

Chapter 1

Charter of the Town of Bradley

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CHARTER OF TOWN OF BRADLEY

PENOBSCOT COUNTY

ARTICLE I: GRANT OF POWER TO THE TOWN

Section 1: Incorporation

The Inhabitants of the Town of Bradley shall continue to be a Municipal Corporation by the name of the Town of Bradley, pursuant to its incorporation by law and amendments thereof.

Section 2: Powers

The Town shall have all the powers possible for a municipality to have under the Construction and the laws of the State of Maine.

Section 3: Construction

The powers of the Town under this Charter shall be construed liberally in favor of the Town and specific mention of particular powers in the Charter shall not be construed as limiting in anyway the general power stated in the article.

Section 4: 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 other municipality of the State of Maine, public agency of this State, or of the United States.

ARTICLE II: TOWN REFERENDUM

Section 1: Annual and Special Town Referendums

Except as otherwise provided for by the provisions of this Charter, the legislative authority of the Town of Bradley shall continue to be vested in the Inhabitants of the Town of Bradley acting by means of the Town Referendum. The Annual Town Referendum shall be set by the Town Council and held in June. The provisions of the Revised Statutes of the State of Maine, including Title 30, Section 2061, shall govern the manner in which all annual and special town meetings shall be called and conducted and shall govern the Warrant for calling same. There shall be only one budget referendum per year.

Section 2: Powers and Responsibilities

The Annual Town Referendum shall have the exclusive power and responsibility to

- a. Elect all necessary town officers;
- b. Raise and appropriate monies for the Annual Budget;

The Annual Special Town Referendums shall have the power and responsibility to:

- a. Raise and appropriate monies for special purposes;

- b. Act on the issuance of bonds and notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued;
- c. Act on the sale of town owned real estate other than that acquired through matured tax mortgages liens;
- d. Transact other town business presented to it by Warrant Articles;
- e. Exercise all other powers not specifically delegated by this Charter or by law.

Section 3: Certification of Results

- a. Two (2) days after the Annual Referendum or a Special Referendum, the Town Clerk shall certify the results of the respective referendum to the Town Councilors.
- b. Upon certification that a majority of the voters of the Town voting at the Annual Referendum have voted "YES" in response to a budget item, the Town Council shall adopt the budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for all approved line-items.
- c. Upon certificate that a majority of the voters of the Town voting at the Referendum have voted "NO" in response to a budget item, the Councilors shall adopt the Town Budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for each un-approved line-item equal to the budgeted appropriation for the line-item during the fiscal year just ending.
- d. Upon certification from the Town Clerk that other items as listed in Section 2, Powers and Responsibilities, voted on at the Annual Referendum have received a "YES" vote, the Town Council will take appropriate action.
- e. The Town Council/School Board may request a Special Referendum (not related to budget matters) as decreed in Section 2, Powers and Responsibilities. The Referendum must be called in accordance to all other requirements of the Charter.

ARTICLE III: THE TOWN COUNCIL

Section 1: Composition, Eligibility, Election, and Terms

- a. Composition. There shall be a Town Council of five members elected by a majority vote of the qualified voters of the Town who cast ballots in accordance with Article X.
- b. Eligibility. Only qualified voters of the Town, at the time of the election, shall be eligible to hold the office of Councilor.
- c. Elections and Terms. Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of the Charter one Councilor shall be elected. The four incumbent Selectman presently serving with more than one year to serve shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall have all the authority, duties, and responsibilities of Councilors set forth by the Charter.

Section 2: Salary

The salary of the Town Council Chairperson and Councilors shall be established at the Annual Town Meeting. The salary established by the Annual Town Meeting shall be paid the Councilors in equal quarterly amounts; provided, however, that a Councilor's failure to attend 75% of the Regular Council Meetings shall result in a forfeiture of payment of that quarter.

Section 3: Chairperson, Secretary

The Council shall elect from among its members a Chairperson, who shall serve at the pleasure of the Council. The Chairperson shall preside at meetings of the Council, and shall be recognized as the head of the Town Government for all ceremonial purposes. The Chairperson shall have no administrative duties.

The Town Clerk or Deputy Clerk shall give notice of all Council Meetings to Council Members and to the public in such manner as deemed suitable. The Town Clerk or Deputy Clerk shall keep a journal of the proceedings of the Council and perform such duties as assigned to him/her by this Charter or by the Council.

Section 4: General Authority and Duties

The Council shall have the authority to:

- a. Appoint and remove for cause, after hearing, the Town Manager, Town Treasurer, Town Clerk, and Town Assessor; appoint Town Attorney who shall serve at the will of the Council; appoint and remove for cause, after hearing, the members of the Planning, Cemetery committee, Board of Appeals, Recreation Committee, Health Officer, local Constables, and all other appointed committees as The Council may determine necessary, each of which shall have authority and perform such duties as are provided by this Charter, Municipal Ordinance and by Statute.
- b. By ordinance create, change, and abolish offices, departments, committees, and agencies, other than the offices, departments, committees and agencies created by the School Department.

The Town Council by resolution may assign additional functions or duties to officers, departments, committees, or agencies established by this charter, but may not discontinue or assign to any office, departments, committees, or agencies established by this charter any function or duty assigned by this Charter to a particular office, department, committee or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office under this Charter, with the exception of that of Town Assessor, or Town Attorney or any School Officers

- c. Convey or authorize the conveyance of real estate acquired by mature tax mortgage liens and the lease or authorization for lease of town owned property.
- d. Adopt an annual budget which shall be presented to the Public Hearing as provided by this Charter, and upon receipt of recommendation of the Public Hearing, cause the budget, with or without change, to be printed in the Town Warrant.
- e. Borrow funds and provide for the execution of notes thereof in anticipation of taxes, said notes to be repaid within the fiscal year in which issued.

- f. Provide for annual audit.
- g. Dispose of by sale or otherwise, surplus town owned personal property.
- h. Make, alter, and repeal ordinances permitted by statute.
- i. Appropriate, by resolution, up to \$5000.00 per year from unappropriated surplus for emergency purposes as defined by the Council.
- j. Accept gifts, conditional or unconditional, including, but not limited to cash, real estate and personal property and acquire real estate or personal property as it deems to be in the best interest of the Town of Bradley.

Section 5: Prohibitions

- a. Holding another office. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Councilor shall hold any other town office or town employment while serving as a member of the Council.
- b. Appointment and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Manager or any of his/her subordinates is empowered to appoint.
- c. Interference with Administration. Except for the purpose of inquiries and investigation under Article III, Section 4(h), the Council or its members shall deal with town officers, who are subject to the direction and supervision of the Town Manager, solely through the Town Manager. Neither the Council nor its members shall give orders to any such officer or employee, either public or privately.

Section 6: Vacancies, Forfeiture of Office

- a. Vacancies. The Office of Councilor shall become vacant upon his/her nonacceptance, resignation, abandonment, death, permanent disability, permanent incompetence, failure to qualify for the office within 10 days after written demand by the Council, or forfeiture of office.
- b. Forfeiture of Office. A Councilor shall forfeit his/her office if he/she:
 - 1. lacks at any time during his/her term of office any qualification for the office prescribed by this charter or by law;
 - 2. violates any express prohibition of this Charter;
 - 3. is convicted of a crime or offense which is reasonably related to his/her ability to serve as Councilor; or
 - 4. fails to attend three consecutive meetings of the Council without being excused by the Council.

The Council shall prescribe by rule provisions for Notice and Hearing for any Councilor deemed to have forfeited his/her office.

- c. Filling of vacancies. One vacancy shall be filled by appointment. Any other vacancies the Council shall be filled for the remainder of the un-expired term at the next annual election held more than 120 days after the occurrence of the vacancy. Any further vacancies will necessitate a special election to ensure that the Council remains an elected body. If the next annual election is to be held more than 120 days of the occurrence of the vacancy, then a special election shall be held to fill the vacancy. Notwithstanding the requirement of a quorum in Article III, reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

Section 7: Judge of Qualifications.

The Council shall be the judge of the election and qualification of all officers elected by the voters under this Charter and of the ground for forfeiture of their office and for that purpose shall have the authority to provide for the compulsory attendance of witnesses, the administering of oaths, and the compulsory production of evidence. An officer charged in writing with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, made within ten (10) days of receipt of notice of forfeiture. Notice of the Hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advanced of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Section 8: Procedure.

- a. Meetings: The Council shall meet regularly at least once every two weeks at such time and place as the Council may prescribe by rule. Special meetings may be held on the call of the Council Chairperson, Town Manager, or of three or more Council Members by causing a notification to be given in hand or left at the usual dwelling place of each council member at least 24 hours before the meeting. All meetings shall be public; however, the Council may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council except in public meetings.
- b. Rules and Journal: The Council shall determine its own rules and order of business, however, when a question of procedure develops Robert's Rules of Order shall apply. The Council shall provide for the keeping of a written journal of its proceedings by the Town Clerk. This journal shall be kept for public record.
- c. Voting: Voting, except on procedural motions, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Each Councilor in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest clearly exists.

Section 9: Ordinance in General.

- a. Form: Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title.

The enacting clause shall be "The Town of Bradley hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the Town of Bradley Code shall set forth 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 underscoring or italics.

- b. Procedure: An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk shall distribute a copy to each Council member and to the Town Manager, a reasonable number of copies shall be filed in the Town Clerks office, and such other places as the Council shall designate, and shall publish the notice together with a notice of 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 conjunction with a regular or special Council Meeting and may be adjourned from time to time. All persons interested shall have 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 as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Town Clerk shall have it published again together with a notice of its adoption.
- c. Effective date: Except as otherwise provided in the Charter, every adopted ordinance shall become effective at the expiration of thirty days after the adoption or at any later date specified therein.
- d. "Publish" Defined; As used in this section the term "publish" means to print in one or more newspapers of general circulation in the municipality:
 - 1. the ordinance or a brief summary thereof, and
 - 2. the place where copies of it have been filed and the time when they are available for public inspection.

Section 10: Emergency Ordinances

To meet a public emergency affecting life, health, property, or public peace, the Council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form or manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

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 at least three members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or

at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section for adoption of emergency ordinances.

