

TOWN OF WINCHESTER

HOME RULE CHARTER

2019



Adopted by the voters of Winchester at the Town Election March 3, 1975

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AMENDMENTS

Charter amendments must first receive a favorable two-thirds vote of Town Meeting, followed by a favorable opinion from the Attorney General of the Commonwealth of Massachusetts, and finally, approval of the voters of the Town.

| Town Meeting | Article | Approved by Voters at Town Election: |
|------------------------|---------|--------------------------------------|
| 1978 Fall Town Meeting | 2 | March 27, 1979 |
| 1981 Fall Town Meeting | 11 & 12 | March 30, 1982 |
| 1984 Fall Town Meeting | 9 & 10 | March 26, 1985 |
| 1985 Fall Town Meeting | 14 | March 25, 1986 |
| 1990 Fall Town Meeting | 5 & 6 | March 26, 1991 |

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PREAMBLE

We, the people of Winchester, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment to the constitution of the Commonwealth, do hereby adopt the following home rule charter for the Town of Winchester.¹

¹ Art 18 2017 Fall Town Meeting amended “board of selectmen” to “select board” throughout the entirety of the charter.

ARTICLE 1

EXISTENCE AND AUTHORITY

Section 1-1 Incorporation

The inhabitants of the Town of Winchester, within the territorial limits established by law, shall continue to be a body corporate and politic under the name “Town of Winchester”.

Section 1-2 Short Title

This instrument shall be known and may be cited as the Winchester Home Rule Charter.

Section 1-3 Division of Powers

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a select board. The legislative powers shall be exercised by a representative town meeting.

Section 1-4 Powers of the Town; Intent of the Voters

It is the intent and the purpose of the voters of the Town of Winchester, through the adoption of this charter, to secure for the town all of the powers possible to secure under the constitution and statutes of the Commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1-5 Interpretation of Powers

The powers of the town under the charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated in section 1-4.

Section 1-6 Intergovernmental Relations

The town may enter into agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

ARTICLE 2

REPRESENTATIVE TOWN MEETING

Section 2-1 Composition

The legislative body of the town shall be a representative town meeting consisting of one hundred ninety-two members from eight precincts who shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.

Each precinct shall be represented in the town meeting by twenty-four town meeting members, so elected that the term of office of one-third of the members shall expire each year.

Section 2-2 Establishment of Precincts

The select board shall divide the town into eight convenient voting precincts so established as to consist of as nearly an equal number of inhabitants as possible, in compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

The boundaries of the precincts shall be reviewed and wholly or partly revised by the select board (a) at least once in every ten years, (b) whenever it is directed to do so by vote of the town meeting, and (c) whenever it is apparent from the street list, census data or other official information that the number of inhabitants in any one precinct varies by five percent or more from the total number of inhabitants of the town divided by eight, the number of precincts.

The select board shall, within twenty days after any revision of precincts, but not later than January twentieth of the succeeding year, file a report of its doings with the town clerk and the assessors with a map or maps or description of the precincts and the names and addresses of the voters therein. The board shall cause to be posted in at least one public place in each precinct a map or description of that precinct with the names and addresses of the voters therein. Whenever the precincts are revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of such precincts.

Section 2-3 Town Meeting Membership

- (a) **Eligibility** – Any voter shall be eligible to be a candidate, to be elected, and to serve as a town meeting member.
- (b) **Nomination Procedures** – Nomination of candidates for town meeting member shall be made by nomination papers signed by not less than ten voters of the precinct in which the candidate resides and from which he seeks election. The said nomination papers shall be filed with the town clerk not later than the thirty-fifth day preceding the date of the town election. Any elected town meeting member may become a candidate for re-election by filing written notice thereof with the town clerk not later than twenty-one days before the last day and hour for filing nomination papers.¹ The written acceptance of the candidate shall be on or attached to the nomination papers when filed in order for it to be valid.

¹ Art 5 1990 Fall Town Meeting substituted “not later than the thirty-fifth day” for “at least twenty-eight days” and substituted “not later than twenty-one days” for “at least fourteen days”.

Section 2-4 Election and Terms

The voters in every precinct shall, at the first annual town election held following any precinct revision that affects them, elect by ballot the number of voters of the precinct prescribed in this article to be town meeting members. The first third in order of votes received shall serve for three years; the second third in such order shall serve for two years; and the remaining third in such order shall serve for one year from the date of the annual town election. In case of a tie vote affecting the division into thirds, the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual election the voters of each precinct shall, in like manner, elect for three-year terms one-third of the number of town meeting members to which that precinct is entitled, and shall fill for the unexpired terms any vacancies then existing.

In the event of a tie vote for the office of town meeting member the town clerk shall, within seven days following the election, call all of the town meeting members of that precinct together at a convenient place. Under the supervision of the town clerk, any such tie shall then and there be broken by ballots cast by the elected town meeting members present.

Section 2-5 Vacancies

- (a) **Resignation** – A town meeting member may resign by filing a written resignation with the town clerk; such resignation shall take effect upon the date of such filing unless a date certain is specified therein when it shall take effect.
- (b) **Removal from Town or Precinct** – A town meeting member who removes from the town shall forthwith cease to be a town meeting member. A town meeting member who removes from one precinct to another, or who is so removed by a revision of precinct lines, may continue to serve as a town meeting member from the precinct from which he was elected until the next annual town election at which the remainder of his term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as a town meeting member from the precinct to which he has removed.
- (c) **Forfeiture of Office** – If any person elected as a town meeting member shall fail to take his oath of office within thirty days following his election, or shall fail to attend one-half or more of the total number of sessions of the town meeting held in any twelve-month period, his place may be declared vacant by a two-thirds vote of the town meeting. No such vote to declare a seat vacant shall be valid unless a letter stating an intention to do so has been mailed to the last known address of the person at least seven days preceding the date the vote is to be taken.
- (d) **Filling of Vacancies** – Any vacancy in the full number of town meeting members from any precinct shall be filled until the next annual town election by the remaining town meeting members from the precinct, from among the voters thereof. The balance of the unexpired term, if any, shall be filled at such annual town election.

Section 2-6 Compensation

Town meeting members shall serve without salary.

