



GARDINER CITY COUNCIL AGENDA ITEM INFORMATION SHEET



Meeting Date		Department	
Agenda Item			
Est. Cost			
Background Information			
Requested Action			
City Manager and/or Finance Review			
Council Vote/ Action Taken			
Departmental Follow-Up			

City Clerk Use Only	1 st Reading _____	Advertised _____	EFFECTIVE DATE _____
	2 nd Reading _____	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

City Charter: Amend/Revise

General Information

At its basic level, a charter specifies the form of government (Gardiner is a council-manager form); the allocation of legislative, executive, and other powers; the delegation of various legal and administrative functions; and the procedures for making and implementing budgetary decisions. Because of Gardiner's adoption of a council-manager governmental model, it is required to have a charter to execute final legislative and budgetary matters [see 30-A MRS §§2001(9), 3007(1)]. Without a charter, Maine statutes control municipal roles and relationships.

A municipality is only required to have a charter if it wishes: to transfer legislative and budgetary powers to another body (Council); to alter any statutory and procedures governing municipal elections (i.e., restricting voter initiatives, or to mandate all-referendum voting); to impose qualifications or prohibitions for officials (i.e., term limits or residency requirements for officials-other than municipal officers and school committee members); and, recalling of school committee members. In Maine, the default form of governance is select board/town meeting.

Adoption Process

Maine law addresses the adoption, revision, and amendment of charters in 30-A MRS §§2101-2109. The first step in the process is the establishment of a charter commission to develop a proposed charter for approval by the voters. The commission is established by referendum vote (see 30-A MRS §§2102, 2103). Charter commissions may be initiated by either an order of the municipal officers or by petition (at least 20% of the number of voters in the last gubernatorial election). If approved, the commission includes both elected and appointed members (see 30-A MRS §2103). Once a commission has been approved, they have 12 months to prepare and submit a final report to the municipal officers. The municipal officers, in turn, must submit the proposed charter to the voters by referendum at the next regular or special municipal election held at least 35 days after receipt. If approved, the charter takes effect on the first day of the next succeeding municipal year.

Amendment v. Revision

The determination of whether a change to a charter is "amending" or "revising" informs the procedure needing to be undertaken by the municipality. Unfortunately, neither term is defined in the relevant statutes. Guidance is provided in a Maine Supreme Judicial case, *Fair Elections Portland, Inc. v. City of Portland*, 2021 ME 32. The decision turns on "whether the proposed

change is significant enough to require a [potentially] years-long inquiry into all aspects of the municipalities government.” The difference is one of scope determined by the breadth and depth of the impact.

The distinction is important because a “revision” follows the same statutory procedure as “adoption” while “amendments” may be initiated directly, through either an order of the municipal officers or through a petition process.

Legal Counsel

Before a new charter, charter revision or petitioned amendment may be voted on an attorney admitted to the Maine Bar must certify in writing that the charter, revision, or amendment does not contain any provision prohibited by the federal or state constitutions or the general law [See 30-A MRS §§2103(5)(D), 2104 (5)(B)] .