CHARTER

FOR

HOLDEN, MAINE

Adopted:	November 6, 2001 (Town Meeting, Secret Ballot)
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ARTICLE I

GRANT OF POWERS TO THE TOWN

Sec. 1.01 - POWERS OF THE TOWN

The Inhabitants of the Town of Holden shall continue to be a body both corporate and politic by the name of the Town of Holden.

Sec. 1.02 - CONSTRUCTION

The powers of the Inhabitants of the Town under this Charter shall be construed liberally in favor of the Inhabitants of the Town.

Sec. 1.03 - 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 any one or more states or civil divisions or agencies thereof, or with the United States or any agency thereof.

ARTICLE II

TOWN COUNCIL

Sec. 2.01 - NUMBER, ELECTION AND TERM

The Town Council shall be composed of 5 members, each of whom shall be elected by the registered voters of the entire Town and will serve staggered 3 year terms or until their successor is elected and duly qualified.

Sec. 2.02 - QUALIFICATIONS

Councilors shall be at least 21 years of age, shall be qualified voters of the Town and shall reside in the Town during their term of office.

Sec. 2.03 - COMPENSATION

Members of the Council shall receive such compensation as shall be approved at the Annual Town Meeting.

Sec. 2.04 - INDUCTION OF COUNCIL INTO OFFICE

Councilors-elect shall be required to be sworn to the faithful discharge of their duties by the Town Clerk, Deputy Town Clerk or by a person qualified by law to administer oaths. The terms of Councilors-elect shall begin at the time they are sworn.

Sec. 2.05 - COUNCIL TO BE THE 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 the power to subpoena witnesses and require production of records, but the decision of the council in any such cases shall be subject to review by the courts.

Sec. 2.06 - REGULAR MEETINGS

The Town Council shall, at its first meeting or as soon as possible thereafter, establish a regular place and time for holding its regular meetings and shall meet regularly at least once a month. It shall also provide a method for calling special meetings. All meetings of the Town Council shall be open to the public in accordance with the revised statutes of the State of Maine, except as those statutes allow executive sessions. An agenda shall be made available in advance of all regular and special meetings and shall include an item to allow public input.

Sec. 2.07 - RECORD OF PROCEEDINGS; ORDINANCES; PUBLIC HEARING

The Town Council shall provide for keeping a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same; records shall be retained and disposed of in accordance with State Law. The Council shall act by motion, ordinance, order or resolve. A motion, order or resolve is a procedural vehicle used at Council meetings to express the majority position of Council on routine matters on which the Council votes and which vote is recorded in the minutes of the meeting. An Ordinance is a rule or regulation adopted by the Council which obligates citizens and non citizens of Holden as stated in the ordinance and all ordinances adopted by the Council shall be recorded in the Council minutes. All motions, ordinances, orders and resolves, except motions, orders or resolves making appropriations of money, shall be confined to one subject. All appropriation motions, orders or resolves shall be confined to the subject of appropriations. Every motion, ordinance, order, or resolve shall require on passage the affirmative vote of 3/5 of the members of the Council. The yeas and nays shall be taken on the passage of all motions, ordinances, orders, and resolves and entered on the record of the proceedings of the Council by the Secretary.

Before any ordinance shall be passed, at least one public hearing shall be held by the Council, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in said Town and by posting a notice at the Municipal Building and another public place in Holden. Such ordinances shall be effective on the date of adoption or at such time as may be specified in the ordinance

Sec. 2.08 - VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES

1. Vacancies: The office of Councilor shall become vacant upon the death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

2. Forfeiture of Office: A Councilor shall forfeit his/her office upon conviction of a felony or crimes of moral turpitude or if he/she lacks at any time during his/her term of office any of the qualifications of the office prescribed by this Charter or by law.

3. Filling Vacancies: If a seat on the Town Council becomes vacant more than 6 months prior to the next regular election, the Council shall call a special election to fill the unexpired term within 60 days from the date that the vacancy occurred. If a seat on the Council becomes vacant less than 6 months prior to the next regular election, the Council may call a special election.

4. Forfeiture for Attendance Reasons: A councilor shall forfeit his/her office if he/she fails to attend three consecutive regular meetings of the Council without being excused by the Council.

5. Not withstanding provisions of recall, the Council on its own motion, may establish procedures for removal of one of its members for due cause.

Sec. 2.09 - QUORUM

A majority 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 the adjournment was taken.