Section 2-7 Presiding Officer

A moderator, chosen in accordance with the provisions of section 3-7, shall preside at all sessions of the town meeting. The moderator shall regulate the proceedings of all town meetings, decide all questions of order and make public declaration of all votes. He may, in open meeting, administer the oath of office to any town officer. He shall perform such other functions as may be provided by the charter, by bylaw or by other town meeting vote.

Section 2-8 Clerk of the Meeting

The town clerk or his designee shall serve as the clerk of the town meeting. The clerk shall give notice of all meetings to the members and to the public, keep the journal of their proceedings and perform such other functions as may be provided by the charter, by bylaw or by other town meeting vote.

Section 2-9 General Powers and Duties

All powers of the town shall be vested in the representative town meeting, except as otherwise provided by law or the charter. The town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town.

Section 2-10 Participation by Non-Town Meeting Members

- (a) **Representatives of Town Agencies** – A designated representative of each town agency shall attend all sessions of the town meeting for the purpose of providing the town meeting with information pertinent to warrant articles. If any such person is deterred by illness or other reasonable cause, he shall designate a deputy to attend in his place. If any such person is not a resident he shall, notwithstanding, be entitled to speak in order to provide the town meeting with information on matters pertinent to his responsibilities. All representatives of town agencies, when attending sessions of the town meeting, shall have all of the rights and privileges of town meeting members on matters pertinent to their responsibilities, except the right to vote.
- (b) **Residents** – Any resident not a town meeting member may, notwithstanding, attend sessions of the town meeting and, subject to such rules as may from time to time be adopted, participate in the proceedings, but may not vote.

Section 2-11 Establishment of Standing Committees

The town meeting may from time to time, by bylaw, establish standing committees to which shall be referred warrant articles for study, review and report in advance of the sessions of the town meeting.

Section 2-12 Warrant Articles

- (a) **Initiation** – Except for procedural matters, all subjects to be acted upon by the town meeting shall be placed on warrants issued by the select board. The select board shall place on such warrants all subjects requested in writing by (1) any elected town officer or member of an elected multiple-member body; (2) any appointed multiple-member body acting by a majority of its

members; (3) any ten or more voters; or (4) any other person or agency as may be authorized by bylaw or otherwise. All subjects submitted to the select board under this section shall be placed on a warrant for the next town meeting, regular or special, that shall occur forty-five or more days following the date of submission.¹

- (b) **Publication** – Forthwith, following receipt by the select board of any subject for a town meeting warrant article, initiated by petition or by one or more members of the select board, a copy of such subject shall be posted on the town bulletin board and otherwise distributed as may be provided by bylaw. Additional copies shall be kept available for distribution by the town clerk.

¹ Art 2 1978 Fall Town Meeting substituted “forty-five” for “thirty” days.

Section 2-13 Procedures

- (a) **Time of Meeting** – The town meeting shall meet at least twice in each calendar year. The first such meeting shall be held during the first six calendar months, at a time fixed by bylaw, and shall be primarily concerned with the determination of matters that have a fiscal effect on the town, including but not limited to the adoption of an annual operating budget for all town agencies. The second such meeting, the powers of which shall be deemed those of an annual town meeting, shall be held during the last four calendar months, at a time fixed by bylaw. In addition to the two meetings required by this section the select board may, in any manner provided under the general laws of the Commonwealth or the charter, for the purpose of acting upon the legislative business of the town in an orderly and expeditious manner, call the town meeting into session at other times by the issuance of warrants therefor.
- (b) **Quorum** – One hundred town meeting members shall constitute a quorum, but a smaller number may adjourn from time to time.

Section 2-14 Referendum Procedures

- (a) **Effective Date of Final Votes** – No final vote of a town meeting on any warrant article, except a vote to adjourn or dissolve, or votes appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the then current fiscal year, or votes for the temporary borrowing of money in anticipation of revenue, or a vote declared by preamble by a two-thirds vote of the town meeting to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town, shall be operative until after the expiration of five days from the dissolution of the town meeting. If a petition is not filed within the said five days, the votes of the town meeting shall then become operative.
- (b) **Non-Final Votes** – Any article disposed of by a vote to lay on the table or to postpone indefinitely, or by other dilatory vote, shall be deemed to have been rejected in the form in which it was presented or amended.
- (c) **Referendum Petition** – If, within said five days, a petition signed by not less than three percent of the voters containing their names and addresses, is filed with the select board requesting that any question, not yet operative as defined in (a), be submitted to the voters, then the operation of such vote shall be further suspended pending its determination as provided below. The select board shall, within ten days after the filing of such petition, call a special election that shall be

held within thirty-five days after issuing the call, for the purpose of presenting to the voters any such question. If, however, a regular or special town election is to be held not more than sixty days following the date the petition is filed, the select board may provide that any such question be presented to the voters at that same election.¹

- (d) **Referendum Election** – All votes upon any question so submitted shall be taken by ballot, and the conduct of such election shall be in accordance with the provisions of law relating to elections, unless otherwise provided in this section. Any question so submitted shall be determined by a majority vote of the voters voting thereon, but no action of the town meeting shall be reversed unless at least twenty percent of the voters vote on the question.
- (e) **Format of Questions** – Any question so submitted shall be stated on the ballot in substantially the same language and form in which it was stated when presented by the moderator to the town meeting, as appears in the records of the clerk of the meeting.

¹ Art 6 1990 Fall Town Meeting substituted “thirty-five” for “fourteen”, inserted the word “town” following the word “special”, and substituted “sixty” for “thirty” days.

