

COUNCIL-MANAGER

CHARTER

of the

TOWN OF WINDHAM

(updated with changes thru 11/7/00)

ARTICLE I - GRANT OF POWERS TO THE TOWN

Section 1

INCORPORATION. The inhabitants of the Town of Windham, within the limits as now established or as hereafter established or as hereafter established in the manner provided by law, shall be a Municipal Corporation, by the name of the Town of Windham.

Section 2

POWERS AND DUTIES. 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 as a Municipal Corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof, to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

The administration of all the fiscal, prudential and municipal affairs of said Town, with the government thereof, except the general management, care, conduct and control of the schools of said Town, which shall be vested in a superintending school committee as hereinafter provided, and also except as otherwise provided by this Charter, shall be and are vested in one body of seven (7) members, which shall constitute and be called the Town Council, all of whom shall be inhabitants of said Town, and shall be sworn in the manner hereinafter prescribed.

The Town may acquire property for any Town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation and

may sell, lease, mortgage, hold, manage and control such property as its interest may require.

In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the Town would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to State laws and to the provisions of the State Constitution.

Section 3

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 states or civil sub-divisions or agencies thereof, or with the United States or any agency thereof, in accordance with the terms of the Interlocal Cooperation Act and other statutory provisions.

Article II - TOWN COUNCIL

Section 1

NUMBER, ELECTION, TERM. The Town Council, hereinafter called the "Council", shall be and constitute the municipal officers of the Town and shall be composed of seven (7) members, each of whom shall be elected by the registered voters of the entire Town.

"AREA REPRESENTATIVES". At least one member shall be a resident of each of the following areas of the Town:

North Windham shall consist of the area bounded on the South by the centerline of Routes 35 and 115, on the East by the Town of Gray, on the North by the Towns of Raymond and Gray and on the West by the Town of Standish;

East Windham shall consist of the area bounded on the North by the centerline of Route 115 from its intersection with the Little Sebago Lake outlet to the Gray line, on the East by the Towns of Gray, Cumberland, Falmouth and Westbrook, on the West by the centerline of Route 302 from Westbrook to its intersection with the Varney Mill Road, thence by the centerline of the Varney Mill Road to its intersection with the Ditch Brook, thence by the thread of the Ditch Brook to Collins Pond, thence by the middle of Collins Pond to the Little Sebago Lake outlet and Route 115;

West Windham shall consist of the area bounded on the North by the centerline of Route 35, on the West by the Towns of Standish and Gorham, on the South by the centerlines of Gambo and Newhall Roads to the point of their intersection with Route 202 and on the East by the centerline of Route 202 from its intersection with the Newhall Road to Fosters Corner and from Fosters Corner by the centerline of Route 302 to its intersection with the Varney Mill Road, thence by the centerline of the Varney Mill Road to its intersection with the Ditch Brook, thence by the thread of the Ditch Brook to Collins Pond, thence by the middle of Collins Pond to the Little Sebago Lake outlet and Route 115;

South Windham shall consist of the area bounded on the Northeast by the centerline of Route 302 from the Westbrook line to Fosters Corner, on the Northwest by the Centerline of Route 202 from its intersection with Newhall Road to Fosters Corner, and by the centerlines of Gambo and Newhall Roads to their intersection with the Town line of Gorham and on the Southeast by the Town line of Westbrook to its intersection with Route 302.

"AT LARGE REPRESENTATIVES." Three (3) members shall be considered "At Large" who shall be residents of any section of the Town. Each member shall be elected for a term of three (3) years and until his successor is elected and qualified.

Section 2

QUALIFICATIONS, VACANCIES.

