



CHARTER REVIEW COMMISSION

AGENDA

September 15, 2020

9:00 AM

- **CALL TO ORDER / ROLL CALL**

- **OLD BUSINESS**

Review and approve the Minutes of the Statutory Public Meeting held September 2, 2020

- **NEW BUSINESS**

For discussion and resolution: Does Ogunquit Need a Charter?

If resolved in the affirmative:

Consideration of comments from the public received by email

Preamble – update

Article 1 – revision

Topics for discussion: identify topics for meetings on October 6 and 20, November 3 and 17, December 1 and 15.

Article 2 – revision (time permitting)

- **ADJOURNMENT**



Ogunquit Charter Review Commission

Meeting Minutes

Statutory Public Meeting September 2, 2020

This meeting was conducted remotely via Zoom during the COVID-19 State of Emergency

1. Welcome and Call to Order

The meeting was called to order at 6.00 pm.

Members present:

- William Sawyer, Chair
- Gordon Lewis, Vice Chair
- Robin Millward, Secretary
- Amy Forbes
- Peter Griswold
- Patricia Hussey
- Gary Latulippe
- Wendy Levine
- Terry Ann Lunt

Others present:

- Town Manager Patricia Finnigan
- Town Clerk Christine Murphy

2. Old Business

Moved by Peter Griswold, seconded by Terry Ann Lunt, that the Minutes of the Charter Review Commission's organizational meeting on August 4, 2020 be approved. Agreed unanimously.

3. New Business

Introduction

The Chair provided a background to the work of the Commission as set out in Maine State Statute and made more specific by Ogunquit's Town Charter. The Town is required to establish a Commission every five years, to review the Charter and to recommend updates. The Chair reported that the Town Attorney would advise the Commission on conflicts between the Charter and State law when specific provisions were reviewed, not as a consolidated list. The Commission's initial thoughts at the August 4 meeting had been to simplify the Charter, make it easier to understand and resolve ambiguities. There had been some discussion as to "Why a Charter?" and Peter Griswold had researched this topic in more depth.

Why a Charter? – Peter Griswold

Ogunquit adopted its first Town Charter in 1991 and has made changes 16 times to date. Although only 15% of Maine's 493 municipalities have Charters, all of Ogunquit's surrounding towns have Charters except for Kennebunkport, Berwick and North Berwick. The Ogunquit Town Charter is a living document which relies on public input and requires clear thinking.

Managers of towns without Charters rely on State Statutes, Administrative Codes and Local Ordinances. The view of the Managers with whom Peter spoke is that amending Codes and Ordinances is easier than operating under a Charter, and less expensive as no Charter Review Commission is required.

Towns with Charters choose their own form of town government, which is limited only by any prohibitions imposed by State Statutes or Federal laws. The Maine Municipal Association advises that a Town Charter should be a document of broad principles regarding structure, governance, and stewardship and should not overreact to issues of the day.

(Please also see Peter's outline paper, attached as an appendix to these Minutes.)

Welcome to the public

In opening the meeting to the public, the Chair emphasized the importance of public input on "Should we have a Charter" and other specific concerns. Public input is also welcome at the Commission's fortnightly meetings and via the email box which can be accessed via the "Contact" drop down menu on the Town's website. All emails will be reviewed at the appropriate meeting.

Public input – key themes

- The Charter has served us well for 30 years. It is more accessible than the 1000 pages of Maine Statutes, both to members of the public and to Boards and Committees. If the Charter were abolished, its provisions would have to be incorporated into codes and ordinances and an index of documents created.
- The Town Manager recruitment process should be streamlined.
- Clarity is needed on the expiration of terms for Boards / Committees. Terms should end with the end of the fiscal year, with a specific note to the Select Board allowing the Board to extend terms until the next scheduled election. Problems arose this year (2020) with the June Town Meeting being postponed until July and should be avoided in the case of another emergency. Provisions for moving alternates into empty seats should also be reviewed.
- Ensure Town policies / ordinances are accessible to the public electronically.
- Can the Charter Review Commission look at municipal ordinances and correct discrepancies, for example, regarding the Town Seal?

- Update and streamline the Charter, using plain language and making it an easy reference document while minimizing ambiguities leading to different interpretations.
- Specify consequences when the Charter is violated – “put some teeth into it”.
- Limit the number and variety of signs which political candidates can put up and specify areas where signs cannot be posted.

4. Next steps

Topics for review

The Chair proposed that at each fortnightly meeting, Commission members should prepare to discuss both a specific Article and a topic. The Town Manager Search Committee was a good example: before tackling Article IV, review how the Committee worked and how it could be improved.

Ideas for topics:

- Rules for being on Committees
- Overlap between ordinances and the Charter: determine which document is the most appropriate “home” for each point
- Charter language – identify and simplify complex wording
- Make the Charter real: where are sanctions needed? Where should provisions be changed (i.e., election by secret ballot, which is honored in the breach and contradicts State law)

Accessibility

Wendy proposed making hotlinks in the document between State law and Charter provisions for ease of reference. There was general support for this proposal.

Action: agree who will take the lead; Chair to facilitate, if possible, direct contact with Town Attorney to ensure correct links are chosen.

Preamble

Action: everyone to review and try to reduce to one half page; send to Secretary by **September 9** to circulate; select one at the September 15 meeting and work on that. Alternatively, please advise the Secretary of preferred version(s) [no more than 2] from those already drafted.

Articles

Action: everyone be prepared to discuss Article 1 at the next meeting. Send any written comments to the Secretary by **September 9**. The Vice Chair proposed that, given the brevity of Article 1, the group also prepare to discuss Article 2.

Note: Patricia has researched residency, which is part of Article 2, and will send background papers to the Secretary to circulate to the Group.

September 15 meeting management

Public input is welcome at the beginning of the meeting and for each topic.

Action: Chair and Secretary to solicit more input.

A vote will be taken on Charter / no Charter. Several Commission members proposed this be at the beginning of the meeting.

Action: Chair, Vice Chair and Secretary to agree draft Agenda.

The meeting will be limited to 2 hours.

5. Close of meeting

Moved by Peter Griswold, seconded by Gordon Lewis, that the meeting be adjourned. By unanimous consent, the meeting was adjourned at 7.05 pm.

Respectfully submitted,

Robin Miltward

Ogunquit Charter Review Commission Secretary

Note: These minutes are not a transcript.



Why should Ogunquit have a Charter?

