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## **ARTICLE I POWERS OF THE TOWN**

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

#### **A. Powers of the Town**

The Town shall have all the powers possible for a municipality to have under the constitution and laws of Maine and the United States.

#### **B. Construction**

The powers of the town under this charter shall be construed liberally in favor of the Town, and no mention of particular powers in this charter shall be construed to be exclusive or as limiting in any way the general power stated in this article.

#### **C. Intergovernmental Relations**

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 anyone or more states or civil divisions or agencies thereof, or the United States or agencies thereof to the extend permitted by law.

### **SECTION 1.02 SEPARABILITY**

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

If any provision of this Charter is held invalid by reason of any conflict with State or Federal law such law shall automatically become incorporated in this Charter in place of the invalid Charter provision.

## **ARTICLE II BOARD OF SELECTMEN**

### **SECTION 2.01 COMPOSITION, TERMS AND ELIGIBILITY**

- A. Composition, Terms. The Board of Selectmen shall be composed of five members, each of whom shall be elected by the registered voters of the entire town and will serve three year staggered terms.
- B. Election. At each regular municipal election, Board members shall be elected to fill those positions that have become vacant.
- C. Eligibility. Only qualified voters of the Town shall be eligible to hold the office of Selectman (Title 30A MRSA section 2060-3). Selectmen shall maintain a place of principal residence in the Town during their term of office.

### **SECTION 2.02 COMPENSATION OF THE BOARD OF SELECTMEN**

- A. Compensation. The annual compensation for each Selectmen's services shall be established at the annual town meeting. Members serving unexpired terms shall be paid on a prorated basis for time served.
- B. Expenses. Selectmen shall receive their actual and authorized expenses incurred in the performance of their duties of office.

### **SECTION 2.03 MEETING PROCEDURES**

- A. Initial Meeting. After their election in June, the members of the newly constituted Board of Selectmen shall meet at the next regularly scheduled meeting after their election, and shall organize to the extent possible as follows:
  - 1. To be sworn to the faithful discharge of their duties by any person authorized by State law to administer oaths.
  - 2. Elect a Board Chairman, 1st Vice-Chairman and 2nd Vice Chairman.
  - 3. Appoint a secretary to record minutes (preferably not a participating Selectmen).
  - 4. Confirm and appoint town officials as necessary.
  - 5. Establish the time and place for regular Board of Selectmen's meetings, and give appropriate notice thereof to the public.

B. Regular and Special Meetings

1. The Board of Selectmen shall, at its first meeting or as soon as possible thereafter, establish by resolution a regular place and time for holding its meeting and shall meet regularly at least twice monthly. The Board of Selectmen shall also provide a method for calling a special meeting. In the event of an emergency meeting; notice shall be made in accordance with Title 1 MRSA Section 406 of the general laws of the State of Maine, and notice shall be posted for such emergency meetings in two conspicuous places whenever practical.
2. All meetings of the Board of Selectmen shall be open to the public. However, the Board may recess for an executive session for any reason permitted under Title 1, MRSA, Section 405.
3. The Chairman, Vice Chairman, or 2nd Vice Chairman in absence of the chairman, shall preside at the meetings of the Board of Selectmen and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for purposes of military law. The chairman shall exercise the right to vote in town affairs as a regular member of the Board of Selectmen. The chairman or vice chairman is also responsible for calling special meetings of the Board of Selectmen when such meetings are warranted. The Vice-Chairman shall act in this capacity in the absence or disability of the chairman.
4. Rules and Journal. The Board of Selectmen shall determine its own rules and order of business and shall provide for keeping a journal of its procedures, including the minutes. The journal shall be a public record.
5. Voting. The votes of each member shall be recorded in the journal, if other than by unanimous vote. Three members of the Board of Selectmen shall constitute a quorum. No action of the Board of Selectmen shall be binding or valid unless adopted by affirmative vote of three Board members.

**SECTION 2.04 GENERAL POWERS AND DUTIES OF THE BOARD OF SELECTMEN**

- A. The Board of Selectmen shall provide for the performance of all duties and obligations imposed on the Town by law.
- B. The Board of Selectmen shall have the following enumerated powers in addition to those powers granted to the Board of Selectmen at a regular or special Town Meeting.
  1. Supervisory authority over the affairs of the Town.

2. The Board of Selectmen shall have the authority to appoint, or to remove for cause, after notice and hearing, the Town Manager, pursuant to the provisions of Section 3.04.
3. The Board of Selectmen shall confirm, by majority vote, the Town Manager's appointments of department heads.
4. The Board of Selectmen shall make appointments to all boards and commissions, and committees. The Board of Selectmen shall also have the right to initiate boards, commissions or committees as they deem necessary for town affairs.
5. The Board of Selectmen shall serve as Overseers of the Poor, and Assessors of the Town. The Board of Selectmen may delegate the duties of overseer of the poor and/or assessor(s) but will retain ultimate authority.
6. The Board of Selectmen shall act as a unit, settling all questions by formal vote in an authorized meeting. The Board of Selectmen may only act with the affirmative vote of a majority of the Board of Selectmen. A tie vote constitutes a negative vote.
7. The Board of Selectmen shall act as a personnel board, when necessary, to resolve personnel problems that cannot be resolved by the Town Manager, and keep complete minutes of personnel proceedings.
8. The Board of Selectmen shall have the authority to remove for cause, after notice and hearing, all officials and employees whom the Board is authorized to appoint and to whom the Board confirms appointment.