Section 11: Authorization and Recording; Codification; Printing

- a. Authorization and Recording: All ordinances and resolutions by the council shall be authenticated by the signature of Chairperson of the Council, and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.
- b. Codification: Within three years after the adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all the ordinances and resolutions having full force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or in 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 such codes of technical regulations and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be cited officially as the Town of Bradley Code. Copies of the code shall be furnished officials, placed in libraries, and public offices for free public reference and made available for purchase by the public as a reasonable price fixed by the Council.
- c. Printing of Ordinances and Resolutions: The Council shall cause each ordinance and resolution having full force and effect of law and each amendment to this charter to be printed promptly following adoption, and printed ordinances, resolutions, and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Town of Bradley code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed substantially in the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make further arrangements as it deems desirable with respect to production and distribution of any current changes in or addition to, the provisions of the Constitution and other laws of the State of Maine, or regulations included in the code.

ARTICLE IV: THE TOWN MANAGER

Section 1: Appointments; Qualifications; Compensation

The Council shall appoint a Town Manager for indefinite term unless otherwise specified by contract, and fix 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.

Section 2: Removal

The Town Manager may be removed for cause by the Council in accordance with the provisions of the revised statutes of the State of Maine relating to the removal of a Town Manager.

Section 3: Acting Town Manager

The Town Manager shall:

- a. Be the chief administrative official of the municipality;
- b. Be responsible to the Council for the administration of all departments and offices over which the Council has control;
- c. Serve as Road Commissioner, Town Clerk, Town Treasurer, Tax Collector, General Assistance Administrator, and Registrar of Voters, unless otherwise directed by the Town Council;
- d. Execute all laws and ordinances of the municipality;
- e. Serve as head of any department under the control of the Council when so directed;
- f. Appoint, subject to the confirmation by the Council when the department is not headed by the Town Manager under paragraph (e);
- g. Appoint, supervise, control or remove all other officials, subordinates and assistants, except that he/she may delegate this authority to a head of a department, and report all appointments and removals to the Council;
- h. Act as purchasing agent for all the departments, except for the School Department, provided that the Town or the Council may require that all purchases above a designated amount shall be subject to Council approval. The Town or Council may also require that any purchase greater than a designated amount shall be by sealed bid;
- i. Attend all meetings of the Council;
- j. Attend such meetings and hearings of the municipality as the Council may require;
- k. Make recommendations to the Council for the more efficient operation of the municipality;
- l. Keep the Council and the residents of the municipality informed as to the financial condition of the Town;
- m. Collect data necessary for and prepare the annual budget and Capital Improvement Budget;
- n. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governing practices.

ARTICLE VI: PERSONNEL ADMINISTRATION

Section 1: Merit Principle

All appointments and promotions of town officials and employees shall be made solely on the basis of qualification.

Section 2: Personnel Director

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

Section 3: Personnel Rules

The Personnel Director shall prepare personnel rules. These personnel rules shall not apply to any school administrator or school employee. When approved by the Manager, the rules shall be proposed to the Council for adoption. The Council may adopt them with or without amendment. These rules shall provide for:

- a. The classification of for all town positions based on the duties, authority and responsibility for each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances. For purposes of this section town positions shall include all town employees;
- b. A pay plan for all town positions;
- c. Methods for determining the qualifications of candidates for appointment or promotion;
- d. The policies and procedures regulating reduction in force;
- e. The policies governing disciplinary measures such as suspension, demotion or discharge, with provisions for presentation of charges, hearing rights, and appeals;
- f. The hours of work, attendance regulations and provisions for sick and vacation leaves;
- g. The policies and procedures governing persons holding provisional or part-time appointments;
- h. The policies and procedures governing relationships with employee organization not consistent with law;
- i. Policies regarding in-service training programs;
- j. Grievance procedures, and;
- k. Other practices and procedures necessary to the administration of the town personnel system.
- l. No person shall hold more than one compensated position in the town at one time.

ARTICLE VII: THE FIRE CHIEF

Section 1: Composition; Eligibility; Appointment and Term

- a. Composition: There shall be a Fire Chief appointed by the Town Manager, subject to confirmation by the Town Council.
- b. Eligibility: Only qualified voters of the Town of Bradley shall be eligible to hold the office of Fire Chief.
- c. Appointment and Term: The incumbent Fire Chief serving at the time of the adoption of this Charter shall continue to serve as Fire Chief for the remainder of his/her term or until his/her successor is appointed and confirmed and shall have all of the authority, duties, and responsibilities of Fire Chief as set forth by this Charter.

Section 2: Salary

The salary of the Fire Chief shall be determined by the Town Council, and shall be reviewed from time to time.

Section 3: General Authority and Duties

The Fire Chief shall:

- a. Direct and command all municipal and volunteer firefighters in the performance of fire fighting operations within the Town of Bradley;
- b. Determine the adequate number of firefighters necessary to compose an effective Bradley Fire Department.
- c. Appoint all officers and firefighters; and have authority to remove them for just cause after notice and hearing;
- d. Be authorized, with the approval of the Town Council, to promulgate administrative rules and regulations relating to municipal fire protection consistent with this Charter, Municipal Ordinances and the Maine Revised Statutes Annotated;
- e. Provide a training program for firefighters within the municipality in cooperation with the appropriate governmental agencies;
- f. Provide for the maintenance of all Town owned fire equipment used by the Municipal Fire Department;
- g. Prepare and annually submit to the Town Manager a budget relating to fire protection activities;
- h. Be authorized to obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury or damage;
- i. Be responsible for the acquisition of all necessary fire protection commodities, related services, and equipment by ordering said commodities, services and equipment as per established purchasing procedures;

- j. Be authorized to pull down and demolish structures and appurtenances if he/she judges it necessary to prevent the spread of fire;
- k. Suppress, disorder and tumult at the scene of a fire, and generally, to direct all operations in order to prevent further destruction and damage.

Section 4: Fire Department General Provisions

- a. Firefighters Duties: All firefighters duly appointed by the Fire Chief shall be under a duty to extinguish all fires to which they are called; protect lives and property endangered by fires; and carry out all other related activities as directed by the Fire Chief.
- b. Firefighter Training: All firefighters shall attend training sessions as scheduled by the Fire Chief.
- c. Meetings: The members of the Fire Department shall meet regularly at such time and place as the members may prescribe by rule. The Department shall provide for the keeping of a written journal of its proceedings by the Fire Department Clerk. This journal shall be kept for public record.

ARTICLE VIII: SCHOOL ADMINISTRATION

Section 1: Superintending School Committee; Eligibility; Election and Terms; Compensation

- a. Superintending School Committee: There shall be a superintending School Committee, sometimes referred to herein as School Committee, of five members elected by the qualified voters of the Town in accordance with Article X.
- b. Eligibility: Only qualified voters of the Town shall be eligible to hold the office of School Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, not town employment while serving as a School Committee Member. This provision shall not apply to persons who are employed by the town on less than a full time annual basis. "Full time employee" means person employed on a weekly basis regardless of remuneration or the number of hours worked. Volunteer firefighters with the exception of the Fire Chief, shall not be considered "full time employees:" for the purposes of this section.
- c. Election and Terms: Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of this Charter one School Committee Member shall be elected and the four Committee Members presently serving shall be sworn as Committee Members and continue to serve as Committee Members for the remainder of their terms or until successors are elected and qualified.
- d. Compensation: The Compensation of the School Committee Chairperson and members shall be established at the Annual Town Referendum. The salary established by the Annual Town Referendum shall be paid the School Committee Members annually provided, however, that a member's failure to attend 75% of the regular School Committee Meetings shall result in a forfeiture of payment for that year.

Section 2: Vacancy; Forfeiture of Office; Filling of Vacancies

The office of School Committee Member shall be deemed vacant or forfeited for the same reasons that the office of Councilor shall be deemed vacant or forfeited, as provided in Article III, Section 6 (a) and Section 7 (b) 1-4. If any vacancy occurs, the vacancy shall be filled for the remainder of the unexpired term in the same manner as provided in Article III, Section 6 (c) for filling of Council vacancies, provided, however, the School Committee shall be the appointing authority for School Committee vacancies.

Section 3: Powers and Duties

The School Committee shall have all the powers and duties prescribed for Superintending School Committees by the general laws of the State of Maine and as provided by this Charter consistent with said laws. The School Committee shall supervise the school department and for financial purposes shall be governed by Article IX.

Section 4: Chairperson; Secretary

The School Committee shall elect by majority vote from among its members a Chairperson for ensuing year. The Chairperson shall preside at all meetings of the School Committee and shall have a vote as other members of said committee.

The Superintendent of Schools shall act as recording secretary of the School Committee. The Superintendent of Schools shall give notice of School Committee Meetings to its members and to the public in such manner as deemed suitable by the Committee and keep a journal of the votes and proceedings of the School Committee.

Section 5: Procedure

- a. Meetings: The School Committee shall meet regularly at least once in every month, except during the months when school is not in session, at such time and place as the School Committee may prescribe by rule. Special meetings may be held on the call of the Chairperson, Superintendent of Schools, or if any two or more Committee Members by causing a notification to be given or left at the usual dwelling place of each Committee Member. All meetings shall be public, however, the Committee may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling such session and that final action thereon not be taken by the Committee except in public meeting.
- b. Rules and Journal: The Committee shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal shall be kept for public record.
- c. Voting: Voting, except on procedural motion, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Committee shall constitute a quorum, but a smaller number may adjourn from time to time and may compel to the penalties prescribed by the rules of the Committee. Each Committee Member shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists.

ARTICLE IX: FINANCIAL PROCEDURES

Section 1. Fiscal Year

The fiscal year of the Town government shall begin the first day of July and shall end the thirtieth day of June of each year. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Section 2: Preparation and Submission of the Budget

The Town Manager shall submit a projected Municipal Budget and an explanatory budget message to the Town Council on or before February 1st.

The Superintendent of Schools shall submit a projected Education Budget and an explanatory message to the School Committee on or before February 1st.

The budgets prepared by the Town Manager and the Superintendent of Schools shall be compiled from detailed information furnished by the administrative officers, the Superintending School Committee, and other boards, on forms which shall be designated by the Town Manager for the Municipal Budget, and by the Superintendent of Schools for Education Budget.

The projected budgets, as prepared by the Town Manager and the Superintendent of Schools shall contain the following:

- a. An itemized statement of appropriations recommended for current expenses with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated and explained.
- b. An itemized statement of estimated revenue from all sources, other than local taxation, and statement of taxes required, comparative figures from current and next preceding year.
- c. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax and shall be itemized also by department and kinds of expenditures, in such manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.
- d. The Town Manager's projected budget shall include a statement of the financial condition of the town.
- e. Such other information as may be required by the Town Council or the School Committee.