Sec. 2.10 - COUNCIL OFFICERS

At its first meeting after the Annual Election, the Council shall elect, by a vote of 3/5 of the members, one of its members as Chairperson and one as Vice-Chairperson for the ensuing year and the Council may fill, by a vote of 3/5 of the members, for an unexpired term, any vacancies in the offices of Chairperson and Vice-Chairperson that may occur. The Chairperson 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/she shall have no regular administrative duties. The Chairperson shall be entitled to vote, and his/her vote shall be counted upon all matters and things as a vote of other members of the Council.

Sec. 2.11 - TOWN CLERK

In addition to the statutory duties required of the Town Clerk, Deputy Town Clerk or Assistant Clerk; the Town Clerk, Deputy Town Clerk or Assistant Clerk shall act as Secretary of the Council and shall keep a public record of all proceedings of the Council, including all votes.

Sec. 2.12 - INDEPENDENT ANNUAL AUDIT

Prior to the end of each fiscal year, the Council shall designate the State Department of Audit or private certified accountants who, at 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 Town Council and Town Manager. This Audit Report in a summarized manner will be made a part of the Annual Town Report. Such accountants shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by any office, officer, department or agency of the Town Government.

Sec. 2.13 - ENUMERATION OF POWERS

Without limitations of the foregoing, the Council shall have the power to:

1. Appoint and remove the Town Manager, Tax Assessor, Town Attorney, members of the Planning Board, members of the Zoning Board of Appeals, members of the Assessment Review Board and members of the Budget Review Committee. The affirmative vote of 3/5 of the members of the Council shall be required for the appointment and the removal of officials appointed by the Council.

2. Where appropriate and not prohibited by law, vest in the Town Manager all or part of the duties of any office.

3. Provide for an annual audit.

4. By ordinance create, change and abolish offices, departments and agencies, other than those offices, departments and agencies established by this Charter. By ordinance act on such matters where State Law grants ordinance making powers to municipal officers. 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.

5. Make, alter, and repeal the Comprehensive Plan and any ordinances pertaining to zoning, land use, conditional zoning, municipal road ownership, and subdivision matters after review and recommendation by the Planning Board.

6. Establish Standards Pertaining to Ordinances

(a) Form: Every proposed ordinance shall be introduced in writing and in the form required for the final adoption. The enacting clause shall be "The Town of Holden hereby ordains...
Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure: These procedures are the minimum procedures needed to enact an ordinance. Where state law requires additional or more stringent conditions of notice, the provisions of state law shall apply. A proposed ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Secretary to the Council shall distribute a copy to each Council member and to the Town Manager; shall file a reasonable number of copies in the office of the Town Clerk and such other public places as the Council may designate, and shall publish the same as defined in Section 2.07 together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special

Council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment, or reject it; but if it is amended, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure herein before required in the case of a newly introduced ordinance. Every adopted ordinance shall become effective upon adoption or at any later date specified therein.

(c) Emergency Ordinances: To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more police power emergency ordinances. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of 4/5 of the members of the Council shall be required for adoption. After its adoption the ordinance shall be posted at the Municipal Building and in a public place in Holden. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(d) Authentication and Recording: Codification; and Printing:

(1) Authentication and Recording: All ordinances adopted by the Council shall be authenticated by the signature of the Secretary of the Council and recorded in full by the Secretary in a properly indexed book kept for the purpose.

(2) Codification: Within three years after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all ordinances, except those required by Section 2.13(6)(c). The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Maine and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be known and cited officially as the Holden Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price.

(3) Printing of Ordinances: The Council shall cause each ordinance, except those required by Section 2.13(6)(c) and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances and Charter amendments shall be distributed or sold to the public at reasonable prices.

7. Inquire into the conduct of any department, office or agency of the Town and make

investigation as to municipal affairs.

8. Recommend the annual budget to the Town Meeting.

9. Issue bonds or notes up to a maximum total outstanding amount equal to 2% of the most recent State Valuation, which calculation shall not include notes in anticipation of taxes to be paid within the fiscal year in which issued.

10. Issue notes in anticipation of taxes to be paid within the fiscal year in which issued.

11. In any one fiscal year, appropriate up to a total of $100,000 for development or other municipal purposes as voted by 3/5 of the members of the Council. The Council shall justify these appropriations at the next Town Meeting following the appropriations.

12. Carry out mandates of the Annual and Special Town Meetings.

13. Exercise all other powers of the Town of Holden not specifically reserved to the Town Meeting.

14. Reserve accounts, as defined by State Law, may be established by the Town Council.

15. The Town Council may approve by motion an appropriation up to and including $250,000.00 for a single capital improvement project.