## **SECTION 2.05 PROHIBITIONS**

- A. Employment of Selectmen by the Town. No selectman including a firm in which he/she exercises control during his term of office shall receive direct or indirect compensation for employment with the Town unless such employment is the result of a competitive bid proposal approved by the majority of the Board of Selectmen excluding the Selectmen whose business would receive such compensation. In addition the requirements of Title 30A Section 2605 must be met.
- B. Limitations of Board Action. Members must not act individually unless some duty has been delegated to a member or members by a majority vote of Selectmen. A formal minority report may be issued by a Board member in the minority, which shall be recorded in the minutes of the Board of Selectmen's meetings.

- C. Interference with Administration. Except for the purpose of inquiries and investigations under Section 2.08, the Board or its members shall deal with Town officials and employees who are subject to the direction and supervision of the Town Manager solely through the Manager, and neither the Board nor its members shall give orders to any such officer or employee, whether publicly or privately.

## **SECTION 2.06 VACANCY OR FORFEITURE OF OFFICE**

- A. Vacancies. The office of any municipal official shall become vacant upon non-acceptance, acceptance of resignation, death, permanent disability, permanent incompetency, failure to qualify for office within 10 days after written demand by the Board of Selectmen, forfeiture of the office or failure of the municipality to elect a person to the office.
- B. Forfeiture of Office. A municipal official shall be removed by majority vote of the Board Selectmen after a hearing at a regular scheduled meeting for any of the following:
  - 1. Individual lacks qualification for office as prescribed by this Charter.
  - 2. Individual intentionally violates any expressed prohibition of this Charter
  - 3. Individual is convicted of a crime or offense, which is reasonably related to his/her ability to serve as a municipal official/officer.
  - 4. Individual has three (3) unexcused absences per year.
- C. Record of Attendance. A record of attendance and tardiness of members of the Board of Selectmen shall be published in the annual town report. This record shall include the total number of meetings held during the term of each member.
- D. Filling of Vacancies. If a seat in the Board of Selectmen becomes vacant more than four months prior to the next regular election, the Board of Selectmen shall call a special election to fill the unexpired term.

## **SECTION 2.07 INVESTIGATIONS**

The Board of selectmen, or authorized review Board, may make investigations into the affairs of the Town and the conduct of any town department, office, agency or official.

## **SECTION 2.08 GENERAL AND ADMINISTRATIVE ORDINANCES**

- A. Ordinances. The authority for the enactment of all ordinances authorized to be enacted by the municipality other than those which state law authorizes the municipal officers to enact shall be held in the legislative body. The legislative

body for the Town shall be the town meeting. Ordinances shall become effective upon adoption unless otherwise specified therein.

B. Articles for the Warrant. The Board of Selectmen may place on the warrant any article by majority vote of the Board of Selectmen.

C. Petitions for Articles in the Warrant. Any qualified voter may request the Board of Selectmen to place an article in the warrant and shall present in written form the substance of the article. If the request is denied by the Board of Selectmen, on the written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election, but in no case less than ten valid signatures, the municipal officers shall insert the particular article in the next warrant issued or shall within sixty days call a special Town Meeting for its consideration. (Title 30-A Sec 2522)

## **SECTION 2.09 EMERGENCY ORDINANCES**

Emergency ordinances 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 not later than the next regular or special Town Meeting.

## **SECTION 2.10 AUTHENTICATION AND RECORDING OF ORDINANCES**

All ordinances and resolutions adopted by the Board shall be authenticated by the vote of the Board of Selectmen and shall bear the seal of the Town Clerk and shall be recorded in properly indexed book kept for such purpose.

## **ARTICLE III - TOWN MANAGER**

### **SECTION 3.01 APPOINTMENT, QUALIFICATION, AND COMPENSATION**

- A. The Board of Selectmen shall appoint a Town Manager for a specific term, as specified by contract, the first six months of which shall be probationary. The Selectmen shall, by contract fix the compensation, benefits, holidays, vacation, etc., under the terms and conditions deemed advisable. and provide for the reimbursement of the actual and necessary expenses incurred in the performance of the Manager's duties.
- B. The Town Manager shall be appointed by the majority of the Board of Selectmen.
- C. The Town Manager shall be employed on a basis of the individual's administrative qualifications, technical knowledge of municipal administration and integrity of character.
- D. The individual need not be a resident of the Town at the time of appointment, and may reside outside the Town while in office, provided the Board of Selectmen in office at the time of initial appointment approve by majority vote. This approval shall not be rescinded during the term of office.
- E. The Town Manager shall be sworn in as soon as possible after being appointed.
- F. The Town Manager may not serve as Moderator, Selectman, Assessor or member of the School Committee.
- G. The Town Manager may serve, only in advisory capacity, as assigned by the Board of Selectmen, with no voting rights, on any Town committee.