The Superintending School Committee shall present a projected education budget to the Town Council on or before April 1st of each year.

The Town Council shall have authority to recommend amendments to the School Committee, but the actual budget as prepared by the School Committee shall be published along with the Municipal Budget as approved by the Town Council.

The Town Council shall fix a time and place for holding a Public Hearing on the budget, the Town Council shall again review the entire budget. The complete Municipal Budget as approved by the Council, and the complete Education Budget as approved by the School Committee and reviewed by the Town Council, shall then be recommended by the Town Council with or without amendments to the Annual Town Referendum.

Provided, however, the projected budget of the School Committee shall be published as it was approved by the School Committee. Should the Town Council wish to recommend amendments to the Education Budget, such recommendations shall be included in the Town Referendum warrant below the recommendations of the School Committee.

Section 3: Budget and Expenditures

The Town Budget shall have two divisions: Municipal Budget and Education Budget, and each shall include all proposed expenditures for the upcoming year.

Section 4: Transfer of Appropriations

At the request of the Town Manager and within the last three months of the budget year, the Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

At the request of the Superintendent of Schools, and within the last three months of the budget year, the School Committee may by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

Section 5: Interim Expenses

In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current department expenses chargeable to the appropriations for the year, in amounts to cover the necessary expense of the various departments.

Section 6: Capital Improvement Program

The Town Manager and the Superintending School Committee each shall prepare and submit to the Town Council a five year Capital Improvement Program at least three months prior to the final date for submission of the budget to the Town Council. The Capital Improvement Program shall include:

- a. A clear summary of its contents
- b. A list of all capital improvements which are proposed for the successive five fiscal years, with proper supporting information as to the necessities of such improvements.
- c. Cost estimates, methods of financing, and recommended time schedules for such improvements.
- d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired, if any.

The above required information shall be reviewed and extended each year with regard to capital improvements still pending or in the process of construction or acquisitions. The current year's

portion of the five year Capital Improvement Program, as approved by the Town Council, shall be included as an item with Municipal Budget presented to the Annual Town Meeting.

ARTICLE X: ELECTION AND NOMINATION

Section 1: Elections

- a. Conduct Elections: The Annual Municipal Election shall be held on a date in June set by the Town Council. Except as otherwise provided for by this Charter; Title 30, Section 2061, 2062, 2063, 2064 and 2065 of the provisions of the Revised Statutes of the State of Maine shall govern the election of all town officials required by this Charter, and said election shall be conducted by the election officials accordingly. Polls shall be open at specified polling places from at least 9 a.m. to 6 p.m. for Municipal Elections.
- b. Qualified Voter: The term "qualified voter" as used in this Charter shall mean any person qualified and registered to vote in the Town of Bradley pursuant to the laws of the State of Maine.

Section 2: Nominations

- a. Petitions: Candidates for election to the Council and the School Committee shall be nominated by petition. Any qualified voter of the town may be nominated for election as a Councilor, or School Committee Member by a petition signed by not less than 25 not more than 75 of the qualified voters of the Town. The voters may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.
- b. Filing and Acceptance of Nomination Petitions: All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as an instrument on or before the 35th day next prior to the day of elections. This is the final date of filing for nomination petitions. Nomination papers shall be available to candidates for Municipal Office no earlier than 40 days next prior to the final date of filing nomination petitions. 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.
- c. Procedure After Filing Nomination Petitions: Within five 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 to be insufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

Section 3: Moderator

Whenever the election of a Moderator is required at the annual or special town meeting, the provisions of Title 30, Section 2054 of the Maine Revised Statutes as amended shall govern.

ARTICLE XI: INITIATIVE AND REFERENDUM

Section 1: General Authority

- a. Initiative: Qualified voters shall have power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance, the voters may vote to adopt or reject it in an election, provided that such power shall not extend to the budget or capital improvement program or any ordinance relating to appropriation of money, levy of taxes or salaries of officers or employees.
- b. Referendum: The qualified voters of the Town shall have power to require reconsideration by the Council of any adopted ordinance and if the Council fails to repeal an ordinance so reconsidered said voters shall have the power to approve or reject it at a town election, provided that such power shall not extend to the budget or capital program or any emergency ordinance relating to appropriation of money, levy, taxes, or salaries of officers or employees.

Section 2: Commencement of Proceedings; Petitioners; Petitioners Committee; Affidavit

Any five qualified voters may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form, stating their names and address and specifying the mailing address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners committee is filed the Clerk shall issue the appropriate petition blank to the petitioners committee.

Section 3: Petitions

- a. Number of Signatures: Initiative and referendum petitions must be signed by qualified voters of the town equal to at least 20 percent of the total number of qualified voters registered to vote at the last annual municipal election as certified by the Town Clerk.
- b. Form and Consent: All papers of a petition shall be uniform size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- c. Affidavit or Circulator: Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his/her presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signed had a opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- d. Time for Filing Referendum Petitions: Referendum petitions must be filed within 120 days after adoption by the Council of the ordinance sought to be reconsidered.

Section 4: Procedure after Filing

- a. Certification of Clerk; Amendment. Within 20 days after the petition is filed, the Clerk shall complete a certificate as to its sufficiency, specifying if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the Clerk within five days after receiving the copy of his/her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (b) and (c) of Section 3, Article XI, and within five days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petitions certified insufficient and the petitioners committee does not elect to amend or request Council review in subsection (b) of this section within the required, the Clerk shall promptly present his/her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- b. Council Review: If a petition has been certified insufficient and the petitioners committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within five days after receiving copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate and its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.
- c. Court Review; New Petition: A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 5: Referendum petitions; Suspension of Effect of Ordinances

When a petition is filed with the Town Clerk, the ordinance to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is final determination of insufficiency of the petition, or
- b. The petitioners Committee withdraws the petition, or
- c. The Council repeals the ordinance

Section 6: Action on Petitions

- a. Action by Council: When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting repeal. If the Council fails to adopt a proposed initiative ordinance or reconsider the referred ordinance by voting it repeal. If the Council fails to adopt a proposed initiative ordinance or reconsider the referred ordinance by voting it repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fail

to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.

- b. Submissions to Voters: The vote on a proposed or referred ordinance shall be held not less than 30 days and no later than one year from the date of final Council vote thereon. If no annual election is to be held within the period prescribed in the subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as the annual election, except that the Council may, in its description, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

An ordinance to be voted on 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. Below the ballot title "shall appear the above described ordinance be adopted?" In the case of referendum, the question shall be:

"Shall the above described ordinance be repealed?" Immediately below such question shall appear the following order the words "yes" and "no" and to the right of each square in which the voter may cast his/her vote.

Section 7: Results of Election

- a. Initiative: If a majority of the qualified elector voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council.
- b. Referendum: If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the elections results.
- c. Reconsideration: Upon the certification of the election results, if a proposed ordinance fails, or a referred ordinance is upheld by the voters, then a new petition proposing or attempting to repeal the same ordinance that was considered by the voters shall not be reconsidered for a period of twelve months from the date of the election at which the proposed or referred ordinance was defeated or upheld.

ARTICLE XII: RECALL

Section 1: Recall Provisions

Any member of the Town Council, or School Committee may be recalled and removed from office by the qualified voters of the Town as herein provided.

Any five qualified voters may begin at any time proceedings to recall a member of the Town Council or School Committee by requesting in writing to the Town Clerk for the appropriate petition blanks. Provided, however, that if the term of any person whose recall is sought expires within 90 days of the date of the acceptance of the request for the appropriate petition blanks by the Town Clerk, then said person may not be recalled. The five registered voters requesting the petition blanks shall be referred to as the Recall committee.

The recall committee shall have 30 days from the date of the acceptance of the request by the Town Clerk to cause the petition to be signed by 10% of the qualified voters of the Town. The petition shall be signed by qualified voters in the presence of the Town Clerk or his/her deputy. Each voter's signature shall be followed by his/her address.

Within seven days after the petition circulation period ends, the Town Clerk shall certify to the Town Council that the petition as been signed by not less than 25 percent of the qualified voters of the Town, that all signatures were affixed in his/her presence or his/her deputy's presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signer had an opportunity to read the statement detailing the reason or reasons for recall.

Should fewer qualified voters than required by the Charter signed 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 School Committee Member will not be accepted by the Town Clerk until 180 days after the expiration of the previous filing period.

Upon receipt of the certification, the Council shall within 30 days hold a special election for the purpose of submitting the vote the question of recall. A Councilor or School Committee Member shall be recalled when a majority of those voting thereon have voted in the affirmative. The Councilor shall within 30 days after the voters have recalled a Councilor or School Committee Member hold a special election to fill the vacancy.

A Councilor or School Committee Member who is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy his/her name appear on the ballot, no later than the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for an annual municipal election.

Pending action by the voters of the Town, the Councilor or School Committee Member 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 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 XIII: GENERAL PROVISIONS

Section 1: Elected Officers; Terms

The term of any elected official shall begin that first day of the next fiscal year following the election of said officer. Provided, however, that any officer elected to fill a vacancy in office shall assume the responsibility of that office the first day following his/her election. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified.

Section 2: Swearing in Officers

Every town officer or official shall be sworn to he faithful discharge of the duties incumbent upon his/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 3: Organizational Matters

The Town Council and the Superintendent School Committee shall each convene during the first full week of the new fiscal following the Annual Election for the purpose of organizing as provided by Statute and this Charter.

Section 4: 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, political or religious opinions or affiliations.
2. NO person who holds a compensated appointive town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

- #### **b. Penalties:** Any person found in violation of this section or any ordinance enacted pursuant to this section by a court of competent jurisdiction or by the Council acting in juridical capacity, shall be ineligible for a period of five years thereafter to hold any town office or employment and shall immediately forfeit his/her position or office.

Section 5: Separability

If any provisions of this Charter are 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 circumstances is held invalid, the application of the Charter and its provisions to other persons and circumstance shall not be affected thereby. If any provisions of this Charter is held invalid by reason of any conflict with State or Federal Law, the provisions of the applicable State and Federal Law shall automatically become incorporated in this Charter in place of invalid Charter provisions.

ARTICLE XIV: TRANSITIONAL PROVISIONS

Section 1: Time of Taking Full Effect – Charter

This Charter shall be in effect for all purposes on and after this first day of the next succeeding municipal year after adoption. As used in this Charter, municipal year is defined as being from July 1st to June 30th.