Charter Review Commission - 2 September 2020

- **Maine’s Constitution – Home Rule = VIIIth Amendment**
- **Charter - Pros & Cons**

Non-Charter Towns in Maine = 427	Charter Towns = less than 66
<ul style="list-style-type: none"> ● No burning need – follow State Statutes ● If it works, don’t fix it ● Town Administrative Codes & Ordinances ● Both written on paper vs etched in stone ● Charter = another layer of regulation ● Time, effort & expense of Charter Reviews 	<ul style="list-style-type: none"> ● Home Rule – Decentralized Power (900+ vs 36 pages) ● Right to govern unless prohibited (Federal/State) ● Each town’s Charter is unique – needs & values ● Charter describes governmental structure ● Charter governs powers, duties & responsibilities ● Amendments must be approved by voters ● Enhances voter interest & participation

- **Surrounding Non-Charter Towns: Kennebunkport. Berwick & North Berwick**
- **Ogunquit’s Charter History**
- - 1913 – First Legislative Charter approving the Ogunquit Village Corporation (street lights)
 - 1980 – Second Legislative Charter establishing the Town of Ogunquit (L.D. 9590)
 - 1991 – Ogunquit Adopted its First Town Charter, approved by the Town’s voters
 - 2020 – Ogunquit’s Charter Review Commission commenced on August 4th - Charter #18

24 August 2020 - PLGriswold

OGUNQUIT CHARTER REVIEW COMMISSION

**September 15, 2020
9:00 AM**

Supporting Documents and Discussion Papers

Why a Charter? – Briefing Paper presented by Peter Griswold at the Commission’s Statutory Public Meeting on September 2, 2020

Discussion Document: Commission Members’ views on the Preamble (updated)

Discussion Document: Article 1 - Two Proposals

Discussion Document: Topics for Discussion at Future Meetings

Ogunquit Charter Review Commission: Why A Charter?
Briefing Paper
presented at the Commission's September 2 Statutory Public Meeting by Peter Griswold

After the American Revolution, residents of the District of Maine became increasingly resentful of being ruled from Massachusetts. They felt that Boston did little to protect Maine during the War of 1812. The people of Maine wanted their own Home Rule.

Mainers voted to separate from Massachusetts and convened a Constitutional Convention during 1819. The resulting document served as the new state's constitution when Maine became the 23rd state in 1820.

Maine's Constitution is one of the shortest and the fourth oldest in the country. Maine is one of only seventeen states that has retained the same constitution since statehood.

In 1969, Maine's voters approved the 8th Amendment to the State Constitution, entitled "Municipal Home Rule."

This Amendment reads: "The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character."

In other words, it serves as a local 'constitution', spelling out the distribution of power between the Municipal branches of government. A charter reflects the particular needs and values of a town.

Maine has 493 municipalities – but only 15 percent have charters. Why is that?

I decided to speak with four Managers of Non-Chartered towns to find out.

Here is what they said:

- It's simple...we follow State Statutes and create Administrative Codes and Ordinances when necessary.
- If it works, don't fix it!
- Their towns can easily modify and amend Codes and Ordinances - much easier compared to forming a Charter Review Commission every five years.
- Furthermore, a Charter creates another layer of rules and regulations. Their towns want to keep government as simple as possible.
- They said: "If you add up the time, effort and expenses of a Charter Review Commission with 9 voters and an attorney, it becomes a big expense over time."

Then, why do Municipalities have Charters?

Based on my research, Charter Towns want to rule themselves, just as the District of Maine wanted 200 years ago. Locals should have the right to govern themselves without getting permission from Augusta. They can do what they want unless it is **prohibited** by State Statutes or Federal laws. With a Charter, they can structure their town government, and determine how power, duties and responsibilities are delegated. Ogunquit's Charter is only 36 pages long versus State Statutes with 900 pages.

Charters can be amended by town voters. Reviewing Charters every five years can be a worthwhile endeavor, involving voters and giving them the power to determine how the town will be governed. A Charter enhances everyone's participation – making voters responsible for good government.

Charters should be a document of broad principles regarding governing, stewardship of the town and the structure of government.

- It should not be an operations manual.
- It should not over react to issues of the day.
- And, it should not cover matters that can be done by ordinance, Select Board policy or by operational procedures.

Perhaps it is a coincidence, but all the surrounding towns around Ogunquit have Charters except three: Kennebunkport, Berwick and North Berwick.

Now...let's look at Ogunquit's Charter History

- 1913 – Ogunquit wanted street lights. Wells said NO. So, the Town leaders went to Augusta, and persuaded the Legislature to make Ogunquit a Village...they then raised the funds and installed the lights.
- 1980 – Ogunquit wanted to separate from Wells and control its own destiny. Our leaders went to Augusta and persuaded the Legislature to make Ogunquit a separate Town.
- 1991 – Ogunquit Adopted its First Town Charter
- 2020 – And now, the Charter Review Commission is again reviewing our Charter. It is a living document. We have already made changes 16 times since 1991!

2 September 2020 – PL Griswold

**Ogunquit Charter Review Commission: Member Views on Preamble
Discussion Document:
Updated for the Commission's meeting on September 15, 2020**

Note: this document sets out the contributions of individual Charter Review Commission Members. Contributions are numbered for ease of reference in discussion. Votes received for specific versions are also noted. (8) is a new addition and (9) is a proposed redraft drawn from versions (1) through (7).

(1)

PREAMBLE

We, the citizens of the Town of Ogunquit, realizing our responsibilities inherent in the adoption of this Charter, also recognize that strict moral ethics must be practiced by all people, particularly those in positions of authority. These moral obligations require honesty, integrity, and high ethical standards on the part of all elected and appointed officials.

Honest, responsible, dedicated, and transparent leadership in all phases of our community is essential if Ogunquit is to continue to be a better place in which to live.

The Ogunquit Village Corporation was formed in 1913 as a result of the efforts of ~~our forebears. The works of many went into the original Charter; specifically mentioned are Nehemiah P. M. Jacobs, Wilbur F. Cousins, George H. Littlefield, J. Moses Perkins, Edward T. Weare, Samuel J. Perkins and F. Raymond Brewster.~~ **those who went before us.** The citizens of Ogunquit appreciate what the charterers and other dedicated people have done through the years to establish, preserve and improve the Town.

The Charter, **first** approved by the legislature of the State of Maine in 1913, has been amended ~~several times since the corporation was born. Times have changed; Ogunquit has changed and grown~~ **numerous times.** On July 1, 1980, Ogunquit officially became a town in the State of Maine pursuant to L.D. 959 as enacted by the State Legislature in June, 1979.

In 2020, the Charter Review Commission has been formed to review, clarify, and where possible, simplify the Town Charter.

The purpose of this Charter is to clarify the rights and responsibilities of the Town of Ogunquit; to add other rights and responsibilities as required by present needs and by changes in State Statutes; and to assemble all this into a readable, acceptable format. **This Charter represents the form of government that we the citizens of Ogunquit choose to have.** This Charter may be amended in the future, as cause or need requires.

(2)

PREAMBLE [2 votes for this version]

We, the citizens of Ogunquit, realizing our responsibilities inherent in the adoption of this Charter, recognize that the Town must govern using the highest legal, ethical, and moral standards.

The Ogunquit Village Corporation was formed in 1913; later that year the first charter was approved by the Maine State Legislature. On July 1, 1980 Ogunquit officially became a town in the State of Maine pursuant to L.D. 959 as enacted by the State Legislature. Since then the Charter has been amended several times either to incorporate changes in State laws or to address new situations in Ogunquit. All amendments must first be approved by the Town Attorney and later be passed by a majority of registered voters at the next Town Meeting.

The purpose of the Charter is to clarify the rights and responsibilities of the citizens of Ogunquit and to outline the operation of the Town Government. It is essentially a condensed version of the most commonly cited State Statutes assembled in an easy to use format. Additionally, it provides rules and regulations specifically developed for the Town of Ogunquit and its unique requirements.