Sec. 2.14 - PROHIBITIONS

Neither the Council nor any of its members shall, in any manner, dictate the appointment or removal of any administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint; but, the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

Except for the purpose of inquiry, the Council and its members shall deal with the administrative services solely through the Manager and neither the Council nor any member hereof shall give orders to any subordinates of the Manager, either publicly or privately.

ARTICLE III

TOWN MEETING

Sec. 3.01 - ANNUAL AND SPECIAL TOWN MEETINGS

An annual Town Meeting for the consideration of the budget and the transaction of other Town business shall be held on a date in June to be established annually by the Town Council. The annual and special Town Meetings shall be called by the Council in the manner provided for calling Town Meetings in accordance with provisions of the statutes of the State of Maine, including the ability of any citizen of the Town of Holden to submit an article for the Town Meeting Warrant.

Sec. 3.02 - PURPOSE OF THE TOWN MEETING

1. Town Meeting is required for approval of the following:

(a) Annual Budget line items; General Government, Town Office Administration, Economic Development, Fire Department, Police Department, Public Works, Sanitation and other line items established by the Council.

(b) The issuance of bonds or notes in any amount allowed by law. This section does not apply to bonds or notes issued by the Council in accordance with Section 2.13(9) and 2.13(15).

(c) Transact other town business presented to it by warrant article.

(d) The Town Council shall submit any motion appropriating an amount in excess of $500,000.00 above any applicable reserve account for a single capital improvement, and any motion authorizing general obligation bonds or notes for capital improvements in excess of 0.2% of the most recent State Valuation amount, to the voters at a regular or special Town Meeting.

(e) Any expenditures from a reserve account exceeding 2% in the aggregate, of the most recent State Valuation amount.

(f) Transfer of funds from one reserve account to another.

The above appropriations shall become effective only after approval at a Town Meeting by the vote of a majority of those voting on the article at such meeting.

2. The Town Meeting Shall:

(a) Not increase or decrease the amount of any appropriation above the amount recommended by the Town Council by more than one and one-half percent (1.5%).

(b) Not make any appropriation not recommended by the Town Council.

(c) Not increase the amount of any Bond Issue above the amount recommended by the Council.

ARTICLE IV

TOWN MANAGER

Sec. 4.01 - APPOINTMENT; QUALIFICATION

The Town Council shall appoint a Town Manager for a definite term or at the will of the Council and fix his/her compensation. The Manager shall be appointed on the basis of his/her executive and administrative qualifications. He/She need not be a resident of the Town or State at the time of his/her appointment but may reside outside the Town while in office only with the approval of the Council.

Sec. 4.02 - REMOVAL

The Council may remove the Manager from office in accordance with the following procedures:

1. The Council shall adopt by a 3/5 vote of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 30 days. A copy of the resolution shall be delivered within 72 hours to the Manager.

2. Within 5 days after receiving a copy of the resolution, the Manager may file with the Council a written request for a public hearing. If no public hearing is requested, the Council may adopt a final resolution of removal by a 3/5 vote of its members, effective immediately.

3. If a hearing has been requested, it shall be held at a council meeting not earlier than 10 days nor later than 20 days after the request is filed. The Manager may file with the Council a written reply not later than 5 days before the hearing. After the hearing, the Council may adopt a final resolution of removal by a 3/5 vote of its members, effective immediately, and shall notify the Manager of its decision within 5 days.

4. The Manager shall continue to receive his/her salary until the effective date of final resolution or removal. In addition, he/she shall receive severance pay and other allowances at the discretion of the Town Council.

Sec. 4.03 - NON-RENEWAL

The Council may non-renew the Town Manager's appointment at its election, unless there is contract for term.

Sec. 4.04 - ABSENCE OF TOWN MANAGER

By letter filed with the Town Clerk the Manager shall designate, subject to approval of the Town Council, a qualified Town administrative officer to exercise the powers and perform the duties of Manager during his/her temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the Town to serve until the Manager shall return or his/her disability shall cease. In the event of failure of the Manager to make such designation, the Council may by resolve appoint any administrative officer of the Town to perform the duties of the Manager until he/she shall return or his/her disability shall cease.

Sec. 4.05 - POWERS AND DUTIES OF TOWN MANAGER

The Town Manager shall be the chief administrative officer of the Town. He/She shall be responsible to the Council for the administration of all Town affairs placed in his/her charge by or under this Charter. He/She shall have the following powers and duties:

1. The Town Manager shall appoint department heads and all other officials not appointed by the Council and shall have the power to remove such appointees when necessary. He/She shall appoint and remove when necessary all other administrative officers and Town employees, except as he/she may authorize the head of department or office to appoint and remove subordinates in such department or office and except as otherwise provided in this Charter or by law.

