Findings of Fact

1. **Scope of the Proposed Modification:**
    - The proposed modification affects Article VI, Section 6.04 of the Lisbon Town Charter, specifically repealing subsections (c) and (d) and amending subsection (c) to establish a referendum process for municipal budget adoption.
    - The changes focus solely on the process of budget adoption, a single subject matter within the charter, and do not explicitly alter other major charter provisions, such as those governing the Town Council's legislative authority, municipal structure, or other operational functions.
2. **Breadth Analysis:**
    - The proposed modification does not materially affect major charter provisions not mentioned in the amendment. The Lisbon Town Charter assigns the Town Council broad fiscal and legislative responsibilities, but the budget adoption process is a discrete function within those responsibilities.
    - The shift to a referendum-based budget approval process modifies only the mechanism for final budget approval, leaving intact other Council powers, such as setting policies, appointing officials, or managing non-budgetary municipal operations.
    - No evidence presented during the July 15, 2025, public hearing or Council deliberations indicates that the proposal conflicts with or materially alters unmentioned charter provisions, such as those related to taxation, borrowing, or general governance.
3. **Depth Analysis:**
    - The proposed modification does not fundamentally alter the essential character or core operations of municipal government. The Town Council retains significant authority over budget preparation, as the

proposal requires the Town Manager's budget to be submitted to voters for approval.

- The referendum process, including provisions for a second referendum and a fallback to the prior year's budget (reduced by 33% if both referenda fail), introduces a new procedural step but does not change the Council's role in developing the budget or managing municipal services.
- The 33% budget reduction provision, while significant, is a contingency mechanism that applies only in the rare case of two failed referenda. Historical data from Lisbon's budget adoption process (2015–2024) shows consistent budget approval by the Council, suggesting that the contingency is unlikely to be triggered, thus minimizing its practical impact on core operations.
- The essential character of Lisbon's municipal government, as a council-manager system under the Maine Home Rule statute, remains unchanged, as the Council continues to oversee budget preparation and municipal administration.

4. **Consistency with Prior Legal Opinion:**
    - On July 8, 2025, prior Town Attorney Kristin M. Collins opined that the proposed modification is a charter amendment, as it does not conflict with existing charter provisions, general laws, the United States Constitution, or the Constitution of Maine, and pertains to a single subject matter (budget adoption).
    - I find this opinion persuasive, as the proposal's focus on budget adoption aligns with the characteristics of an amendment, which typically addresses specific procedural or operational changes without necessitating a comprehensive review of the entire charter.
5. **Public Input and Evidence:**
    - During the public hearing on July 15, 2025, residents expressed support for increased voter participation in

budget decisions, indicating that the proposal aligns with the community's interest in enhancing democratic processes without fundamentally altering municipal governance.

- No testimony or written submissions to the Town Clerk identified specific charter provisions or municipal operations that would be disrupted beyond the budget adoption process.

6. **Practical Effect on Municipal Operations:**

   - The proposed referendum process is consistent with existing practices in other Maine municipalities that use budget validation referenda (e.g., school budgets under 20-A M.R.S. § 1486), suggesting that the change is a procedural adjustment rather than a profound restructuring.
   - The Council's analysis of municipal operations indicates that core services, such as public safety, education, and infrastructure, will continue to be funded through the budget process, with the referendum serving as an additional layer of voter oversight rather than a replacement of Council authority.

7. **Conclusion:**

   - Based on the limited breadth and depth of the proposed modification, the Council finds that it does not require a comprehensive inquiry into all aspects of the municipality's government, as would be necessary for a charter revision.
   - The proposal is appropriately classified as a charter amendment, as it makes specific, targeted changes to the budget adoption process without materially affecting other charter provisions or fundamentally altering the core operations of Lisbon's municipal government.

Rebuttal to Dean Willey's Submission of Findings

Dean Willey's letter argues that the "Citizen Initiative to Change the Budget Process" is a charter revision due to its

substantial impact on the Lisbon Town Charter and municipal operations, citing legal precedents, alleged contradictions with existing charter provisions, and operational concerns. While Willey's concerns are noted, his arguments overstate the proposal's scope, misinterpret legal standards, and rely on speculative impacts rather than concrete evidence. Below, we address his key points and highlight flaws in his reasoning to support the determination that the proposal is a charter amendment.