(3)

PREAMBLE

The Ogunquit Village Corporation was formed in 1913 as the result of the efforts of our forebears. Many worked on the original charter. Those specifically mentioned were: Nehemiah P.M. Jacobs, Wilbur F. Cousins, George H. Littlefield, J. Moses Perkins, Edward T. We are, Samuel J. Perkins and F. Raymond Brewster.

The Charter, approved by the legislature of the State of Maine in 1913, has been amended several times since the corporation was born. Times have changed and Ogunquit has grown. On July 1, 1980, Ogunquit officially became a town in the State of Maine pursuant to L.D. 959 as enacted by the State Legislature in June, 1979.

The purpose of this Charter is to: clarify the rights and responsibilities of the Town of Ogunquit; and, add rights and responsibilities as required by present needs and changes in Maine state law and statutes.

We the citizens of the Town of Ogunquit are aware of (realize) our rights and responsibilities in the adoption of this Charter. We recognize that ethics Ought to be (must be) practiced by all people, particularly those in positions of authority.

Honesty, integrity, fairness and respect are imperative (essential) for the life of individuals and the life of our community. Elected and appointed officials are to be held to these high standards if our town is to thrive in this place we call home.

This Charter is assembled in a readable format and may be amended in the future, as cause or need requires.

(4)

PREAMBLE [1 vote for this version]

Ogunquit, the Abenaki's word for "*a beautiful place by the sea,*" became a Village Corporation within the Town of Wells in 1913 when the State of Maine's legislature approved its first *Legislative Charter*. On 1 July 1980 Ogunquit separated from Wells to become an independent Town, pursuant to L.D. 959 as enacted by the State Legislature in June 1979.

The State of Maine's Statute (Title 30-A, Number 2103) sets forth the Charter Review Commission's Membership and Procedures. The Town's Charter must be reviewed every five years, providing voters with the opportunity to approve amendments and revisions to meet the changing needs of this community.

Ogunquit's Charter describes in detail the authority, responsibility and procedures of the Town's Government. The Nine Articles cover the Powers granted to the Town, Town Meetings, Select Board, Town Manager, Financial Procedures, School Committee, Tax Administration, Boards / Committees / Commissions, and General Provisions. The Charter may not supersede Federal or State Laws. Instead, the Charter provides greater detail on how the Town wishes to govern itself.

All residents, property owners and particularly individuals involved with the Town's Government are encouraged to become familiar with this Charter. Recognizing the authority of Ogunquit's voters, all elected and appointed individuals, and anyone dealing with the Town must abide by this Charter, and the Town's Code of Ethics requiring honesty, integrity and transparency.

(5)

PREAMBLE [1 vote for this version and endorsement for writing Preamble at the end of the process, as suggested.]

We, the citizens of the Town of Ogunquit, realizing our responsibilities inherent in the adoption of this Charter, also recognize that strict moral ethics must be practiced by all people, particularly those in positions of authority. These moral obligations require honesty, integrity, and high ethical standards on the part of all elected and appointed officials.

Honest, responsible, dedicated, and transparent leadership in all phases of our community is essential if Ogunquit is to continue to be a better place in which to live.

The Charter, approved by the legislature of the State of Maine in 1913, has been amended several times since the corporation was born. Times have changed; Ogunquit has changed and grown. On July 1, 1980, Ogunquit officially became a town in the State of Maine pursuant to L.D. 959 as enacted by the State Legislature in June, 1979.

The purpose of this Charter is to clarify the rights and responsibilities of the Town of Ogunquit; to add other rights and responsibilities as required by present needs and by changes in State Statutes; and to assemble all this into a readable, acceptable format. This Charter may be amended in the future, as cause or need requires.

Note: make writing the Preamble the last step.

(6)

In general, believe the current preamble should be re-ordered and language/content be streamlined:

1. Historical background of the formation of the village and the town (Drawing from Par 3 and 5)
2. Overview of the establishment, structure and purpose of the Charter (Drawing from Par 5 and 6)
3. Requirements, process and reason for regular review and updating (Referencing state law)
4. Rights and responsibilities of community leadership and of the citizenry (Drawing from Par 1 and 2)

(7)

PREAMBLE

The Ogunquit Town Charter embodies the aspirations and responsibilities specific to our chosen form of government as we citizens of the Town look to the next decade and beyond. It respects the requirements of Maine State law while at the same time addressing those aspects of our municipal structure which require greater clarity than provided by the State, or which are unique to our “beautiful place by the sea”.

This Charter assumes that our elected and appointed officials meet the highest standards of honest and ethical behaviour. It promotes transparency in government, to enable the citizens of the Town of Ogunquit to participate fully in our local democracy and to facilitate all local stakeholders contributing to the fair and effective government of our Town.

This document brings together in a single clear and readable format the rights and responsibilities of the Town of Ogunquit. It provides a working platform which may be altered by future amendments when appropriate, subject always to the approval of the voters of our Town.

Note: is it within the scope of the Review Commission to consider how the Charter may be made available in suitable formats for partially sighted / blind people?

(8)
NEW ADDITION

PREAMBLE

We, the citizens of the Town of Ogunquit, realizing our responsibilities inherent in the adoption of this Charter, also recognize that strict moral ethics must be practiced by all people, particularly those in positions of authority. These moral obligations require honesty, integrity, and high ethical standards on the part of all elected and appointed officials. Honest, responsible, dedicated, and transparent leadership in all phases of our community is essential if Ogunquit is to continue to be a better place in which to live.

The Ogunquit Village Corporation was formed in 1913 as a result of the efforts of our forebears. The citizens of Ogunquit appreciate what the charterers and other dedicated people have done through the years to establish, preserve and improve the Town.

The Charter, approved by the legislature of the State of Maine in 1913, has been amended several times since the corporation was born. Times have changed; Ogunquit has changed and grown. On July 1, 1980, Ogunquit officially became a town in the State of Maine pursuant to L.D. 959 as enacted by the State Legislature in June 1979.

The purpose of this Charter is to clarify the rights and responsibilities of the Town of Ogunquit; to add other rights and responsibilities as required by present needs and by changes in State Statutes; and to assemble all this into a readable, acceptable format. This Charter may be amended in the future, as cause or need requires.

(9)

Reworked preamble #1 from those which were submitted.

The Ogunquit Village Corporation was formed in 1913 as a result of the efforts of those who went before us. The citizens of Ogunquit appreciate what the charterers and other dedicated people have done through the years to establish, preserve and improve the quality and life of our town.

We the people of Ogunquit, desire to manage our affairs in an honest, ethical, legal and efficient manner.

We assert our willingness to assume all responsibility for the conduct of matters pertaining to the town and consistent with Maine state law and statutes: ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged citizenry.

We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people

We will adhere to this charter, knowing that it may be amended in the future, as cause or need requires.

