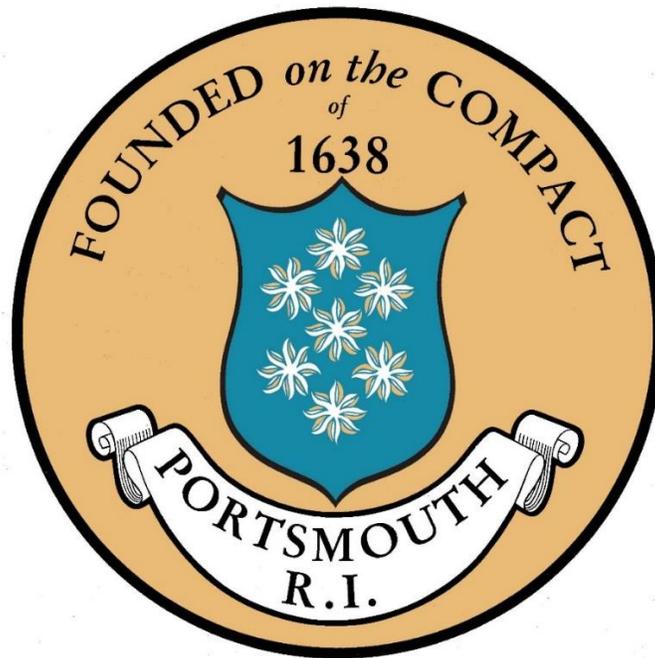


HOME RULE CHARTER

TOWN OF



PORTSMOUTH, RHODE ISLAND

AS AMENDED

NOVEMBER 8, 2016

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THE CHARTER of the Town of Portsmouth Rhode Island, As Amended By The Electors Of The Town of Portsmouth on November 8, 2016.

Editor's note. Portsmouth adopted its first home rule charter on November 7, 1972. The original Charter took effect on July 1, 1973. The Town Council appointed a Charter Review Commission during 1983. The Review Commission extensively revised the 1972 Charter, which was submitted to the electors of Portsmouth by the Town Council for their approval. On November 8, 1983 the electors of Portsmouth approved all but two of the seventy-one revisions proposed by the commission. In 2003 the Town Council appointed a new Charter Review Committee. The Town Council submitted revisions to the electors of Portsmouth on November 2, 2004 for their approval. All of the seventeen revisions were approved by the electors - four required approval by the Rhode Island General Assembly. On November 6, 2007, the electors of Portsmouth approved amendments to Section 208 which eliminated the petition process to call a special financial Town Meeting and replaced it with a petition process to hold a Budget Referendum.

Because of the extensiveness of Charter revisions, the text of the full Charter is reprinted herein. Each section is followed by a precis of the Legislative history of that section. Sections which were not revised are followed by: (Adopted November 7, 1972; effective date July 1, 1973.) Sections which were revised are followed by: (Adopted November 7, 1982; as amended (or repealed) November 8, 1983; eff. date January 1, 1984.) The "effective date" given for revised sections is the effective date of the amendment.

Some sections are also followed by: "Ed. Note..." This notation is made by the editors in the way of explaining what was changed. The editor's notes are not to be construed to be legal opinions of the effect of the change nor of the intent of either the review commission or of the Town Council. "Gender neutral" language was approved on November 2, 2004. Charter amendments were also approved on November 2, 2010, November 6, 2012 and November 8, 2016 as noted.

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PREAMBLE

The people of the Town of Portsmouth, in order to secure the right of self-government in all local matters, pursuant to the provisions of the Constitution of the State of Rhode Island and Providence Plantations, do adopt and establish this Charter. (As adopted November 7, 1972; eff. date July 1, 1973.)

ARTICLE I. BASIC PROVISIONS

§101. Inhabitants Incorporated as Town with Powers and Duties of a Town.

The inhabitants of the Town of Portsmouth, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of "Town of Portsmouth," and as such shall continue to have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties and obligations, now incumbent upon or appertaining to said Town as a municipal corporation, or by virtue of the laws of this State so far as the same shall not be altered by this Charter or amendments hereof. The enumeration of particular powers by this Charter shall not be deemed to be exclusive; and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town shall have and may exercise all powers which, under the constitution of this State, it would be competent for this Charter specifically to enumerate. (As adopted November 7, 1972; eff. date July 1, 1973.)

§102. Form of Government.

Pursuant to the provisions of this Charter and subject only to the limitations imposed by the State constitution, State statutes and by this Charter, the powers of the town shall be exercised by the elected Town Council which shall enact local legislation; an elected Town Clerk; an elected Town Sergeant and a Town Administrator appointed by the Town Council under provisions of this Charter, who shall be responsible to the Town Council for the execution of the laws and the administration of the town government as defined by this Charter. Any question pertaining to the proper exercise of the powers of the Town by any of the aforementioned bodies or officials thereof, which is not determined by the provisions of this Charter, State statute or the Constitution of the State, shall be determined by the Council by ordinance or resolution. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to Section 102 eliminated the financial town meeting and the office of the Town Moderator from the form of government.)

§103. Charter Review Committees.

The Council shall appoint a Charter Review Committee at eight year intervals, beginning in 2019. The Council shall appoint the Committee in January of the year prior to a regular general election. The Council shall appoint to the Committee seven or more qualified electors of the Town of Portsmouth. Elected officials and employees of the Town shall not be eligible for appointment to the Committee. The Charter Review Committee shall present its recommendations to the Council for review and approval. (Adopted November 6, 2012; eff. date November 6, 2012.)

ARTICLE II.
THE TOWN COUNCIL

§201. Number, Term, Selection.

The Town Council shall consist of seven (7) members elected from the Town at large each to serve for a term of two (2) years, or until a new Council has been elected and a majority of its members qualified. Elections for Town Council and for all other Town offices filled by the voters shall be held at the biennial state general election on the first Tuesday after the first Monday in November of each even numbered year. The name of all candidates for Town Council who shall have qualified to appear on the ballot shall be listed under their respective party designations (in alphabetical order, in order the names are listed on endorsement papers by the local party town committees, or in order determined by the Board of Canvassers by the drawing of lots.) Each elector shall cast his vote for no more than seven (7) candidates for Town Council, and the seven (7) receiving the greatest number of votes shall be declared elected. (Adopted November 7, 1972; eff. date July 1, 1973; amended November 2, 2004; eff. date July 19, 2005 by General Assembly approval.)

(Ed. Note: The 2004 amendment added “in the order the names are listed on endorsement papers by the local party town committees” to “in alphabetical order, or in order determined by the Board of Canvassers by the drawing of lots.”)

§202. Qualifications.

Members of the Council shall be qualified electors of the Town of Portsmouth and shall hold no other paid public office or employment in the service of the Town or of the State, nor any paid elective or paid non-civil service appointive office under the Federal Government. Current service as notary public, membership in the National Guard or Naval, Air or Military Reserve shall not disqualify persons for Council membership. No member of the Council shall be eligible to accept any other paid local Town Office or employment during his/her term on the Council or for a period of one year thereafter, hold any paid appointed or paid non-elective Town Office. The Office of any Council member who shall, during his/her term, cease to meet the foregoing qualifications, shall be deemed vacant. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 8, 1994; eff. date November 8, 1994.)

(Ed. Note: The 1983 amendments bring any paid, appointed or paid non-elective office within the prohibition against former council persons holding office within the year following the expiration of their term. The 1994 amendments added “/her” after each appearance of the word “his” and added the words “or employment” after the words “Town Office.”)

§203. Meetings.

The first meeting of a newly elected Council shall be held on the first Monday following the certification of election of a majority of its members by the Canvassing Authority. The Town Clerk shall preside until the selection of a Council President. The Council shall determine the time and place of its regular meetings, but it must meet at least once each month. The President or a majority of the Council may call a special meeting, but only by unanimous consent may the Council meet sooner than forty-eight

(48) hours after each member has been notified in writing of a special meeting. Four (4) members of the Council shall constitute a quorum. (Adopted November 7, 1972; eff. date July 1, 1973.)

§204. Presiding Officer.