### **SECTION 3.02 POWERS AND DUTIES OF TOWN MANAGER**

The Town Manager's powers and duties, where not otherwise herein or contractually provided, shall be as follows:

- A. The possible appointment to and responsibility for the offices of Town Clerk, Tax Collector and Treasurer, at the discretion of the Board of Selectmen. Other appointments may be assigned by the Board of Selectmen, if not otherwise prohibited by law.
- B. Maintain an office in the municipal building. All documents, books, and records pertaining to Town business shall be maintained at the town office.
- C. Purchasing Agent. Shall act as purchasing agent for all municipal departments for budgeted purchases. Town Manager shall submit to the Board of Selectmen for approval any budgeted transactions over \$5,000.00. All non-budgeted items must be submitted to the Board of Selectmen for approval.

- D.** Attendance. Shall attend regular meetings of the Board of Selectmen and recommend for adoption such measures deemed expedient. Shall attend all Town meetings and hearings
- E.** Keep the Board of Selectmen advised as to the business, financial condition, operations, and needs of the town. Make recommendations for the most efficient operations of the Town.
- F.** Assists in the enforcement of laws and ordinances.
- G.** Performs such other duties as may be prescribed by the Board of Selectmen, this act or contract.
- H.** With the approval of the Board of Selectmen, serve as liaison/resource person for all Town departments, boards, commission and committees.
- I.** Acts as General Assistance Administrator and addressing officer.
- J.** Prepares Federal and State grant requests and administers grant programs.
- K.** Appoints with the Board of Selectmen approval all Department Heads and supervises their performance on a day-to-day basis.
- L.** As the personnel officer of the Town, is directly involved in the hiring, evaluating, promoting and disciplining of employees and/or establishes procedures for others to follow in such matters.
- M.** Coordinates department activities and sets attainable goals with all municipal departments.

### **SECTION 3.03 ACTING TEMPORARY TOWN MANAGER**

During an extended absence or disability of the Town Manager, the Selectmen may approve by majority an acting Town Manager. The Selectmen will at that time determine the compensation and hours of employment.

### **SECTION 3.04 REMOVAL**

The Town Manager may only be removed for cause upon written notice and an opportunity for a hearing before the Board of Selectmen. The procedure for removal shall be as follows:

- A.** At least fifteen days before the proposed date for removal of the Town Manager, a majority of the Board of Selectmen shall adopt a resolution stating their intention to remove the Town Manager and the reasons thereof.
- B.** A copy of the resolution shall be served forthwith upon the Town Manager by a person designated by the Board of Selectmen.
- C.** The Town Manager may within seven (7) days of the receipt of the resolution, request a hearing in writing to the Selectmen specifying whether such hearing shall be held public or in executive session, in which event the Town Manager shall not be removed until such hearing before the Board shall be held.

D. The hearing shall be held within seven (7) days of the request. A majority vote of the Board of Selectmen shall be required for removal.

Upon or after passage of any resolutions and pending a removal vote, the Board of Selectmen may suspend the Town Manager from official duties but shall continue to pay the salary and benefits of the Town Manager until removal is so voted.

In the case of suspension or removal, the Board of Selectmen may appoint an appropriate person to act as the Town Manager to serve until the appointment of a successor. The actions of the Board of Selectmen in removing the Town Manager shall be final, subject to appeal to a Court of competent jurisdiction as provided by law. A violation of any term of the Town Manager's contract by the Town Manager shall be cause for removal.

## **ARTICLE IV ADMINISTRATIVE ORGANIZATION**

### **SECTION 4.01 TITLES AND APPOINTMENTS**

- A. The Board of Selectmen, shall, by majority vote, appoint all boards, committees and commissions and officials not elected and confirm the appointment of those officials appointed by the Town Manager. Such appointments shall be made within thirty (30) days (to the extent practical) of the Annual Town Meeting or when a special need arises.
- B. The Board of Selectmen may, where appropriate and where not prohibited by law, vest in the Town Manager all or part of the duties of any office.
- C. The Board of Selectmen shall have the authority to remove for cause, after notice and hearing, all officials and employees whom the Board is authorized to appoint and to whom the Board confirms appointment.

### **SECTION 4.02 APPOINTED POSITIONS**

- A. The following positions shall be appointed:
  - 1. Code Enforcement Officer – term of one year
  - 2. Fence Viewer – term of one year
  - 3. Harbor Master – term of one year
  - 4. Plumbing Inspector – term of one year
  - 5. Registrar of Voters – term of two years
  - 6. Road Commissioner - term of one year
  - 7. Health Officer – term of one year
  - 8. Municipal Town\_Clerk – term of one year
  - 9. Tax Collector – term of one year
  - 10. Treasurer - term of one year
  - 11. Animal Control Officer – term of one year
  - 12. General Assistance Administrator – term of one year
  - 13. Civil Emergency Preparedness Director – term of one year
  - 14. Sealer of Weights and Measures – term of one year
  - 15. Election (Ballot) Clerks – term of two years
  - 16. Other positions as may be required.

### **SECTION 4.03 DEPARTMENTS**

- A. Fire Department
  - 1. Fire prevention and fire fighting for the Town shall be provided by the Massasoit Engine Company or its successor (Damariscotta's volunteer fire department).