ARTICLE 3

ELECTED OFFICERS

Section 3-1 General Provisions

- (a) **Elective Offices** – The offices to be filled by the voters shall be the **select board, school committee, board of assessors, board of health, board of library trustees, moderator, planning board, housing authority** and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.
- (b) **Eligibility** – Any voter shall be eligible to hold any elective town office, but no person holding any elective town office shall simultaneously hold any other elective town office.
- (c) **Nomination Procedures** – The number of signatures of voters required to place the name of a candidate for any town office on the official ballot for use at any town election shall be not less than fifty.
- (d) **Election** – The regular election of town officers shall be held annually on a date fixed by bylaw.
- (e) **Compensation** – Elected town officers shall receive for their services such compensation as may annually be provided for that purpose by appropriation.
- (f) **Coordination of Officers** – Notwithstanding their election by the voters, the town officers named in this article shall be subject to the call of the select board, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

Section 3-2 Select Board

- (a) **Composition; Term of Office** – There shall be a select board consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.
- (b) **Powers and Duties** – The executive powers of the town shall be vested in the select board. The select board shall have all of the powers and duties given to boards of selectmen under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote. The select board shall cause the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept. To aid the board in its official duties, the select board shall appoint a town manager, as provided in article 4.
- (c) **Appointing Powers** – The select board shall appoint the town manager, town counsel, town comptroller, registrars of voters (but not the town clerk) and other election officers, and members of all appointed multiple-member bodies for whom no other method of selection is provided by the charter or by bylaw, except persons serving under other elected town officers and officials appointed by state officers.
- (d) **Licensing Authority** – The select board shall be the license board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

Section 3-3 School Committee

- (a) **Composition; Term of Office** – There shall be a school committee consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.^{1,2}
- (b) **Powers and Duties** – The school committee shall have all of the powers and duties school committees are given under the constitution and general laws of the Commonwealth and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote. The powers of the school committee shall include but need not be limited to the following:
- (1) The school committee shall appoint a superintendent of the schools and all other officers and employees associated with the schools, fix their compensation and define their duties, make rules concerning their tenure of office, and discharge them.
 - (2) The school committee shall make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town.

¹ Art 2 1978 Fall Town Meeting changed the number of members from five to six.

² Art 14 1985 Fall Town Meeting changed the number of members from six to five.

Section 3-4 Board of Assessors

- (a) **Composition; Term of Office** – There shall be a board of assessors consisting of three members elected for three-year terms, so arranged that one term shall expire each year.
- (b) **Powers and Duties** – The board of assessors shall annually make a valuation of all property, both real and personal, within the town. It shall have all of the powers and duties given to boards of assessors under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote.

Section 3-5 Board of Health

- (a) **Composition; Term of Office** – There shall be a board of health consisting of three members elected for three-year terms, so arranged that one term shall expire each year.
- (b) **Powers and Duties** – The board of health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health. It shall have all of the powers and duties given to boards of health under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote.

Section 3-6 Board of Library Trustees

- (a) **Composition; Term of Office** – There shall be a board of library trustees consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.
- (b) **Powers and Duties** – The board of library trustees shall have the custody and management of the library and of all property of the town related thereto. All money raised or appropriated by

the town for its support and maintenance shall be expended by the board, and all money or property that the town may receive by gift or bequest shall be administered by the board in accordance with the provisions of such gift or bequest. The board of library trustees shall have all of the powers and duties given to boards of library trustees under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote.

Section 3-7 Moderator

- (a) **Term of Office** – There shall be a moderator elected for a one-year term.
- (b) **Powers and Duties** – The moderator, as provided in section 2-7, shall preside and regulate the proceedings at all sessions of the town meeting, and shall have all of the powers and duties given to moderators under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote.

Section 3-8 Planning Board

- (a) **Composition; Term of Office** – There shall be a planning board consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.
- (b) **Powers and Duties** – The planning board shall make studies and prepare plans concerning the resources, possibilities and needs of the town. The planning board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development. The planning board shall annually report to the town giving information regarding the condition of the town and any plans or proposals known to it affecting the resources, possibilities and needs of the town. The planning board shall have all of the powers and duties given to planning boards under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw, or by other town meeting vote.

Section 3-9 Housing Authority

- (a) **Composition; Term of Office** – There shall be a housing authority consisting of five members. Four members shall be chosen by ballot; the fifth member shall be a resident of the town, appointed by the Commonwealth commissioner of community affairs or as otherwise provided by law. Housing authority members shall serve five-year terms, so arranged that one term shall expire each year.
- (b) **Powers and Duties** – The housing authority shall have all of the powers and duties given to housing authorities under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by bylaw or by other town meeting vote.

ARTICLE 4

TOWN MANAGER

Section 4-1 Appointment; Qualifications; Term

The select board shall appoint a town manager for an indefinite term and fix his compensation within the amount annually appropriated for that purpose. The office of town manager shall not be subject to the consolidated personnel bylaw. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience in municipal administration to perform the duties of the office. He shall not have served in an elective office in the town government for at least twelve months prior to his appointment. He shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his term, unless such action is approved in advance, in writing, by the select board. The town may from time to time, by bylaw, establish such additional qualifications as seem necessary and appropriate.

Section 4-2 Powers and Duties

The town manager shall be the chief administrative officer of the town and shall be responsible to the select board for the proper administration of all town affairs placed in his charge by or under the charter. He shall have the following powers and duties:

- (a) He shall supervise and be responsible for the efficient administration of all functions under his control, as may be authorized by the charter, by bylaw, by other town meeting vote or by the select board, including all officers appointed by him and their respective departments.
- (b) He shall appoint, and may remove subject to the civil service laws where applicable, all department heads, all officers and all subordinates and employees for whom no other method of appointment is provided in the charter, except persons serving under other elected agencies and appointments made by representatives of the Commonwealth.

Appointments made by the town manager shall become effective on the fifteenth day following the day notice of appointment is filed with the select board, unless the select board shall, within that period, by a majority vote of the full board, vote to reject any such appointment. Appointments of a temporary or seasonal nature shall become effective immediately.¹

- (c) He shall be entrusted with the administration of all personnel policies, practices and related matters for all municipal employees as established by the compensation plan, the personnel policy guide, bylaw, and all collective bargaining agreements entered into by the select board on behalf of the town.
- (d) He shall fix the compensation of all town officers and employees appointed by him within the limits established by appropriations and the compensation plan adopted by the town meeting.
- (e) He shall attend all regular and special meetings of the select board, except meetings at which his own removal is to be discussed, unless excused at his own request, and shall have a voice, but no vote, in all discussions.