The Council shall elect one (1) of its members as its President at its first meeting as defined in Section 203, or at its first meeting following the occurrence of a vacancy in said office. The President shall preside at meetings, and shall be recognized as head of the town government. The President shall have the same right to speak and vote as any other member. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments confer upon the presiding officer of council recognition as the head of government for all purposes rather than for merely ceremonial and military purposes.)

§205. Compensation.

The President of the Council and the members shall receive such annual compensation as stated in the approved budget except that no Council shall increase its own compensation. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments eliminated the town financial meeting (Section 102) and vested full fiscal power in the Council (Section 207, 208). The 1983 amendment to this section places constraints upon the fiscal power of a sitting Council during its budgetary proceedings.)

§206. Investigation.

The Council shall have power to inquire into the conduct of any non-elective officer, department, or agency of the Town, and to make investigations relating to Town affairs. (Adopted November 7, 1972; eff. date July 1, 1973.)

§207. Powers.

The Town Council shall be the policy-making body of the Town, and shall exercise all the powers of the Town, except as otherwise provided by this charter, or by the constitution and laws of this State. Among the powers of the Council, to be exercised in accordance with relevant provisions of the Charter and of the constitution and laws of this State, shall be the power:

- a. To judge the qualifications of its members, and for such purpose it shall have the power to subpoena and require the production of records;
- b. To appoint standing and temporary committees, but no legislative powers of the Council may be delegated to these committees;
- c. To create, change and abolish Town offices, departments and agencies not established by this Charter or by the constitution and state laws;

- d. To fix the amount of official bonds of all non-elective officers of the Town who, in its opinion, should be bonded, the premium on such bonds to be paid by the Town;
- e. To enact and amend a zoning ordinance;
- f. To provide for the audit at any time of the accounts of the Town or any department, and to provide for an annual audit as prescribed in Section 905 of this Charter;
- g. To adopt all Town budgets;
- h. To levy Town taxes in the amount necessary to implement the adopted budget;
- i. To transfer appropriations within the Town budget (exclusive of the School Department budget) not to exceed the total appropriated;
- j. To provide for a personnel policy system as provided in Article VIII of this charter;
- k. To appoint and to annually evaluate in writing the performance of the Town Administrator within sixty (60) days after the end of the fiscal year; (Amended November 2, 2004; eff. date same.)
- l. To confirm all appointments of the Town Administrator for which Town Council confirmation is required as set forth per Section 304(c) of this charter;
- m. To act on recommendations from the Town Administrator for the removal from office of any department head or official whose appointment was originally made by the Administrator with Council approval, and whose term in office is not otherwise governed by appropriate personnel policies, or to initiate such recommendation itself. In the case of any such recommendation, the Council may adopt by vote of a majority of their members a preliminary resolution providing for said removal and incorporating the reasons therefore, provided, however, that no removal will take effect less than thirty (30) days following the date of the preliminary resolution. The department head or official involved may reply in writing, and may request a public hearing. Such request must be made within ten (10) days of the date of the preliminary resolution. Such hearing shall be held before the Council no later than ten (10) days following the date of the request. After full consideration of the department head or official's written reply, if any, and of the results of the public hearing, if one is requested, the Council may adopt by vote of a majority of their members a final resolution of removal;
- n. To enact, amend or repeal ordinances for the preservation of the public peace, health, safety, comfort and welfare, and for the protection of persons and property;
- o. To provide reasonable penalties as provided in Section 907 for the violation of any ordinance;
- p. To exercise all additional powers, consistent and in accordance with the Charter and the laws and constitution of the state, which have been or may hereafter be granted to the Council by the Charter or to the Town by the laws and constitution of the state. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments eliminated the financial town meeting (Sec. 102) and vested full fiscal power in the Town Council. The amendments to this section reflect the changes authorized by the voters on November 8, 1983. Thus subparagraphs g, h and i are wholly new to this section. In addition to the fiscal power changes subparagraph k grants the Council the power to annually evaluate the Town Administrator. Subparagraphs g, h and i were inserted into the former text of this section in order to maintain logical integrity. Consequently the former alphanumeric scheme was reordered to accommodate insertion of the new subparagraphs. The 2004 amendment adds language to subparagraph k requiring a written performance evaluation within sixty days after the end of the fiscal year.)

§208. Budget.

Upon the receipt of the consolidated Town and School budget from the Town Administrator, the Town Council shall:

1. Review the Administrator's recommended budget and within thirty (30) days adopt a provisional budget. The Council may only alter the total amount of the school department budget.

A copy of the provisional budget shall be filed with the Town Clerk.

2. Immediately following the adoption of the provisional budget, it shall be published in a newspaper having general circulation in the Town, showing the initial requested total amount of each department by the Town Administrator and School Committee and the recommended total amount of the Town Council.
3. Within thirty (30) days of the approval and publication of the provisional budget, public hearings shall take place. The Council shall have printed and available copies of the provisional budget for public distribution at least five (5) days prior to public hearings. The time and place for holding of these hearings shall be included with the publication of the provisional budget. (Amended November 2, 2004; eff. date same.)
4. Upon completion of the public hearing on the provisional budget, take the results thereof under consideration and make such additional changes as the Council may deem appropriate.
5. Within one (1) month following the completion of the public hearings on the provisional budget at a regular Town Council meeting in June, adopt the final Town budget by ordinance, forwarding one (1) copy to the Town Clerk for public inspection and, as soon as possible, have the final budget (departmental total amounts) published in a newspaper having general circulation in the Town. (Amended November 2, 2004; eff. date same.)
6. Referendum Petitions. Within two (2) weeks of the adoption of the final Town Budget, any qualified elector of the town may circulate a petition requesting that a referendum be held on the final budget as approved by the Town Council. Such petition may propose an

increase or decrease in the total amount of either the School Department Budget, or the Town Budget, or both. The Registrar of Voters shall cause petition forms to be printed with standard language and spaces for the insertion of dollar amounts, budget designations, whether an increase or decrease of expenditure is called for, and other necessary information. All petition forms shall be approved by the Registrar of Voters before circulation, and must be returned to the Town Clerk on or before a return date, which shall be two (2) weeks after the adoption of the final Town Budget. Any language added to a petition, or any alteration of the language thereof: subsequent to its approval by the Registrar, shall be of no force or effect. The Town Clerk, upon return of the petitions, shall cause the signatures thereon to be verified by the Registrar, such verification to be completed not later than two (2) weeks of the return date for the petitions. There shall be no limit to the number of separate petitions which an elector may sign. (Amended November 2, 2004; eff. date same; as further amended November 6, 2007; eff. date same.)

7. Budget Referendum. The Town Clerk shall cause a referendum by ballot to be held on a Tuesday, not less than thirty-five (35) nor more than forty-five (45) days from the certification of the signatures on the petitions, on all budget changes requested on petitions submitted pursuant to subsection 6 hereof: provided that each such petition shall contain signatures of not less than ten percent (10%) of the duly qualified electors of the Town. The ballot used at such referendum shall be prepared by the Registrar in such manner as to include each of the separate petitions for increases and/or decreases in the appropriation for a particular budget together with the original approved budget amount. The qualified electors shall be instructed to vote either for the original total or for one (1) of the proposed increases or decreases thereof. The appropriation receiving the most votes shall be declared to have been adopted. In the event that certified petitions are received by the Registrar that include changes to both the School Department Budget and the Town Budget, there shall be two (2) separate ballot questions, one for the School Department Budget and one for the Town Budget, each of which shall follow the ballot format set forth herein. The polls at such referendum shall be open at 7:00 a.m. and shall remain open until 8:00 p.m. Emergency ballots will be available by application to the Canvassing Authority according to regulations that may be imposed by the Canvassing Authority necessary to implement the use of such ballots at such referendum. The results of each ballot question shall be certified by the Registrar. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 2, 2004; eff. date July 19, 2005 by General Assembly approval; as further amended November 6, 2007; eff. date same.)
8. In the event that an increase or a decrease in the School Department Budget and/or the Town Budget is approved by the electors at such referendum, the Town Council shall cause the total amount of said budgets to be adjusted upward or downward accordingly and shall adopt an amended Town Budget at its next regular Town Council meeting. The Town Council and/or the School Committee, whichever has jurisdiction over the budget affected by such action, shall make reductions or increases within said budget to match the new appropriation total. (Adopted November 6, 2007; eff. date same.)