- A. Councillors shall be qualified voters of the Town and shall reside in the Town during their term of office.
- B. Holding other office: Except where otherwise allowed by law, or pursuant to an agreement under the Interlocal Cooperation act, no Councillor shall hold other Town office or employment during the term for which they were elected to the Council, and no former Councillor shall hold any compensated appointive Town office or employment until one year after the expiration of the term for which they were elected to the Council. With the exception of the Chief, membership in the Windham Volunteer Fire Department, alone, shall not be grounds for disqualification from holding office as a Councillor. Nothing herein, however, shall bar any officer of the Town at the enactment of this Charter, from continuing in said office or seeking the same or similar office under this Charter.
- C. Forfeiture of office: A Councillor shall forfeit his/her office if he/she (1) lacks at any time during his/her term of office any qualification for the office prescribed by the Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a felony or other crime or

offense involving moral turpitude, or (4) fails to attend three (3) consecutive regular meetings of the Council without being excused for due cause by the Council.

D. Filling of vacancies: In case of a vacancy caused by death, resignation or other cause, the vacancy shall be filled at the next regular Municipal election for the unexpired term. The Council shall fill vacancies in its number occurring between regular Municipal elections, and the term of office of any member of the Council so chosen shall expire at the next Municipal election.

Section 3

ENUMERATION OF POWERS. Without limitation of the foregoing, the Council shall have the power to:

A. Appoint, on the affirmative vote of five (5) members, the Manager for an indefinite term and remove him/her by the same vote. At least thirty (30) days before such removal shall become effective, the Council shall, by a majority vote of its members, adopt a preliminary resolution stating the reasons for the Manager's removal. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days not later than thirty (30) days after the filing of such request. After such public hearing if one is requested, and after full consideration, the Council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the Council may suspend the Manager from duty, but the regular salary of the Manager shall continue to be paid to him/her during the period of suspension. However, in no case shall the Manager receive pay while on suspension or in any form of severance agreement, that, in total, exceeds three (3) month's salary.

B. Appoint and remove on the affirmative vote of five (5) members, the Assessor and the Town Attorney who shall serve at the will of the Council; however, the Town Clerk shall be nominated and elected in the manner provided for in the nomination and election of Councillors and shall serve for two (2) years. All appointees of the Council shall serve at the will of the Council.

C. Appoint the members of the Board of Assessment Review, the Planning Board, the Board of Zoning Appeals, and the membership of such advisory committees as the Council shall create, except that by ordinance the Council may make membership of any advisory committee elected.

D. Create by ordinance, change and abolish offices, departments and agencies, other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. The Council may, however, where not prohibited by law, vest in the Town Manager all or part of the duties of any office under this Charter.

E. The Council may make investigations into the affairs of the Town and the conduct of any Town department, office or agency. For this purpose the Council shall enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths, the taking of testimony and the compulsory production of evidence.

F. Adopt, modify and carry out plans proposed by the Planning Board.

G. Approve an annual budget and recommend same to the Town Meeting, subject to the provisions of this Charter, and may appoint a Budget Committee to assist them in this duty.

H. Provide for an annual audit.

I. Exercise all the legislative, financial, borrowing and other powers now or hereafter given by statute to inhabitants of towns acting in Town Meeting except as otherwise provided herein, and also exercise all the powers now or hereafter given by statute to municipal officers of towns.

Section 4

COMPENSATION.

A. Councillors shall receive twenty dollars (\$20) for each Council meeting attended, not to exceed in the aggregate of five hundred dollars (\$500) per year in full for their services and shall be paid quarterly. Such compensation may be changed by ordinance, but no such ordinance increasing the salary of members of the Town Council shall take effect during the then current municipal year.

B. The Town Council by order shall fix the salaries of officials appointed by the Town Council, including the salary of the Town Manager.

C. Salaries of the appointees of the Town Manager shall be fixed by the Town Manager subject to the approval of the Council.

D. The Council may provide by order for the reimbursement of necessary and actual expenses of Town officers and officials in the exercise of their official duties; such reimbursement may include compensation in the amount of ten dollars (\$10) per meeting for wages lost due to attendance at meetings other than Council meetings.