2. To direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter or by law.

3. To attend Council Meetings and have the right to take part in discussions but not vote.

4. To see that all laws, provisions of this Charter and acts of the Council, subject to his/her direction and supervision, are faithfully executed.

5. To prepare and submit the annual budget and capital program to the Council and Budget Review Committee.

6. To submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year.

7. To make such other reports as the Council may require concerning the operations of Town departments, offices and agencies subject to his/her direction and supervision.

8. To keep the Council and Budget Review Committee fully advised as to the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as he/she deems desirable.

9. To prepare a personnel policy and job descriptions as required, to be proposed to the Council, and the Council may adopt them with or without amendment.

10. He/She, or an official designated by him/her, shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.

11. To perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE V

PERSONNEL ADMINISTRATION

Sec. 5.01 - APPOINTMENT

All appointments and promotions of Town officials and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

Sec. 5.02 - PERSONNEL DIRECTOR

The Town Manager or a person appointed by him/her shall be designated Personnel Director and shall administer the personnel system of the Town.

ARTICLE VI

SCHOOL ADMINISTRATIVE DISTRICT 63 BOARD OF DIRECTORS [1]

Sec. 6.01 - NUMBER, ELECTION AND TERM

Town of Holden representation on the School Administrative District 63 Board of Directors shall consist of four (4) members, each of whom shall be nominated and elected by the registered voters of the entire Town.

Each member shall be elected for a term of 3 years and shall serve until his/her successor is elected and qualified pursuant to Section 6.02.

Sec. 6.02 - QUALIFICATIONS

School Administrative District 63 Board of Directors candidates shall be at least 21 years of age and qualified voters of the Town, and shall reside in the Town during their term of office.

Sec. 6.03 - COMPENSATION

Compensation for members shall be established by the School Administrative District 63 Board of Directors.

Sec. 6.04 - INDUCTION OF MEMBERS INTO OFFICE

Members-elect shall be required to be sworn to the faithful discharge of their duties by the Town Clerk, Deputy Town Clerk or by a person qualified by law to administer oaths. The Terms of members-elect shall begin at the time they are sworn.

Sec. 6.05 - VACANCIES; FORFEITURE OF OFFICE, FILLING OF VACANCIES; REMOVAL

1. VACANCIES: The office of members shall become vacant upon his/her death,

[1] At the time the Charter Review Committee recommended changes to this document the School District was still using SAD #63 in lieu of RSU #63. All reference to SAD #63 contained herein is synonymous with RSU #63.

resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

2. FORFEITURE OF OFFICE: A member shall forfeit his/her office upon conviction of a felony or crimes of moral turpitude or if he/she lacks at any time during his/her term of office any of the qualifications of the office prescribed by this Charter or by law.

3. FILLING VACANCIES: Vacancies on the School Administrative District 63 Board of Directors shall be filled in accordance with State Statutes.

4. REMOVAL: Removal shall be governed by the rules of School Administrative District 63 and any appropriate State of Maine Statutes.

ARTICLE VII

TAX ADMINISTRATION

Sec. 7.01 - ESTABLISHMENT

There shall be established a division of Assessment, the head of which shall be the Town Tax Assessor.

Sec. 7.02 - DUTIES

The Assessor shall be empowered with the powers and subject to the duties prescribed in the Laws of the State of Maine.

Sec. 7.03 - BOARD OF ASSESSMENT REVIEW

There shall be a Board of Assessment Review to consist of 3 members and 1 alternate who shall be appointed by the Town Council for terms of 3 years. For those first appointed, one member shall be for a term of 3 years, one member for a term of 2 years and one member for a term of 1 year. The alternate shall be appointed for a term of 3 years. A quorum shall be a majority of the voting members and they shall elect their own Chairperson. Vacancies in the membership of such a board shall be filled by appointment by the Town Council for the unexpired term.

Sec. 7.04 - BOARD OF ASSESSMENT REVIEW; POWERS; DUTIES

The Board of Assessment Review shall have the power to:

1. Review, on complaint by property owners, and revise assessed values for the purpose of taxation of real and personal property within the town limits made by the Town Tax Assessor.