(Ed. Note: The original Section 208 was repealed virtually in its entirety by the 1983 amendments, which set forth new budget procedures to be employed by the Council caused by the elimination of the financial Town Meeting. The 2004 amendments added language to section 6 to ensure the Town Clerk forwarded the petition to the

Board of Canvassers in a timely manner; and in section 7 changed the number of days from which a Town Meeting could be scheduled after receipt of the petition. The 2007 amendments eliminated the petition process to call a special financial Town Meeting and replaced it with a petition process to hold a Budget Referendum.)

§209. Vacancies.

If a vacancy occurs in the membership of the Council, for whatever reason, the remaining members of the Council shall select a qualified elector to fill the vacancy until the next regularly scheduled biennial election. (Adopted November 7, 1972; eff. date July 1, 1973.)

§210. Proceedings.

The Council shall adopt rules and regulations regarding the conduct of its meetings, and shall make further provisions for granting an elector an opportunity to be heard on a given question upon petition. All proceedings and votes shall be in accordance with the Rhode Island Open Meetings Law, RIGL 42-46-1 et. seq. (Adopted November 7, 1972; eff. date July 1, 1973; amended November 6, 2012; eff. date November 6, 2012.)

§211. Conflict of Interest.

No member of the Town Council shall vote on any matter which will, directly or indirectly, bring personal benefit to the member, or as set forth in Section 903 of this Charter. (Adopted November 7, 1972 eff. date July 1, 1973; amended November 8, 1994; eff. date November 8, 1994; as further amended November 2, 2004; eff. date same.)

(Ed. Note: the 1994 amendments bring the Charter into compliance with state law. The 2004 amendment explains conflict of interest in more detail by referencing Section 903.)

ARTICLE III. **THE TOWN ADMINISTRATOR**

§301. Appointment.

The Town Administrator shall be appointed for an initial contract term not to exceed three (3) years, by no fewer than four (4) affirmative votes of the Town Council. Renewal contract terms shall not exceed three (3) years. There shall be no term limits. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendments extended the probationary period for the Town Administrator from six (6) months to one (1) year. The 2004 amendment establishes a three (3) year term for the Town Administrator rather than an “indefinite term.”)

§302. Qualifications.

The Town Administrator shall meet the following minimum qualification requirements:

- 1) Bachelor's Degree with one (1) year administrative experience; or
- 2) Two (2) years college with three (3) years administrative experience; or
- 3) Five (5) years administrative experience.
- 4) The administrative experience required above shall include: preparation and management of budgets, contract negotiations, grant writing and personnel management commensurate with the needs of the town.

(Adopted November 7, 1972; eff. date July 1, 1973; amended November 2, 2004; eff. date same.)

(Ed. Note: The 2004 amendments clarify the minimum qualification requirements of the Town Administrator.)

§303. Powers and Duties.

The Town Administrator shall be head of the administrative branch of the government. He shall be responsible to the Council for the proper administration of all affairs of the Town, not administered by an elective official or board. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

§303A. Removal.

The Town Council may remove the Town Administrator for just cause by a vote of no less than four (4) members of the Town Council. The Council will adopt a resolution stating the just cause for removal within thirty (30) days of said action. The Town Administrator may respond in writing and may request a public hearing. Such request must be made within ten (10) days of the date of the resolution stating the just cause for removal. Such hearing shall be held before the Town Council no later than ten (10) days following the date of the request. After full consideration of the Administrator's written reply, and/or results of the public hearing, the Council may adopt a final resolution finding just cause by an affirmative vote of no fewer than four (4) members of the Town Council. (Adopted November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendments eliminate recognition of the Town Administrator as the chief executive officer of the Town government. Combined with the amended section 204 this section should have the effect of establishing the presiding officer of the Town Council as chief executive officer of Town government. On November 2, 2004, the voters approved a charter amendment providing for removal of a town administrator. The voters were erroneously informed that the charter at that time had no Section 303. Therefore the voters never approved the repeal of the then existing Section 303. Town charters published after November 2, 2004, omitted the powers and duties section and substituted the removal section for it. The powers and duties section were reinstated into the published town charter, upon the advice of the town solicitor, on March 18, 2011. The removal section was renumbered Section 303A on that date.)

§304. Duties.

The Town Administrator shall have the power and shall be required:

- a. To submit to the Council, not later than April 2 prior to the start of the next fiscal year, a proposed budget of receipts and expenditures and an explanatory budget message. For such purpose the Town Administrator shall obtain from the head of each office, department and agency except the School Committee, estimates of its revenues and expenditures and such supporting data as he/she may request. In preparing the proposed budget, the Town Administrator shall review the estimates and may revise them as he/she may deem advisable. The budget as proposed by the Town Administrator shall show all anticipated revenue and all proposed expenditures except those for school purposes, and the total of such expenditures shall not be greater than the total of anticipated revenue. The Town Administrator shall request from the School Committee its budget of estimated expenditures and revenues for transmission to the Council. He/She shall incorporate the total of these expenditures and revenues with the total he/she has arrived at for general Town purposes. He/She shall file one (1) copy of the recommended budget with the Town Clerk to be available for public inspection.
- b. To see that the laws and ordinances are enforced by all departments and boards under his/her jurisdiction.
- c. To appoint all department heads and other officers and employees provided for in this Charter, in applicable state law, or established by ordinance, whose appointment or election is not otherwise provided for; all appointments of department heads being subject to approval by the Town Council and all other appointments being subject to appropriate personnel policies; and to recommend to the Town Council the removal of any department head appointed pursuant to the provisions of this section.
- d. To assign additional duties as needed to offices, agencies or departments established by the Charter; provided, however, that any duties assigned by this Charter to any specific office, agency or department may not be discontinued nor may they be reassigned to a different office, agency or department without the approval of the Town Council. (Amended November 2, 2004; eff. date same.)
- e. To recommend the establishment of new, or the combining of existing offices, agencies, or departments to the Town Council.
- f. To have prepared and submitted to the Council, no later than six (6) months after the close of the fiscal year an audited report as provided in Section 905 of this charter that reflects the financial activities of the Town for the most recent fiscal year, and to print and make available to property owners, qualified electors, and other interested parties a copy of the audited financial statements. (Amended November 2, 2004; eff. date same.)
- g. To perform such other duties as may be prescribed by this Charter or required of him/her by the Council.
- h. To cause the personnel policy to be reviewed and revised as necessary. (Amended November 2, 2004; eff. date same.)

- i. To evaluate yearly all department heads under his/her jurisdiction and submit written evaluation reports to the Town Council. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)
- j. The Town Administrator shall publish an annual report that presents all aspects of Portsmouth town and school activities. The document should include, but not be limited to: town and department budgets, performance, activities and progress related to: schools, police, fire and public works, volunteerism, committees and boards; employee headcount by department and employee awards and citations. The report is intended to communicate to the citizens of Portsmouth the “state of the town.”

(Ed. Note: The 1983 amendments to this section reflect those changes in the fiscal duties of the Town Administrator incident to the elimination of the financial town meeting. Additionally, subparagraphs d, f, i and j are new to this section. The insertion of subparagraphs d, f, i and j have caused the section to be correspondingly renumbered. The 2004 amendments to paragraph (e) clarify that the Town Administrator must assign additional duties only if needed; to paragraph (g) allow the Finance Director adequate time to close the books; and paragraph (i) allow the personnel policy to be reviewed and revised as necessary. The 2012 amendment added paragraph (k) instituting an annual report on the state of the town, amended (c) and deleted (d) on November 6, 2012; eff. date November 6, 2012.)

§305. Non-Interference by the Council.

The Council or any of its members shall not direct or request the appointment of any person to or his removal from office by the Town Administrator or by any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Town Administrator, and neither the Council nor any member thereof shall give orders to any subordinates of the Town Administrator, either publicly or privately. (Adopted November 7, 1972; eff. date July 1, 1973.)

§306. Additional Administrative Powers and Duties.

