**

Ordinance affecting life, health, property, or the public peace may be introduced or adopted in accordance with the procedures for regular ordinances except that publication and notice of public hearing requirements may be omitted, providing the enacting clause of the emergency ordinance sets forth a statement of the emergency. The emergency ordinance may be adopted by a vote of the legislative body with or without amendment at the meeting at which it is introduced. Emergency ordinances so enacted shall be automatically repealed after the time specified in the ordinance but no later than the next regular or special Town Meeting.

## **Section 6.03 AUTHENTICATION AND RECORDING OF ORDINANCES**

All ordinances and resolutions by the Board of Selectmen shall be authenticated by the signatures of the majority of the Board and recorded in full by the Town Clerk in a properly indexed book kept for that purpose. Such ordinances and resolutions shall be certified by the Town Clerk in accordance with law.

# **ARTICLE VII**

## **GENERAL PROVISIONS**

### **Section 7.01 RECALL**

- a. Any elected official including a member of the School Board of Directors, representing the Town of Lubec, may be recalled and removed there from by the qualified voters of the Town of Lubec as herein provided.
- b. A number of voters equal to at least ten percent (10%) of those voting in the last gubernatorial election may make and file with the Town Clerk a petition containing the name or names of the elected official or officials whose removal is sought, and a general statement of the reasons why such removal is desired. The Town Clerk shall thereupon prepare petition blanks for such removal with a copy of said petition and general statement printed thereon or attached thereto, which shall contain the signature of said Town Clerk, and the official seal, and which shall be dated, addressed to the Board of Selectmen, and contain the name or names of the person or persons whose removal is sought. The Town Clerk shall file said petition blanks and shall during office hours for the next 30 calendar days thereafter, keep the same open for signatures by qualified voters of the town and no such petition blanks shall be signed or presented for signatures at any place other than the Towns Clerk's office, and not until the person whose signature is being solicited is fully informed that the petition calls for the removal of a town official from public office shall such petition blank be signed. The recall petition to be effective must be signed by a number of registered voters of the Town equal to or exceeding twenty percent (20%) of the number of voters voting in the last gubernatorial election in the Town of Lubec. Every signature shall be followed by the place of residence of the signer, giving the street and number or other description to identify the place.

- c. At the expiration of said 30 calendar days, the Town Clerk shall declare the petition closed and shall within 5 calendar days ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto his certificate showing the result of such examination.
- d. If the petition shall be certified by the Town Clerk to be sufficient, he shall submit the same with his certificate to the Board of Selectmen at its meeting and shall notify the officer(s) or official(s) whose removal is sought of such action. The Board of Selectmen shall within five business days of the receipt of the Town Clerk's certificate order an election to be held not less than 30 nor more than 40 calendar days thereafter, provided that, if a regular municipal election is to occur within 60 days after the receipt of said certificate, the Board of Selectmen may, in its discretion, provide for the holding of the recall election on the date of such other municipal election. The vote on the article of recall shall be submitted to the voters as a referendum, and the provisions of this Charter concerning the conduct of elections and a vote on referendum shall apply, except as those provisions are expressly modified by this section of the Charter concerning Recall.
- e. If a majority of the ballots cast concerning the article of recall approves the recall of an elected municipal official or officials, then such recall shall become effective on the day after the date of the vote; provided that the total number of votes cast for and against the article of recall equals or exceeds fifty percent (50%) of the total votes cast in the municipality in the last gubernatorial election. In that event, the candidate to succeed him for the balance of the unexpired term shall be determined at a second election following the procedure for an annual municipal election.
- f. Should the Board of Selectmen fail or refuse to order an elections as herein provided, such election may be called by a Notary Public in the county on written petition of a number of voters equal to ten percent (10%) of the number of votes cast in the town at the last gubernatorial election, but in no case less than ten.
- g. In the event of a recall petition being brought against the Town Clerk, a Notary Public in Washington County will assume the duties of the Town Clerk pertaining only to the recall procedure against the Town Clerk.

**Section 7.02 SEPERABILITY**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If an application of the Charter of any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

**Section 7.03 GENDER NEUTRAL**

Whenever required by the context in this Charter, the use of the masculine shall include the feminine, the feminine shall include the masculine, and the use of the singular and the plural shall be interchangeable.

**Section 7.04 CHARTER AMENDMENTS**

This Charter may be amended in accordance with procedure set forth in State Law.