**Ogunquit Charter Review Commission: Article 1
Discussion Document:
Two proposals**

(1)

ARTICLE I

GRANT OF POWERS TO THE TOWN

Section 101 INCORPORATION

The inhabitants of the Town of Ogunquit shall, in the collective, constitute a municipal corporation by the name of the Town of Ogunquit, **hereinafter referred to as the Town**. ~~The Town shall have all the powers possible under the U.S. Constitution and the laws of the State of Maine.~~

Section 102 POWERS OF THE TOWN

The powers of the Town under this Charter shall be construed liberally in the favor of the Town so as to enable ~~the the Town shall have~~ to exercise and enjoy all the rights, immunities, powers, privileges, and franchises, and ~~shall~~ be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said Town under the Laws of the State of Maine and the State Constitution.

It may enact by-laws, regulations, and ordinances not inconsistent with the State Constitution and the Laws of the State of Maine, and impose penalties for the breach thereof, not exceeding the maximum amount as established by statute in any one case, to be recovered to the use of said Town by appropriate action.

The Town shall operate under the Town Meeting - Select Board – **Town** Manager form of government set forth in this Charter. Under this form of government, the Select Board serves as **the Town's executive body**, and the Town Manager serves as the Administrator to oversee the daily operations of the Town.

~~The Town shall have all the powers possible for a municipality to have under the State Constitution and the Laws of the State of Maine, including but not limited to the power to:~~

~~102.1 Elect municipal officials.~~

~~102.2 Appoint officials or members of boards, commissions and committees.~~

~~102.3 Establish and maintain a Police Department.~~

~~102.4 Establish and maintain a Fire Department.~~

~~102.5~~ Approve the salaries of those elected and appointed officials receiving compensation.

~~102.6~~ Lay out, construct, reconstruct, alter, maintain, repair, control and operate roads, streets and ways, sidewalks, Marginal Way, public parks and beaches, public walks, public parking lots, and public wharves and landings.

~~102.7~~ Contract for public utilities.

~~102.8~~ Plant, remove, and care for trees in the rights of way of roads and streets, and upon public lands.

~~102.9~~ Widen, deepen, extend and maintain Flat Pond and the channel of the Josias River between Flat Pond and the sea, hereinafter referred to as Perkins Cove Harbor.

~~102.10~~ Provide for planning and zoning.

~~102.11~~ Establish, maintain, approve, permit and/or finance recreational facilities; and may charge for the use thereof.³

~~102.12~~ Borrow money and issue bonds within the limits specified by State Laws for municipalities for any purpose for which money may be legally appropriated.

~~102.13~~ Establish and maintain municipal parking, which may include parking fees.

~~102.14~~ Regulate the taking of clams.

~~102.15~~ Maintain real and personal property owned by the Town.

~~102.16~~ Apply for State, Federal, and other aid grants for the benefit of the Town.

~~102.17~~ Adopt and modify the official map of the Town.

~~102.18~~ Acquire real and personal property within or without its corporate limits for any Town purpose, and sell, lease, mortgage, hold, manage, maintain, and control such property as its interests may require in accordance with Title 30-A MRSA.

~~102.19 Accept contributions of personal property and monetary contributions to be used as the Town determines.~~

Section 103 INTERGOVERNMENTAL RELATIONS

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, states, or civil divisions or agencies thereof, or the United States government or agency thereof.

(2)

ARTICLE I

GRANT OF POWERS TO THE TOWN

Section 101 INCORPORATION

The inhabitants of the Town of Ogunquit shall, in the collective, constitute a municipal corporation by the name of the Town of Ogunquit. ~~(The Town shall have all the powers possible under the U.S. Constitution and the laws of the State of Maine.)~~ This sentence is present in 102.

Section 102 POWERS OF THE TOWN

The Town shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises, and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said Town under the Laws of the State of Maine and the State Constitution.

It may enact by-laws, regulations, and ordinances not inconsistent with the State Constitution and the Laws of the State of Maine. ~~, and~~ (Add) It can impose penalties for the breach thereof, not exceeding the maximum amount as established by statute in any one case, to be recovered to the use of said Town by appropriate action.

The Town shall operate under the Town Meeting - Select Board – (add)Town Manager form of government set forth in this Charter. Under this form of government, the Select Board serves as the Town's executive body, and the Town Manager serves as the Administrator to oversee the daily operations of the Town.

The Town shall have all the (following) powers ~~possible for a municipality to have~~ under the State Constitution and the Laws of the State of Maine, including but not limited to the power to:

102.1 Elect municipal officials.

- 102.2 Appoint officials or members of boards, commissions and committees.
- 102.3 Establish and maintain a Police Department.
- 102.4 Establish and maintain a Fire Department.
- 102.5 Approve the salaries of those elected and appointed officials receiving compensation.
- 102.6 Lay out, construct, reconstruct, alter, maintain, repair, control and operate roads, streets and ways, sidewalks, Marginal Way, public parks and beaches, public walks, public parking lots, and public wharves and landings. (Add) and such other infrastructure necessary for the efficient operation of the town.
- 102.7 Contract for public utilities.
- 102.8 Plant, remove, and care for trees in the rights of way of roads and streets, and upon public lands.
- 102.9 ~~Widen, deepen, extend and~~ Maintain Flat Pond and the channel of the Josias River between Flat Pond and the sea, hereinafter referred to as Perkins Cove Harbor.
- 102.10 Provide for planning and zoning.
- 102.11 Establish, maintain, approve, permit and/or finance recreational facilities; and may charge for the use thereof.²
- 102.12 Borrow money and issue bonds within the limits specified by State Laws for municipalities for any purpose for which money may be legally appropriated.
- 102.13 Establish and maintain municipal parking, which may include parking fees.
- 102.14 Regulate the taking of clams.
- 102.15 Maintain real and personal property owned by the Town.
- 102.16 Apply for State, Federal, and other aid grants for the benefit of the Town.

102.17 Adopt and modify the official map of the Town. (Do we need clarification here because at least 2 maps have been referred to during different meetings--thanks)

102.18 Acquire real and personal property within or without its corporate limits for any Town purpose, and sell, lease, mortgage, hold, manage, maintain, and control such property as its interests may require in accordance with Title 30-A MRSA.

102.19 Accept contributions of personal property and monetary contributions to be used as the Town determines.

Section 103 INTERGOVERNMENTAL RELATIONS

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, states, or civil divisions or agencies thereof, or the United States government or agency thereof.

**Ogunquit Charter Review Commission:
Discussion Document: Topics for Discussion**

Note: This paper is based on a document provided by William Sawyer and incorporates points raised by Commission members and members of the public. Points raised by more than one person are highlighted. Others may be added at the meeting.