The Town Administrator may exercise and perform the powers and duties of one or more administrative officers with Council approval instead of appointing some other person or persons so to do, but he/she shall not be entitled to receive any additional compensation therefore. He/She may, with the approval of the Council, assign the duties of two or more administrative officers to one person or divide the duties of any office among two or more persons. (Adopted November 7, 1972; eff. date July 1, 1973; as amended November 2, 2004; eff. date same.)

§307. Absence.

The Town Administrator with Council approval may designate by letter filed with the Town Clerk a qualified administrative officer of the Town to perform his/her duties during his/her temporary absence or disability. In the event of failure of the Town Administrator to make such designation, the Council

may appoint an officer of the Town to perform the duties of the Town Administrator until he/she shall return, or his/her disability shall cease. (Adopted November 7, 1972; eff. date July 1, 1973.)

§308. Vacancy.

Whenever the office of Town Administrator shall be declared vacant by the Council, an interim Town Administrator shall be appointed by the majority vote of the members of the Town Council. He/She shall have all the duties and powers of the Town Administrator, except he/she shall not serve longer than six (6) months and may be summarily removed by majority vote of the Council without charge or a hearing. Nothing shall prevent an interim Town Administrator from applying to be appointed Town Administrator. (Adopted November 7, 1972; eff. date July 1, 1973.)

§309. Compensation.

The Town Council shall determine the compensation of the Town Administrator. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendment to this section reflects necessary changes incident to the termination of the financial town meeting.)

ARTICLE IV. **ELECTIONS**

§401. Election Laws and Conditions of Elections.

The provisions of the Constitution and the General Laws of the State of Rhode Island now or hereafter in effect pertaining to elections, special, general and primary, and also all special acts pertaining to elections in the Town of Portsmouth now or hereafter in effect shall govern all Town elections, special, general and primary, so far as they may be applicable, excepting those provisions which are inconsistent with the provisions of this Charter affecting the form of government. (Adopted November 7, 1972; eff. date July 1, 1973.)

§402. Canvassing Authority.

There shall be a bi-partisan Canvassing Authority appointed by the Council as provided by the constitution and laws of the state. The Canvassing Authority, adhering to the personnel policies of the Town of Portsmouth, shall appoint and/or remove the Registrar and any part time clerical help it deems necessary. The Registrar shall work cooperatively with the Town Clerk, an ex-officio member of the Canvassing Authority. Said Canvassing Authority shall be vested with all the powers and duties now or hereafter vested by law in the Canvassing Authority or Board of Registration of the Town. All members of said Authority or Board now in office shall continue in said position as members thereof until the expiration of the terms for which respectively they were appointed. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendment to this section applies the personnel system to Canvassing Authority employment practices.)

ARTICLE V.
TOWN OFFICIALS

§501. Town Clerk.

There shall be a Town Clerk who shall be appointed by the Town Administrator with approval by the Town Council. The Town Clerk shall serve as department head for the office of the Town Clerk. The duties and prerogatives of the Town Clerk shall be those defined by statute, together with such additional duties as may be assigned by the Town Administrator. (Adopted November 7, 1972; eff. date July 1, 1973; amended November 8, 2016; eff. date November 6, 2018).

(Ed. Note: The 2016 amendment to this section reflects that the Town Clerk shall no longer “be elected at the biennial election pursuant to provisions of state law.”)

§502. Tax Assessor.

There shall be a Tax Assessor, who also shall act as Tax Collector. He/She shall be appointed by the Town Administrator with the approval of the Town Council and shall serve for an indefinite term. The qualifications of the Tax Assessor shall be as stated in the Town Personnel Ordinance. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section combine the offices of Tax Assessor and Tax Collector in order to conform Charter language with actual practices.)

§503. Tax Assessment Board of Review.

There shall be a Tax Assessment Board of Review consisting of three (3) members who shall be qualified electors of the Town and shall be appointed by the Council for a term of three (3) years (except that the initial appointments under this charter shall provide that one (1) member serve for a one-year term and another member for a two-year term). There shall be no more than two (2) board members belonging to the same political party. If a member of such board shall cease to be a qualified elector his/her office shall thereby become vacant. The Town Council shall have the right to name two (2) auxiliary members to the Board who shall sit as inactive members when and if either a member or members of the Board are unable to serve at any hearing. The two (2) auxiliary members shall be qualified electors of the Town and shall be appointed by the Council for a term of three (3) years. The two (2) auxiliary members may not belong to the same political party. If an auxiliary member of the Board ceases to be a qualified elector of the Town, his Office shall thereby become vacant. The Tax Assessment Board of Review shall hear and consider the appeal of any property owner concerning the amount of his/her assessed valuation as determined by the Assessor. The Board shall keep an accurate record of its proceedings which shall be available for public inspection. If it shall appear that the valuation of any property has been erroneously or incorrectly assessed, the Board shall have the authority to order a correction. Such determination shall be certified by the Board to the Assessor whose duty it shall be to make such corrections in the valuation as the Board may determine.

If the tax roll has been certified by the Assessor he/she shall transmit the findings of the Board to the Council, which may cancel in whole or in part the tax based on such valuation in order to affect a correction. The Council shall provide by ordinance for the organization and procedure of the Tax

Assessment Board of Review and for the manner of receiving, considering, and disposing of appeals. The taking of an appeal to the Tax Assessment Board of Review of any action thereon shall not be construed to limit or restrict the right of any taxpayer to apply to a court of competent jurisdiction for relief from any assessed valuation or tax. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984 as amended November 3, 1998.)

(Ed. Note: The 1983 amendments to this section changed the title of the former board of assessment review to that of Tax Assessment Board of Review.)

§504. Town Moderator. (Repealed)

There shall be a Town Moderator who shall be a qualified elector. He/She shall be elected at the biennial election pursuant to provisions of state law. His/Her duties and prerogatives shall be those defined by statute. (Adopted November 7, 1972; REPEALED November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments eliminated the financial town meeting and the office of Town Moderator from the form of government. This section was repealed accordingly.)

§505. Town Sergeant. (Repealed)

There shall be a Town Sergeant who shall be a qualified elector. He/She shall be elected at the biennial election pursuant to provisions of state law. His/Her duties and prerogatives shall be those defined by statute. (Adopted November 7, 1972; eff. date July 1, 1973 REPEALED November 2, 2004; eff. date same.)

(Ed. Note: The 2004 amendments eliminated the office of Town Sergeant from the form of government. This section was repealed accordingly.)

§506. Town Engineer.

There may be a Town Engineer appointed by the Town Administrator and approved by the Town Council. He/She shall be a registered professional engineer, licensed to practice in this State and need not be a resident of the Town of Portsmouth. He/She may be appointed to serve either full time or part time. He/She shall be available to provide engineering advice or services to the Town Administrator, the Town Council and all other departments, offices and agencies of the town government. He/She shall be responsible for the custody and proper maintenance of all files and records that pertain to his/her office, including surveys, plans, maps and the like. He/She shall maintain these files and records in the Town of Portsmouth. The results of all engineering studies or similar work he/she performs for the Town shall become the property of the Town. (Adopted November 7, 1972; REPEALED November 8, 1983; eff. date January 1, 1984; REINSERTED November 6, 2012; eff. date November 6, 2012.)

§507. Building Official.

There shall be a Building Official, who shall be appointed by the Town Council, pursuant to "Section 304(c), and shall be responsible for the supervision and enforcement of ordinances relating to buildings, zoning, trailer parks and other matters assigned to him/her pursuant to law. There may be a Building

Inspector, under the supervision of the Building Official, if the Town Council deems one to be necessary. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendments repealed former section 507 (Building Inspector) and replaced it with the language of this section in order to conform Charter language to actual practice. The 2004 amendments dropped the residency requirement of the Building Official.)

§508. Town Solicitor.