2. The Fire Chief, Deputy Chief, Assistant Chiefs and other officers shall be selected by the fire department members and ratified by the Selectmen's appointment of the department's elected Chief.
3. The Fire Department shall determine their annual budget and present it for review by the Board of Selectmen, and Budget committee, and for inclusion in the Annual Town Meeting Warrant through the approved budget process.
4. The Board of Selectmen shall have the authority to remove for cause, after notice and hearing, the Fire Chief or the Deputy Fire Chief.
5. Each year, the Fire Chief shall submit a Fire Department report to the Administrator (or Town Manager) to be included in the Annual Town Report.

B. Police Department

1. Police protection and public safety for the Town shall be provided by a Police Department having a full-time Police Chief and police personnel as needed. This Department shall have the responsibility for enforcement of state and local laws within the community in cooperation with County, State, and Federal areas of jurisdiction.
2. The Board of Selectmen shall, by majority vote, confirm the appointment by the Town Manager of a Police Chief for a term of three years and police personnel for one-year terms.

The Department Chief shall serve subject to an employment contract, coinciding with the fiscal year of the Town, which shall clarify the Department chief's duties and responsibilities. A violation of any term of this employment contract by the Department Chief shall be cause for dismissal.

3. The Department shall have a departmental policy manual which shall clarify all departmental policies. The Police Department policy manual is the responsibility of the Department Chief and shall be presented to the Board of Selectmen for review and approval by the first anniversary date of the Department Chief's contract.
4. The Police Department shall submit a department budget request to the Board of Selectmen through the approved budget process.
5. Each year, the Police Chief shall submit a Police Department report to the Town Manager for inclusion in the Annual Town Report.

C. Public Works

1. Maintenance of Town roads, ditches, culverts and other Town property shall be provided by a Highway Department as well as other requirements determined by the Town, Board of Selectmen and Town Manager.
2. The Board of Selectmen shall, by majority vote, confirm the appointment by the Town Manager of a Road Commissioner for a term of one year.
3. The Road Commissioner shall submit a department budget request to the Board of Selectmen through the approved budget process.
4. Each year, the Road Commissioner shall submit a Highway Department report to the Town Manager for inclusion in the Annual Town Report

**SECTION 4.04 BOARDS, COMMITTEES AND COMMISSIONS**

A. Duties and Responsibilities

1. Regular members and alternates should attend as many meetings as possible.
2. All Boards, Committees and Commissions shall work with other departments, committees and municipal officials.
3. All meetings shall be held in a public handicap accessible place, publicly announced or posted and open to the public. Meetings may be televised if possible.
4. Draft minutes of each board, committee or commission shall be submitted to the Town Office as soon as possible for distribution to the Board of Selectmen and to be kept as a permanent record.
5. Members shall meet publicly to discuss and fulfill the committee's charge.
6. Work with the Comprehensive Plan as a guideline, being mindful that the Plan will continue to be revised and updated to project Damariscotta's future.
7. Voting members shall elect annually a Chair and Vice-Chair, at a minimum. An alternate may participate in discussions but may vote only in the absence of a regular member.
8. The chairman of each committee shall submit a written report of activities to the Town Manager to be included in the Annual Town Report.
9. The chairman of each committee shall submit an annual budget to the Board of Selectmen through the approved budget process, as necessary.

10. A board or committee member shall excuse himself from debate and voting if there is a conflict of interest or appearance of one and/or feels he is unable to make a fair, unbiased decision.
11. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority of the members except the member who is being challenged.

B. Standing, or Regular Boards, Committees and Commissions

1. Planning Board - The Planning Board shall, among other duties, review the comprehensive plan biennially to assure that the comprehensive plan meets current needs and requirements of the community, review subdivisions and site plan review applications, prepare amendments to the Land Use Ordinance and other ordinances, and all other state or Town sanctioned functions.

The Planning Board shall consist of five (5) voting members with staggered three (3) year terms. A first (1st) and second (2nd) alternate member shall be appointed for one-year terms.

2. Board of Appeals - The Board of Appeals shall have the power and authority set forth in Title 30, MRSA and, in addition, any other powers or authority set forth in any zoning ordinance or other ordinances adopted by the legislative body of the Town.

The Board of Appeals shall consist of five (5) voting members with staggered three (3) year terms. Two (2) alternate members may be appointed

3. Ad Hoc or temporary committees as needed shall be formed as advisable.
4. Compensation and annual budgets shall be determined through the approved budgetary process.

C. Elected Boards, Commissions and Committees

1. The elected positions and compensation shall be determined at the Annual Town Meeting.
2. Vacancies occurring during a regular term may be filled by appointment until the next Annual Town Meeting at the discretion of the Board of Selectmen.
3. Vacancies on the School Committee shall be filled as required by state law (20A M.R.S.A., § 2, 1651 & 1653).
4. Elected positions are as follows:
  - a. Three (3) Cemetery Trustees will be elected from the floor pursuant to town meeting article. Cemetery Trustees shall serve

staggered three-year terms. Cemetery Trustees shall have responsibility for the operation, care and maintenance of the municipal cemeteries and establishment of lot pricing schedules.