Section 2: Incumbent Council

As of the effective date of this Charter the five Selectmen incumbent as of said effective date shall continue as interim Councilors under this Charter until the next annual municipal election at which time Councilors will be elected as provided by Article III, Section 1(c)

During said interim period three shall be considered a majority of the Council.

Section 3: Staggering Terms Council

Those Selectmen incumbent as of the effective date of this Charter shall continue as Councilors until the expirations of their terms.

One new Councilor shall be elected at the first annual municipal election following the effective date of this Charter to serve for three years in accordance with Article III, Section 1 (c).

Section 4: Incumbent Superintending School Committee

As of the effective date of this Charter, the five School Committee Members incumbent as of said effective date shall continue as interim School committee Members under this Charter until the next annual municipal election at which time one School Committee Member will be elected as provided for Article VIII, Section 1 (c).

During said interim period three shall be considered a majority of the School Committee.

Section 5: Staggering Term Council

Those School Committee Members incumbent as of the effective date of this Charter shall continue as School Committee Members until the expiration of their terms.

At the first annual municipal election following the effective date of this Charter one School Committee Member shall be elected for three years.

Section 6: Officers and Employees

- a. Rights and Privileges Preserved: Nothing in this Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are town officers or employees at the time of its adoption.
- b. Continuance of Office or Employment: Except as specifically provided by this Charter, if at any time this Charter takes full effect, a town administrative officer or employee holds any office or position which is or can be abolished under authority of this Charter, he/she shall continue in such office or position until taking effect of some specific provision under this Charter directing that he/she vacate the office or position.
- c. An employee holding a town position at the time the personnel policies required by this Charter takes effect shall not be subject to competitive tests a condition of continuance in the same position, but in all other respects shall be subject to the rules and procedures provided for the personnel policies.

Section 7: 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.

Section 8: State and Municipal Laws

- a. In General. 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.

**CHARTER REVISED WITH CHANGES PURSUANT TO NOVEMBER 1996 ELECTION.
APPROVED BY A MAJORITY OF REGISTERED VOTERS VOTING.**

CHARTER AMENDMENT

The purpose of this amendment is to limit the increases to the net budget by the COLA

DEFINITIONS:

COLA: Cost of Living Allowance, determined by the Social Security Administration.

GROSS BUDGET: Total amount proposed to expend

REVENUES: All forms of revenues, not including property/personal taxes.

NET BUDGET: Gross budget minus revenues.

SECTION 1:

The Bradley Town Council/School Board may not propose a net budget to the Town Meeting/Referendum that (except as provided for) exceeds the previous years net budget by the most recent COLA a determined by the Social Security Administration.

SECTION 2:

The Bradley Town Council may not commit tax money for a net budget (reserving section 4) exceeding the previous year's net budget by the COLA.

SECTION 3:

Repeal of the section shall follow the procedures set forth in this charter

SECTION 4:

The Town Council may exceed this budget cap by a 4/5 vote of the Town Council. If the School Board wishes to exceed the budget cap, a written request may be delivered to the Town clerk with a recommendation and a 4/5 vote at a duly called School Board Meeting. The recommendation must be before the final budget hearing as specified by this Charter

BRADLEY
CERTIFICATION OF REFERENDUM RESULTS
NOVEMBER 4, 2008

TOWN ARTICLES:

ARTICLE 1: CHARTER AMENDEMENT ARTICLE

Shall the Town of Bradley approve the charter amendment reprinted below?

Article III: THE TOWN COUNCIL, Section 4: General Authority and Duties

j. Accept gifts, conditional or unconditional, including, but not limited to cash, real estate and personal property and acquire real estate or personal property as it deems to be in the best interest of the Town of Bradley.

YES- 577 NO- 200 BLANK- 39

ATTEST:


TOWN CLERK

July 28, 1999
Bonnie Cote, Chairperson
Bradley Town Council
Via fax 207-945-3131

Re: Request of information pertaining to budget cap,

Dear Bonnie,

I recently received your memo regarding a request for information explaining how the budget cap works. I do not actually have any information pertaining to the cap on my person, however I do know how it was intended to work. I requested to Lucille that Mike forward me a copy of the cap so I could refresh myself with the language. In the meantime the shortest explanation of the budget cap was that it was intended to not ask citizens to have to pay a greater percent tax by inflating the budget every year. If your assessment increases it allows you to actually spend more money without affecting the budget cap. To determine how much you can spend over the previous year you have to take the inverse relationship of the mil rate formula. For example, the mil rate is generally figured the following way.

$$\text{Expenditures-revenues/value} = \text{mil rate. } 100,000 (\text{expenditures}) - 50,000 (\text{rev}) / 300,000 (\text{town value}) = .166 (\text{mil rate}).$$
$$100,000 - 50,000 = 50,000 / 300,000 = .166$$

Now suppose the assessor tells you that the town will be worth 350,000 and the manager says that outside revenue is remaining constant (50,000). To determine how much to increase your expenditures use the following formula. Last years mil rate $.166 \times 350,000 (\text{new value}) = 58,100 + 50,000 (\text{outside revenue}) = 108,100$ x cost of living allowance (use .02) gives you the amount you can spend without exceeding the cap.

$.166 \times 350,000 = 58,100 + 50,000 = 108,100 \times .02 = 2162$. The only increase you would be asking for is the 2162 even though you would get to spend 10,262 more than the previous year. The 10,262 is the $8,100 - 2162$.

I hope that this helps. Please forward the appropriate documents to my attention. Good Luck,

Sincerely,


Don J. Thompson

Appendix F

Town of Bradley



P.O. Box 502
BRADLEY, MAINE 04411
TELEPHONE (207) 827-7725

Don Thompson
P.O. Box 459
Greenland, NH 03840

Dear Mr. Thompson:

Enclosed is a copy of the Budget Cap Charter Amendment as well as an explanatory memo you wrote in 1996. As written the budget cap is tied to the net budget (gross budget-revenues). If you increase your gross budget by \$10,000 but non property tax revenues still remain the same, then the net budget has now increased by \$10,000. I understand the concept you were demonstrating for Bonnie but that appears to be more of a "back door" tax cap and not what has currently been adopted by the Town of Bradley. Once you've had an opportunity to review the enclosed materials would you please share any additional information you may have that may enlighten us regarding the budget cap as adopted by the citizens of Bradley. I thank you for your help and look forward to hearing from you in the future.

Sincerely

Michael R. Crooker
Town Manager

Appendix F

August 24, 1999
Michael Crooker
Town Manager
Town of Bradley
Bradley, ME 04411

Re: Budget Cap

Dear Mike,

Thanks for forwarding the information to me concerning the budget cap. At an immediate glance, it became apparent that I should have waited a day before sending any details to Bonnie Cote. The explanation that I wrote to her, in my humble opinion is the way the cap should work. The language that you forwarded to me makes it clear that any new assessments can not factor into staying within the cap. What I sent to Bonnie, at this point, should be disregarded. Clearly, the only means to increase your spending is to increase your outside revenues and not factor in any new changes in assessment or valuation.

At the time the cap was written it was not foreseen or expected that a large taxpayer may be coming into Bradley any time soon. The intention of the cap, regardless of language, was to not subject individual taxpayers to an inflated tax burden every year. It would not be impossible to structure the cap to allow for growth in the valuation of the town and maintain the integrity of the original cap. After my discussions with you it is apparent to me that you understand the cap quite well, if you have any questions please do not hesitate to contact me at 207-373-1015.

Best,
Burt Thompson

SPENCER, ZMISTOWSKI & MILLER

ATTORNEYS AT LAW

P O BOX 467 - 49 NORTH MAIN STREET

OLD TOWN, MAINE 04468-0467

(207) 827-4454

FACSIMILE (207) 827-3237

SARAH S. ZMISTOWSKI
ROBERT E. MILLER

BEVERLY W. SPENCER, RETIRED
CHARLES O. SPENCER, (1947-1993)

June 17, 1996

Town Council
Town of Bradley
P.O. Box 502
Bradley, ME 04411-0502

RE: Proposed Budget Cap Ordinance

Dear Council Members:

Don Thompson, Town Manager, sent me a copy of the proposed budget cap ordinance for review and comment. I have reviewed it's provisions, examined the Towns' charter, and have reviewed applicable provisions of state law. I also met with Don this morning to go over the proposal to attain additional information from him regarding the goals sought to be achieved if it is adopted. Under Article II, Section 1, except as otherwise specifically provided by charter, the legislative authority of the Town is vested in the inhabitants acting by and through the Annual or Special Town Meetings. Under Article II, Section 2, the Annual Town Meeting has exclusive and final authority over the appropriations of annual monies for the budget.

Under Section 4, the Council is delegated the responsibility of adopting an annual budget which is presented to the Annual Town Meeting for final approval. Likewise, the Council is delegated authority to adopt ordinances on matters within the scope of its authority.

The Charter also grants to the School Committee certain powers and authority. Provision for the establishment of a school committee and its powers of duties is found in Article VIII. See specifically Section 3.

As far as financial matters are concerned, both the School Committee and the Town Council are subject to the requirements of Article IX. Both budgets are incorporated into a final document known as the Town Budget which has two specific divisions, to wit: the municipal budget and the education budget. See Section VIII, Section 3.

In my opinion, subject to certain limitations, the Town has legal authority to limit the amount of money to be appropriated for budget purposes. It needs to be kept in mind that

Appendix E

some elements of the local budget are dictated by outside sources and therefore cannot be modified. These items include the county tax and legislative expenditure mandates. Therefore, a cap on expenditures only restricts those amounts which are discretionary on the local level and not mandatory.

In my opinion, the Council does not have authority to legislate a limit on budgetary expenditures without, in the very least, amending the charter. The charter grants to both Municipal Officers and the School Committee certain powers and responsibilities in the creation of the budget. The charter by its terms, place no limits on the amounts that may be appropriated by either body. The ultimate decision maker is the town meeting. In theory, at every annual town meeting the policy decision as to whether to place a limit on the expenditures by either body is at issue for that one year.

By adopting a budget cap, the Town, in effect, is establishing a mechanical formula which limits the authority of both the Municipal Officers, the School Committee, and ultimately the voters at Town Meetings.