2. Administer oaths.

3. Take testimony.

4. Hold hearings.

5. Adopt regulations regarding the procedure of assessment review not inconsistent with statutory provisions.

6. Make findings of fact and conclusion of values.

ARTICLE VIII

BUDGET

Sec. 8.01 - FISCAL YEAR

The fiscal year of the Town government shall begin the first day of July and shall end on the last day of June of the following year, or such other fiscal year as the Council may decide. 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. 8.02 - PREPARATION AND SUBMISSION OF THE BUDGET

The Town Manager, at a time to be determined by the Town Council, shall submit to the Council and Budget Review Committee a proposed budget and an explanatory budget message. The budget shall contain:

1. The proposed budget shall be itemized by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear accounting of budget estimates.

2. A statement of the financial condition of the Town that shall be submitted to the Council for the purpose of preparing the proposed Town budget

3. An itemized statement of appropriations recommended for current expenses, and for permanent improvements, with comparative statements in parallel columns of estimated expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated.

4. An itemized statement of estimated revenue from all sources, other than taxation, and comparative figures from the current year and the preceding year.

5. Such other information as may be required by the Town Council.

The proposed budget prepared by the Town Manager shall be reviewed by the Town Council and Budget Review Committee. The Town Council and the Budget Review Committee shall prepare joint budget recommendations. The joint budget recommendations shall be published and the Town Council shall fix the time and place for holding a public hearing on the budgets recommendations and shall give a public notice of such hearing in accordance with Section 2.07. After the public hearing the Town Council shall then review the budget recommendations and

present them, with or without change, to the annual Town Meeting.

Sec. 8.03 - BUDGET ESTABLISHED 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. 8.04 - BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX; CERTIFICATION TO THE 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 determination of the amount of the levy, excluding State allowable overlay for the purposes of the Town in the corresponding tax year; the overlay shall be established at the time of the determination of the valuation and tax commitment. A copy of the budget as finally adopted shall be certified by the Clerk and filed by him/her with the Assessor, whose duty it shall be to levy such taxes for the corresponding tax year.

Sec. 8.05 - TRANSFERS OF APPROPRIATIONS

At the request of the Manager, the Council may transfer any unencumbered appropriations balance or portion thereof, from one account to another during the last 3 months of the fiscal year.

Sec. 8.06 - 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.

Sec. 8.07 - LAPSE OF APPROPRIATIONS

General fund appropriations that have not been expended or encumbered, except those accounts designated by the Council to be continuing, shall lapse at the close of the fiscal year. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriations shall be deemed abandoned if five years pass without any disbursement from or encumbrance of the appropriation.

Sec. 8.08 - PAYMENTS AND OBLIGATIONS PROHIBITED

No payment shall be made or obligation incurred against any allotment or appropriations except in accordance with appropriations duly made and unless the Manager or his/her designees first certifies that there is sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall also be liable to the Town for an amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the

making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided such action is made or approved by motion, order, or resolve.

Sec. 8.09 - CAPITAL PROGRAM

The Manager shall prepare and submit to the Town Council a long range capital program at the time of submission of the proposed annual budget. The capital program shall include:

1. A clear summary of its contents.

2. A list of all capital improvements which are proposed for the long range capital program with supporting information as to the necessity for each improvement.

3. Cost estimates, methods of financing and recommended time schedules for each improvement.

4. The estimated annual cost of operating and/or maintaining facilities to be constructed or equipment to be acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of being constructed or acquired.

The proposed capital program shall be reviewed by the Town Council, which shall approve it with or without amendments. The Council shall fix the time and place for holding a public hearing on the capital program, and shall give public notice of such hearing, in accordance with Section 2.07. The Council shall adopt the capital program with or without amendments after such public hearing.

Sec. 8.10 - BUDGET REVIEW COMMITTEE

Each year at the beginning of the budget preparation process, the Town Council shall appoint five (5) members of the public who are residents of the Town of Holden to act as a Budget Review Committee. The Budget Review Committee shall review the expenditures budget proposed by the Town Manager and the Town Council and hold at least one joint meeting with the Town Council. The Budget Review Committee shall act solely in an advisory capacity.

ARTICLE IX

NOMINATIONS AND ELECTIONS

Sec. 9.01 - CONDUCT OF ELECTIONS

The regular municipal election shall be held in June. Except as otherwise provided by this Charter, the provisions of the laws of the State of Maine shall apply to elections held under this Charter. Qualified voter shall mean any person qualified and registered to vote under law.