- (f) He shall attend all sessions of the town meeting and shall answer all questions directed to him that are related to his office.
- (g) He shall see that all of the provisions of the general laws, of the charter, of the bylaws and other town meeting votes, and of the select board that require enforcement by him, or officers and employees subject to his direction and supervision, are faithfully carried out.
- (h) He shall prepare and submit a proposed annual operating budget and a proposed capital improvement program as provided in article 6.
- (i) He shall assure that a full and complete record of the financial and administrative activities of the town is kept and shall render a full report to the select board at the end of each fiscal year and such other times as it may require.
- (j) He shall keep the select board fully informed as to the financial condition and needs of the town, and shall make such recommendations to the select board as he deems necessary or expedient.
- (k) He shall have full jurisdiction over the rental and use of all town facilities, except schools and properties designated by bylaw or other town meeting vote as Winchester historical sites. He shall be responsible for the maintenance and repair of all town property placed under his control by the charter, by bylaw or by other town meeting vote.
- (l) He may at any time inquire into the conduct of office of any officer, employee or department under his control.
- (m) He shall keep a full and complete inventory of all property of the town, both real and personal.
- (n) He shall be responsible for the negotiation of all contracts involving any subject within his jurisdiction. These proposed contracts shall be subject to final approval and execution by the select board.
- (o) He shall be responsible for purchasing all supplies, materials and equipment, and shall award all contracts for all departments and activities of the town. He shall examine and inspect, or cause to be examined and inspected, the quality, quantity and conditions of materials, supplies or equipment delivered to or received by any town agency. He may examine services performed for any town agency secured through the purchasing procedure.
- (p) He shall perform any other duties required of him by the charter, by bylaw, by other town meeting vote or by the select board.

¹ Art 2 1978 Fall Town Meeting added the sentence, "Appointments of a temporary or seasonal nature shall become effective immediately."

Section 4-3 Acting Town Manager

- (a) **Temporary Absence** – By letter filed with the town clerk and select board, the town manager shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of the town manager during his temporary absence. During the absence of the town manager, the select board may not revoke such designation without cause until at least ten working days have elapsed whereupon it may appoint another qualified town administrative officer or employee to serve as acting town manager until the town manager returns.¹

- (b) **Vacancy** – When the office of town manager is vacant, or the town manager is under suspension as provided in Section 4-4, the select board shall appoint a qualified town administrative officer or employee to serve as acting town manager until the vacancy is filled or the suspension has been terminated.

¹ Art 2 1978 Fall Town Meeting added the words “without cause” after the word “designation” in the second sentence.

Section 4-4 Removal Procedures

The select board may remove the town manager from office after first applying the following procedures:

- (a) **Notice** – By affirmative vote of a majority of all of its members the select board may adopt a preliminary resolution of removal setting forth in reasonable detail the reason or reasons for the proposed removal. The preliminary resolution may suspend the town manager for a period not to exceed forty-five days. A copy of the resolution shall be delivered to the town manager forthwith following adoption.
- (b) **Public Hearing** – Within five days after the delivery of the preliminary resolution of removal, the town manager may request a public hearing on the reasons cited for removal by filing a written request therefor with the select board. The hearing shall be convened by the select board not less than twenty nor more than thirty days after a request is filed. Not less than five days prior written notice of the date upon which the hearing will commence shall be given to the town manager. The time limitations set forth herein may be waived in writing by the town manager. The town manager shall be entitled to file a written statement with the select board responding to the reasons cited for the proposed removal, provided the same is received by the select board not less than forty-eight hours in advance of the time set for the commencement of the public hearing. The town manager may be represented by counsel at the public hearing. He shall be entitled to present evidence, call witnesses and, personally or through counsel, question any witness appearing at the hearing.
- (c) **Removal** – If the town manager does not request a public hearing, then upon the expiration of ten days from the date of delivery to him of the preliminary resolution of removal, or if the town manager does request a public hearing, then five days from the completion of the public hearing, or forty-five days from the date of the adoption of the preliminary resolution, whichever occurs later; the select board may by the affirmative vote of a majority of all of its members adopt a final resolution of removal that shall be effective upon adoption. Failure to adopt a final resolution of removal within the time limitations provided in this section shall nullify the preliminary resolution of removal. The action of the select board in suspending or removing the town manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the select board. The town manager shall continue to receive his salary until a final resolution of removal has become effective.¹

¹ Art 2 1978 Fall Town Meeting added the words “from the completion of the public hearing, or forty-five days” after the words “five days” in the first sentence.

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

Section 5-1 Creation of Departments, Divisions, Agencies and Offices

The organization of the town into operating agencies may be accomplished through either method provided in this section.

- (a) **Bylaws** – Subject only to express prohibitions in the constitution, the general laws or the charter, the town meeting may, by bylaw, reorganize, consolidate, or abolish any town agencies in whole or in part and establish such new town agencies as it deems necessary or advisable. It may prescribe the functions of any town agency; provided, however, that no function assigned by the charter to a particular town agency may be discontinued or, unless the charter so provides, assigned to any other.
- (b) **Administrative Code** – Subject only to express prohibitions in the constitution, the general laws or the charter, the select board, after consultation with the town manager, may from time to time prepare and submit to the town meeting for approval as an administrative code a plan of organization or reorganization, or amendments to any existing plan, for the orderly, efficient or convenient conduct of the business of the town.

The select board may, through an administrative code, reorganize, consolidate or abolish any town agencies in whole or in part and establish such new town agencies as it deems necessary or advisable. It may prescribe the functions of any town agency and, for such purpose, transfer the powers and duties and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriations of one town agency to another; provided, however, that no function assigned by the charter to a particular town agency may be discontinued, or unless the charter specifically so provides, assigned to any other.

Whenever the select board prepares such a plan, it shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper not less than seven days in advance, which notice shall describe the scope of the proposal and the time and place at which the hearing shall be held. Following such public hearing, the select board shall submit to the town meeting, by warrant article, its proposal, which it may have modified subsequent to the public hearing.

An organization or reorganization plan shall become effective at the expiration of ninety days following the date of the town meeting at which the proposal is submitted, unless the town meeting shall, by a majority vote within that time, vote to disapprove the plan.

The town meeting may vote only to approve or disapprove the plan and may not vote to amend or alter it.