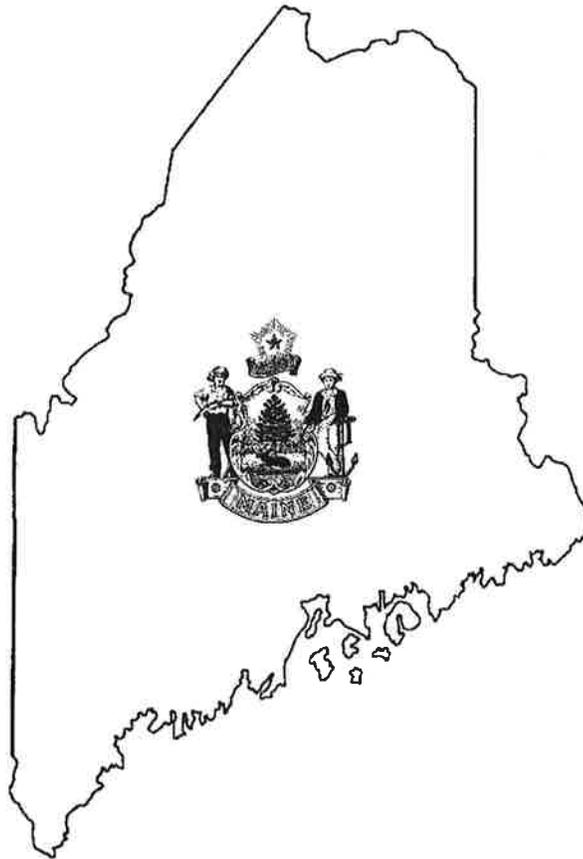
- 1) Article II Voter Qualification [also impacts Article VIII]
- 2) Article III section 302 additional / more detailed qualifications
- 3) Article III section 309.2 conviction of crime
- 4) Article III section 310.10 enhance role of external auditors; clarify Management and Select Board responsibilities for addressing recommendations
- 5) Article III section 310.3 and 310.4 Special Project Manager
- 6) Article III sections 311.2 / 310.1 – review duties of Select Board / Town Manager
- 7) Article IV section 402, interviews, questionnaire
- 8) Article IV section 405.5 removal of department head – notice and hearing
- 9) Article IV section 405.11 Financial report? response to questions?
- 10) Article IV section 405.14 grant applications approved by the Select Board
- 11) Article V section 504 taxation?
- 12) Article V section 506 audit report 90 days before Town Meeting
- 13) Article VIII section 801 Board of Assessment Review required by state statutes? Specify required Boards / Committees and clearly state which Boards preclude simultaneous membership of another Board.
- 14) Article VIII section 801.1 A.2.f include statement on ethics
- 15) Article VIII section 802.2 alternate terms end when?
- 16) Article VIII section 802.3.A.1 clarify procedure for filling vacancies on BRC
- 17) Article VIII section 803 appointed member forfeiture of office – not for a crime?
- 18) Article VIII section 804 Recall make consistent for all boards
- 19) Article VIII section 804.1 specific reason or specific crime?
- 20) Article VIII NEW SECTION establish Land Use Committee to oversee conservation and development of available land
- 21) NEW PROVISION: rules concerning number, design and placement of signs during political campaigns
- 22) NEW PROVISION: Code of Ethics for anyone dealing with the Town, including at the podium and online, consistent with the Code of Ethics for Boards & Committees
- 23) NEW PROVISION: Make job descriptions for all key positions available to public, and complete performance appraisals annually, each signed by the supervisor and employee
- 24) NEW PROVISION: Ensure Town policies / ordinances are available to the public electronically as well as in print

In addition:

- 25) Determine whether within the CRC's remit to look at municipal ordinances and correct discrepancies
- 26) Eliminate use of "Beautiful place by the sea" – it's an inaccurate translation
- 27) Ensure Charter is accessible to blind / partially sighted people
- 28) Re-think rule by Minority (Article II 205, 206, and 804.1.A)

INDIVIDUAL INCOME TAX

Determining Residency Status



GUIDANCE DOCUMENT

Maine Revenue Services, Income/Estate Tax Division

Last Revised: January 2020

INTRODUCTION

If you are a **Maine resident** for the entire tax year, you must pay Maine tax on all of your taxable income regardless of its sources – wages, investment income, interest income, pension, and dividends among other things. Except, active duty military pay earned by a Maine resident service member for service performed outside of Maine under written military orders is not subject to Maine individual income tax.

If you are subject to income tax by another state or similar jurisdiction in another country on some of your Maine taxable income, you may be allowed a credit against Maine income tax for all or some of the tax paid to the other state or jurisdiction. (*See the MRS Instructional Pamphlet, “Credit for Income Taxes paid to Another Jurisdiction.”*)

If you are a **nonresident** or **“safe harbor” resident** of Maine, you must pay Maine tax on all income from work performed in Maine. You must also pay Maine tax on all other income derived from Maine sources, including income derived from sole proprietorships, partnerships and S corporations, and capital gains from real or tangible property sold in Maine and income from rental of Maine property. Except for certain sales of a partnership interest on or after July 1, 2005, a nonresident generally does not have to pay Maine tax on interest, dividends, alimony, pensions or other income from intangible sources unless such income is from property employed in a business carried on in Maine.

If you are a **part-year resident** of Maine, you must pay tax on all of your income for the part of the year you were a Maine resident, and you must also pay tax on any income derived from Maine sources during the part of the year you were a nonresident or a “safe harbor” resident.

Exceptions:

- ① A nonresident individual working in Maine as an employee is not required to pay a Maine tax or file a Maine return on income from personal services unless that individual works in Maine for more than 12 days or, having worked in Maine for more than 12 days, earns or derives income from all Maine sources totaling more than \$3,000. Up to 24 days performing certain personal services, such as training and site inspections, are not counted against the 12-day threshold. Also, generally, a nonresident individual present in Maine for business for no more than 12 days and earning no more than \$3,000 from business activity in Maine is not required to pay a Maine tax or file a Maine return on that income.
- ① Income earned by a nonresident employee of a political subdivision of an adjoining state performing services in Maine in accordance with an interlocal agreement under 30-A M.R.S., Chapter 115 is not considered Maine-source income, so long as the work performed does not displace a Maine resident employee.
- ① Compensation or income directly related to a declared state disaster or emergency is exempt from Maine tax if the taxpayer’s only presence in Maine during the tax year is for the sole purpose of providing disaster relief.

See 36 M.R.S. §§ 5142(8-B) and 5142(9) and Rule 806.

Note: Military service members and spouses, see additional guidance under “Military Personnel” later.

A **“resident”** taxpayer is a person who is:

- domiciled in Maine (a “permanent legal resident”) or
- a statutory resident (*see below*).

A “**safe harbor**” resident is a person who is domiciled in Maine but who is not treated as a Maine resident for income tax purposes (see below). For more information and examples, see the *Guidance to Residency Safe Harbors brochure* available at <http://www.maine.gov/revenue/incomeestate/guidance>.

A “**part-year resident**” of Maine is an individual who is domiciled in Maine for part of the year and who is not a statutory resident in that year (see below).

A “**nonresident**” taxpayer is an individual who earns income in Maine but who is not a Maine resident for income tax purposes.

DOMICILE STATUS

The state in which you are domiciled is your **permanent legal residence**. This is the place you intend to make your home for a permanent or indefinite period of time. It is generally the place where you dwell and which is the center of your domestic, social, and civic life.

Except for “safe harbor” residents, if you are domiciled in Maine, you are a Maine “resident” for income tax purposes – even if you are outside the state for the entire tax year. A person can have only one domicile; therefore, if you are domiciled in Maine, you cannot be domiciled in another state or country. Similarly, if you are domiciled in another state or country, you cannot be domiciled in Maine. **However, as explained in the following section you may be domiciled in one state or country and still be a statutory resident for tax purposes in another state or country.**

Once your domicile is established in Maine, it continues until you establish domicile elsewhere. If your legal residency becomes an issue, you will have the burden of showing that you have established domicile in another state or country.