In my opinion, in order to establish a legally effective expenditure limit the Town must first amend its charter for such purposes. The Council, however, by ordinance could adopt a restriction which would be applicable only to itself, and not to the School Committee. As a practical matter, a limit on the municipal expenditures would not accomplish what I understand to be the goal, to wit: to limit the expenditures in the overall budget, a majority of which constitutes expenditures for education. Therefore, in order to gain control over school expenditures, the Town, in the very least, will have to amend the charter.

There are some issues raised by the proposal that should be addressed. The standard for annual limits on the amounts to be raised is stated to be the cost of living allowance as established by the Social Security Administration. I suggest that a precise reference to the Federal statute or Federal regulations under which the limit is established be included in the proposed provision. It is important there not be any question as to what cost of living computation is being used as the standard.

It is my understanding from Don that the Council wishes to limit both the municipal budget proposal and the school budget proposal by the COLA. In other words, it is my understanding that in the event one body comes in with a budget that is less than COLA, that additional amount is not to be credited in any way to the budget of the other body.

The proposal also is intended to limit the annual tax commitment by the COLA. Although I don't see it as being a real issue, the commitment is a mathematical computation based upon the amount of the appropriation and the annual assessed value of the town. In other words, one might have a situation where the values in the town were dramatically reduced thus resulting in an increase in taxes which was unrelated to the budgetary process.

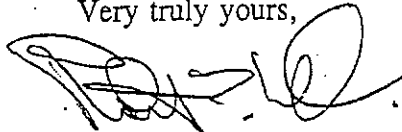
In conclusion, I believe the town has authority by means by a charter amendment to establish a limitation on the amounts appropriated for annual expenditure purposes. I suggest that you conduct your public hearing this evening for purposes of receiving public input on the merits of the proposal. If, at the end of the public hearing it is decided that a budget cap

Appendix F

is desired, I suggest that you direct the drafting of a proposed amendment to the Town Charter. The amendment would have to go through the procedure as established under the Home Rule statute and ultimately would have to be approved by the voters at a later date.

If you have any questions or would like to have me meet with you to further explain my conclusions and to discuss the issue further, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert E. Miller", written over a horizontal line.

Robert E. Miller
Attorney at Law

REM/nm

File #

Appendix F.

Legal Services
60 Community Drive
Augusta, Maine 04330-9486
(207) 623-8428
Fax (207) 623-1287

WILLIAM W. LIVENGOOD
REBECCA WARREN SEEL
RICHARD P. FLEWELLING
ELLERBE F. COLE
JAMES N. KATSIAFICAS
SUSANNE F. PILGRIM

JOSEPH J. WATHEN
(1957-1997)

September 21, 2000

Michael Crooker, Town Manager
Town of Bradley
PO Box 502
Bradley, ME 04411-0502

VIA FACSIMILE: 827-7072

Re: Charter Amendment

Dear Mr. Crooker:


This letter is in confirmation of our telephone conversation of September 20, 2000, regarding the Town of Bradley "budget cap." It is my understanding that there is some uncertainty as to whether or not this cap was adopted as a charter amendment, or merely as an ordinance. Further, if the budget cap is in fact an amendment to your charter, you inquired as to the statutory procedure to amend the charter.

Although I have no information as to how this budget cap was enacted by the Town of Bradley, it is my opinion that it should have been enacted as a charter amendment, since it imposes restrictions on the power to adopt a budget which was otherwise given without restriction to the Town Council under Article 3, Section 4(d).

As I mentioned in our telephone conversation, I would try to determine how this cap was enacted, if at all possible. However, if records are so incomplete that the method of adoption cannot be determined, I would treat it as a charter amendment and follow the procedures set forth in 30-A M.R.S.A. §2104 to either change or repeal the "budget cap."

I hope this information is helpful to you.

Sincerely,


William W. Livengood
Director of Legal Services

WWL:lm

Appendix F.

P.O. BOX 467 - 49 NORTH MAIN STREET
OLD TOWN, MAINE 04468-0467
(207) 827-4454
FACSIMILE (207) 827-3237

SARAH S. ZMISTOWSKI
ROBERT E. MILLER

BEVERLY W. SPENCER, RETIRED
CHARLES O. SPENCER, (1947-1993)

March 16, 1998

William S. Post, Town Manager
Town of Bradley
PO Box 502
Bradley, ME 04411

RE: Budget Cap ordinance

Dear Bill,

The purpose of this letter is to respond to the inquiries raised in your recent letter relative to the budget cap ordinance, as well as tax caps generally.

General provisions outlining the requirements for preparation of the annual budget for the Town of Bradley are found in Article IX of the Bradley Town Charter. Under Section 2, as is the case in most municipalities operating under a Town Manager/Council form of government, responsibility rests with the Town Manager to prepare a budget for the Council's consideration. After the Council completes its review process, a budget is submitted to the voters at the annual town meeting.

It is my understanding that the Town's "budget cap ordinance" was adopted at an annual town meeting which took place in 1996. The preamble states clearly that the purpose of the ordinance is to provide a limit on increases in the annual budget by a factor equal to the cost of living allowance determined by the Federal Social Security Administration, in conjunction with Social Security benefits.

Although the ordinance does not specifically limit the budget the manager may propose in the first instance, it clearly establishes a policy which I believe you as manager should follow in the preparation of your budget, if at all possible.

Clearly the ordinance is intended to limit the budget recommended by the Town Council to the voters at the annual town meeting. It does not place a limit on the appropriations that may ultimately be approved by the town meeting. It also does not directly place a limitation on the amount of taxes that may be imposed as a result of the budget process.

The ordinance also is intended to place a limit on the amount proposed by the School Board as a part of the education budget. The Bradley Town charter contains very clear

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language outlining the procedure for developing the education budget, and its identity remains separate throughout the process.

If the Town Council and/or the School Board fail to follow the directives of the ordinance, there is no stated penalty that can be imposed. The voters may, of course, react to their failure by action taken at the annual town meeting. In addition, there is a possibility that a disgruntled group of taxpayers might be successful in getting a court to strike down an appropriation on the grounds that the Town has failed to follow the requirements of the ordinance in developing the budget. I have not been able to find any case law that would provide us with any guidance on the issue. However, it should be kept in mind that the town meeting is the "legislative body" or the policy making body of the town. The ordinance does not go so far as to impose a limit on the amount of money that may be raised at Town meetings. Therefore, even if the Town Council or the School Board fail to follow the ordinance's directives, the appropriation would still, in my judgement, be a legal appropriation of funds.

Limits of this nature are usually in the form of "tax caps", rather than caps on the budget process. Tax caps are, in effect, a limitation on the municipality's power to tax its inhabitants.

The different types of tax caps are briefly discussed in the enclosed excerpt from McQuillin, Municipal Corporations, § 44.26. As you can see, such restrictions are conservative, and are complicated to administer.

The article mentions Proposition 13, which was adopted in California. Proposition 13 does not apply to all types of spending. Enclosed please find a copy of § 44.29, which discusses the types of expenditures to which Proposition 13 applies.

If the levy exceeds the statutory or constitutional limit, the tax may be determined by the Courts to be void. I have enclosed a copy of § 44.30, which outlines what happens in such instances. Finally, if a tax cap was to be adopted, it likely would contain a provision which would permit its limits to be exceeded in "emergency situations". The budget cap ordinance does not have an emergency provision.

Bradley's budget cap ordinance is somewhat unique. It is difficult for me to give you clear-cut direction concerning its application. I believe that if the ordinance served to prevent the municipality from raising monies which were mandated by State or Federal law, the ordinance would not be effective. However, as to discretionary expenditures, a Court might well place a limit on the amounts the municipal officers may propose to the voters at the annual town meeting.

After you have had an opportunity to review these comments, please give me a call. I think you should analyze the practical impact of the ordinance on the Town's financial affairs. I would also suggest that you try to ascertain the reasons why the ordinance was

Appendix F

CHARTER OF THE TOWN OF BRADLEY

PENOBSCOT COUNTY

ARTICLE I: GRANT OF POWER TO THE TOWN

Section 1: Incorporation

The Inhabitants of the Town of Bradley shall continue to be a Municipal Corporation by the name of the Town of Bradley, pursuant to its incorporation by law and amendments thereof.

Section 2: Powers

The Town shall have all the powers possible for a municipality to have under the Constitution and the laws of the State of Maine.

Section 3: Construction

The powers of the Town under this Charter shall be construed liberally in favor of the Town and specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in the article.

Section 4: 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 other municipality of the State of Maine, public agency of this State, or of the United States.

ARTICLE II: TOWN REFERENDUM

Section 1: Annual and Special Town Referendums

Except as otherwise provided for by the provisions of this Charter, the legislative authority of the Town of Bradley shall continue to be vested in the Inhabitants of the Town of Bradley acting by means of Town Referendum. The Annual Town Referendum shall be set by the Town Council and held in June. The provisions of the Revised Statutes of the State of Maine, including Title 30, Section 2061, shall govern the manner in which all annual and special town meetings shall be called and conducted and shall govern the Warrant for calling same. There shall be only one budget referendum per year.

Original
Charter

Section 2: Powers and Responsibilities

The Annual Town Referendum shall have the exclusive power and responsibility to:

- a. Elect all necessary town officers;
- b. Raise and appropriate monies for the Annual Budget;

The Annual Special Town Referendums shall have the power and responsibility to:

- a. Raise and appropriate monies for special purposes;
- b. Act on the issuance of bonds and notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued;
- c. Act on the sale of town owned real estate other than that acquired through matured tax mortgage liens;
- d. Transact other town business presented to it by Warrant Articles;
- e. Exercise all other powers not specifically delegated by this Charter or by law.

Section 3: Certification of Results

- a. Two (2) days after the Annual Referendum or a Special Referendum, the Town Clerk shall certify the results of the respective referendum to the Town Councilors.
- b. Upon certification that a majority of the voters of the Town voting at the Annual Referendum have voted "YES" in response to a budget item, the Town Council shall adopt the budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for all approved line-items.
- c. Upon certification that a majority of the voters of the Town voting at the Referendum have voted "NO" in response to a budget item, the Councilors shall adopt the Town Budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for each unapproved line-item equal to the budgeted appropriation for that line-item during the fiscal year just ending.
- d. Upon certification from the Town Clerk that other items as listed in Section 2, Powers and Responsibilities, voted on at the Annual Referendum have received a "YES" vote, the Town Council will take appropriate action.
- e. The Town Council/School Board may request a Special Referendum (not related to budget matters) as decreed in Section 2, Powers and Responsibilities. The Referendum must be called in accordance to all other requirements of the Charter.