- b. There shall be a School Committee consisting of three (3) members, elected at the annual town meeting, serving staggered three-year terms. Membership on the Great Salt Bay Community School District Board of Trustees, Great Salt Bay Community School District School Committee and Union 74 School Committee is coterminous with the member's term of office on the School Committee of the Town. The School Committee shall elect a Chairman and Treasurer. The education of eligible town students is under the direction of the School Committee. The School Committee shall be guided by and adhere to all Federal and State Education laws as well as the Great Salt Bay Community School District Bylaws.

Primary education (K-8) is provided by Great Salt Bay Community School District established in 1974. Member towns to the CSD are Damariscotta, Newcastle and Bremen. The GSB CSD School Committee oversees the administration, curriculum and finances of the GSB Community School. An annual Budget is prepared by the administration and then reviewed by the School Committee in detail at public meetings. A joint meeting is held with the town officials for the purpose of reviewing the annual budget as required by the GSB, CSD Bylaws. This budget is then presented for voter approval at the Annual CSD meeting no later than June 30.

There being no public secondary school in Damariscotta, secondary education (9-12) is achieved through tuition education. The School Committee prepares a budget based on the allowable tuition rate established by State law. Additional costs are the responsibility of the attending student/family. This budget is then presented for voter approval at the Special Town meeting no later than June 30th. The tuition institutions develop their own curricula and budgets. The School Committee can only provide recommendations to those institutions.

Primary and Secondary Education (K-12) is part of School Union 74, which provides a Superintendent and administrative support services for the member towns of Damariscotta, Newcastle, Bremen, Nobleboro, Bristol, and South Bristol.

- c. There shall be a Town Budget Committee consisting of nine (9) members and two (2) alternate members nominated by the Board of Selectmen and elected at the Annual Town Meeting. Budget Committee members shall serve three-year staggered terms.

The Budget Committee shall make recommendations to the town on proposed expenditures. The Budget Committee members shall elect a Chairman, Vice Chairman, and a Secretary. The Budget Committee Chairman shall have the responsibility of chairing all Budget Committee meetings.

#### **SECTION 4.05 –MUNICIPAL POLICY**

- A. The Town of Damariscotta is an equal opportunity employer and as such will pursue in good faith affirmative action programs.
- B. It shall be the policy of the Town of Damariscotta to appoint, assign, and promote personnel on the basis of merit and fitness without regard to race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, physical handicap, or military status unless related to bona fide occupational qualifications.
- C. The Town of Damariscotta shall prepare an affirmative action and accessibility plan for the Town in accordance with criteria established by state and federal law.
- D. All appointments and promotions of Town officials and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.
- E. All jobs shall be posted in the Town office and advertised in local newspaper publications.

#### **SECTION 4.06 PERSONNEL BOARD**

- A. The Board of Selectmen of the Town of Damariscotta shall act as a personnel board, when necessary, to resolve personnel problems occurring in the Town Administration, and keep complete minutes of personnel proceedings. All personnel records shall remain confidential in compliance with State and Federal laws and regulations.

## **ARTICLE V FINANCIAL PROCEDURES**

### **SECTION 5.01 FISCAL YEAR**

The fiscal year of the Town of Damariscotta shall begin on the first day of July and end on the last day of June.

### **SECTION 5.02 BUDGET**

The Budget shall provide a complete financial plan of all Town activities for the upcoming fiscal year, and, except as required by this Charter, shall be in such form as the Town Manager deems desirable or the Board of Selectmen may require. In organizing the budget the shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activities and object. It shall show in detail all estimated income, and all proposed expenditures, including debt service; and shall be arranged as the Town Manager deems appropriate It shall indicate in separate sections:

- A. Proposed expenditures for operations during the ensuing fiscal year, detailed by office, departments and agencies in terms of their respective work programs,
- B. Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practical

### **SECTION 5.03 SUBMISSION OF THE TOWN BUDGET AND BUDGET MESSAGE**

The Town Manager's message shall explain the budget in fiscal terms, describe the important features of the budget, indicate any major changes together with the reasons for such changes and summarize the Town's debt positions and include other material as the Board of Selectmen deems desirable.

- A. Town Manager's budget draft and accompanying message, shall be presented to the Board of Selectmen allowing adequate time for review by the Board of Selectmen before the Annual Town Meeting
- B. The Budget draft with the Board of Selectmen's recommendations noted shall be presented to the Town Budget committee allowing adequate time for review by the Budget Committee before the Annual Town Meeting.
- C. The final draft, noting any remaining variances among requests, Board of Selectmen recommendations and/or Budget Committee recommendations shall be finalized for publication in the annual town report.

## **SECTION 5.04 BOARD OF SELECTMEN ACTION ON THE TOWN BUDGET**

The following schedule shall be adhered to:

The budget prepared by the Town Manager shall be reviewed by the Board of Selectmen which shall approve such proposed budget, with or without amendment. After review by the Board of Selectmen, the Town Manager and Board of Selectmen shall submit a budget to the Budget Committee for review.