Section 5

INDUCTION OF COUNCIL INTO OFFICE. Councillors-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace, or by the Town Clerk, at the Town Meeting immediately following the regular Town elections, and a record made thereof.

Section 6

COUNCIL TO JUDGE QUALIFICATIONS OF ITS MEMBERS. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require production of records, but the decision of the Council in any such case shall be subject to review of the courts.

Section 7

REGULAR MEETINGS. The Council shall meet regularly at least once a month. It shall also provide a method for calling special meetings. During each meeting there shall be opportunity for public discussion upon each item on the agenda.

Section 8

RULES OF PROCEDURE; JOURNAL. The Council shall determine its own rules and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection.

Section 9

THE PRESIDING OFFICER. At the first meeting after the regular Municipal election, the Council shall elect from among its members, officers of the Town who shall have the titles of Chairman and Vice-Chairman each of whom shall serve at the pleasure of the Council. The Chairman shall preside at meetings of the Council, and shall be recognized as head of the Town Government for all ceremonial purposes, and by the Governor for purposes of military law, but

shall have no administrative duties. The Vice-Chairman shall act as Chairman and the Vice-Chairman shall be entitled to vote on all questions.

Section 10

QUORUM. A majority of the Council shall constitute a quorum for the transaction of business. At least four (4) votes shall be registered in favor of passage of an ordinance, order or resolution. A smaller number may adjourn from time to time. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Section 11

ORDINANCES IN GENERAL.

A. **FORM:** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be "The Town of Windham hereby ordains...".

B. **PROCEDURE:** A proposed ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Secretary to the council shall distribute a copy to each Council member and to the Town Manager; shall file a reasonable number of copies in the office of the Clerk and such other public places as the Council may designate. A notice setting out the time and place for a public hearing shall be given at least seven (7) days in advance by publication in a newspaper having a general circulation in said Town before any ordinance shall be passed, but nothing herein shall be deemed to require publication of the ordinance itself. The public hearing may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it; but if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure hereinbefore required in the case of a newly introduced ordinance.

C. **EFFECTIVE DATE:** Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

D. **EMERGENCY ORDINANCES:** To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or

more emergency ordinances. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least the majority plus one member shall be required for adoption. After its adoption the ordinance shall be posted in three public places. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency notes shall stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 12

TOWN CLERK.

- A. The Town Clerk shall perform those duties established by law and shall act as Secretary of council, and shall keep a public record of all proceedings of the Council, including all roll call votes. The Town Clerk shall be a resident of the Town.
- B. Statutory fees collected by the Town Clerk shall be turned over to the Town.
- C. The Council shall set the salary of the Town Clerk.

Section 13

INDEPENDENT ANNUAL AUDIT. Prior to the end of each fiscal year, the Council shall designate the State Department of Audit or private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transaction of the Town Government and shall submit their report to the Council, the Town Manager and Superintending School Committee. Such accountants shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by any office, officer, department or agency of the Town Government.

Article III - TOWN MANAGER

Section 1

TOWN MANAGER, QUALIFICATIONS. The Town Manager shall be chosen by the Council solely on the basis of his/her character and his/her executive and administrative qualifications with special reference to his/her actual experience in, or his/her knowledge of, accepted practice in respect to the duties of his/her office as hereinafter set forth. At the time of his/her appointment, the Town Manager need not be a resident of the Town or State.

Section 2

POWERS AND DUTIES OF TOWN MANAGER. The Town Manager shall be the Chief Administrative Officer of the Town. The Town Manager shall be responsible to the Council for the administration of all Town affairs placed in the Town Manager's charge by or under this Charter or by direction of the Council. The Town Manager shall have the following powers and duties:

A. The Town Manager shall be Tax Collector, Town Treasurer, Overseer of the Poor, and shall have and exercise all powers and perform all the duties conferred or imposed by law upon said respective officers. No Councillor shall receive appointment to the office of Town Manager during the term for which they shall have been elected, nor within one year after the expiration of their term, nor shall any member of the Council act in that capacity. The Town Manager shall give bond for the faithful discharge of his/her duties to the Town of Windham in such sum as the Council shall determine and direct, and with surety or sureties to be approved by the Council, The premium on the Town Manager's bond shall be paid by the Town.