There shall be a Town Solicitor, and/or Assistant Solicitors, appointed by the Town Council to serve at the pleasure of the Town Council. Any person appointed shall be a member of the Bar of the State of Rhode Island in good standing; he/she need not be a resident of Portsmouth. The Town Solicitor need not devote full time to the duties of his/her office. He/She shall receive such compensation for his/her services as may be determined by the Town Council. The Town Solicitor shall be the attorney for the Town and legal advisor to the Council, Town Administrator, and may be retained by all other offices, departments and agencies of the Town. He/She shall appear for and protect the rights of the Town in all actions, suits or proceedings, civil or criminal, brought by or against it or for or against any of its officers, departments or agencies, and shall perform such other duties as the Council may require. All written legal opinions furnished to the Council and to all Town officers, departments or agencies shall be filed with the Town Clerk and become a public record. The Town Solicitor shall examine and approve the forms of all ordinances and resolutions and the form of all invitations for bids, contracts, and other legal documents sent out by any office, department or agency of the Town. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section provide for the appointment of Assistant Town Solicitors as well as eliminate any definite time for appointing the Town Solicitor or Assistant Solicitors thereby providing for indefinite terms of office at the pleasure of the Town Council.)

§509. Probate Court.

There shall be a Probate Court as provided by statute which shall exercise the jurisdiction as set forth by statute. (Adopted November 7, 1972; eff. date July 1, 1973.)

§510. Appointment of Probate Judge.

The Town Council shall appoint a member of the Bar of the State of Rhode Island, to sit as Judge of the Probate Court and to perform those duties as required by statute. Said Judge shall serve at the pleasure of the Council. Any person so appointed need not be a qualified elector of the Town of Portsmouth. Said person so appointed shall not hold any other elected or appointed position in the Town. Whenever such Judge of the Probate Court is a party, or interested in, any proceedings about to be heard in his/her Court, or is absent or unable to perform his/her duties, or there is a vacancy in the office of Judge, an Associate Judge, who shall be appointed at the same time and under the same conditions, as the Probate Judge, shall act. The Town Solicitor may act in the capacity as Associate Judge of the Probate Court. The fact of such interest, absence, inability or vacancy on the part of the Probate Judge shall be recorded

in the records of said Court. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section eliminate any definite time for appointing the Probate Judge, thereby providing for an indefinite term of office at the pleasure of the Town Council.)

§511. Registry of Court.

Money and other property now or hereafter deposited in the Registry of the Probate Court pursuant to statutes now or hereafter in effect shall be held, administered and disposed of pursuant to said statutes. (Adopted November 7, 1972; eff. date July 1, 1973.)

§512. Municipal Court.

Pursuant to R.I.G.L § 45-2-62, there is established a Municipal Court in the Town of Portsmouth which shall assume jurisdiction of the subject matters set forth in § 12-7 hereof on the date the Municipal Court Judge is appointed by the Town Council. (Adopted August 26, 2013.)

§513. Appointment of Municipal Judge.

The Court shall be composed of one Judge appointed by the Town Council. The Judge shall serve until his or her successor shall be duly appointed. The initial appointment if made shall be terminated on December 31, 2014. Each subsequent appointment, if made, shall be for a term of two years commencing on January 1 and ending on December 31 of the even numbered years. A Judge shall hold office until his or her successor is appointed and qualified. The Judge shall be a lawyer admitted to practice law in this State by the Rhode Island Supreme Court, shall be in good standing and shall have not less than five years' experience in the active practice of law. (Adopted August 26, 2013; eff. date November 23, 2013.)

ARTICLE VI.
TOWN DEPARTMENTS

§601. Police.

There shall be a Police Department, the operating head of which shall be the Chief of Police, who shall be a police officer with at least five (5) years' experience above the rank of patrolman in any organized police department. He/She shall be appointed by the Town Administrator with the approval of the Town Council. In addition to the Chief of Police, there may be a Deputy Chief and there shall be such other subordinate officers and patrolmen, all of the aforesaid serving full time, as shall from time to time be determined by the Town Council by ordinance. There may be from time to time additional special police officers appointed by the Town Administrator upon the recommendation of the Police Chief and the approval of the Town Council. The Chief of Police and other members of the department shall have all the powers and duties as are now and hereafter vested in such police officers by the laws of the State and the Town ordinances. The Chief of Police shall be in direct command of the police force and shall, subject to the approval of the Town Administrator and Town Council, make rules and regulations concerning the conduct of all officers and subordinates. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section lengthen the amount of experience required of the Chief of Police from three (3) years to five (5) years above the rank of patrolman, as well as other changes to conform Charter language to actual practice.)

§602. Fire.

There shall be a Fire Department, the operating head of which shall be the Fire Chief, who shall be a fireman with at least five (5) years' experience in the fields of fire-fighting and fire prevention. He/She shall be appointed by the Town Administrator with the approval of the Town Council. In addition to the Fire Chief, there may be a Deputy Chief and there shall be such other subordinate officers and firemen, all of the aforesaid serving full time, as shall from time to time be determined by the Town Council by ordinance. In addition to the members of the permanent fire department, the Fire Chief, with the approval of the Town Administrator and the Town Council, may from time to time appoint additional special firemen for occasional services and for limited terms who shall serve at the pleasure of the Fire Chief and concurrence of the Town Administrator and the Town Council. The further organization of the department into divisions or offices or grades shall be made by the Town Council by appropriate ordinance. The Fire Department shall have all the powers and duties as are now and hereafter vested in it by the laws of the State of Rhode Island and Town ordinances. The Fire Department shall, subject to the approval of the Town Administrator and Town Council, make rules and regulations concerning the conduct of all subordinates. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section lengthen the amount of experience required of the Fire Chief from three (3) years to five (5) years, as well as other changes to conform Charter language to actual practice.)

§603. Public Works Department.

There shall be a Department of Public Works, the operating head of which may be the Director of Public Works, appointed by the Town Administrator with the approval of the Town Council. He/She shall be responsible for the efficient operation of all the activities of the Department of Public Works. The Department of Public Works shall be responsible for the functions and services of the Town relating to highways, street lighting, public parking lots, waste disposal, sewers, water supply, parks, public buildings and such other public works activities as may be defined by ordinance. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; amended November 8, 1994; eff. date November 8, 1994; amended November 6, 2012; eff. date November 6, 2012.)

(Ed. Note: The 1983 amendments to this section make it no longer mandatory that the Public Works Department be headed by a Director of Public Works, per se. The 1994 amendments added the requirement that the Director become a qualified elector of the Town within six months of his appointment and added "/She" after "He" at the beginning of the third sentence. The 2012 amendment removed the residency requirement.)

§604. Public Welfare.

There may be a Department of Public Welfare which shall perform the functions and services of the Town relating to public welfare. The Department shall be under the control of the Town Council, who may appoint the Town Administrator as Director, who shall serve until the Town Council shall provide for the appointment of another person by the Town Administrator, with the approval of the Town Council. The Director shall have all the powers and duties as may be vested in the Department of Public Welfare, and shall administer all welfare statutes of the State or federal government, the administration of which is delegated to the Town or the Director of Public Welfare. (Adopted November 7, 1972; eff. date July 1, 1973; amended November 2, 2004; eff. date same.)

(Ed. Note: The 2004 amendments to this section allow the Town Council to determine if a department is required and to eliminate old and outdated language.)

§605. Parks and Recreation.

The Town Council may establish a Department of Parks, Recreation, Arts and Activities. The Department shall be headed by a Director who shall be appointed by the Town Administrator with the approval of the Town Council. All adult and youth related activities including but not limited to facilities, parks, beaches and trails shall be placed under the jurisdiction of the Department with the exception of those within the jurisdiction of the School Department. There shall be coordination between the Department of Parks, Recreation, Arts and Activities and the School Department with regard to those properties under the control of the School Department. (Adopted November 7, 1972; eff. date July 1, 1973; amended November 6, 2012; eff. date November 6, 2012.)

§606. Department of Finance.

There shall be a Department of Finance headed by a Finance Director who shall be appointed by the Town Administrator with the approval of the Town Council. There may be a Deputy Finance Director appointed by the Town Administrator with the approval of the Town Council. The Finance Director shall act as Town Treasurer and Director of Grants and shall exercise those powers and perform those duties prescribed for those offices now or in the future by this Charter, ordinance, constitution and laws of the State of Rhode Island. The Finance Director shall also have such additional powers and duties consistent with law as may be assigned by the Town Administrator with the approval of the Town Council. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section eliminate the recitation of the Finance Director's qualifications for office from the text of the Charter, as well as provide for the appointment of a Deputy Finance Director. The 1983 amendments also remove from the Finance Director the concurrent office as Tax Collector. The duties of Tax Collector are now the responsibility of the Tax Assessor (Sec. 502).)