Section 5-2 Table of Organization

The town manager shall prepare for submission to the select board a table of organization establishing personnel requirements within the town agencies created by bylaw or by administrative code. The table of organization shall become effective unless rejected by the select board within thirty days following the date of its submission.

Section 5-3 Publication of Administrative Code and Table of Organization

For the convenience of the public, the administrative code and any amendments thereto shall be printed as an appendix to, but not an integral part of, the bylaws of the town. The table of organization prepared by the town manager shall be published annually in the town report.

Section 5-4 Department of Public Works

- (a) **Establishment and Scope** – There shall be a department of public works responsible for the performance of all public works activities of the town placed under its control by the charter, by bylaw, by administrative code, or otherwise, including but not limited to refuse collection and disposal, forestry services, protection of natural resources, maintenance of all municipal buildings and grounds, water supply and distribution, sewers and sewerage systems, and streets and roads.

The department of public works shall assume all of the duties and responsibilities in the performance of public works functions, including but not limited to those performed prior to the adoption of the charter by or under the authority of the water and sewer board, the park commission, the cemetery commission, the school committee, and the select board.

- (b) **Director of Public Works** – The department of public works shall be under the direct control of a director of public works who shall be appointed by and who shall be directly responsible to the town manager. The director of public works shall serve at the pleasure of the town manager. He shall be a person especially fitted by education, training and previous experience to perform the duties of the office.

The director of public works shall be responsible for the supervision and coordination of all divisions within the department in accordance with state statutes, town bylaws, administrative code and directives of the town manager.

- (c) **Policy Formulation** – The select board, acting through the town manager, shall be responsible for the overall supervision of the department of public works and for the establishment of priorities and policies to govern the operation of the department.

Section 5-5 Comptroller

- (a) **Appointment; Qualifications; Term of Office** – The select board shall appoint a town comptroller and fix his compensation within the amount annually appropriated for that purpose. The comptroller shall have at least three years prior full-time accounting experience. The comptroller shall devote his entire time to the performance of his duties and the supervision of the employees of his department. The comptroller shall be appointed in March of every third year for a three-year term to run from the first day of the following April until the qualification of his successor. The comptroller may be removed by the select board for cause and the vacancy filled by it, in the same manner as an original appointment, for the remainder of the unexpired term.¹

- (b) **Powers and Duties** – The comptroller shall be subject to the supervision and control of the select board but not of the town manager. The comptroller shall have, in addition to the powers and duties conferred and imposed upon town accountants, by general laws, the following powers and duties:

- (1) He shall prescribe the methods of installation and exercise supervision of all accounting records of the several town officers and agencies; provided, however, that any change in the system of accounts shall first be discussed with the select board and the town agencies affected.
 - (2) He shall establish standard practices relating to all accounting matters and procedures and the coordination of systems throughout the town, including clerical and office methods, records, reports and procedures as they relate to accounting matters. He shall prepare and issue rules, regulations and instructions relating thereto that, when approved by the select board, shall be binding upon all town agencies and employees.
 - (3) He shall draw all warrants upon the town treasurer for the payment of bills, drafts and orders chargeable to the several appropriations and other accounts.
 - (4) Prior to submitting any warrant to the town manager, he shall examine and approve as not being fraudulent, unlawful or excessive, all bills, drafts and orders covered thereby. In connection with any such examination, he may make inspection as to the quality, quantity and condition of any materials, supplies or equipment delivered to or received by any town officer or agency. If, upon examination, it appears to the comptroller that any such bill, draft or order is fraudulent, unlawful or excessive, he shall immediately file with the select board and town treasurer a written report of the reasons for his findings.
 - (5) He shall be in charge of all of the accounting and business machines owned by the town, other than machines used for educational or classroom purposes, and shall allocate the use thereof among the several town agencies.
 - (6) He shall be responsible for a continuous audit of all accounts and records of the town wherever located.
- (c) **Vacancy** – If the comptroller is unable to perform his duties because of disability or absence, or if the office is vacant because of resignation or death, the select board may appoint a temporary comptroller to hold such office and exercise the powers and perform the duties until the comptroller who was disabled or absent resumes his duties, or until another comptroller is duly appointed. Said temporary appointment shall be in writing, signed by a majority of the select board and filed in the office of the town clerk.
- (d) **Assistant Comptroller** – The comptroller with the approval of the majority of the select board may appoint, in writing, an assistant. Unless a temporary comptroller is appointed, the assistant may, in the absence of the comptroller, perform the duties of the comptroller and when performing such duties shall have the same powers and be subject to the same requirements and penalties as the comptroller.

¹ Art 11 1981 Fall Town Meeting deleted the first sentence which read, “There shall be a comptroller, appointed by the board of selectmen”, and replaced it with the sentence now shown.

Section 5-6 Town Counsel¹

- (a) **Appointment; Qualifications; Term of Office** – The select board each year shall appoint a town counsel and fix his compensation within the amount annually appropriated for that purpose. The person appointed and employed by the select board as town counsel shall be a mem-

ber in good standing of the bar of the Supreme Judicial Court of Massachusetts and of all other courts before which he has been admitted to practice. Any special counsel employed by the select board shall be a member in good standing of the bar of all courts before which he has been admitted to practice.

(b) **Powers and Duties** – In addition to those duties which the select board may request or authorize the town counsel to perform, he shall have the following powers and duties:

- (1) The town counsel shall examine and report to the town manager upon the title to any land to be acquired by the town or any town agency.
- (2) The town counsel shall, when requested, counsel with respect to all contracts, bonds, deeds and other legal instruments to which the town is a party or in which any right or interest of the town is involved.
- (3) The town counsel shall advise all town agencies regarding legal questions relating to their powers and duties.
- (4) The town counsel, when requested by the select board, shall appear and conduct, or assist in the conduct of the prosecution, defense or compromise of any claims, actions and proceedings by, on behalf of, or against the town or any town agency.
- (5) The town counsel, when requested by the select board, shall assist in the prosecution of any violation of the laws or regulations of the town.²

¹ Art 12, 1981 Fall Town Meeting added new section 5-6 Town Counsel.

² Art 9 1984 Fall Town Meeting substituted “the laws or regulations of the town” for “these bylaws”.