- 1) The Town Manager shall appoint and remove statutory officers and department heads, including but not limited to Chief of the Police Department, Fire/Rescue Chief and Road Commissioner subject to confirmation by the Council; and all other administrative officers and Town employees, except as the Town Manager may authorize the head of a department or office to appoint or remove subordinates in such department or office and except as otherwise provided by law, by this Charter, or by personnel rules adopted pursuant to this Charter.
- 2) The Town Manager shall direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter or by law.
- 3) The Town Manager shall attend Council meetings, except when the Town Manager's removal is being considered, and shall have the right to take part in discussions but may not vote.

- 4) The Town Manager shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by the Town Manager or by officers subject to the Town Manager's direction and supervision, are faithfully executed.
- 5) The Town Manager shall prepare and submit the annual budget and capital program to the Council and be responsible for its administration after adoption.
- 6) The Town Manager shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year, and cause such annual Town Report to be published and made available to the public as promptly as possible after the close of the fiscal year.
- 7) The Town Manager shall prepare and submit to the Council such reports and shall perform such duties as the Council may require, shall keep the Council advised of the financial condition and future needs of the Town, and shall make such recommendations to the Council concerning the affairs of the Town as the Town Manager deems desirable.
- 8) The Town Manager shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.
- 9) The Town Manager shall act as purchasing agent for all departments of the Town except the School Department, and provide, in the case of the School Department, for cooperative purchasing arrangements where feasible, and shall submit to competitive bids any transaction in excess of the amount annually set by order of the Council.
- 10) The Town Manager shall prepare an Administrative Code, submit it to the Council and be responsible for its administration after adoption by the Council.
- 11) COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS. Neither the Council nor any of its members shall direct or request the appointment of any person to or his removal from office by the Manager or by any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Manager and

neither the Council nor any member thereof shall give orders to any subordinates of the Manager, either publicly or privately.

12) VACANCY IN OFFICE OF TOWN MANAGER. During any vacancy in the office of Town Manager, and during the absence or disability of the Town Manager, the Council shall designate a properly qualified person, not a member of the Council, to perform the duties of Manager and fix his/her compensation. While so acting, he/she shall have the same powers and duties as those given to and imposed on the Town Manager. Before entering the Town Manager's duties, he/she shall give bond to the Town of Windham in a sum and with surety or sureties to be approved by the Council. The premium on said bond shall be paid by the Town.

Article IV - DEPARTMENT OF EDUCATION

Section 1

BOARD OF EDUCATION. The Department of Education shall be administered by a Board of Education, hereinafter referred to as the Superintending School Committee, which shall consist of seven (7) duly qualified electors of the Town of Windham, who shall be nominated and elected by the registered voters of the entire Town according to the provisions of Article VII of this Charter for a term of three (3) years and who shall serve until their successors are elected and qualified. In case of members receiving an equal number of votes, their relative positions shall be determined by lot.

Section 2

QUALIFICATIONS. Members of the Superintending School Committee shall be qualified electors of the Town and shall reside in the Town during their term of office. They shall hold no office of emolument or profit under the Town Charter or ordinances. If a member of the Superintending School Committee shall cease to possess any of these qualifications or shall be convicted of a felony or other crime or offense involving moral turpitude, his office shall immediately become vacant.

Section 3

VACANCY. If for any reason a vacancy shall exist in the membership of the Superintending School Committee, it shall be filled by a majority vote of the remaining members of said committee until the next municipal election.

Section 4

ORGANIZATION; QUALIFICATION; QUORUM. The members of the Superintending School Committee shall meet for organization within ten (10) days from the date of their election. Members-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace or by the Town Clerk at the Town Meeting immediately following the regular Town elections, and record made thereof. The majority of the whole number of the Superintending School Committee shall be a quorum and they shall elect their own Chairman.