ARTICLE VII.
SCHOOL DEPARTMENT

§701. School Committee.

There shall be a School Committee consisting of seven (7) members each of whom shall be elected from the Town at large by the electors of the Town of Portsmouth, to serve for a term of four (4) years and until a successor is elected and qualified. Four (4) members of the Committee shall be elected at the first election after the adoption of this Charter and at said elections every fourth year thereafter and three (3) members shall be elected at the subsequent biennial election and at said elections every fourth year thereafter. All members of the School Committee in office when this Charter goes into effect shall continue in said positions as members of the School Committee until the expiration of the terms for which respectively they were chosen. (Adopted November 7, 1972; eff. date July 1, 1973.)

§702. Qualifications.

Members of the School Committee shall be qualified electors of the Town of Portsmouth. They shall hold no other elected office in the Town or State nor any other paid public office or employment in the service of the Town. No member of the School Committee shall be eligible to accept any employment from the Town during his/her term on the School Committee or for a period of one (1) year thereafter. The office of any School Committee member who shall, during his/her term, cease to meet their foregoing qualifications, shall be deemed vacant. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section add the prohibition of School Committee members being simultaneously State elected officials.)

§703. Vacancies.

Any vacancy in the membership of the School Committee shall be filled by the Town Council until the next regular State or Town election when the office shall be filled for the unexpired term thereof. (Adopted November 7, 1972; eff. date July 1, 1973.)

§704. Compensation.

School Committee members shall receive such compensation as stated in the final Town budget. Expenses incurred while on School Committee business shall be reimbursed upon proper voucher. School Committee salaries shall be isolated from the total School Department budget. No School Committee member shall, during the term he/she is serving, obtain the benefit of a salary increase voted during that term. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 8, 1994; eff. date November 8, 1994.)

(Ed. Note: The 1983 amendments to this section reflect necessary changes incident to the elimination of the financial town meeting (Sec. 102.) The 1994 amendments allow School Committee salaries to be shown as a separate item within the school budget and added “/she” after “he” in the fourth sentence.)

§705. Powers and Duties.

The School Committee shall determine and control all policies affecting the administration, maintenance and operation of the public schools and shall have all the powers and be subject to all duties prescribed by the laws of the State and may provide rules and regulations for the use, operation, and maintenance of public school properties, and for vacations of all officials and employees of the School Department. (Adopted November 7, 1972; eff. date July 1, 1973.)

§706. Organization and Rules.

The School Committee shall elect from its membership a Chairman and a Vice-Chairman, both of whom shall serve at the pleasure of the School Committee. The School Committee shall also appoint a Clerk who shall be a member of the School Committee and shall serve at the Committee's pleasure. The Chairman or the Clerk may sign any orders and official papers, and the Clerk under the direction of the School Committee, shall keep a journal of the proceedings of the Committee. The School Committee shall adopt its own rules and order of business. (Adopted November 7, 1972; eff. date July 1, 1973.)

§707. Regular Meetings of the Committee.

The School Committee shall hold at least ten (10) regular meetings in every year at such time and place within the Town as the School Committee shall by general order fix and determine, pursuant to the applicable provisions of the state law. (Adopted November 7, 1972; eff. date July 1, 1973.)

§708. Appointment of a Superintendent.

The School Committee shall appoint a Superintendent of Schools as its Chief Administrative Agent who shall have, under the direction of the School Committee, the care and supervision of the public schools and shall have and exercise such duties and authority as are vested in the office by the laws of the state. No person shall be employed as the Superintendent of Schools unless such person holds a certificate of qualification for said office issued by or under the authority of the state. (Adopted November 7, 1972; eff. date July 1, 1973.)

§709. Removal of the Superintendent.

The Superintendent shall be subject to removal at the discretion of the School Committee by vote of a majority of all members of the School Committee, pursuant to the provisions of state law. There shall be a right of appeal from the decision of the School Committee. The School Committee By-Laws shall state the entire appeals process in dismissal of the Superintendent. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendment to this section requires the entire appeals process for the dismissal of the Superintendent of Schools to be stated within the School Committee By-Laws.)

§710. Appointment and Removal of Other School Employees.

The School Committee shall have the power to determine the number and duties of all employees in the department subordinate to the Superintendent of Schools, and shall have the power to remove and in addition to give advice and consent concerning the appointment of all such employees upon the

recommendation of the Superintendent of Schools, except as otherwise provided by the laws of the State. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; amended November 8, 1994; eff. date November 8, 1994.)

(Ed. Note: The 1983 amendment to this section conferred upon the School Committee the power to appoint, as well as the power to remove, all school employees. The 1994 amendment brings this section of the charter into compliance with state law.)

§711. Policy Making and Administration.

Except for the purpose of inquiry, the School Committee, as far as is consistent with the laws of the state, shall deal with the administration of the public schools solely through the Superintendent of Schools. All details of administration shall be handled by the Superintendent or other administrative officers delegated by him/her. (Adopted November 7, 1972; eff. date July 1, 1973.)

§712. Budget.

The School Committee shall submit its proposed budget to the Town Administrator by March 25 prior to the start of the next fiscal year. Estimates of sums expected to become available from federal and state grants for the support of the public schools and estimates of sums from rental or lease of school property and from tuition of out-of-town students shall be included in the total requested for school expenditures in support of the operating budget. The Town Council shall appropriate these funds for expenditure by the School Committee, and shall appropriate such additional funds from local tax revenues as may be required to meet the total school department budget as adopted by the Town Council. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendments to this section reflect necessary changes incident to the elimination of the financial town meeting (Sec. 102). The 2004 amendments are to ensure that all revenue will be accounted for and included in the total School Department operating budget.)

§713. Cooperative Maintenance of School Buildings and Grounds.

At the request of the School Committee, the Town Administrator may, with the concurrence of the Town Council, direct appropriate departments under his jurisdiction and control to maintain, care for, or otherwise provide services for school buildings, grounds, motor vehicles and equipment; provided that the costs be charged against the appropriation for the public schools, such costs to be determined by the Town Administrator and paid at the direction of the School Committee. (Adopted November 7, 1972; eff. date July 1, 1973.)

§714. School Purchasing, Financial Records and Vouchers.

The School Committee shall do all purchasing pertaining to the public schools and shall maintain records of receipts and expenditures in such manner as shall be required by the state and by the Department of Finance of the Town. Records shall at all times be available to any Portsmouth taxpayer showing receipts, expenditures and encumbrances upon unexpended appropriations. Expenditures of funds

allocated to the public schools shall be made only by authorized vouchers signed by the Chairman or Clerk or such member of the School Committee as may be designated by the School Committee for that specific purpose. All non-competitive purchases will be in accordance with state law. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendments to this section raised the minimum purchase bid requirement from two hundred fifty (\$250.00) dollars to seven hundred fifty (\$750.00) dollars. The 2004 amendments to this section eliminates the need to update the specific dollar amount needed to go out to bid by now following state guidelines.)

§715. Open Meetings and Vote.

The meetings of the School Committee, except when in executive session, shall be open and accessible to the public. Final action shall be taken only in open meetings. The School Committee shall adhere to the Open Meetings Law of the State of Rhode Island, the General Laws of Rhode Island, 1956 (as amended), Title 42, Chapter 46. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section eliminate certain specific former requirements for School Committee meetings and substitute therefore the body of the State open meetings law.)

ARTICLE VIII.
PERSONNEL

§801. Purpose and Coverage.

There shall be a personnel system, consisting of the Personnel Ordinance and Personnel Rules and Regulations. The Town Council, acting as the Personnel Board, shall provide for the establishment, regulation and maintenance of a personnel system necessary to effective administration of the employees, including but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions and relationships with employee organizations. The personnel system shall cover all employees of the Town whose positions are not excepted from the classified service under the terms of Section 804 below. Provisions of the personnel system shall apply to union employees when specific terms are not addressed within the applicable collective bargaining agreement. The personnel system shall be a merit system, wherein appointments and promotions of employees are free of personal and political considerations and are based upon equal opportunity in conformance with federal and state laws, merit and fitness demonstrated by a valid and reliable examination or other evidence of competence. All personnel actions are based upon a comprehensive evaluation of an individual's qualifications to perform the duties and responsibilities of the position. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; amended November 6, 2012; eff. date November 6, 2012.)