ARTICLE III: THE TOWN COUNCIL

Section 1: Composition, Eligibility, Election, and Terms

- a. Composition. There shall be a Town Council of five members elected by a majority vote of the qualified voters of the town who cast ballots in accordance with Article X.
- b. Eligibility. Only qualified voters of the town, at the time of election, shall be eligible to hold the office of Councilor.
- c. Elections and Terms. Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of the Charter one Councilor shall be elected. The four incumbent Selectmen presently serving with more than one year to serve shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall have all the authority, duties, and responsibilities of Councilors set forth by the Charter.

Section 2: Salary

The salary of the Town Council Chairperson and Councilors shall be established at the Annual Town Meeting. The salary established by the Annual Town Meeting shall be paid the Councilors in equal quarterly amounts; provided, however, that a Councilor's failure to attend 75% of the Regular Council Meetings shall result in a forfeiture of payment of that quarter.

Section 3: Chairperson, Secretary

The Council shall elect from among its members a Chairperson, who shall serve at the pleasure of the Council. The Chairperson shall preside at meetings of the Council and shall be recognized as the head of the Town Government for all ceremonial purposes. The Chairperson shall have no administrative duties.

The Town Clerk or Deputy Clerk shall give notice of all Council Meetings to Council Members and to the public in such manner as deemed suitable. The Town Clerk or Deputy Clerk shall keep a journal of the proceedings of the Council and perform such duties as assigned to him/her by this Charter or by the Council.

March 16, 1998

adopted in the first place. If those circumstances now no longer exist, perhaps the voters would be willing to repeal it. If that result is not realistic, then perhaps consideration should be given to amend it to make it clearer in its application and to give greater flexibility to the municipal officers and to the School Board.

Very truly yours,



Robert E. Miller
Attorney at Law

REM/dm

Appendix F

Section 4: General Authority and Duties

The Council shall have the authority to:

a. Appoint and remove for cause, after hearing, the Town Manager, Town Treasurer, Town Clerk, and Town Assessor; appoint a Town Attorney who shall serve at the will of the Council; appoint and remove for cause, after hearing, the members of the Planning, Cemetery committee, Board of Appeals, Recreation Committee, Health Officer, local Constables, and all other appointed Committees as The Council may determine necessary, each of which shall have authority and perform such duties as are provided by this Charter, Municipal Ordinance and by Statute.

b. By ordinance create, change, and abolish offices, departments, committees and agencies, other than the offices, departments, committees, and agencies created by the School Department.

The Town Council by resolution may assign additional functions or duties to officers, departments, committees, or agencies established by this charter, but may not discontinue or assign to any office, departments, committees, or agencies established by this charter, ~~but may not discontinue or assign to any office, department, committee, or agency~~ any function or duty assigned by this Charter to a particular office, department, committee, or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office under this Charter, with the exception of that of Town Assessor, or Town Attorney, or any School Officers.

c. Convey or authorize the conveyance of real estate acquired by matured tax mortgage liens and the lease or authorization for lease of town owned property.

d. Adopt an annual budget which shall be presented to the Public Hearing as provided by this Charter, and upon receipt of recommendation of the Public Hearing, cause the budget, with or without change, to be printed in the Town Warrant.

e. Borrow funds and provide for the execution of notes thereof in anticipation of taxes, said notes to be repaid within the fiscal year in which issued.

f. Provide for an annual audit.

g. Dispose of by sale or otherwise, surplus town owned personal property.

h. Make, alter, and repeal ordinances permitted by statute.

- i. Appropriate, by resolution, up to \$5000.00 per year from unappropriated surplus for emergency purposes as defined by the Council.

Section 5: Prohibitions

- a. Holding another office. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Councilor shall hold any other town office or town employment while serving as a member of the Council.
- b. Appointment and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Manager or any of his/her subordinate is empowered to appoint.
- c. Interference with Administration. Except for the purpose of inquires and investigation under Article III, Section 4(h), the Council or its members shall deal with town officers, who are subject to the direction and supervision of the Town Manager, solely through the Town Manager. Neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 6: Vacancies, Forfeiture of Office

- a. Vacancies. The Office of Councilor shall become vacant upon his/her nonacceptance, resignation, abandonment, death, permanent disability, permanent incompetence, failure to qualify for the office within 10 days after written demand by the Council, or forfeiture of office.
- b. Forfeiture of Office. A councilor shall forfeit his/her office if he/she:
 1. lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law;
 2. violates any express prohibition of this Charter;
 3. is convicted of a crime or offense which is reasonably related to his/her ability to serve as Councilor; or
 4. fails to attend three consecutive meetings of the Council without being excused by the Council.

The Council shall prescribe by rule provisions for Notice and Hearing for any Councilor deemed to have forfeited his/her office.

- c. Filling of vacancies. One vacancy shall be filled by appointment. Any other vacancies the Council shall be filled for the remainder of the unexpired term at the next annual election held more than 120 days after the occurrence of the vacancy. Any further vacancies will necessitate a special election to ensure that the Council remains an elected body. If the next annual election is to be held more than 120 days of the occurrence of the vacancy, then a special election shall be held to fill

the vacancy. Notwithstanding the requirement of a quorum in Article III, reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

Section 7: Judge of Qualifications

The council shall be the judge of the election and qualification of all officers elected by the voters under this Charter and of the ground for forfeiture of their office and for that purpose shall have the authority to provide for the compulsory attendance of witnesses, the administering of oaths, and the compulsory production of evidence. An officer charged in writing with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, made within ten (10) days of receipt of notice of forfeiture. Notice of the Hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Section 8: Procedure

a. Meetings. The Council shall meet regularly at least once every two weeks at such time and place as the Council may prescribe by rule. Special meetings may be held on the call of the Council Chairperson, Town Manager, or of three or more Council Members by causing a notification to be given in hand or left at the usual dwelling place of each council Member at least 24 hours before the meeting. All meetings shall be public; however, the Council may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council except in public meeting.

b. Rules and Journal. The council shall determine its own rules and order of business, however, when a question of procedure develops Robert's Rules of Order shall apply. The Council shall provide for the keeping of a written journal of its proceedings by the Town Clerk. This journal shall be kept for public record.

c. Voting. Voting, except on procedural motions, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Each Councilor in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest clearly exists.

Section 9: Ordinances in General

a. Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title.

The enacting clause shall be "The Town of Bradley hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the Town of Bradley Code shall set forth 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 underscoring or italics.

b. Procedure. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk shall distribute a copy to each Council member and to the Town Manager, a reasonable number of copies shall be filed in the Town Clerk's office, and such other places as the Council shall designate, and shall publish the notice together with a notice of 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 conjunction 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 as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Town Clerk shall have it published again together with a notice of its adoption.

c. Effective Date. Except as otherwise provided in the Charter, every adopted ordinance shall become effective at the expiration of thirty days after adoption or at any later date specified therein.

d. "Publish" Defined. As used in this section the term "publish" means to print in one or more newspapers of general circulation in the municipality:

1. the ordinance or a brief summary thereof, and
2. the place where copies of it have been filed and the time when they are available for public inspection.

Section 10: Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form or manner prescribed for ordinances generally, except that it shall

be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

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 at least three members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section for adoption of emergency ordinances.

Section 11: Authorization and Recording; Codification; Printing

a. Authorization and Recording. All ordinances and resolutions by the council shall be authenticated by the signature of Chairperson of the Council, and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.

b. Codification. Within three years after the adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all the ordinances and resolutions having full force and effect of law. 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 such codes of technical regulations and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be cited officially as the Town of Bradley Code. Copies of the code shall be furnished officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

c. Printing of Ordinances and Resolutions. The Council shall cause each ordinance and resolution having full force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions, and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Town of Bradley code and at all times thereafter, the ordinances, resolutions, and Charter amendments shall be printed substantially in the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make further arrangements as it deems desirable with respect to production and distribution of any current changes in or addition to the provisions of the Constitution and other laws of the State of Maine, or the regulations included in the code.

ARTICLE IV: THE TOWN MANAGER

Section 1: Appointments; Qualifications; Compensation

The council shall appoint a Town Manager for an indefinite term unless otherwise specified by Contract, and fix 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.

Section 2: Removal

The Town Manager may be removed for cause by the Council in accordance with the provisions of the revised statutes of the State of Maine relating to the removal of a Town Manager.

Section 3: Acting Town Manager

The Town Manager shall:

- a. Be the chief administrative official of the municipality;
- b. Be responsible to the Council for the administration of all departments and offices over which the Council has control;
- c. Serve as Road Commissioner, Town Clerk, Town Treasurer, Tax Collector, General Assistance Administrator, and Registrar of Voters, unless otherwise directed by the Town Council;
- d. Execute all laws and ordinances of the municipality;
- e. Serve as head of any department under the control of the Council when so directed;
- f. Appoint, subject to the confirmation by the Council when the department is not headed by the Town Manager under Paragraph (e);
- ✓ g. Appoint, supervise, control and remove all other officials, subordinates and assistants, except that he/she may delegate this authority to a head of a department, and report all appointments and removals to the Council;
- h. Act as purchasing agent for all departments, except for the School Department, provided that the Town or the Council may require that all purchases above a designated amount shall be subject to Council approval. The Town or Council may also require that any purchase greater than a designated amount shall be by sealed bid;
- i. Attend all meetings of the Council;
- j. Attend such meetings and hearings of the municipality as the Council may require;

- k. Make recommendations to the Council for the more efficient operation of the municipality;
- l. Keep the Council and the residents of the municipality informed as to the financial condition of the Town;
- m. Collect data necessary for and prepare the annual budget and Capital Improvement Budget;
- n. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governing practices.

ARTICLE VI: PERSONNEL ADMINISTRATION

Section 1: Merit Principle

All appointments and promotions of town officials and employees shall be made solely on the basis of qualification.

Section 2: Personnel Director

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

Section 3: Personnel Rules

The Personnel Director shall prepare personnel rules. These personnel rules shall not apply to any school administrator or school employee. When approved by the Manager, the rules shall be proposed to the Council for adoption. The Council may adopt them with or without amendment. These rules shall provide for:

- a. The classification of all town positions based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances. For purposes of this section, town positions shall include all town employees;
- b. A pay plan for all town positions;
- c. Methods for determining the qualifications of candidates for appointment or promotion;
- d. The policies and procedures regulating reduction in force;
- e. The policies governing disciplinary measures such as suspension, demotion or discharge, with provisions for presentation of charges, hearing rights, and appeals;
- f. The hours of work, attendance regulations and provisions for sick and vacation leaves;

- g. The policies and procedures governing persons holding provisional or part-time appointments;
- h. The policies and procedures governing relationships with employee organizations not consistent with law;
- i. Policies regarding in-service training programs;
- j. Grievance procedures, and;
- k. Other practices and procedures necessary to the administration of the town personnel system.
- l. No person shall hold more than one compensated position in the town at one time.