Section 5

POWERS AND DUTIES. The Superintending School Committee shall have all the powers conferred and shall perform all the duties imposed by law upon Superintending School Committees in regard to the care and management of the public schools of the Town, except otherwise provided in this Charter. The Superintending School Committee shall prepare budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and shall furnish copies of such estimates to the Manager not less than one hundred (100) days prior to the beginning of the new fiscal year.

Section 6

COMPENSATION. The Superintending School Committee shall receive twenty dollars (\$20) per meeting attended, not to exceed in the aggregate five hundred (\$500) per year in full for their services and shall be paid quarterly. Such compensation may be changed by ordinance, but no such ordinance increasing the salary of members of the School Committee shall take effect during the then current municipal year.

ARTICLE V - BUDGET

Section 1

FISCAL YEAR.

A. The fiscal year of the Town Government shall begin the first day (1st) of July and shall end on the thirtieth (30th) day of June, or such other fiscal year as the Council may decide. Such fiscal year shall constitute the budget and accounting year as used in the Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

B. The credit of the Town shall in no manner be loaned to any individual, association or corporation, except as provided by law.

Section 2

PREPARATION AND SUBMISSION OF THE BUDGET. The Town Manager, not less than ninety (90) days prior to the beginning of the new fiscal year, shall submit to the Council a budget, which shall include the budget as prepared by the Superintending School Committee, and an explanatory budget message. The budget authority of the Council shall be limited to the final determination of the total appropriation to be made to each of the several offices, departments and agencies of the Town, including the Department of Education.

This budget shall contain:

A. Exact statement of the Financial condition of the Town.

B. An itemized statement of appropriations recommended for current expenses, with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be noted.

C. Proposed capital expenditures during the ensuing fiscal year detailed by offices, departments and agencies when practicable and the proposed method of financing each such capital expenditure.

D. An itemized statement of estimated revenue from all sources, other than taxation, and a statement of taxes required, comparative figures from current and next preceding year.

E. Such other information as may be required by the Council.

Section 3

CAPITAL PROGRAM.

A. SUBMISSION TO COUNCIL. The Manager, with the assistance of the Planning Board, shall prepare and submit to the Council a five (5) -year capital program at least three (3) months prior to the final date for submission of the budget.

B. CONTENTS. The Capital Program shall include:

- 1) A clear general summary of its contents;
- 2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- 3) Cost estimates, method of financing and recommended time schedules for each improvement; and
- 4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 4

The proposed budget prepared by the Manager shall be reviewed by the Council which shall approve the budget with or without amendments. The complete Town budget as approved by the Council shall be printed and distributed and the Council shall fix the time and place for holding a public hearing on the budget, and shall give a public notice of such hearing as provided in this Charter. The Council shall then review the budget and recommend it with or without change to the annual Town Meeting, no later than thirty (30) days prior to the beginning of the new fiscal year.

A. In the event the Council shall fail to approve the budget within said thirty (30) day period, the budget as presented by the Manager, shall automatically become the budget for the fiscal year.

B. The school budget as finally adopted by the Town shall be expended under the direction and control of the Superintending School Committee.

Section 5

BUDGET ESTABLISHES APPROPRIATION. From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies and the purposes therein named.

Section 6

BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX; CERTIFICATION OF TOWN ASSESSOR. From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the Town in corresponding fiscal year. A copy of the budget as finally adopted shall be certified and filed by the Manager with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding fiscal year.

Section 7

EXPENDITURES AND DEPARTMENTAL REVENUE. The budget for all departments shall include all proposed expenditures; and the Council shall make a gross appropriation for each department for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded except by consent by a majority of the Council.