ARTICLE 6

FINANCES AND FISCAL PROCEDURES

Section 6-1 Fiscal Year

The fiscal year of the town shall begin on July first and end on June thirtieth, unless another provision is made by general law.

Section 6-2 School Committee Budget

The budget adopted by the school committee shall be submitted to the town manager in sufficient time to enable him to prepare the total town budget he is required to submit by Section 6-3.

- (a) **Public Hearing** – The school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall indicate specifically any major variations from the present budget and the reasons for such variations and a notice stating (1) the times and places where complete copies of the budget shall be available for examination by the public, and (2) the date, time and place, not less than seven nor more than fifteen days following such publication, when a public hearing shall be held by the school committee on the proposed budget.¹
- (b) **Adoption** – The action of the school committee in adopting the budget following the public hearing shall be summarized and the vote of each member on any amendments offered to the proposed budget shall be duly recorded.

¹ Art 2 1978 Fall Town Meeting deleted the following from the first sentence: “At least thirty days before the meeting at which the school committee is to vote on its final budget request.”

Section 6-3 Submission of Proposed Budget

Within a time fixed by bylaw before the start of the fiscal year, the town manager, under the direction of the select board, shall submit to the finance committee a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. He shall simultaneously provide for the publication in a local newspaper of a general summary of the proposed budget and a notice stating the times and places where complete copies of his proposed budget shall be available for examination by the public.

Section 6-4 Budget Message

The budget message submitted by the town manager shall explain the proposed budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year; describe important features of the budget; indicate any major variations from the budget for the current year in financial policies, expenditures and revenues together with the reasons for such changes; summarize the town’s debt position; and include such other material as the town manager deems desirable.

Section 6-5 The Proposed Budget

The budget message shall provide a complete financial plan of all town funds and activities, including the budget as requested by the school committee for the ensuing year. Except as may otherwise be required by general law or by the charter, it shall be in the form the town manager deems desirable or the select board may require. In his presentation of the budget the town manager shall make use of modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial control. The budget shall be so arranged as to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years, and shall indicate in separate sections:

- (a) proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency, function and work programs, and the proposed methods of financing such expenditures;
- (b) proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital expenditure; and
- (c) estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

Section 6-6 Action on the Budget

- (a) **Public Hearing** – The finance committee shall, forthwith upon receipt of the proposed budget, provide for the publication in a local newspaper of a notice stating the date, time and place, not less than five nor more than fourteen days following such publication, when a public hearing shall be held by the finance committee on the proposed budget.
- (b) **Finance Committee Meetings** – The finance committee shall consider in public meetings the detailed expenditures for each town agency proposed by the town manager, and may confer with representatives of any such agency in connection with such considerations. The finance committee may require the town manager or any other town agency to provide such additional information as it deems necessary or desirable in furtherance of its responsibility.
- (c) **Presentation to the Town Meeting** – The finance committee shall file a report of its recommendations with the town clerk in sufficient time to be distributed to each town meeting member at least seven days before the action on the budget article is to begin. The budget to be acted upon by the town meeting shall be the budget as proposed by the finance committee.

Section 6-7 Capital Improvement Program

The town manager shall submit a capital improvement program to the select board and the finance committee at least thirty days before the date fixed for submission of his proposed budget. It shall be based on material prepared by a capital planning committee of the town, including (a) a clear, concise general summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the ensuing five years, with supporting information as to the need for each capital improvement; (c) cost estimates, methods of financing and recommended time schedules for each improvement; and (d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised by a capital planning com-

mittee with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

Section 6-8 Financial Public Records

Statements summarizing the budget and the capital improvement program and related warrant articles, as adopted by the town meeting, shall be made available in the office of the town manager for examination by the public not more than twenty days after their adoption.

Section 6-9 Approval of Financial Warrants

Warrants for the payment of town funds prepared by the comptroller in accordance with the provisions of the general laws shall be submitted to the town manager. The approval of any such warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the select board shall approve all warrants in the event of the absence of the town manager or a vacancy in the office of town manager.

ARTICLE 7

GENERAL PROVISIONS

Section 7-1 Charter Changes

This charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX of the amendments to the constitution and any legislation enacted to implement the said amendment.

Section 7-2 Severability

The provisions of the charter are severable. If any provision of the charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 7-3 Specific Provisions Prevail

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.¹

¹ Art 10 1984 Fall Town Meeting substituted “extent” for “extend”.

Section 7-4 References to General Laws

All references to the general laws contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of the charter.

Section 7-5 Computation of Time

In computing time under the charter, if seven days or less, only business days, not including Saturdays, Sundays or legal holidays shall be counted; if more than seven days, every day shall be counted.

Section 7-6 Number and Gender

Words importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and words importing the masculine gender shall include the feminine gender.

Section 7-7 Definitions

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

- (a) **Charter** – The word “charter” shall mean this charter and any amendments to it made through any of the methods provided under article LXXXIX of the amendments to the state constitution.
- (b) **Precinct** – The word “precinct” shall mean the areas into which the town is divided for the purpose of electing town meeting members.
- (c) **Library** – The word “library” shall mean the Winchester Public Library and any branch or branches that may be established thereof.
- (d) **Local Newspaper** – The words “local newspaper” shall mean a newspaper of general circulation within the town.
- (e) **Majority Vote** – The words “majority vote” shall mean a majority of those present and voting, provided that a quorum of the body is present.
- (f) **Multiple-member Body** – The words “multiple-member body” shall mean any board, commission or committee consisting of two or more persons, whether elected or appointed.
- (g) **Town** – The word “town” shall mean the Town of Winchester.
- (h) **Town Agency** – The words “town agency” shall mean any board, commission, committee, department or office of the town government, whether elected, appointed or otherwise constituted.
- (i) **Town Bulletin Boards** – The words “town bulletin boards” shall mean the bulletin boards on which official town notices are posted, one of which shall be located in the town hall, one of which shall be located outside the town hall, and those at other locations within the town as the select board may from time to time designate.
- (j) **Town Meeting** – The words “town meeting” shall mean the representative town meeting of the town established by article 2.
- (k) **Town Officer** – The words “town officer” shall mean an elected or appointed official of the town who in the performance of his duties of office exercises some portion of the sovereign power of the town, whether great or small; however, it shall not include a town meeting member. A person may be a town officer whether or not he receives any compensation for his services.
- (l) **Voters** – The word “voters” shall mean registered voters of the town.