ARTICLE VII: THE FIRE CHIEF

Section 1: Composition, Eligibility, Appointment and Term

- a. Composition. There shall be a Fire Chief appointed by the Town Manager, subject to confirmation by the Town Council.
- b. Eligibility. Only qualified voters of the Town of Bradley shall be eligible to hold the office of Fire Chief.
- c. Appointment and Term. The incumbent Fire Chief serving at the time of the adoption of this Charter shall continue to serve as Fire Chief for the remainder of his/her term or until his/her successor is appointed and confirmed and shall have all of the authority, duties, and responsibilities of Fire Chief as set forth by this Charter.

Section 2: Salary

The salary of the Fire Chief shall be determined by the Town Council, and shall be reviewed from time to time.

Section 3: General Authority and Duties

The Fire Chief shall:

- a. Direct and command all municipal and volunteer firefighters in the performance of firefighting operations within the Town of Bradley;
- b. Determine the adequate number of firefighters necessary to compose an effective Bradley fire Department;
- c. Appoint all officers and firefighters; and have authority to remove them for just cause after notice and hearing;
- d. Be authorized, with the approval of the Town council, to promulgate administrative rules and regulations relating to municipal fire protection consistent with this Charter, Municipal Ordinances and the Maine Revised Statutes Annotated;
- e. Provide a training program for firefighters within the municipality in cooperation with the appropriate governmental agencies;
- f. Provide for the maintenance of all Town owned fire equipment used by the Municipal Fire Department;
- g. Prepare and annually submit to the Town Manager a budget relating to fire protection activities;
- h. Be authorized to obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury or damage;
- I. Be responsible for the acquisition of all necessary fire protection commodities, related services, and equipment by ordering said commodities, services and equipment as per established purchasing procedures;
- j. Be authorized to pull down and demolish structures and appurtenances if he/she judges it necessary to prevent the spread of fire;
- k. Suppress, disorder and tumult at the scene of a fire, and generally, to direct all operations in order to prevent further destruction and damage.

Section 4: Fire Department General Provisions

- a. Firefighter Duties. All firefighters duly appointed by the Fire Chief shall be under a duty to extinguish all fires to which they are called; protect lives and property endangered by fires; and carry out all other related activities as directed by the Fire Chief.
- b. Firefighter Training. All firefighters shall attend training sessions as scheduled by the Fire Chief.

c. Meetings. The members of the Fire Department shall meet regularly at such time and place as the members may prescribe by rule. The Department shall provide for the keeping of a written journal of its proceedings by the Fire Department Clerk. This journal shall be kept for public record.

ARTICLE VIII: SCHOOL ADMINISTRATION

Section 1: Superintending School committee; Eligibility; Election and Terms; Compensation

a. Superintending School Committee: There shall be a superintending School Committee, sometimes referred to herein as School Committee, of five members elected by the qualified voters of the Town in accordance with Article X.

b. Eligibility: Only qualified voters of the Town shall be eligible to hold the office of School Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, not town employment while serving as a School Committee Member. This provision shall not apply to persons who are employed by the town on less than a full time annual basis. "Full time employee" means a person employed on a weekly basis regardless of remuneration or the number of hours worked. Volunteer firefighters, with the exception of the Fire Chief, shall not be considered "full time employees:" for the purposes of this section.

c. Election and Terms: Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of this Charter one School Committee Member shall be elected and the four Committee Members presently serving shall be sworn as Committee Members and continue to serve as Committee Members for the remainder of their terms or until successors are elected and qualified.

d. Compensation: The compensation of the School Committee Chairperson and members shall be established at the Annual Town Referendum. The salary established by the Annual Town Referendum shall be paid the School Committee Members annually provided, however, that a member's failure to attend 75% of the regular School Committee Meetings shall result in a forfeiture of payment for that year.

Section 2: Vacancy; Forfeiture of Office; Filling of Vacancies

The office of School Committee Member shall be deemed vacant or forfeited for the same reasons that the office of Councilor shall be deemed vacant or forfeited, as provided in Article III, Section 6 (a) and Section 7 (b) 1-4. If any vacancy occurs, the vacancy shall be filled for the remainder of the unexpired term in the same manner as

provided in Article III, Section 6 (c) for filling of Council vacancies, provided, however, the School Committee shall be the appointing authority for School Committee vacancies.

Section 3: Powers and Duties

The School Committee shall have all the powers and duties prescribed for Superintending School Committees by the general laws of the State of Maine and as provided by this Charter consistent with said laws. The School Committee shall supervise the school department and for financial purposes shall be governed by Article IX.

Section 4: Chairperson; Secretary

The School Committee shall elect by majority vote from among its members Chairperson for the ensuing year. The Chairperson shall preside at all meetings of the School Committee and shall have a vote as other members of said committee.

The Superintendent of Schools shall act as recording secretary for the School Committee. The Superintendent of Schools shall give notice of School Committee Meetings to its members and to the public in such manner as deemed suitable by the Committee and keep a journal of the votes and proceedings of the School Committee.

Section 5: Procedure

a. Meetings. The School committee shall meet regularly at least once in every money, except during the months when school is not in session, at such time and place as the School Committee may prescribe by rule. Special meetings may be held on the call of the Chairperson, Superintendent of Schools, or if any two or more Committee Members by causing a notification to be given or left at the usual dwelling place of each Committee Member. All meetings shall be public, however, the Committee may recess to a closed or executive session for any purpose permitted bylaw, provided that the general subject matter for consideration is expressed in the motion calling such session and that final action thereon not be taken by the Committee except in public meeting.

b. Rules and Journal: The Committee shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal shall be kept for public record.

c. Voting: Voting, except on procedural motion, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Committee shall constitute a quorum, but a smaller number may adjourn from time to time and may compel to the penalties prescribed by the rules of the Committee. Each Committee Member shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists.

ARTICLE IX: FINANCIAL PROCEDURES

Section 1: Fiscal Year

The fiscal year of the Town government shall begin the first day of July and shall end on the thirtieth day of June of each year. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Section 2: Preparation and Submission of the Budget

The Town Manager shall submit a projected Municipal Budget and an explanatory budget message to the Town Council on or before February 1st.

The Superintendent of Schools shall submit a projected Education Budget and an explanatory message to the School Committee on or before February 1st.

The budgets prepared by the Town Manager and the Superintendent of Schools shall be compiled from detailed information furnished by the administrative officers, the Superintending School Committee, and other boards, on forms which shall be designated by the Town Manager for the Municipal budget, and by the Superintendent of Schools for the Education Budget.

The projected budgets, as prepared by the Town Manager and the Superintendent of Schools shall contain the following:

- a. An itemized statement of appropriations recommended for current expenses with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated and explained.
- b. An itemized statement of estimated revenue from all sources, other than local taxation, and a statement of taxes required, comparative figures from current and next preceding year.
- c. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax and shall be itemized also by departments and kinds of expenditures, in such manner as to present taxpayers a simple and clear summary of the detailed estimates of the budget.
- d. The Town Manager's projected budget shall include a statement of the financial condition of the town.
- e. Such other information as may be required by the Town Council or the School Committee.

The Superintending School Committee shall present a projected education budget to the Town Council on or before April 1st of each year.

The Town Council shall have the authority to recommend amendments to the School Committee, but the actual budget as prepared by the School committee shall be published along with the Municipal Budget as approved by the Town Council. The Town Council shall fix a time and place for holding a Public hearing on the budget, the Town Council shall again review the entire budget. The complete Municipal Budget as approved by the Town Council, and the complete Education Budget as approved by the School Committee and reviewed by the Town Council, shall then be recommended by the Town Council with or without amendments to the Annual Town Referendum.

Provided, however, the projected budget of the School Committee shall be published as it was approved by the School Committee. Should the Town Council wish to recommend amendments to the Education Budget, such recommendations shall be included in the Town Referendum warrant below the recommendations of the School Committee.

Section 3: Budget and Expenditures

The Town Budget shall have two divisions: Municipal Budget and Education Budget, and each shall include all proposed expenditures for the upcoming year.

Section 4: Transfer of Appropriations

At the request of the Town Manager and within the last three months of the budget year, the Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

At the request of the Superintendent of Schools, and within the last three months of the budget year, the School Committee may by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

Section 5: Interim Expenses

In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current department expenses chargeable to the appropriations for the year, in amounts to cover the necessary expense of the various departments.

Section 6: Capital Improvement Program

The Town Manager and the Superintending School Committee each shall prepare and submit to the Town Council a five year Capital Improvement Program at least three months prior to the final date for submission of the budget to the Town Council. The Capital Improvement Program shall include:

- a. A clear summary of its contents.

b. A list of all capital improvements which are proposed for the successive five fiscal years, with proper supporting information as to the necessities of such improvements.

c. Cost estimates, methods of financing, and recommended time schedules for such improvements.

d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired, if any.

The above required information shall be reviewed and extended each year with regard to capital improvements still pending or in the process of construction or acquisition. The current year's portion of the five year Capital Improvement Program, as approved by the Town Council, shall be included as an item with Municipal Budget presented to the Annual Town Meeting.

ARTICLE X: ELECTION AND NOMINATION

Section 1: Elections

a. Conduct of Elections. The Annual Municipal Election shall be held on a date in June set by the Town Council. Except as otherwise provided for by this Charter, Title 30, Section 2061, 2062, 2063, 2064, and 2065 of the provisions of the Revised Statutes of the State of Maine shall govern the election of all town officials required by this Charter, and said election shall be conducted by the election officials accordingly. Polls shall be open at specified polling places from at least 9 a.m. to 6 p.m. for Municipal Elections.

b. Qualified Voter. The term "qualified voter" as used in this Charter shall mean any person qualified and registered to vote in the Town of Bradley pursuant to the laws of the State of Maine.