Sec. 9.02 - NOMINATIONS

1. Petitions: Candidates for election to the Council and the School Administrative District 63 Board of Directors shall be nominated by petition. Any qualified voter of the Town, being at least 21 years of age, may be nominated for election as Councilor, or member of the School Administrative District 63 Board of Directors by a petition signed by not fewer than 25 qualified voters nor more than 100 qualified voters of the Town. The signatures to nominating petitions need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence and that he/she believes each signature to be the genuine signature of the person whose name it purports to be. The signature shall be executed in ink or indelible pencil. Each signer shall indicate next to his/her signature the street address where he/she resides.

2. Filing and Acceptance of Nominations Petitions: All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as one instrument not earlier than 75 days or later than 35 days before the election unless otherwise specified by the Town Council. The Clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

3. Procedure after Filing Nomination Petitions: Within 5 days after the filing of a nominating petition, the Clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The Clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

Sec. 9.03 - NAMES AND ORDERING ON BALLOTS

The first and last names of all candidates nominated for Councilors and for School Administrative District 63 Board of Directors, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designation. When two or more candidates have been nominated for any office, the names of said candidates shall appear on the ballot in alphabetical order by surname.

Sec. 9.04 - 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 shall be held between (or among, as the case may be) the tied candidates.

Sec. 9.05 - BALLOTS FOR ORDINANCES

An ordinance to be voted on pursuant to Article X shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described ordinance be adopted?" Immediately below such question shall appear in the following order, the words "yes" or "no' and to the right of each a square in which the voter may cast his/her vote.

Sec. 9.06 - VOTING MACHINES

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

Sec. 9.07 - ABSENTEE VOTING

Each qualified voter who desires to cast an absentee vote at a regular or special election shall be entitled to an official ballot and the right to cast such ballot in accordance with the provisions of State Law.

ARTICLE X

INITIATIVE, REFERENDUM AND RECALL

Sec. 10.01 - ENACTMENT OF ORDINANCES BY INITIATIVE

The qualified voters of the Town shall have the power to propose ordinances to the Council, provided that such power shall not extend to any ordinance relating to the budget, to the capital program, or to the appropriation of money, levy of taxes, or salaries of officers or employees. If the Council should fail to adopt in substance any ordinance so lawfully proposed, the qualified voters of the Town shall have the power to adopt or reject the proposed ordinance at an election.

Any 5 qualified voters may begin initiative proceedings by a request in writing to the Town Clerk. The Clerk shall provide the appropriate petition blanks within 5 days of when they are requested. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. These 5 qualified voters shall be referred to as the Requesting Committee during the initiative procedure. The Requesting Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by 5% of the number of votes cast in the Town at the last Gubernatorial Election but not fewer than 70 voters. Any voter of Holden may circulate the petition. The petition shall be signed only once by qualified voters of the Town and each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator,

similar to that which is required in MRSA Title 30A, Section 2102(3) (B) (3), as amended, will be required.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 days after the petition circulation period ends, the Clerk shall certify to the Council and notify the Requesting Committee that the petition has been signed by 5% of the total of qualified voters who cast votes in the last Gubernatorial Election but not fewer than 70 voters.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same ordinance may not be accepted by the Clerk until 120 days after the expiration of the previous filing period.

Upon receipt of certification, the Council shall within 30 days hold a public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Holden and by posting a notice at the Municipal Building and another public place in Holden, and shall within 60 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of adopting such ordinance, unless, in substance, such ordinance shall be enacted by the Council prior to the call for said Town election.

Any such proposed ordinance shall be examined by the Town Attorney before being circulated for signatures. The Town Attorney is authorized to edit 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 clarity and precision in its phraseology, but he/she shall not materially change its meaning and effect. If the Town Attorney cannot edit or correct the proposed ordinance, he/she shall so advise the Requesting Committee who may revise the proposed ordinance. If not revised, the Town Attorney shall advise the voters at the public hearing of the shortcomings of the proposed ordinance.

Every adopted ordinance shall become effective upon adoption or at any later date specified therein.

Sec. 10.02 - REFERENDUM

The qualified voters of the Town shall have power to require reconsideration by the Council of all ordinances, orders and resolves and if the Council fails to repeal an ordinance, order or resolve so reconsidered, to approve or reject it at a Town election provided that such power shall not extend to any emergency ordinance, levy of taxes, or salaries of officers or employees.

Any 5 qualified voters may begin referendum proceedings by request in writing to the Town Clerk for the appropriate petition blanks, within 7 days after enactment of any ordinance subject to referendum by the Charter. The Clerk shall provide the appropriate petition blanks within 5 days of when they are requested. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the ordinance sought to be reconsidered. These 5 registered voters shall be referred to as the Requesting Committee during the referendum procedure.