Section 8

TRANSFERS OF APPROPRIATIONS. At the request of the Manager and within the last three (3) months of the budget year, the Council may by resolution transfer any unencumbered appropriation balance or portion thereof between general classification of expenditures within an office, department or agency. Following the close of the fiscal year, the Council may also continue unexpended balances in capital accounts.

Section 9

INTERIM EXPENDITURES. In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year when made in amounts sufficient to cover the necessary expenses of the various departments.

Section 10

WORK PROGRAM; ALLOTMENTS. Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Manager, when required, a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

Section 11

AMENDMENTS AFTER ADOPTION.

A. Supplemental Appropriations: If during the fiscal year, the Manager certifies that there are available for appropriation, revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

B. Emergency Appropriations: To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated funds to meet such appropriations, the Council may by emergency ordinance authorize the issuance of temporary notes, which may be renewed from time to time, but the temporary notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

C. Reduction of Appropriations: If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, the Town Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other

steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may be ordinance reduce one or more appropriations.

Section 12

LAPSE OF APPROPRIATIONS. Every General Fund appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

ARTICLE VI - TAX ADMINISTRATION

Section 1

ASSESSOR. There shall be established a Division of Assessment, the head of which shall be the Town Assessor. The Assessor, appointed as hereinbefore provided, shall perform all duties and responsibilities provided for assessors, and as the Assessor may now or hereafter be subject to, under the laws of the State of Maine.

Section 2

BOARD OF ASSESSMENT REVIEW; APPOINTMENT; VACANCIES. There shall be a Board of Assessment Review to consist of five (5) members, who shall be appointed by the Council for a term of three (3) years, except that of those first appointed, one shall be for a term of two (2) years and one for a term of one (1) year. Members may be removed for cause after hearing by the Council. Vacancies in the membership of such Board shall be filled by appointment of the Council for the unexpired term.

Section 3

BOARD OF ASSESSMENT REVIEW; POWERS AND DUTIES. The Board of Assessment Review shall have the power to:

- A. Review, on complaint of property owners, and revise assessments for the purpose of taxation of real and personal property within the Town limits made by the Town Assessor;
- B. Administer oaths;

- C. Take testimony;
- D. Hold hearings;
- E. Adopt regulations regarding the procedure of assessment review not inconsistent with statutory provisions.

ARTICLE VII - NOMINATIONS AND ELECTIONS

Section 1

MUNICIPAL ELECTIONS. The regular election for the choice of members of the Council, representatives to the Superintending School Committee and the Town Clerk shall be held on the second Tuesday in June. All such elections shall be conducted on a nonpartisan basis and without party designations on the election ballot.

Section 2

NOMINATION. Any qualified voter of the Town may be nominated for the Council, as a representative to the Superintending School Committee or Town Clerk either by the use of nomination papers or by political caucus, in accordance with the Statutes of the State of Maine.

Section 3

CONDUCT OF MUNICIPAL ELECTIONS. The provisions of the Statutes of the State of Maine relating to the qualifications of voters, the registration of voters, the nomination for any office, the manner of voting, the duties of election officers and all other particulars relative to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Charter.

Section 4

VOTING PLACES. The voting places for municipal elections shall be those which have been or may hereafter be established for State elections.

Section 5

ELECTION OFFICIALS. The Town Council shall, not less than ten (10) days before any election, appoint a Warden and Clerk and, not later than May 1st of any general election year, appoint regular Ballot Clerks for each voting place.

ARTICLE VIII - THE TOWN MEETING

Section 1

ANNUAL AND SPECIAL TOWN MEETING. An annual Town Meeting for the consideration of the budget and the transaction of other Town business which voters are authorized to vote upon shall be held on the first Saturday following the second Tuesday in June. Special Town Meetings may be called by the Council.

Section 2

WHEN ACTION BY TOWN MEETING REQUIRED. The annual budget, as provided in Article V; any appropriation of twenty-five thousand dollars (\$25,000) or more in addition to or supplementary to the annual budget appropriation; the issuance of bonds or notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued; shall become effective only after it has been adopted at a Town Meeting by the vote of a majority of those present and entitled to vote at such meeting. The Town Meeting shall not increase the amount of any appropriation not recommended by the Council and shall not increase the amount of any bond issue above the amount recommended by the Council.