Section 2: Nominations

a. Petitions. Candidates for election to the Council and the School Committee shall be nominated by petition. Any qualified voter of the town may be nominated for election as a Councilor, or School Committee Member by a petition signed by not less than 25 nor more than 75 of the qualified voters of the Town. The voter may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.

b. Filing and Acceptance of Nomination Petitions. All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as an instrument on or before the 35th day next prior to the day of elections. This is the final date of filing for nomination petitions. Nomination papers shall be available

to candidates for Municipal Office no earlier than 40 days next prior to the final date of filing nomination petitions. 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.

c. Procedure After Filing Nomination Petitions. Within five 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 Chapter. 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 to be insufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

Section 3: Moderator

Whenever the election of a Moderator is required at the annual or special town meeting, the provisions of Title 30, Section 2054 of the Maine Revised Statutes as amended shall govern.

ARTICLE XI: INITIATIVE AND REFERENDUM

Section 1: General Authority

a. Initiative. Qualified voters shall have power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance, the voters may vote to adopt or reject it in an election, provided that such power shall not extend to the budget or capital improvement program or any ordinance relating to appropriation of money, levy of taxes or salaries of officers or employees.

b. Referendum. The qualified voters of the Town shall have power to require reconsideration by the Council of any adopted ordinance and if the Council fails to repeal an ordinance so reconsidered said voters shall have the power to approve or reject it at a town election, provided that such power shall not extend to the budget or capital program or any emergency ordinance relating to appropriation of money, levy of taxes, or salaries of officers or employees.

Section 2: Commencement of Proceedings; Petitioners; Petitioners Committee; Affidavit

Any five qualified voters may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the mailing address to which all notices to the Committee are

to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners committee filed the Clerk shall issue the appropriate petition blank to the petitioners committee.

Section 3: Petitions

- a. Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the town equal to at least 20 percent of the total number of qualified voters registered to vote at the last annual municipal election as certified by the Town Clerk.
- b. Form and Consent. All papers of a petition shall be uniform size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- c. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his/her presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signed had a opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- d. Time For Filing Referendum Petitions. Referendum petitions must be filed within 120 days after adoption by the Council of the ordinance sought to be reconsidered.

Section 4: Procedure After Filing

- a. Certificate of Clerk; Amendment. Within 20 days after the petition is filed, the Clerk shall complete a certificate as to its sufficiency, specifying if it is insufficient the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the Clerk within five days after receiving the copy of his/her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (b) and (c) of Section 3, Article XI, and within five days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners committee by registered mail as in the case of an original petition. If a petition or

amended petition is certified sufficient, or if a petition or amended petitions certified insufficient and the petitioners committee does not elect to amend or request Council review in subsection (b) of this section within the required time, the Clerk shall promptly present his/her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

b. Council Review. If a petition has been certified insufficient and the petitioners committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within five days after receiving a copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate and its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

c. Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 5: Referendum Petitions; Suspensions of Effect of Ordinance

When a petition is filed with the Town Clerk, the ordinance to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is final determination of insufficiency of the petition, or
- b. The petitioners Committee withdraws the petition, or
- c. The Council repeals the ordinance.

Section 6: Action on Petitions

a. Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting repeal. If the Council fails to adopt a proposed initiative ordinance or reconsider the referred ordinance by voting it repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.

b. Submission to Voters. The vote on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of final Council vote thereon. If no annual election is to be held within the period prescribed in the subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as the annual election, except that the Council may, in its discretion, provide for a special election at an earlier date within the

prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

An ordinance to be voted on 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. Below the ballot title "shall appear the above described ordinance be adopted?" In the case of a referendum, the question shall be:

"Shall the above described ordinance be repealed?" Immediately below such question shall appear 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.

Section 7: Results of Election

a. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council.

b. Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

c. Reconsideration. Upon the certification of the election results, if a proposed ordinance fails, or a referred ordinance is upheld by the voters, then a new petition proposing or attempting to repeal the same ordinance that was considered by the voters shall not be reconsidered for a period of twelve months from the date of the election at which the proposed or referred ordinance was defeated or upheld.

ARTICLE XII: RECALL

Section 1: Recall Provisions

Any member of the Town Council, or School committee may be recalled and removed from office by the qualified voters of the Town as herein provided.

Any five qualified voters may begin at any time proceedings to recall a member of the Town Council or School Committee by requesting in writing to the Town Clerk for the appropriate petition blanks. Provided, however, that if the term of any person whose recall is sought expires within 90 days of the date of the acceptance of the request for the appropriate petition blanks by the Town Clerk, then said person may not be recalled. The five registered voters requesting the petition blanks shall be referred to as the Recall committee.

The recall committee shall have 30 days from the date of the acceptance of the request by the Town Clerk to cause the petition to be signed by 10% of the qualified

voters of the Town. The petition shall be signed by qualified voters in the presence of the Town Clerk or his/her deputy. Each voter's signature shall be followed by his/her address.

Within seven days after the petition circulation period ends, the Town Clerk shall certify to the Town Council that the petition has been signed by not less than 25 percent of the qualified voters of the Town, that all signatures were affixed in his/her presence or his/her deputy's presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signer had an opportunity to read the statement detailing the reason or reasons for recall.

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 School Committee Member will not be accepted by the Town Clerk until 180 days after the expiration of the previous filing period.

Upon receipt of the certification, the Council shall within 30 days hold a special election for the purpose of submitting the vote the question of recall. A Councilor or School Committee Member shall be recalled when a majority of those voting thereon have voted in the affirmative. The Councilor shall within 30 days after the voters have recalled a Councilor or School Committee Member hold a special election to fill the vacancy.

A Councilor or School Committee Member who is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy his/her name appear on the ballot, no later than the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for an annual municipal election.

Pending action by the voters of the Town, the Councilor or School Committee Member 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 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 XIII: GENERAL PROVISIONS

Section 1: Elected Officers; Terms

The term of any elected official shall begin the first day of the next fiscal year following the election of said officer. Provided, however, that any officer elected to fill a vacancy in office shall assume the responsibility of that office the first day following his/her election. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified.

Section 2: Swearing in Officers

Every town officer or official shall be sworn to the faithful discharge of the duties incumbent upon his/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 3: Organizational Matters

The Town Council and the Superintending School Committee shall each convene during the first full week of the new fiscal year following the Annual Election for the purpose of organizing as provided by Statute and this Charter.

Section 4: 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, political or religious opinions or affiliations.
2. No person who holds a compensated appointive town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

b. Penalties. Any person found in violation of this section or any ordinance enacted pursuant to this section by a court of competent jurisdiction or by the Council acting in juridical capacity, shall be ineligible for a period of five years thereafter to hold any town office or employment and shall immediately forfeit his/her position or office.

Section 5: Separability

If any provisions of this Charter are 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 and circumstances shall not be affected thereby. If any provisions of this Charter is held invalid by reason of any conflict with State or Federal Law, the provisions of the applicable State and Federal Law shall automatically become incorporated in this Charter in place of invalid Charter provisions.

ARTICLE XIV: TRANSITIONAL PROVISIONS

Section 1: Time of Taking Full Effect - Charter

This Charter shall be in effect for all purposes on and after the first day of the next succeeding municipal year after adoption. As used in this Charter, municipal year is defined as being from July 1 to June 30.

Section 2: Incumbent Council

As of the effective date of this Charter the five Selectmen incumbent as of said effective date shall continue as interim Councilors under this Charter until the next annual municipal election at which time Councilors will be elected as provided by Article III, Section 1(c).

During said interim period three shall be considered a majority of the Council.

Section 3: Staggering Terms Council

Those Selectmen incumbent as of the effective date of this Charter shall continue as Councilors until the expirations of their terms.

One new Councilor shall be elected at the first annual municipal election following the effective date of this Charter to serve for three years in accordance with Article III, Section 1(c).

Section 4: Incumbent Superintending School Committee

As of the effective date of this Charter, the five School Committee Members incumbent as of said effective date shall continue as interim School committee Members under this Charter until the next annual municipal election at which time one School Committee Member will be elected as provided for by Article VIII, Section 1 (c).

During said interim period three shall be considered a majority of the School Committee.

Section 5: Staggering Terms - School Committee

Those School Committee Members incumbent as of the effective date of this Charter shall continue as School Committee Members until the expiration of their terms.

At the first annual municipal election following the effective date of this Charter one School Committee Member shall be elected for three years.

Section 6: Officers and Employees

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

b. Continuance of Office or Employment. Except as specifically provided by this Charter, if at any time this Charter takes full effect, a town administrative officer or employee holds any office or position which is or can be abolished under the authority of 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.

c. An employee holding a town position at the time the personnel policies required by this Charter takes effect shall not be subject to competitive tests a condition of continuance in the same position, but in all other respects shall be subject to the rules and procedures provided for by the personnel policies.

Section 7: 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.

Section 8: State and Municipal Laws

a. In General. 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.

CHARTER REVISED WITH CHANGES PURSUANT TO NOVEMBER 1996
ELECTION. APPROVED BY A MAJORITY OF REGISTERED VOTERS VOTING

The purpose of this amendment is to limit the increases to the net budget by the COLA.

DEFINITIONS:

COLA: Cost of Living Allowance, determined by the Social Security Administration.

GROSS BUDGET: Total amount proposed to expend.

REVENUES: All forms of revenues, not including property/personal taxes.

NET BUDGET: Gross budget minus revenues.

SECTION 1.

The Bradley Town Council/School Board may not propose a net budget to the Town Meeting/Referendum that (except as provided for) exceeds the previous year's net budget by the most recent COLA as determined by the Social Security Administration.

SECTION 2.

The Bradley Town Council may not commit tax moneys for a net budget (reserving section 4) exceeding the previous year's net budget by the COLA.

SECTION 3.

Repeal of this section shall follow the procedures set forth in this charter.

SECTION 4.

The Town Council may exceed this budget cap by a 4/5 vote of the town Council. If the School Board wishes to exceed the budget cap, a written request must be delivered to the Town Clerk with a recommendation and a 4/5 vote at a duly called School Board Meeting. The recommendation must be before the final budget hearing as specified by this Charter.

**BUDGET CAP
(CHARTER AMENDMENT)**

The purpose of this amendment is to limit the increases to the net budget by the COLA.

DEFINITIONS:

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Repeal of this section shall follow the procedures set forth in this charter.

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The Town Council may exceed this budget cap by a 4/5 vote of the town Council. If the School Board wishes to exceed the budget cap, a written request must be delivered to the Town Clerk with a recommendation and a 4/5 vote at a duly called School Board Meeting. The recommendation must be before the final budget hearing as specified by this Charter.