The Requesting Committee shall have 30 days from the date of enactment to cause the

petitions to be signed by 5% of the number of votes cast in the Town at the last Gubernatorial Election but not fewer than 70 voters. Any voter of Holden may circulate the petition. Only qualified voters of the Town may sign the petition and each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator, similar to that which is required in MRSA Title 30A, Sec. 2102(3) (B)(3), as amended, will be required.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 days after the petition circulation period ends, the Clerk shall certify to the Council and notify the Requesting Committee that the petition has been signed by 5% of the total who cast votes in the last Gubernatorial Election but not fewer than 70 voters.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect and all proceedings thereon shall be terminated. The matter shall not be subject to resubmission and the ordinance shall continue in effect.

Upon receipt of certification, the Council shall within 30 days hold a public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Holden and by posting a notice at the Municipal Building and another public place in Holden, and shall within 60 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of repealing such ordinance unless it shall be repealed by the Council prior to the call for said Town election. Such ordinance shall be repealed when a majority of those voting thereon shall have voted in the affirmative.

After a petition has been certified by the Town Clerk, the referred ordinance shall be suspended from going into operation until it has been approved by a majority of those voting in the Municipal Election.

Sec. 10.03 - RECALL

Any 10 qualified voters may begin at any time proceedings to recall one or more Councilors or School Administrative District 63 Board of Directors by requesting in writing to the Town Clerk for the appropriate petition blanks. The Clerk shall provide the appropriate petition blanks within 5 days of when they are requested. These 10 registered voters shall be referred to as the Recall Committee. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation a statement detailing the reason or reasons for recall and the names of the Recall Committee.

The Recall Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petition to be signed by 10% of the number of votes cast in the Town in the last Gubernatorial Election but not fewer than 140 voters, each signing only once. Any voter of Holden may circulate the petition. Each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator, similar to that which is required in MRSA Title 30A, Sec. 2102(3)(b)(3), as amended, will be required.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 days after the petition circulation period ends the Town Clerk shall certify to the Council and notify the Requesting Committee that the petition has been signed by 10% of the total number

of qualified voters who cast votes in the Town at the last Gubernatorial Election but not fewer than 140 voters.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and request for recall of the same Councilor or member of the School Administrative District 63 Board of Directors shall not be accepted by the Clerk until 120 days after the expiration of the previous filing period.

Upon receipt of certification, the Council shall within 30 days hold a municipal election for the purpose of submitting to vote the question of recall. A Councilor or member of the School Administrative District 63 Board of Directors shall be recalled when a majority of those voting thereon shall have voted in the affirmative. The Council shall within 60 days after the voters have recalled a Councilor or member of the School Administrative District 63 Board of Directors hold a special election to fill the vacancy unless the recall takes place within 6 months of the next election for that office.

A Councilor or a member of the School Administrative District 63 Board of Directors that is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy created by the recall. Qualified voters who seek to fill the vacancy created by the recall shall have until the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for a regular municipal election.

Pending action by the voters of the Town, the Councilor, or member of the School Administrative District 63 Board of Directors that recall proceedings have been initiated against shall continue to exercise all the privileges of his/her office.

The ballot for recall shall contain the following question: "Shall (name of person being subjected to recall) be recalled from the office of (name of Office)?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the right of each a square in which the voter may cast his/her vote.

ARTICLE XI

GENERAL PROVISIONS

Sec. 11.01 - ELECTED OFFICERS TERMS

The term of any elected officer shall begin immediately upon taking the oath of office. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified. If a person is elected to fill a vacancy in office, his/her term shall begin immediately upon taking the oath of office and shall continue until the end of the prescribed term of the person who vacated said position.

Sec. 11.02 - 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.

Sec. 11.03 - PERSONAL FINANCIAL INTEREST

Any officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the Town or in the sale of any land, material, supplies or services to the Town or to a contractor supplying the Town shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as an officer or employee in making of such sale or in the making or performance of such contract. Any officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements or this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge actual or constructive of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Council.

Sec. 11.04 - PROHIBITIONS

1. Activities Prohibited/Grounds for Removal

a. No elected Town official shall hold more than one elected Town office concurrently.

b. 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, political or religious opinions or affiliations.

c. 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.

d. 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.

e. No person who holds an elected or compensated appointive Town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

f. Nothing herein contained shall affect the right of any person to hold membership in, and support, a political party, to vote as he/she chooses, to express privately and publicly his/her opinions on all political subjects and candidates, to

maintain political neutrality, and to attend political meetings.