Section 7-8 Rules and Regulations

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk and made available for review by any person who requests such information. Such rules and regulations shall not become effective until ten days following the date they are so filed.

Section 7-9 Re-Enactment and Publication of Bylaws

At intervals of not more than ten years, proposed revisions or recodifications of the bylaws of the town shall be presented to the town meeting for re-enactment. Such revisions or recodifications shall

be prepared by a committee selected or appointed for that purpose. The town counsel or, if the select board shall so direct, special counsel appointed for that purpose shall serve as legal counsel to the committee. The committee shall commence its review following the adjournment of the annual town meeting in the year preceding the year in which its report is to be filed.

Within eight months following its appointment, the committee shall cause to be published in a local newspaper (a) a report summarizing its recommendations and noting the times and places within the town where complete copies of the report shall be available for inspection by the public, and (b) the date, time and place not less than two weeks following such publication when a public hearing shall be held by the committee on the preliminary report.¹

Copies of the revised bylaws shall be made available for public distribution. In each year between such re-enactments and publications an annual supplement shall be published containing all bylaws and amendments to bylaws that had been adopted in the previous year.

¹ Art 2 1978 Fall Town Meeting corrected the spelling of the word “inspection” from “inspection”.

Section 7-10 Procedures of Multiple-member Bodies

- (a) **Meetings** – All multiple member bodies of the town, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places within the town as they may, by their own rules, prescribe. Special meetings of any multiple-member body shall be held on the call of the respective chairman, or by a majority of the members thereof by suitable written notice delivered to the residence or place of business of each member at least twenty-four hours in advance of the time set. A copy of said notice shall also be posted on the town bulletin boards. All meetings of all multiple-member bodies shall, at all times, be open to the public and to the press, except as may otherwise be authorized by law.
- (b) **Rules and Journal** – Each multiple-member body shall determine its own rules and order of business unless otherwise provided by the charter or by bylaw, and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record kept available in a place convenient to the public at all reasonable times, and copies shall be kept available in the library.
- (c) **Voting** – Except on procedural matters, all votes of all multiple-member bodies shall be taken by voice or roll call vote, the results of which shall be recorded in the journal.¹
- (d) **Quorum** – A majority of the members of the multiple-member body shall constitute a quorum, but a smaller number may adjourn from time to time.

¹ Art 2 1978 Fall Town Meeting changed the word “voters” to “votes”.

Section 7-11 Elections

- (a) **Annual Town Elections** – The election of town officers and town meeting members, and referenda questions shall be acted upon and determined by voters on official ballots without party or other designation on the date fixed in the bylaws of the town.
- (b) **Ballot Position** – The order in which names of candidates, including that of town meeting member, appear on the official ballot in any town election shall be determined by a drawing by lot

conducted by the town clerk. Each candidate shall have an opportunity to be present in person or to be represented by a designee at the drawing. Each candidate for re-election shall have printed on the official ballot the words “candidate for re-election” in addition to his name and residence address.

Section 7-12 Notice of Vacancies

Whenever a vacancy occurs and is to be filled in any town office or town employment or in any multiple-member body, except for positions covered under the civil service law of the Commonwealth, whether by reason of death, resignation, expiration of a fixed term for which a person has been appointed, or otherwise, the select board or other appointing authority shall forthwith cause public notice of the vacancy to be posted on the town bulletin boards for fifteen days. Any person who desires to be considered for appointment to the position may, within fifteen days following the date notice is posted, file with the appointing authority, a statement setting forth in clear and specific terms his qualifications for the position. No permanent appointment to fill such a position shall be effective until at least twenty-eight days have elapsed following such posting, and until all persons filing such statements shall have been considered.²

² Art 2 1978 Fall Town Meeting added “, and is to be filled,” after “occurs”; substituted fifteen days for ten days in the first and second sentences; substituted twenty-eight days for fourteen days in the third sentence; and corrected the spelling of the word “effective”.

Section 7-13 Recall Procedures

- (a) **Application** – Any holder of an elective office, as defined in Section 3-1(a), with more than six months remaining in the term for which he was elected, may be recalled therefrom by the voters in the manner provided in this section.
- (b) **Recall Petition** – Two hundred or more voters may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. At least twenty-five names of voters shall be from each of the eight precincts into which the town is divided. The town clerk shall thereupon deliver to said voters petition blanks demanding such recall, printed forms of which he shall keep available. The blanks shall be issued by the town clerk with his signature and official seal attached thereto. They shall be dated; shall be addressed to the select board; shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit; and shall demand the election of a successor to the said office. A copy of the affidavit shall be entered in a recordbook to be kept in the office of the town clerk. The recall petitions shall be returned and filed with the town clerk within twenty days following the date of the filing of the affidavit, signed by at least fifteen percent of the voters and containing their names and addresses; provided, however, that not more than twenty-five percent of the total number shall be from any one precinct.

The town clerk shall, within twenty-four hours of receipt, submit the petitions to the registrars of voters who shall forthwith certify thereon the number of signatures that are names of voters.

- (c) **Recall Election** – If the petition shall be certified by the town clerk to be sufficient, he shall forthwith submit the same with his certificate to the select board. Upon its receipt of the certifi-

cate, the select board shall forthwith give written notice of such petition and certificate to the officer whose recall is sought. If said officer does not resign his office within five days after delivery of such notice, the select board shall order an election to be held not less than thirty-five nor more than forty days after the date of the town clerk's certificate of the sufficient petition. If, however, any other town election is to occur within sixty days after the date of the certificate, the select board shall hold the recall election on the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, and the ballots for candidates shall, notwithstanding a recall provision to the contrary, be counted.

(d) **Nomination of Candidates** – Any officer whose recall is sought may not be a candidate to succeed himself in the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of same shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

(e) **Propositions on Ballot** – Ballots used in a recall election shall state the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition, there shall be a place to vote for either of the said propositions.