## **SECTION 5.05 VOTER AUTHORITY**

As specified in the Maine Moderator's Manual, the qualified voters of the Town shall have powers under this article to require consideration or reconsideration of any budget items prior to adjournment of the meeting.

## **SECTION 5.06 PUBLIC RECORDS**

- A. Copies of the budget and the capital program as adopted by the Board of Selectmen and Budget Committee shall be public record and shall be made available to the public.
- B. The Town Warrant shall contain the Board of Selectmen's and Budget Committee's recommendation for the ensuing fiscal year under each article requiring an appropriation.
- C. Required Town Report Items
  - Required by state Statute:
    - Delinquent Taxpayer
    - Financial Transactions (audit)
    - State of Assets and Liabilities (audit)
  - Required by Charter:
    - Selectmen Record of Attendance (Sect.2.07c)
    - Fire Department Report (Sect.4.02j)
    - Planning Board Report (Sect.4.02k)
    - Board of Appeals Report (Sect.4.021)
    - Parking Committee Report (Sect.4.02m)
    - Cemetery Trustees Report (Sect. 4.04b)
    - Police Department Report (Sect.4.02n)
    - Budget Committee Recommendations (Sect.5.03c)
    - Budget Report (Sect.5.03)
    - List of all town positions and reports by all town departments

## **SECTION 5.07 PREPARATION OF WARRANTS**

The procedures for preparing warrants and writing corresponding checks for payment of Town Expenses will be determined by the Board of Selectmen. No checks shall be issued until the warrants are approved by the Board of Selectmen.

## **SECTION 5.08 TOWN CLERK'S MUNICIPAL AGENT'S FEES**

Any and all fees normally accruing to the Town Clerk/Municipal Agent shall accrue directly to the Town of Damariscotta.

## **SECTION 5.09 TAX ANTICIPATION BORROWING GUIDELINES**

The Board of Selectmen of the Town of Damariscotta shall have the authority to borrow money in anticipation of taxes. In that event, the following guidelines shall be followed:

- A. Invitations to bid shall be extended to three or more banks at the same time;
- B. Invitations to bid shall be dated and delivered to the invited banks at least (10) complete banking days prior to the bid opening and awarding of the bid;
- C. Invitation to bid shall specify the maximum amount to be borrowed;
- D. The method of borrowing shall be clearly defined; i.e., as needed or lump sum;
- E. Invitation to bid shall specify planned maturity dates of said notes, and may require the option to prepay;
- F. Invitation to bid shall show estimated planned borrowing and repayment schedule. (Does not apply if borrowing is on a lump-sum basis.);
- G. Invitation to bid shall state date, time and place bids are due, and shall indicate date, time, and place bids will be opened and awarded;
- H. Invitation to bid shall state the Town's right to accept "or reject any or all bids, provided it is in the Town's best interest to do so;
- I. Bidder shall be asked to submit interest rates in multiples of one-hundredth (1/100) of one percent (1%);
- J. The Town must specify the method in which interest shall be calculated; i.e., actual number of days outstanding over a 360-day period.

## **SECTION 5.10 BID PROCEDURE**

In those cases where the scope of work or services to be performed for the Town shall require an expenditure of 5,000.00 or more, the following guidelines shall be followed:

- A. A clear statement defining the required scope of services or specifications of work to be performed shall be provided to the potential bidders along with notice as to where the bid forms may be obtained.
- B. The manner in which the bids are to be submitted, when they shall be due in the town office, and when the bids are to be opened shall be clearly stated.
- C. Requests for bids shall may be advertised in the local newspaper(s) for a minimum of two (2) weeks. Such advertisements shall include the statement that "the Board of Selectmen reserve the right to accept or reject any or all bids."
- D. Any or all of the bid procedures may be waived by the Board of Selectmen , should they determine that it is in the best interest of the Town to do so.

## **SECTION 5.11 BUDGET AMENDMENTS AFTER ADOPTION**

- A. Modification of Appropriations: If at any time during the fiscal year it appears probable to the Town Manager that the revenue available will be insufficient to meet the amount appropriated, it shall be reported to the Board of Selectmen without delay, indicating the estimated amount of deficit, and make recommendations as to any steps to be taken. The Board of Selectmen shall then take such action as it deems necessary to prevent or minimize any deficit.
- B. Transfer of Appropriations: The Board of Selectmen may call a Special Town Meeting to consider and vote on the transfer of part or all of any unencumbered appropriations balance from one appropriation to another.

## **SECTION 5.12 LAPSE AND CARRY FORWARD OF APPROPRIATIONS**

General fund appropriations, except Federal Revenue Sharing funds or an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that they have not been expended or encumbered, or except as prohibited by law or prior agreement. Such unexpended or unencumbered funds shall be transferred to a surplus account. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The Board of Selectmen, may, on advice of the Town Manager, by a majority vote, carry forward unexpended general fund appropriations as deemed appropriate to the same department for the next fiscal year.

### **SECTION 5.13 ANNUAL POST-AUDIT**

The Board of Selectmen shall each year obtain the services of the Maine State Department of Audit or a qualified Certified Public Accountant for the purpose of conducting the annual post-audit of the prior fiscal year municipal finances, as authorized by law.