2. Penalties:

a. Any Person found in violation of this section by a Court of the State of Maine or the United States of America or by the Council acting in a judicial capacity shall be ineligible for a period of 5 years thereafter to hold any town office or employment and shall immediately forfeit his/her office or position.

Sec. 11.05 - SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the 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.

Sec. 11.06 - GENERAL PROVISIONS BOARD/COMMITTEE PROCEDURES

All Town Boards and Committees shall adopt rules of procedure similar in nature to those of the Town Council. These procedures shall include provisions explaining executive sessions and include a method whereby all votes shall be recorded and the yeas and nays shall be taken. The procedures adopted by appointed boards shall be submitted to the Council for approval. The minutes of the proceedings of all Town Boards and Committees shall be forwarded to the Town Council.

Sec. 11.07 - CHARTER AMENDMENTS

Amendments to the Charter shall be governed by the Revised Statutes of the State of Maine, as amended.

ARTICLE XII [i]

TRANSITIONAL PROVISIONS

Sec. 12.01 - FIRST ELECTION

At the time of its adoption, this Charter shall become effective immediately, only for the purpose of conducting the election of necessary municipal officials. Said election shall be conducted in accordance with the provisions of this Charter. The Selectmen shall prepare and adopt temporary regulations applicable only to the first election and designed to insure its proper conduct and to prevent fraud and provide for recount of ballots in case of doubt or fraud.

Sec. 12.02 - TIME OF TAKING FULL EFFECT

This Charter shall be in full effect for all purposes on the first day of the fiscal year

following the election of officials under this Charter.

Sec. 12.03 - FIRST COUNCIL

Selectmen with terms expiring after July 1, 2002 shall be sworn in as Councilors and shall continue to serve as Councilors for the remainder of their term or until their successors are elected and qualified. At the first election after the adoption of this Charter, Councilors shall be elected to fill the terms of those whose terms expire.

Sec. 12.04 - FIRST COUNCIL MEETING

1. Date and Action: As soon as practical after the election of officials under this Charter there shall be a meeting of members of the Council at the Municipal Building for the following purposes:

a. Electing a chairperson, reviewing the appointment of the Town Manager and choosing, if it is so desired, one of its members to act as temporary Clerk.

b. Adopting ordinances and resolutions necessary by the Council or as required by this Charter.

2. Expiration of Terms: The terms of all members of the present Board of Selectmen and the appointment of the Town Manager shall expire on the day of the first Council meeting.

3. Temporary Ordinances: In adopting ordinances the Council shall follow the procedures prescribed in the Charter except at its first meeting and any meeting held within 60 days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective municipal government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be re-adopted, renewed or otherwise contained except by adoption in the manner prescribed in the Charter for ordinances of the kind concerned.

Sec. 12.05 - SCHOOL ADMINISTRATIVE DISTRICT 63 BOARD OF DIRECTORS

Holden representatives to the School Administrative District 63 Board of Directors shall

continue to be elected at the Annual Town Meeting and shall serve for the term elected.

Sec. 12.06 - FIRST BUDGET

The budget for the first municipal year under this Charter, shall be the budget adopted by the Town Meeting previous to the effective date of the Charter.

Sec. 12.07 - CONTINUANCE OF OFFICERS, EMPLOYEES

1. Rights and Privileges Preserved: Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are Town officers or employees at the time of its adoption.

2. Continuance of Office or Employment: Except as specifically provided by this Charter, if at the time this Charter takes full effect a Town administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he/she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he/she vacate the office or position.

Sec. 12.08 - DEPARTMENTS, OFFICES, BOARDS, COMMITTEES AND AGENCIES

1. 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 provision, designated by the Council. Any department, office, agency, board or committee not abolished by this Charter shall continue.

2. Property and Records: All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the 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 Council in accordance with this Charter.

Sec. 12.09 - PENDING MATTERS

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

Sec. 12.10 - MUNICIPAL LAWS

All ordinances, resolutions, orders and regulations in force at the time that this Charter takes effect, not inconsistent with this Charter, shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the Town of Holden in force at the time that this Charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Sec. 12.11 - STATE LAWS

Upon the effective date of this Charter, all private and special State Laws relating to the Town of Holden which are inconsistent in whole or in part with the provisions of this Charter are hereby repealed.

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[i] Section XII was originally written to establish the transition from a Selectmen form of government to a Town Council/Town Manager form of government. At the time of this amendment the transition is complete and Section 12.01 through 12.09 is no longer required; however, were left in the document as a historical reference as to how the transition was accomplished.