If you move out of Maine temporarily without establishing domicile in the other state or country, you continue to be domiciled in Maine. This is the case even if you sell your home in Maine.

For most people, even those who divide their time between different states, there is no question as to where they are domiciled; it is clear where they maintain their “home base.”

For others, though, it can be more difficult. When Maine Revenue Services determines where a taxpayer is domiciled, it considers **all** of the taxpayer’s relevant facts and circumstances (with a few exceptions noted below). You should do the same when determining how to file your income tax returns. Remember that although your **intent** is critical in determining where you are domiciled, a simple statement of intent – “I intended to make Florida my domicile in 2019,” for example – is not conclusive. Many factors are used as evidence of domicile.

It is important to know that **no single factor** will determine your state of domicile. Rather, all relevant factors are evaluated together. The criteria below are some of the factors Maine Revenue Services considers in making domicile determinations. You, too, should consider them to determine your domicile for income tax purposes.

Property ownership and residence:

- the location of your principal residence
- your mailing address

- where you spend the most amount of time
- whether you applied for a Homestead or Veterans property tax exemption in Maine or a comparable benefit in another state

Family and dependents:

- whether you can be claimed as a dependent on another person's federal income tax return and where that person is domiciled
- where your spouse or dependents reside
- where your dependents attend elementary and secondary school
- where you or your dependents qualify for in-state college tuition

Licenses and registrations:

- where you are registered to vote
- which state issued your driver's license
- where your vehicles are registered
- where you maintain professional licenses
- where you declare residency for hunting and fishing licenses

Financial data:

- the state where you qualify for unemployment insurance
- the state in which you filed previous resident tax returns
- the state where you earn your wages
- the address recorded for insurance policies, deeds, mortgages, or other legal documents

Affiliations:

- the state in which you hold fraternal, social or athletic memberships
- the state where you maintain union memberships
- the location of a church or other house of worship of which you are a member

Other factors:

- where your personal property is located
- where you conduct your business
- the address listed for you in a telephone directory
- where you keep your pets

Exceptions: Maine Revenue Services does not consider your charitable contributions (whether made to an organization located in or outside of Maine) when making domicile determinations. Also, the geographic location of your professional advisors (doctors, lawyers, accountants, etc.) and financial institutions is not considered.

If you are married, both you and your spouse are presumed to have the same state of residency, even though you may live apart for a portion of the year. (This presumption can be overcome if the facts clearly show that the spouses are domiciled in different states.)

STATUTORY RESIDENCY STATUS

Even if you are domiciled in another state, you may still be taxed as a Maine resident if you are a “statutory resident.” *Statutory residency, however, does not apply to military personnel. See the section on “Military Personnel” for more information on state taxation of military personnel and their family members.*

You are a statutory resident if:

1. you spent more than 183 days in Maine during the tax year (any portion of a day is counted as a full day), **and**
2. you maintained a **permanent place of abode** in Maine for the entire tax year.

A **permanent place of abode** is a house, apartment, dwelling place, or other residence that an individual maintains as his or her household, whether or not he or she owns it.

The term does not include a seasonal camp or cottage that is used only for vacations, a hotel or motel room, or a dormitory room used by a student during the school year. A place of abode is not deemed permanent if it is maintained only during a temporary stay in Maine for the accomplishment of a particular purpose.

If you maintained a permanent place of abode in Maine, but claim you were domiciled elsewhere and that you were not present in Maine for more than 183 days in the tax year (as is the case with many so-called “snowbirds,” for example), you should keep adequate records to verify that more than half of the year was spent in another state. Records confirming your whereabouts commonly include planners, calendars, plane tickets, canceled checks and credit card and other receipts.

RESIDENCY “SAFE HARBORS”

Maine law provides that certain individuals are not treated as resident individuals even though they are domiciled in Maine. In order to qualify for such a “safe harbor,” you must fall under either the General Safe Harbor to the normal residency rules described elsewhere in this document, or the Foreign Safe Harbor. If you believe you qualify for one of these safe harbors, you should consult the Maine Revenue Services *Guidance to Residency “Safe Harbors,”* which contains more detailed information on eligibility and filing requirements.

General Safe Harbor: An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if he or she satisfies all three of the following requirements:

- did not maintain a permanent place of abode in Maine for the entire taxable year;
- maintained a permanent place of abode **outside** Maine for the entire taxable year; and
- spent **no more than 30 days** in the aggregate in Maine during the taxable year.

Foreign Safe Harbor: An individual who is domiciled in Maine will nevertheless be treated as a nonresident individual if he or she satisfies all three of the following requirements:

- within any period of 548 consecutive days (the “548-day period”) beginning or ending during that tax year, the individual is present in a foreign country (or countries) for at least 450 days;
- during the 548-day period, the individual is not present in Maine for more than 90 days and does not maintain a permanent place of abode in Maine at which the individual’s spouse (unless the spouse is legally separated) or minor children are present for more than 90 days; and
- during the nonresident portion of the taxable year with which or within which the 548-day period begins and during the nonresident portion of the taxable year with which or within which the 548-day period ends, the individual is present in Maine for a number of days that does not exceed

an amount which bears the same ratio to 90 as the number of days contained in the nonresident portion of the taxable year bears to 548.

NOW WHAT DO I DO?

Once you've determined where you are a resident, you can identify what types of income are taxable to Maine, what credits you may be entitled to, and what forms you need to file.

If you are a full-year Maine *resident*, file Maine Form 1040ME, Individual Income Tax Return.

If you are a *nonresident* or a "safe harbor" *resident* for all or part of the year and your Maine gross income meets the Maine minimum filing requirement, you must file Form 1040ME and include Schedule NR, Part-Year Residents/Nonresidents/"Safe Harbor" Residents, or Schedule NRH, Nonresident or "Safe Harbor" Resident Married Person Electing to File Single.

EXAMPLES

Example 1 - Full-year Domiciled Resident. Ben and Jennifer are retired. They own a home in Maine in which they reside from May 1 to October 1 (153 days) each year. Ben and Jennifer have Maine driver's licenses and car registrations, and bank accounts in Maine. They are active in community and church affairs in Maine, vote in Maine, and consider Maine to be their home. Ben and Jennifer spend the rest of the year at their condominium in Florida. Ben and Jennifer are residents of Maine for tax purposes, even though they do not spend more than 183 days per year in the state, because they are domiciled in Maine.

Example 2 - Full-year Domiciled Resident. Stan and Susan own a house in Rockland, Maine. Their three children are enrolled in the Rockland school system, they register vehicles in Maine, are registered to vote in Rockland and use their Maine address on their insurance policies and mortgage documents. Stan is a merchant seaman who works for a company based out of Texas. His assignments take him out to sea for four to five months at a time; he always returns to Rockland to be with his family between trips. He and four co-workers split the rent on a small apartment in Texas to use as a home base immediately before and/or after each trip and to provide an address for mail delivery. Stan is domiciled in Maine together with the rest of his family; Maine is his permanent legal residence. He is, therefore, a full-year Maine resident for tax purposes.