## ARTICLE VI TOWN MEETINGS AND ELECTIONS

### SECTION 6.01 ANNUAL TOWN MEETING

The Annual Town Meeting shall be held during the month of June of each year for municipal elections of municipal officers and other municipal officials. At such time a Moderator shall be nominated and elected by written ballot at the beginning of the Annual Town Meeting, and the Moderator shall continue to preside at the floor vote of the Annual Town Meeting. Questions to be acted upon by referendum (secret ballot) and the election of municipal officers and municipal officials shall be voted on a day in June preceding the day of the floor vote for the Annual Town Meeting and shall occur no more than seven days prior to the floor vote. As a legislative body of the Town, the Town Meeting shall have general authority for the enactment of ordinances and other legislation by the Town.

### SECTION 6.02 ELECTION OF OFFICERS

The established current procedure for election of officials shall be followed until or unless changed by a Town Meeting. Current procedure is ~~as~~ in concurrence with Federal and state election laws.

- A** The nomination for any elected office shall be made by nomination papers signed by not less than 25 nor more than 100 persons. Nomination papers shall be made available by the Town Clerk to prospective candidates during the 40 days prior to the final date of filing, before issuance, the Town Clerk shall complete each sheet by filling in the name of the candidate, and the title and term of the office which is being sought. MRSA 30-A 2528(4)(A)1c
- B** Each voter who signs a nomination paper shall add his/her place of residence including the street and house number.
- C.** Notwithstanding the provisions of this subsection, when the Board of Selectmen determine to fill a vacancy which must be filled by election, they may designate a shorter time period for the availability of nomination papers but not less than ten (10) days prior to the final date for filing. They may designate a shorter time period for the final date for filing nomination papers but not less than fourteen (14) days prior to the day of election. Notice of this designation shall be posted and local representatives of the media shall be notified of the designation.
- D.** The names of candidates nominated, and the office for which they are nominated, shall be attested to by the Clerk, and posted at least seven (7) days prior to the Town Meeting.
- E** Voting for elected municipal officials will take place at a Town Meeting.
- F** Order of Candidates' Surnames: Where two or more candidates have been nominated for any office, the names of such candidates shall appear on the ballot in alphabetical order.
- G.** Determination of Election Results:

1. Number of Votes: Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled.
2. Plurality: Election shall be determined by plurality vote. In case of a tie, a run-off election of those who tied shall be held within ten (10) days on one notice thereof in a newspaper of general circulation in the Town.

**H. Ballots for Ordinances:** An ordinance to be voted on by secret ballot shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but shall be a clear, concise statement describing the substance of the measure without argument or prejudice.

**I. Voting Machines:** The Board of Selectmen may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with Federal and State law.

### **SECTION 6.03 SPECIAL TOWN MEETINGS**

Special Town Meetings shall be called as necessary in accordance with Maine law.

**A. Town Meetings** may be called by order of the Board of Selectmen or by citizen's petition, in accordance with the provisions of Title 30-A MRSA Section 2521, 2522, 2523 and 2524. At such time a Moderator shall be nominated and elected by written ballot.

**B. Record of Town Meeting:**  
The Selectmen shall provide for keeping minutes of all Town meetings. The minutes shall be a public record.

## **ARTICLE VII GENERAL PROVISIONS**

### **SECTION 7.01 INITIATIVE AND REFERENDUM**

- A. Definition - Initiative guarantees the right by which citizens can propose a law by petition and ensure its submission to the electorate. Referendum is the actual submission of a proposed public measure or statute to a direct popular vote.
- B. Procedure - The details of procedure by which both of these rights are fulfilled are described in State law

Nothing in this charter shall be construed to diminish the rights granted by that law.

### **SECTION 7.02 CHARTER AMENDMENTS**

Amendments to the Charter, which may be appropriate due to changed circumstances, may be initiated either by the Board of Selectmen or by the voters of the Town. Procedures are outlined in State law (30A MRSA Sec.2104) and shall be followed.

### **SECTION 7.03 ELECTED OR APPOINTED OFFICERS: TERMS**

The term of any elected or appointed officer shall begin not later than five (5) business days following the final determination of the election or appointment of said officer. The term of School Committee members shall begin on the first day of the next school fiscal year (July 1) following the election. Any officer shall serve for the prescribed term or until a successor is elected, qualified or sworn.

### **SECTION 7.04 SWEARING IN OFFICERS**

Every town officer or official shall be sworn to the faithful discharge of the duties incumbent upon him/her according to the Constitution and laws of the State of Maine and the Charter and ordinances of the Town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

### **SECTION 7.05 PERSONAL FINANCIAL INTEREST**

In accordance with the State law (30A MRSA Sec. 2605) any officer or employee who has financial interest, direct or indirect, in any contract with the Town or in the sale of any land, material, supplies or services to the Town, or who is a contractor supplying the Town with services or material shall make known the interest and shall refrain from voting upon or otherwise participating in his/her capacity as an officer or employee of the town in making such sale or in making or performing of such contract. In the absence of actual fraud, an officer or employee shall be deemed to have a direct or indirect financial interest in a question or in a contract where that person is an officer, director, partner, associate, employee or stockholder for a private corporation, business or other economic entity to which the question relates only where the officer or employee is directly or

indirectly the owner of at least 10% of the stock of the private corporation or owns at least 10% interest in the business or other economic entity. Any officer or employee who conceals such a financial interest or violates the requirements of this section shall be guilty of malfeasance in office or position. Violations of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Board of Selectmen.