(Ed. Note: The 1983 amendments to this section extend the Town personnel system to all non-union employees of the Town not

specifically excepted by section 804, as well as recite particular items to be included within the personnel system.)

§802. Personnel Board.

The Town Council shall act as the Personnel Board with regard to all officials and employees of the Town covered by the personnel system. (Adopted November 7, 1972; eff. date July 1, 1973.)

§803. Powers and Duties.

The Town Council, acting as the Personnel Board, shall maintain a Personnel Ordinance which shall include as a minimum the following provisions:

- a. A position classification plan for all Town employees;
- b. A plan embodying appropriate recommended pay scales for classified positions;
- c. Personnel policies regarding vacation, sick leave, overtime pay and discipline of classified employees;
- d. A provision for formulating and administering tests, and assemble such other forms of evidence as may be required to determine the qualifications and eligibility of candidates for positions in the classified service;
- e. A provision for the establishment and maintenance of certification lists which shall show the names of persons eligible for appointment or promotion in accordance with the provision of section 803(d);
- f. Establish a probationary period for all original appointments and promotional appointments under the position classification plan;
- g. Establish provisions for permanent appointments, emergency appointments, services of other agencies and demotions and dismissals;
- h. Establish an annual evaluation system for all Town employees including those excepted from classified service;
- i. An annual evaluation of the Town Administrator by the Town Council. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section bring Town employees appointed by Town-elected officials into the personnel system.)

§804. Positions Excepted from Classified Service.

There shall be excepted from classified service of the Town:

- a. All officials elected by the voters of the Town, and all persons appointed to fill vacancies in such elective positions;
- b. The Town Administrator, heads of departments and offices and agencies appointed by the Town Administrator with the approval of the Town Council;
- c. Employees of the School Department;
- d. Persons temporarily appointed, designated or by contract, to make or conduct a special inquiry, investigation or examination, or to perform a special service where such appointment or designation is certified by the personnel board to be for employment which because of its expert nature or character could not or should not be performed by persons in the classified service;
- e. Such temporary seasonal workers paid on an hourly basis as the Personnel Board may determine;
- f. Persons who in times of public emergency may be appointed special employees;
- g. All members of boards, commissions and committees. (Adopted November 7, 1972; eff. date July 1, 1973.)

§805. Retirement of Municipal Employees.

Retirement of municipal employees shall be in accordance with the provisions of the Town pension presently in force and any amendments the Town Council may enact subsequent thereto. (Adopted November 7, 1972; eff. date July 1, 1973.)

§806. Right to Organize.

The right of municipal employees to associate together and to join any lawful organizations of their own choosing for the purpose of collective bargaining is recognized by this Charter and shall not be denied by ordinance and resolutions passed in pursuance thereof. The Town Council and School Committee are empowered to recognize such organizations, negotiate with them, and sign written agreements either directly or through the Town Administrator or Superintendent of Schools, as the case may be, provided that no right whatsoever of employees to strike against the government of the Town is herein implied or sanctioned. (Adopted November 7, 1972; eff. date July 1, 1973.)

§807. Political Activities.

Department heads and full time employees of the Town of Portsmouth who are covered under the provisions of the position classification plan shall not become a candidate for, or hold, any elective office, or be granted a leave of absence in order to seek office, in the Town of Portsmouth or the State of Rhode Island or the United States of America. (Adopted November 7, 1972; eff. date July 1, 1973.)

ARTICLE IX.
MISCELLANY

§901. Dual Office Holding.

No person shall hold more than one (1) elected or appointed office simultaneously in the Town, State, or federal government, except that of Notary Public, Justice of the Peace, member of the National Guard or Military Reserve, or employment by any of the educational institutions maintained by the State, unless otherwise provided for in this Charter. No employee shall hold simultaneously more than one (1) paid position for the Town. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments to this section virtually repeal the former section, broadening the prohibition against dual office holding and specifically extending it to Town employees.)

§902. Public Records.

All records and accounts of every department and agency of the Town shall be deemed to be public records and shall be open to inspection by any citizen of the state without giving any reason therefore, at all reasonable times and under reasonable regulations established by the Council, except those records and documents the disclosure of which, in the opinion of the Council, would tend to defeat the lawful purpose which they are intended to accomplish, and except such records as are required by the laws of the state to be kept confidential. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed Note: The 1983 amendment to this section eliminated the exception created for certain School Department matters contained in the former section.)

§903. Conflict of Interest.

In accordance with State Statute, Rhode Island General Law § 36-14-1 et seq., as well as any rules and/or regulations promulgated by the Rhode Island Ethics Commission, no official of the Town, elected or appointed, shall utilize his/her position to forward, directly or indirectly, his/her personal benefit. In case of personal interest as defined by State Statute or by the Ethics Commission, in the proposition before him/her as a Town Official, he/she shall notify, in writing, the Town Administrator of the fact and nature of his/her personal interest and abstain from voting on or otherwise participating in, that matter. If and when such a conflict exists for the Town Administrator, he/she shall notify the Town Council in writing of the fact and nature of his/her personal interest and abstain from participating in that matter. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; amended November 8, 1994; eff. date November 8, 1994; as further amended November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendment to this section incorporates State Conflict of Interest Law into this section and adds the voting abstention requirement; The 1994 amendment to this section incorporates reference to the Rhode Island Ethics Commission and adds several

feminine pronouns. The 2004 amendment provides the title and chapter of the state statute addressed in this section.)

§904. Codification and Revision of Ordinances.

The Council, within two (2) years following the effective date of this Charter, and at least every two (2) years thereafter, shall cause to be prepared a revision or codification of the ordinances of the Town which are appropriate for continuation as local laws of the Town. Such revision or codification shall be prepared under the supervision of the Town Clerk, but the Council may authorize the Town Clerk to contract for the services of persons or organizations experienced in the revision and codification of ordinances and statutes. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984; as further amended November 2, 2004; eff. date same.)

(Ed. Note: The 1983 amendment to this section shortens the time period in which the Council must review and revise the Town ordinances from every tenth (10th) year to every two (2) years. The 2004 amendment changes the responsibility of updating and making available the Town Ordinances from the Town Solicitor to the Town Clerk.)

§905. Annual Audit.

Within three (3) months prior to the close of each fiscal year, the Council by resolution shall arrange for an annual independent audit of the books, accounts and other evidences of financial transactions of the Town, as of the close of the current fiscal year, to be conducted either by state auditors or by a certified public accountant holding a certificate from this state and having no personal interest therein. Such examinations shall conform with generally accepted auditing standards. A copy of the audit report shall be filed with the Town Clerk and shall be a public record. (Adopted November 7, 1972; eff. date July 1, 1973.)

§906. Continuation of Present Employees in Office.

All persons who, at the time this Charter takes effect, are holding positions hereby placed in the classified service of the Town, if provided, shall hold such positions as though appointed in accordance with the provisions hereof, but any vacancies thereafter occurring shall be filled in the manner herein provided for classified service. (Adopted November 7, 1972; eff. date July 1, 1973.)

§907. Fees.

All fees, penalties and payments collected by Town officials or agencies in their official capacities, including court costs, shall be transmitted to the Town Treasurer to be deposited in the general funds of the Town, and the compensation paid to each Town official shall be in lieu of all fees, penalties and payments payable to such official in the performance of his duties. Fees, penalties, and payments shall be reviewed and revised as necessary on an annual basis. Fees, penalties, and payments shall be set to at least cover the cost incurred by the Town. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendment to this section provides for an annual review of fees, etc.)

§908. Board of Review.

The Town Council shall by ordinance, in accordance with state laws now or hereafter in effect, provide for the creation and selection of a Board of Review, to perform the duties and exercise the powers of such a board under laws and ordinances relating to zoning now or hereafter in effect. The Council may, in accordance with laws now or hereafter in effect, provide for the appointment of an auxiliary member or members of said Board of Review. The Town Council shall at least every five (5) years review the Zoning Ordinance and map to determine whether any changes are necessary, or said review may be made by a committee or commission authorized by the Council, in accordance with laws now or hereafter in effect, to investigate and make recommendations for any proposed amendments of said ordinance and map deemed necessary. (Adopted November 7, 1972; as amended November 8, 1983; eff. date January 1, 1984.)