1. Misapplication of Legal Precedent

Willey's Claim: Willey cites *Edward Karytko and Bruce Coyne, et al. v. Town of Kennebunkport* (Maine Superior Court, Oct. 16, 2006) and *Fair Elections Portland v. City of Portland* (2021 ME 32) to argue that changes "substantially altering the existing budget process" constitute a charter revision. He asserts that the proposal's shift to referendum-based budget approval and the 33% reduction provision meet this threshold.

Rebuttal:

- **Misinterpretation of Precedent**: Willey's reliance on *Karytko* is flawed because the case is not binding precedent from the Maine Supreme Judicial Court (Law Court) and is factually distinguishable. In *Karytko*, the proposed changes involved multiple structural alterations to the town's governance, including budget processes and other municipal functions, justifying a revision. The Lisbon proposal is narrower, focusing solely on the budget adoption process within Article VI, Section 6.04, without altering other governance structures (e.g., Council composition or powers beyond budgeting).
- **Narrow Scope in *Fair Elections Portland***: The Law Court in *Fair Elections Portland* (¶ 32) defined a revision as requiring a "years-long inquiry into all aspects of the municipality's government." The Lisbon proposal does not necessitate such a comprehensive review, as it modifies a single procedural aspect (budget adoption) and leaves the council-manager system intact. Willey's claim that the proposal "fundamentally shifts how our government operates"

exaggerates its impact, as the Council retains authority over budget preparation and other governance functions.

- **Lack of Specificity**: Willey does not provide specific details from *Karytko* showing how the Lisbon proposal is analogous, nor does he address the *Fair Elections Portland* criteria of breadth and depth explicitly. His assertion that the proposal is a revision is conclusory and lacks evidence tying it to a broader restructuring of municipal government.

Hole: Willey's legal analysis is incomplete, relying on a non-binding Superior Court case and failing to engage with the full scope of *Fair Elections Portland*, which emphasizes that amendments can include significant procedural changes without constituting revisions.

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2. Overstatement of Breadth

Willey's Claim: The proposal affects multiple charter provisions (e.g., Sections 6.03, 6.04(a), 6.06, 6.07, 6.08, and Articles II, III, IV) by shifting budget approval to referenda and introducing a 33% reduction, creating contradictions and diminishing Council authority.

Rebuttal:

- **Single Subject Matter**: The proposal modifies only Article VI, Section 6.04, focusing on budget adoption. Willey's claim that it affects other provisions (e.g., Section 6.03 on budget preparation) is speculative. Section 6.03 requires the Town Manager and School Committee to prepare budgets, which remains unchanged, as the proposal only alters the approval mechanism. The 33% reduction is a contingency, not a direct amendment to budget preparation rules.
- **No Material Impact on Unmentioned Provisions**: *Fair Elections Portland* (¶ 32) defines breadth as whether the proposal materially affects unmentioned charter provisions. Willey identifies potential conflicts (e.g., with Section 6.08 on appropriation lapses), but these are hypothetical and not supported by evidence of direct contradiction. For

example, capital projects under Section 6.08 could continue if funded in prior years, and the 33% reduction would only apply to the current budget, not past appropriations.

- **Council Authority Intact:** Willey claims the proposal diminishes the Council's authority under Article II (Section 2.09) by making it a "recommending body." This overstates the impact, as the Council retains full authority to prepare and propose the budget, hold hearings, and manage other municipal functions. The referendum process adds voter oversight, a common feature in Maine municipalities (e.g., school budget referenda under 20-A M.R.S. § 1486), without stripping the Council of its core legislative role.
- **Administrative Code (Section 2.12.1):** Willey's concern that a 33% reduction could override Council planning for departments is speculative. The Council can adjust department structures within the budget constraints, and no evidence suggests the referendum process would prevent such adjustments.

Hole: Willey's breadth arguments rely on hypothetical conflicts without demonstrating specific, unavoidable contradictions with other charter provisions. The proposal's focus on budget adoption limits its scope, aligning with the characteristics of an amendment.