## **SECTION 7.06 PROHIBITIONS**

### **A. Activities Prohibited:**

1. No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of race, sex, disability, political or religious opinions or affiliations.
2. No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
3. No person shall directly or indirectly give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the municipal service.
4. Nothing herein contained shall affect the right of any person to hold membership in, and support a political party, to vote as he chooses to express privately and publicly his/her opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings.

Sanctions: If any person in the employ of the Town of Damariscotta should be found to have violated any provision of Section 7.06 A. by the appointing body, he/she may be removed or reprimanded as deemed appropriate by the appointing body after proper notice and hearing.

## **SECTION 7.07 RECALL**

- A. Any elected official representing the Town of Damariscotta, may be recalled and removed therefrom by the qualified voters of the Town of Damariscotta as herein provided.
- B. Any ten percent of the voters of the municipality in the last gubernatorial election may make and file with the Town Clerk a petition containing the name(s) of the member(s) whose removal is sought, and a general statement of the reason(s) why such removal is desired. The Town Clerk shall thereupon prepare petition blanks for

such removal. Petition blanks shall be dated and addressed to the Board of Selectmen; shall include: a copy of said petition, a general statement, the signature and seal of the Town Clerk, the name(s) of the person (s) whose removal is sought. The Town Clerk shall file said petition blanks and shall during office hours for the next 20 business days thereafter, keep the same open for signatures by qualified voters of the Town. Prior to any signature(s) being affixed to the petition, the Town Clerk shall fully inform any voters that the petition must be signed by twenty percent (20%) of the registered voters of the town and for every signer the place of residence shall be given sufficient to identify the place.

- C At the expiration of said 20 business days, the Town Clerk shall declare the petition closed and shall within 5 business days ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto an attested certificate showing the result of such examination.
- D. If the petition shall be certified sufficient by the Town Clerk. The Town Clerk shall, by certified mail, notify the official(s) whose removal is sought. A petition certified sufficient by the Town Clerk, shall be submitted to the Board of Selectmen, by certified mail. 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. If any election is to occur within 60 calendar days after the receipt of said certificate, the Board of Selectmen may, at its discretion, provide for the holding of a recall election on the date of such election.
- E. If a majority votes in favor of recall, said official(s) shall be removed immediately. In that candidate(s) to succeed the recalled official (s) for the balance of the unexpired term(s) shall be determined at a subsequent election.
- F. Should the Board of Selectmen fail or refuse to order an election 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 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 25 valid signatures.

## **SECTION 7.08 BONDS**

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

## **ARTICLE VIII TRANSITIONAL PROVISIONS**

### **SECTION 8.01 EFFECTIVE DATE**

After adoption of this Charter by the voters in conformity with Title 30-A, M.R.S.A., Section 2105 (4) (A), this Charter shall become effective on July 1, 2005, which is the first day of the next succeeding municipal year; provided, however, that this Charter shall become effective immediately for the purposes of conducting any elections required by this Charter per Title 30-A, M.R.S.A., Section 2105 (4) (A).

### **SECTION 8.02 BOARD OF SELECTMEN**

All members serving on the Board of Selectmen at the effective date of this Revised Charter shall continue to hold office until their prescribed term expires and their successors are elected, qualified and sworn.

### **SECTION 8.03 TEMPORARY ORDINANCES**

All existing codes, ordinances, and policies will remain in effect until altered, amended, or rescinded except where these codes, ordinances, and policies are inconsistent with this Charter.

### **SECTION 8.04 POSITION OF TOWN MANAGER**

The Town Manager, formerly the Administrative Assistant, shall remain in office subject to the conditions of the negotiated contract at the time this Charter is enacted.

### **SECTION 8.05 OFFICERS, EMPLOYEES AND BOARD MEMBERS**

All present boards, commissions, and committees not specified in this Charter shall dissolve on the Charter's effective date. Incumbent members of continuing boards, commissions and committees shall serve their appointed terms until replaced.

### **SECTION 8.06 DEPARTMENTS, OFFICES AND AGENCIES**

#### **A. Transfer of Powers**

If a department, office or agency is abolished by or under this Charter, the powers and duties given it by law shall be transferred to the Town department, office or agency designated in this Charter, or if the Charter makes no provisions as designated by the Board of Selectmen.

#### **B. Property and Records**

All property, records and equipment of any department, office or agency assuming its powers and duties: but, in the event that the powers or duties are to be discontinued or divided between units, or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to

one or more departments, offices or agencies designated by the Board of Selectmen in accordance with this Charter.

#### **SECTION 8.07 PENDING MATTERS**

All rights, claims, actions, orders contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of the Charter and in each case shall be maintained, carried on or dealt with by the Town department, office or agency appropriate under this Charter.

#### **SECTION 8.08 STATE AND MUNICIPAL LAWS**

All Town ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the state of Maine permit, all laws relating to or affecting this Town or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.