Section 3

APPLICATION. The provisions of this Article shall not apply to any appointments of officers, or members of commissions or of boards made by said Town Council, or to the appointment or designation of officers of the Town Council or to rules governing the procedure of the Town Council.

Section 4

METHOD OF DISCONTINUING THE TOWN MEETING. At any time, not less than ten per cent (10%) of the registered voters of the Town may petition over their personal signatures for a referendum vote on the ballot at a general or special Town election on the proposition of discontinuing the Town Meeting. The proper election officials of the Town shall take such steps as may be necessary to place such question upon the ballot at the next General Election or at a Special Election called for that purpose. If at such General Election or Special Election a majority of the electors of the Town voting on the question shall vote for the discontinuing of the Town Meeting of the Town of Windham, the powers heretofore vested in the Town Meeting shall be conferred upon and exercised by the Town Council.

ARTICLE IX - INITIATIVE AND REFERENDUM

Section 1

PETITION FOR OVERRULE OF ACTION OF COUNCIL. All ordinances, resolutions or votes, except those making appointments or removals or regulating exclusively the internal procedure of the Council, shall be subject to overrule by a referendum as follows:

If, within twenty (20) days after the enactment of any such ordinance, resolution or vote, a petition signed by not less than ten per cent (10%) of the registered voters of the Town of Windham is filed with the Town Clerk requesting its reference to a referendum, the Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk and shall, within fourteen (14) days after said public hearing, call a special Town Meeting for the purpose of submitting to a referendum vote the question of adopting such ordinance, resolution or vote. Pending action by the Town Meeting, the referred ordinance, resolution or vote shall be suspended from going into operation until it has received an affirmative vote of the majority of the voters voting on said question.

Section 2

PETITION FOR ENACTMENT OF ORDINANCES. Not less than ten per cent (10%) of the registered voters of the Town may at any time petition for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Council shall call a public hearing to be held within thirty (30) days from the date of the filing of such petition with the Town Clerk, and shall within thirty (30) days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call for said Town election, such ordinance shall be enacted by the Council.

Such Ordinance shall take effect on the tenth (10th) day after the conclusion of such referendum, provided a majority of those voting thereon shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy in its text and references and clearness and preciseness in its phraseology, but he/she shall not materially change its meaning and effect.

Section 3

FORM OF BALLOT. The form of ballot for the proposed ordinance, or repeal of such ordinance, resolution or vote shall be substantially as follows:

"Shall the proposed ordinance (resolution, vote or Charter amendment), a copy of which is printed herein or attached hereto, be adopted?"

For the Ordinance

Against the Ordinance

()

()

The voter shall write a cross or check mark in the appropriate box.

ARTICLE X - GENERAL PROVISIONS

Section 1

OATH OF OFFICE. Every officer of the Town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk.

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Windham and statutes of the State of Maine, and will faithfully discharge the duties of the office of....."

Section 2

SHORT TITLE. This Charter shall be known and may be cited as the "Council-Manager Charter of the Town of Windham". The Clerk shall cause it to be printed and made available to the public promptly.

Section 3

ORDINANCES NOT CONSISTENT CONTINUE IN FORCE. All ordinances of the Town of Windham in force at the time when this Charter takes effect, not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed.

Section 4

EXISTING CONTRACTS NOT INVALIDATED, UNLESS INCONSISTENT. All rights, actions, proceedings, prosecutions and contracts of the Town or any of its departments, pending or unexecuted when this Charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Section 5

REPEALING CLAUSE. All acts and parts of acts of the private and special laws of Maine relating to the Town of Windham, inconsistent with the provisions of this Charter, are repealed.

Section 6

SEPARABILITY CLAUSE. If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.