(Ed. Note: The 1983 amendments change the title of the Zoning Board of Review to the Board of Review.)

§908A. Planning Board.

The Town Council shall appoint a Planning Board whose membership and duties will be in accordance with the General Laws of Rhode Island, Title 45, Chapters 22 and 23. (Adopted November 8, 1983; eff. date January 1, 1984; amended November 6, 2012; eff. date November 6, 2012.)

§909. Bulk Purchasing Procedures.

The Town Council, shall, by ordinance, from time to time establish procedures to provide for making pool purchases of items commonly used by all departments and may assign these duties to the Town Administrator. (Adopted November 7, 1972; eff. date July 1, 1973.)

§910. Competitive Bidding.

The Town Council, by ordinance, shall provide for competitive bidding for all items in accordance with State Law. (Adopted November 7, 1972; eff. date July 1, 1973; amended November 8, 1994; eff. date November 8, 1994.)

(Ed Note: The 1994 amendment to this section incorporates by reference Rhode Island law.)

§911. Voters' Initiative, Initiative Procedure, Submittal of Proposed Ordinance to Electorate if not Adopted or Adopted in Altered Form.

Any proposed ordinance may be submitted to the Town Council by a petition signed by qualified electors of the Town equal in number to at least 20% of the number of persons registered to vote at the time of the last regular Town election. Whenever the Council receives a certified initiative petition from the Town Clerk, it shall proceed at once to consider the proposed ordinance transmitted therewith, and shall take a final vote on the enactment of same no more than thirty (30) days following receipt of the petition from the Town Clerk. If the Council shall fail to pass an ordinance thus proposed by initiative petition, the said ordinance as originally proposed by the petitioners shall be submitted to the electors for their approval or rejection, not less than thirty (30) days nor more than six (6) months from the date the

Council takes its final vote thereon. The Council may, and if no regular election is to be held within such period shall, provide for a special election. (Adopted November 8, 1983; eff. date January 1, 1984.)

§912. Property Transfer.

No property right in, or ownership of, any portion of any parcel, lot or tract of land owned by the Town of Portsmouth as of January 1, 2004 which parcel, lot or tract encompasses an area of more than two (2) acres shall be transferred without approval by a majority vote of the voters of the Town of Portsmouth. Leasing of Town property for a period of ten (10) years or less shall not constitute a transfer of property, provided that at the end of the leasing period the Town retains sole right to renew, continue, or terminate the lease. This section shall not prohibit the Town Council from transferring property rights for the purpose of restricting use of any parcel/lot of land in connection with the provision of public utilities or similar services. (Adopted November 2, 2004; eff. date same. Amended November 2, 2010; eff. date same.)

(Ed. Note: The 2010 amendment reworded the original section to make it clear that voter approval is needed to transfer any portion of a parcel of land that is more than two (2) acres in area.)

§913. Collective Bargaining.

No collective bargaining agreement between the Town of Portsmouth and any labor organization including School Department employee unions shall become effective unless and until ratified by the Portsmouth Town Council. (Adopted November 2, 2004; eff. date: upon approval by RI General Assembly.)

(Ed. Note: This section adopted by the 2004 amendments is inconsistent with existing state law. Absent ratification and approval by the Rhode Island General Assembly, this section is of no force or effect.)

ARTICLE X.
INAUGURATION AND SUCCESSION

§1001. Effective Date.

All of the provisions of this Charter shall become effective on July 1, 1973, following the certification by the Board of Canvassers of the adoption of this Charter by the qualified electors of the Town of Portsmouth and validation by the General Assembly of the portions of this Charter which require such validation. All officers, including the Town Administrator, Town officers, and heads of departments and agencies, shall be appointed and qualified pursuant to the provisions of this Charter by the Town Council then in office as promptly as possible. Upon the validation of the election procedures by the General Assembly, the first election of a Town Council and School Committee pursuant to the provisions of this Charter shall be held on the first Tuesday next after the first Monday in November 1974. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1002. Transfer of Appropriations.

The Council shall have author to make any changes or transfers in appropriations existing when this Charter takes effect which may be required for the operation of the Town government under the provisions of this Charter. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1003. Ordinances to Implement Charter.

The Town Council shall proceed to enact or adopt as promptly as possible all ordinances, resolutions, rules and regulations which may be necessary to implement the provisions of this Charter. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1004. Continuation of Laws.

The laws of the state in their application shall continue in effect except insofar as they are inconsistent with the provisions of this Charter or any legally adopted ordinance of the Town. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1005. Continuation of Ordinances.

All ordinances, resolutions, rules and regulations of the Town in force at the time when this Charter takes effect, not inconsistent with this Charter, shall continue in force until amended or repealed. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1006. Continuation of Tax Obligation.

All taxes levied or assessed by the Town prior to the effective date of this Charter, which have not been collected by the Town shall be collected with any interest and penalties thereon, by the Town government hereby established, in accordance with law. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1007. Pending Actions and Proceedings.

No action or proceedings, civil or criminal, in law or in equity, pending at the time when this Charter shall take effect, brought by or against the Town, or any office, department or agency, or officer thereof, shall be affected or abated by the adoption of this Charter or by anything in this Charter contained. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1008. Continuation of Agencies.

All commissions, boards, departments or officers, whether elective or appointive, shall continue in the performance of their powers, duties and functions until successors have been elected or appointed as provided by this Charter to perform their respective powers, duties and functions. Notwithstanding the provisions hereof the Town Treasurer and Collector of Taxes, elected in 1972 shall serve the respective terms for which they have been elected and until their successors have been appointed and qualified and thereupon said elective offices shall be abolished. The members of the Board of Tax Assessors shall serve out their terms in the same manner as the aforementioned officers. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1009. Agencies Abolished.

All departments and agencies of the Town whose functions have been transferred to other departments and agencies created by this Charter are hereby abolished, subject to the provisions of Section 1008. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1010. Continuation of Present Personnel.

All persons regularly employed in the services of the Town at the effective date of this Charter, shall continue in such employment until promoted, demoted or removed in accordance with the provisions of this Charter. Those holding other positions shall retain their respective offices or positions and continue in the performance of their duties until provisions shall be made in accordance with the provisions of the Charter for the performance of such duties or the discontinuance of such position. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1011. Transfer of Records and Property.

All records, property and equipment of any office, department or agency, the powers and duties of which are assigned by or in accordance with this Charter to another office, department or agency, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. In the event of disagreement over the transfer of same, the Town Administrator shall make the final decision. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1012. Continuance of Contracts and Obligations.

All contracts or obligations entered into by the Town prior to the effective date of this Charter shall continue in full force and effect. (Adopted November 7, 1972; eff. date July 1, 1973.)

ARTICLE XI.
AMENDMENT OF CHARTER

§1101. General Provisions.

This Charter may be amended at any time, or a new Charter adopted in the manner provided by the Constitution. Should two or more amendments adopted at the same election have conflicting provisions, the one receiving the largest affirmative vote shall prevail. The sections of any amendments in addition to this Charter shall be numbered by the Town Clerk and inserted in their appropriate places or added to the Charter. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1102. Form of Ballot.

It shall not be necessary for the full text of a Charter or amendments to a Charter to be printed upon the ballot. Any digest or description thereof or any question or statement which substantially expresses the purpose or identifies the subject matter to be voted upon shall be sufficient. When any question is to be submitted to the voters, the Council shall approve the statement of the question as it shall appear on the ballot. The full text of the amendment shall be available for examination sixty (60) days prior to the election and there shall be a public hearing not less than ten (10) days nor more than fifteen (15) days prior to said election. (Adopted November 7, 1972; eff. date July 1, 1973.)

§1103. Partial Invalidity.

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter, nor the context in which such section or part of a section so held invalid may appear except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holdings shall directly apply; and if any section or part of a section concerned with election procedures shall be held invalid by such court, the pertinent election procedures set forth in the laws of the State of Rhode Island shall apply. (Adopted November 7, 1972; eff. date July 1, 1973.)