Example 3 - Nonresident. David is domiciled in New York. He is transferred to his employer's Maine office for a temporary assignment from March 1 to November 30 (274 days), after which he returns to New York. Although David takes an apartment in Maine during this period and he is not a Maine resident, he spends more than 183 days of the taxable year in Maine, he is not a Maine resident because he did not have a permanent place of abode in Maine for the entire year. Instead, David will be subject to tax as a nonresident on his income from Maine sources, including any salary or other compensation for services performed in Maine.

Example 4 - Statutory Resident. Pete and Pam were formerly domiciled in Winthrop, Maine. In 2018, they retired from their jobs with the State of Maine and bought a home in Port Charlotte, Florida.

Within a few months of that purchase, they obtained Florida drivers licenses, registered to vote in Port Charlotte and took other steps to establish domicile in Florida. As of the move, MRS considers them to be domiciled in that state. They continue to maintain their lakefront house in Winthrop for the entire year and return to Maine every year from mid-April to the end of October (200 days) to spend time with family and friends. Pete and Pam are statutory residents of Maine because they maintain a permanent place of abode in Maine for the entire year and spend more than 183 days in Maine.

Example 5 - Nonresident, then Statutory Resident. Sarah is domiciled in New Jersey. She is transferred to her employer's Maine office for an assignment from June 1, 2018 to August 1, 2019. If Sarah resides in an apartment in Maine during this period, she will not be a statutory resident in Maine in 2018, even though she spent more than 183 days of the taxable year in Maine, because her apartment was not maintained for the entire year. Only income she receives (such as her salary) that is connected to or derived from sources in Maine will be subject to Maine's income tax in that year. If Sarah's assignment is extended in 2018 to last for the entire year and she maintains the apartment as a residence throughout 2019, she will be a statutory resident in 2019, and all her income will be subject to Maine income tax that year.

Example 6 - Statutory Resident, then Domiciled Resident. In example 5 above, Sarah became a statutory resident in 2018. She continued to maintain her apartment in 2019, changed her domicile from New Jersey to Maine in April 2019, and was present in Maine for more than 183 days in 2019. Under these circumstances, she will be a full-year resident in 2019 and all her income will be subject to Maine tax in that year.

Example 7 - Part-year residents. Susan and Sam have been domiciled in Maine for the past five years. They are homeowners and calendar year taxpayers. Susan receives notice from her employer that she is being transferred to the company's office in New York. On September 1, 2019, Susan and Sam move to a new home in Connecticut with the intent to make Connecticut their new state of domicile and take sufficient steps to make it so. Prior to leaving, they put their house in Maine on the market for sale with a local real estate office. An offer is made for the house on October 1, 2019. The house is sold on December 1, 2019. Under these facts, Susan and Sam are part-year residents for 2019. For the period from January 1 through September 1, 2019, they were residents because they were domiciled in Maine. After that date, they relinquished their domicile in Maine and became domiciled in Connecticut. As residents, any income they received from January 1 to September 1, from whatever source, is subject to Maine personal income tax. For the period from September 2 through December 31, 2019, only income received connected to or derived from sources in Maine (such as any taxable gain on the sale of their Maine home) will be subject to Maine's income tax.

RESIDENT and NONRESIDENT ALIENS

If you are a nonresident alien for federal tax purposes, but have Maine earned income, you may be required to pay Maine income tax. If you are a resident alien for federal tax purposes, and are a Maine resident for tax purposes, you will be required to pay Maine income tax on all your income. The same guidelines that apply to Maine residents, part-year residents of Maine and nonresidents also apply to resident aliens and nonresident aliens.

MILITARY PERSONNEL

A **military member's** legal residence does not change solely because of a change in duty assignment. The legal residence designated at the time of entry into the service remains the same until the member establishes a new legal residence. A completed DD Form 2058, "State of Legal Residence Certificate" is evidence of a change in domicile (but does not prove it conclusively).

Note that active duty military pay earned by a Maine resident service member for service performed outside of Maine under written military orders is not subject to Maine individual income tax. If you are a nonresident who is stationed in Maine, your military income will not be taxed by Maine, nor will income from intangible sources, such as interest and dividends. However, if you work at an additional job in Maine or operate a business in Maine, that income will be taxed by Maine.

Generally, a **military spouse** cannot lose or acquire residence or domicile in a state for tax purposes when the military spouse is absent from, or located in, a state solely to be with the service member who is complying with military orders. Consequently, for Maine income tax purposes, a military spouse will not be treated as a resident of Maine if the following conditions are met:

- The military spouse is located in Maine solely to be with the service member;
- The service member is located in Maine in compliance with military orders;
- The service member and the spouse were residents or domiciled in the same state other than Maine immediately prior to being located in Maine.

Additionally, for tax years beginning on or after January 1, 2018, a spouse of a service member may adopt the home of record of their military spouse for tax purposes.

Also, income of a nonresident military spouse earned for the performance of services in Maine will not be treated as Maine-source income subject to Maine income taxation.

The exclusion from state taxation applies only with respect to the military spouse. Non-military income earned in Maine by a service member is Maine-source income and remains subject to Maine income tax.

Individuals domiciled in Maine who are members of the armed forces of the United States, the National Guard or Reservists who received federal orders for active duty continue to be domiciled in Maine for income tax purposes for the period of time they are stationed outside of Maine.

STUDENTS

Students generally remain residents of the state in which they were domiciled prior to attending college (even if they attend college full-time in another state).

If you are a Maine resident who attends school in another state, you remain a Maine resident and must pay Maine tax on all taxable income from all sources until you have established domicile in the other state.

Example 8 - Resident Student. John attends a college outside of Maine and lives in a dormitory room on campus. He graduated from high school in Maine and when he returns to Maine, he stays with his parents. Even though he spends most of his time in another state, he continues to be a Maine resident because he has not established a new domicile in another state.

Example 9 – Nonresident Student. Donna is domiciled in New Jersey and attends college in Maine. She lives in a dormitory room on campus during the school year (240+ days), which runs from late August to May. When the school year ends, she moves out of the dormitory and resides out of state with her parents. The following August, Donna returns to college for another year and again resides in a dormitory room on campus.

Donna’s domicile remains the same as her parents. Although she spends most of her time in Maine, she has not changed her previous domicile. In addition, she is not a statutory resident, even though she was present in Maine for more than 183 days, because her dormitory room is not considered a permanent place of abode.

ANSWERS TO FREQUENTLY ASKED QUESTIONS

Q. *Each year, I live in Maine for five months and in another state for seven months. Does this mean I am not a Maine resident?*

A. Not necessarily. If you were domiciled in Maine before spending time in the other state, you continue to be a full-year Maine resident unless, or until, you have taken steps to establish domicile in the other state.

Q. *I retired, sold my permanent home in Maine and live the life of a nomad, traveling around the country in a recreational vehicle. Can I correctly say that I am not a resident of any state?*

A. No. Everyone is domiciled somewhere. Even though you sold your Maine home, you continue to be a Maine resident until you establish a domicile in another state.

Q. *My job requires that I move from Maine to another state for the next two years. Will I still be a Maine resident?*

A. Yes. If you temporarily move to another state where you intend to stay only for a limited time (no matter how long), your residency does not change. If the other state taxes the same income that is taxed by Maine, you may be able to claim a credit for taxes paid to the other state. When you file your Maine Form 1040ME, include the *Worksheet for Credit for Income Tax Paid to Other Jurisdictions*.