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3. Exaggeration of Depth

Willey's Claim: The shift to referendum-based budgeting and the 33% reduction provision fundamentally alter the "essential character" of municipal governance, justifying a revision. He argues this undermines the Council's role and threatens essential services.

Rebuttal:

- **Not a Fundamental Alteration:** *Fair Elections Portland* (¶ 32) defines depth as a "profound and fundamental alteration in the essential character or core operations of municipal government." The Lisbon proposal modifies the budget approval process but does not change the council-manager

structure, the Council's legislative powers, or the Town Manager's administrative duties. Budget referenda are a standard practice in Maine (e.g., school budgets), indicating the change is procedural, not structural.

- **Unlikely Contingency**: The 33% reduction applies only if two referenda fail, an unlikely scenario given Lisbon's history of consistent budget approvals (2015–2024, as noted in the findings of fact). Willey's portrayal of this as a "catastrophic" outcome is speculative, as no evidence suggests voters would repeatedly reject budgets. The provision serves as a safeguard to ensure fiscal continuity, not a routine mechanism.
- **Council's Role Preserved**: The Council retains significant control over budget preparation, public hearings, and municipal governance. The referendum process enhances democratic participation, aligning with the home rule principles in 30-A M.R.S. § 2101, rather than undermining the Council's purpose.
- **Comparison to Other Municipalities**: Many Maine towns use referendum-based budget validation without requiring charter revisions. Willey's claim that this shift is unprecedented ignores established practices that maintain municipal stability.

Hole: Willey exaggerates the proposal's depth by assuming worst-case scenarios (e.g., double referendum failure) without evidence of their likelihood. The change aligns with existing municipal practices and does not fundamentally alter Lisbon's governance structure.

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4. Alleged Legal Contradictions

Willey's Claim: The proposal creates contradictions with Sections 6.03, 6.04(a), 6.06, 6.07, 6.08, and Articles II, III, and IV, particularly regarding the 33% reduction, school budget ambiguity, and debt service obligations. He argues these conflicts render the proposal legally insufficient.

Rebuttal:

- **Section 6.03 (Budgets):** Willey claims the 33% reduction undermines the budget as a "financial plan." However, the plan prepared under Section 6.03 remains valid for presentation to voters, and the reduction is a fallback mechanism, not a routine alteration. The budget's format (Section 6.03(b)) is unaffected, as it still includes estimated income and expenditures, even if subject to referendum approval.
- **Section 6.04(a) (Notice and Hearing):** Willey's concern that referenda diminish the effectiveness of public hearings is speculative. Hearings remain a critical step for informing voters and the Council, and the proposal does not alter their legal requirements. The public's role in referenda enhances, rather than undermines, democratic engagement.
- **Sections 6.06 and 6.07 (Supplemental/Emergency Appropriations):** Willey argues a 33% reduction could create a crisis for emergency appropriations. However, these sections allow post-adoption adjustments, which could address emergencies even under a reduced budget. Willey provides no evidence that a reduced budget would prevent compliance with state or federal mandates.
- **Section 6.08 (Lapse of Appropriations):** The claim that a 33% reduction would force abandonment of capital projects is speculative. Capital appropriations continue until completed or abandoned, and the Council could prioritize funding to avoid conflicts. No specific projects are cited as at risk.
- **School Budget Ambiguity (Section 6.05):** Willey's concern about the "municipal budget" including the school budget is valid but overstated. The proposal specifies the "municipal budget," and Lisbon's charter (Section 6.05) separates school budget validation. If clarification is needed, the Council can address this in the ballot summary, as suggested by Kristin Collins' memorandum, without necessitating a revision.
- **Debt Service and Legal Requirements:** Willey's assertion that a 33% reduction could violate debt service obligations is speculative and ignores the charter's existing

protection (Section 6.04(c)) that prohibits amending debt service or legally required expenditures. The proposal's language can be interpreted to respect these constraints, and any ambiguity can be resolved through legal review, as required by 30-A M.R.S. § 2104(4).

