

Effective January 1, 2011

ARTICLE X General Provisions

Sec. 10.01 - Swearing in Officers.

Every elected Municipal Officer and Council Appointee must be sworn to the faithful discharge of the duties incumbent upon the Officer or Appointee according to the Constitution and laws of the State of Maine and this Charter and ordinances of the City and must be sworn to support the Constitutions of the United States and the State of Maine.

Sec. 10.02 - Council Appointees.

The City Council will appoint Registered Voters of the City of Ellsworth to serve at-will on such Boards and Commissions as may be created by Ordinance, except that the Council may by Ordinance authorize the appointment of other qualified persons to serve on such Boards if permitted under state law. Council Appointees will serve without compensation and will not be subject to the City's Personnel Rules. Such Boards and Commissions may include, but are not limited to, a Harbor Commission, Board of Appeals, Recreation Commission, Planning Board, Historic Preservation Commission, Registration Board of Appeals, Board of Assessment Review, and Water Supply Commission.

Sec. 10.03 - Prohibitions.

No Councilor, Council appointee, employee, or other elected or appointed official may, in such capacity:

- (a) unlawfully discriminate against any person with respect to any position or appointive city administrative office because of race or color, sex, sexual orientation, physical or mental disability, religion, political opinions or affiliations, or ancestry or national origin;
- (b) willfully make any false statement or attempt to commit any fraud that would prevent the impartial execution of the laws of the State of Maine, this Charter, or any ordinance adopted by the Council;
- (c) directly or indirectly offer, provide, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion, or proposed promotion to a position in the municipal service;
- (d) solicit any assessments, contributions, or services for any political party from any employee in the municipal service if the person soliciting holds a compensated appointive City position; or
- (e) knowingly and willfully violate any provision of this Charter or any rules of ethics adopted by the Council.

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Nothing herein affects the right of any person to hold membership in or support a political party, vote as one freely chooses, express opinions publicly or privately on all matters of public concern, maintain political neutrality, or attend political meetings.

Any person found in violation of this section by a court of competent jurisdiction or by the Council acting in a judicial capacity will be ineligible for a period of five years thereafter to hold any City office or employment, and, if currently holding City office or employment, will immediately forfeit the office or position.

Sec. 10.04 - Severability.

If any provision of this Charter is held invalid, the other provisions of the Charter are not affected thereby. If the application of this Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances are not affected thereby.

Sec. 10.05 - Word Usage and Definitions.

Except as herein defined or where context clearly indicates otherwise, terms are to be interpreted in accordance with their common and generally accepted meanings. Terms defined by this Section are capitalized throughout the Charter.

- (a) “Day” means calendar day unless prefaced by the word “business”; “Business Day” means Monday through Friday except for days when Ellsworth City Hall is not open for business.
- (b) A “Majority Vote” of the Council means the affirmative vote of four or more Councilors.
- (c) “Municipal Officers” and “Officers” means the Councilors of the City of Ellsworth.
- (d) “Physical Address” means a person’s street, street number, and municipality.
- (e) “Registered Voter” means a person who is both a resident of the City of Ellsworth and registered and eligible to vote in a municipal election.
- (f) A “Super-Majority Vote” of the Council means the affirmative vote of five or more Councilors.
- (g) The terms “will” and “must” are mandatory.
- (h) Any reference in this Charter to a Maine State statute or other law refers to that statute or law in its current form and includes any amendments that may be enacted from time to time.

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Sec. 10.06 - Computation of Deadlines.

Computation of deadlines. In computing any period of time prescribed or allowed by the Charter, the Day of the act or event that triggers the running of the time period is not to be included. The last Day of the period so computed is to be included if it is a Business Day.

Sec. 10.07 - Effective Date of Revised Charter.

This Charter as revised will take effect for all purposes beginning 12:00:01 am on the first Day of January following its adoption, before which time the prior Charter will remain in effect.

Sec. 10.08 - Incumbents.

As of the effective date of this Charter, all incumbent Council members and all other incumbent elected and appointed officials and employees will continue in their respective positions and offices until their terms of office or appointments established by the Charter in effect on their date of election or appointment have been completed. Upon completion of a term of office, the office will be filled as provided by this Charter.

An employee holding a city position at the time this Charter takes full effect, who was serving in that same or a compatible position at the time of its adoption, will not be subject to a competitive test as a condition of continuance in the same position but in all other respects will be subject to the personnel system.

Sec. 10.09 - Pending Matters.

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

Sec. 10.10 - Ordinances Continued.

- (a) All ordinances in force at the time when this Charter takes effect, not inconsistent with the provisions of this Charter, will continue in force until amended or repealed.
- (b) All city 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 city 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 of ordinances or resolutions adopted pursuant thereto.

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Sec. 10.11 - Charter Review.

The Council will review the Charter at least once every ten (10) years to determine whether any amendments should be considered by the Council or whether a Charter Commission should be established.