If, on the other hand, you move to another state with the intention of making it your home permanently or for an indefinite time, and take steps sufficient to establish a new domicile in that location, you no longer are a Maine resident and would be considered a part-year resident for the year of the move. This change in permanent legal residence is generally characterized by severing ties with Maine and establishing ties with another state or country. *See the factors described on pages 3 and 4 for establishing a domicile.*

Maine Voting Residence Fact Sheet

Eligibility to Register and Vote in Maine

To be eligible to register to vote in Maine, you must:

- Be a citizen of the United States;
- Be at least 17 years of age (you must be at least 18 years of age to vote, except that in primary elections you may vote if you are 17 but will be 18 by the general election);
- Have established and maintain a voting residence in the municipality (i.e. city, town, plantation or unorganized township) where you seek to register.

Maine Voting Residence

“Residence” is defined in the Maine election law (Title 21-A, section 112(1)) as “that place where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.” Note that this definition has two components: 1) the establishment of a fixed and principal home in a given place, and 2) the intent to return there whenever temporarily absent.

Under this definition, residence is something that you **establish**, not something you **choose**.

You may offer any of the following factors, which the Registrar of Voters may consider in determining whether you have established a residence in a particular municipality in Maine:

- a direct statement of your intention to reside at a particular place;
- the location of any dwelling you currently occupy;
- the place where you have registered your motor vehicle (if you own the vehicle);
- your current income tax return showing your residence address;
- the residence address where your mail is received;
- the residence address on your current hunting or fishing license;
- the residence address shown on your **driver’s license**;
- your eligibility for public benefits based on residency; or
- any other objective facts that tend to indicate your place of residence.

Residency and Domicile

Maine courts have held that voting residency as defined in Maine’s election statutes is equivalent to the common law concept of **domicile**. Whereas “residence” typically refers to the location where you physically reside, domicile means something more. In order to establish domicile, you must intend to make a place your home, and not just physically live there.

Once you have established a fixed and principal home where you live, that home is assumed to be your domicile until you establish a new one. Changing your domicile usually requires **action** -- physically moving to a new place – **and intent** – intending for the new place to become your home. You may live in two different homes during different parts of the year, but as a matter of law you can have only one domicile and thus only one voting residence. Therefore, when you complete a voter registration application, you must provide an address where you were previously registered to vote (either within or outside of Maine), unless you are registering to vote for the first time.

Residency requirements for students, military personnel, incarcerated persons, and citizens living outside the United States

Students. If you are a student, you have the right to register in the municipality in Maine where you attend school, **provided you have established a voting residence there** as defined in Maine's election laws and explained above. You can establish a voting residence at your Maine school address if you have a present intention to remain at that address for the time being, whether that residence is a dorm, apartment, house or even a hotel. Maine law expressly provides that you will not gain or lose residency solely because of your presence in or absence from the state while attending school, and **this provision may not be interpreted "to prevent a student at any institution of learning from qualifying as a voter" in the town "where the student resides while attending" that school.** In other words, as a student, you must meet the same residency requirements as all other potential voters. You must first determine where you have established residency and then register to vote there. If you pay **"out-of-state tuition"** as a student at a Maine college or university, **that does not preclude you from establishing residency in Maine for voting purposes.** If you have established residency in another municipality or state, you may vote by absentee ballot in that state.

If you lived in Maine prior to attending school and you wish to establish or keep your voting residency in Maine **at that location (e.g., at your parents' home address)-** you may do so as long as you have not already registered to vote in another state. Maine students may keep their voting residency even if they move out of the county, state, or country to attend school. **The only way you will lose this residency is if you "abandon" it by asserting residency in a new state.** If you have registered to vote in another state, you will have to re-qualify as a Maine resident by providing proof of residency before you can register.

Uniformed Service Voters. If you are a member of the uniformed service, and are qualified to register to vote, you do not gain or lose residency solely because of your presence or absence while on active duty in the uniformed service. Generally, the home of record that you claim for your service branch is your established residence for voting purposes. If that legal residence is in Maine, you may register to vote at that address. Your spouse or dependents may have the same voting residence as you do, or they may have established and maintain a separate residence where they would register to vote.

Citizens living outside the United States (also called "Overseas Voters"). If you are qualified to register to vote, but you reside outside the United States and you do not maintain a fixed and principal home or other address in Maine, you may register and enroll using the last residence address where you lived in Maine immediately before leaving the United States.

Incarcerated persons. If you are incarcerated in a correctional facility or in a county jail, you are entitled to register to vote in the Maine municipality where you previously established residency (a fixed and principal home to which you intend to return) prior to incarceration.

Consequences of Declaring Your Voting Residence (by Registering to Vote) in Maine

U.S. citizens who have reached the age of majority have an unquestionable right to vote and that right cannot be impinged upon based on compliance with other laws that relate to residency. However, you should be aware that if you register to vote in Maine, you will be deemed to have declared residency in Maine, which may require compliance with other Maine laws, including the motor vehicle laws and tax laws. If you drive a car in Maine, you are required to **obtain a Maine driver's license within thirty days of establishing residency here.** If you are a resident of Maine and own a vehicle here, state law also requires you to register that vehicle in Maine within thirty days of establishing residency. By declaring Maine as your voting residence, you may also be treated as a resident of Maine for income tax purposes and be subject to Maine income tax. Again, voter registration and residency requirements are not relational; the requirements in Maine law that relate to residency

were not crafted with the intent to pose as barriers that must be overcome before a citizen can exercise the right to vote.

§161. Responsibilities of registrar

4. Proof of qualification is requested. If the registrar is in doubt as to the qualifications of a person to vote, the registrar shall fix a reasonable time and place for a hearing and give written notice of the hearing to the voter at the last known address provided by the voter at least 20 days in advance. The voter must have the opportunity to testify and to present witnesses and other evidence at the hearing.

Title 21-A: ELECTIONS
Chapter 3: VOTER REGISTRATION
Subchapter 3: REGISTRATION AND ENROLLMENT
Article 3: PROVISIONS COMMON TO REGISTRATION AND
ENROLLMENT PROCEDURES

§159. Violations and penalties

- 1. False statement or false oath.** A person who makes a false statement or who takes a false oath before an official concerning the qualifications of any person for registration or enrollment and who does not believe the statement to be true commits a Class D crime.

This is punishable up to a year in prison.

Types of Voter Fraud

False Registrations

Voting under fraudulent voter registrations that either use a phony name and a real or fake address or claim residence in a particular jurisdiction where the registered voter does not actually live and is not entitled to vote.

FINDING YOUR POLLING PLACE

Everyone has a designated polling place based on the address of their Maine residency. If you registered before Election Day, you will be on the “voter rolls” at the location designated for your address. If you plan to register on Election Day, go to the polling location designated for your address, and you’ll be added to the voter rolls then and there.

The [Maine Voter Information Lookup Service](#) will tell you where your designated polling place is. Simply enter the address of the residence you listed when you registered (or the residence you *will list* if you’re going to register on Election Day), and the website will tell you your polling place.