- **Articles II, III, IV**: Willey's claims about diminished Council and Town Manager authority are exaggerated. The Council retains legislative and budgetary preparation powers, and the Town Manager's duties (e.g., executing ordinances) are unaffected by the approval mechanism. The school department's operations under Article IV remain governed by separate validation processes.

Hole: Willey's contradictions are largely hypothetical, assuming extreme outcomes (e.g., 33% reduction triggering widespread conflicts) without evidence of their inevitability. The proposal's targeted changes can coexist with existing charter provisions, and any ambiguities can be clarified without requiring a revision.

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5. Operational and Practical Concerns

Willey's Claim: The 33% reduction threatens essential services, employee contracts, and state mandates, risking legal challenges, financial ruin, and operational paralysis.

Rebuttal:

- **Essential Services**: Willey's claim that a 33% reduction would cut essential services (e.g., public safety, public works) assumes a double referendum failure, which is unlikely based on Lisbon's budget approval history. The Council can prioritize essential services in budget preparation to mitigate risks.
- **Employee Contracts**: Impacts on collective bargaining agreements are speculative. Budget reductions may require negotiations, but this is a standard municipal practice and does not inherently violate contracts or charter provisions.

- **State Mandates**: Willey provides no specific mandates that would be violated by a reduced budget. Maine law allows municipalities flexibility in meeting mandates within available resources, and the Council can ensure compliance through budget prioritization.
- **Revenue and Stability**: The claim that budget cuts would lead to increased taxes or fees is hypothetical and not unique to this proposal. All budgets face revenue constraints, and the referendum process encourages voter accountability, not instability.
- **Legal Challenges**: Willey's assertion that the proposal invites lawsuits is unsupported. The prior Town Attorney's opinion (July 8, 2025) found no conflicts with state or federal law, and the Council's review process ensures compliance with 30-A M.R.S. § 2104.

Hole: Willey's operational concerns rely on worst-case scenarios without evidence of their likelihood or specific legal violations. The proposal's structure aligns with existing municipal practices and can be implemented without causing chaos.

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6. Call for Additional Legal Opinions

Willey's Claim: The proposal's significance warrants seeking second or third legal opinions to confirm whether it is a revision.

Rebuttal:

- **Existing Legal Review Sufficient**: The prior Town Attorney (Kristin Collins) provided an opinion on July 8, 2025, concluding the proposal is an amendment compliant with state and federal law. The current Town Attorney (Michael Carey) has advised the Council to evaluate breadth and depth, which it has done through public hearings and findings of fact. *Fair Elections Portland* (¶ 36) does not require multiple opinions, only that the Council make an informed determination supported by findings.

- **Council's Authority**: The Council is not bound by any attorney's opinion (Carey Memorandum, p. 3) and has the authority to decide based on evidence. Willey's call for additional opinions is unnecessary, as the Council's process complies with statutory and judicial requirements.

Hole: Willey's request for additional opinions lacks a legal basis and ignores the robust review process already undertaken, including public input and legal advice.

Conclusion

Dean Willey's letter raises valid concerns about the proposal's potential impacts but overstates its scope and legal implications. His reliance on *Karytko* is misplaced, as it is not binding and factually distinct, and his interpretation of *Fair Elections Portland* exaggerates the proposal's breadth and depth. The alleged contradictions with charter provisions are speculative and can be addressed through clarification or prioritization without necessitating a revision. The 33% reduction, while significant, is a contingency unlikely to occur, and the shift to referendum-based budgeting aligns with established Maine practices.

The Town Council's findings of fact (adopted July 18, 2025) demonstrate that the proposal is a charter amendment, as it targets a single process (budget adoption), does not materially affect unmentioned charter provisions, and does not fundamentally alter the council-manager system. Willey's concerns, while reflecting caution, do not provide substantial evidence to override this determination. The proposal should proceed to the November 4, 2025, ballot as an amendment, with any ambiguities clarified in the ballot summary, as recommended by Kristin Collins.

Recommendation: The Council should adopt Order 2025-109-B, confirming the proposal as a charter amendment and placing it on the ballot, supported by the findings of fact previously provided.