After the proposition shall appear the word “candidates” and the names of candidates nominated as required in section 42 of chapter 54 of the General Laws. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question is in the negative, the ballots for candidates need not be counted, except as provided in (c) above.

(f) **Officeholder** – The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled in the election he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section.

If he is recalled in the election, he shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

(g) **Repeat of Recall Petition** – No recall petition shall be filed against an officer within three months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.¹

¹ Art 7 1978 Fall Town Meeting corrected a misprint in the order of lines in this section.

ARTICLE 8

TRANSITIONAL PROVISIONS

Section 8-1 Continuation of Existing Laws

All general laws, special laws, town bylaws, town meeting votes, and rules and regulations of or pertaining to the town that are in force when this charter takes effect and not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

Section 8-2 Continuation of Government

All town agencies shall continue to perform their duties until reappointed or re-elected, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred.

Section 8-3 Continuation of Personnel

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with the charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to his former capacity as is practical.

Section 8-4 Transfer of Records and Property

All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another agency, shall be transferred forthwith to such assigned agency.

Section 8-5 Time of Taking Effect

The charter shall become fully effective upon its approval by the voters, except as otherwise provided in this section:

- (a) Not more than forty-five days after the election at which the charter is adopted, the moderator shall appoint a special committee of seven members to review the existing bylaws of the town and to make a report with recommendations to the town meeting in the year following the year in which the charter is adopted, in accordance with the publication, hearing and reporting requirements established in section 7-9.
- (b) Not later than September 15 in the year in which the charter is adopted, the select board shall prepare and publish a preliminary report concerning a proposed division of the town into eight precincts as required by section 2-2. Not later than October 15 of the said year, the select board shall conduct a public hearing on the said preliminary proposal. The final report of the select board providing for eight precincts shall be filed not later than November 15 in the year in which

the charter is adopted. The census data to be used shall be the most recent available in the year in which the charter is adopted.

- (c) The establishment of the eight precincts as provided in (b) above shall be effective for the purposes of the annual town election in the year following the year in which the charter is adopted. The annual town election shall be held on the last Tuesday of March in said year.
- (d) At the annual town election in the year following the year in which the charter is adopted, one hundred and ninety-two representative town meeting members shall be elected in accordance with the procedures provided in section 2-4, twenty-four to be elected from each of the eight precincts. Each candidate for town meeting member shall file nomination papers signed by ten voters of the precinct as provided in section 2-3(b). Any candidate for town meeting member who is serving as a town meeting member at the time of said election shall have an asterisk (*) beside his name on the official election ballot. The order of names on the ballot shall be as provided in section 7-11. Upon the election and qualification of a majority of the members as herein provided, all other terms of office of town meeting members created at earlier elections shall terminate.
- (e) The provisions of section 2-5(c) shall not become effective until such time as the town meeting, by bylaw or other meeting vote shall adopt procedures for its implementation.
- (f) Until such time as the town meeting acts, by bylaw or by other town meeting vote, to establish a different method of notification of its sessions the following provision shall be in force:

Notice of Town Meetings – The town clerk shall notify the town meeting members of the time and place at which town meetings are to be held, the notices to be sent by mail at least seven days before the meeting.

Notice of Adjourned Town Meetings to be Posted – Notice of every adjourned town meeting shall be posted by the town clerk in five or more public places in the town; and the town clerk shall also notify the members by mail of the adjournment at least twenty-four hours before the time of the adjourned representative townmeeting, if the period of adjournment will permit. The notices shall state briefly the business to be acted upon at any meeting and shall include notice of any proposed reconsideration.

- (g) Except as otherwise provided above, all other provisions of article 2 shall be effective upon the commencement of the annual town meeting in the year following the year in which the charter is adopted. The annual town meeting in said year shall be held on the second Monday of May.
- (h) Until such time as the town meeting acts, by bylaw or other town meeting vote, to change or abolish such committees, the following committees are hereby established:

Committee on Rules – There shall be a committee on rules consisting of eight members, one to be elected by and from the town meeting members from each precinct. The terms of office of members of the committee on rules shall be for three years, so arranged that as nearly an equal number of terms as possible shall expire each year. The moderator shall serve, ex-officio, as the chairman of the committee on rules.

The committee on rules shall provide a continuing oversight of the business of the town meeting and shall consider all proposed changes in its conduct.

As soon as practicable following their election, the town meeting members from each precinct shall elect, by and from their number, one member to the standing committee on rules. The members of the committee on rules shall, during the time the town meeting is in session, organize, by the election of a vice-chairman and a clerk, and shall determine by lot the term of office of each member.

Committee on Government Regulations – There shall be a committee on government regulations consisting of eight town meeting members, one to be appointed by the moderator from each precinct for terms of three years, so arranged that as nearly an equal number of terms as possible shall expire each year.

The committee on government regulations shall review and report on all warrant articles that would, if adopted, affect the bylaws of the town. It shall be responsible for the decennial review of the bylaws of the town as provided in section 7-9 and for proposed changes in the charter as provided in section 7-1(b).

In order to establish the overlapping terms of members of the committee on government regulations the initial appointments by the moderator shall be: three for one year; three for two years; and two for three years.

- (i) The board of library trustees shall be reduced to five members at the annual town election in the year following the year in which the charter is adopted. At the said election one library trustee shall be elected for a term of three years; the second term, which expires in the same year, shall not be filled and that office shall be abolished. If for any reason a vacancy shall occur on the board of library trustees during the twelve months following the adoption of the charter and prior to the next annual town election, that vacancy shall not be filled but the office abolished and the board shall be reduced to five members in that manner and not as provided in the first two sentences of this sub-section.
- (j) The school committee shall be reduced to five members at the annual town election in the year following the year in which the charter is adopted. At the said election one school committee member shall be elected for a term of three years; the second term, which expires in the same year, shall not be filled and that office shall be abolished. If for any reason a vacancy shall occur on the school committee during the twelve months following the adoption of the charter and prior to the next annual town election, that vacancy shall not be filled but the office abolished and the board shall be reduced to five members in that manner and not as provided in the first two sentences of this sub-section.
- (k) The boards of water and sewer commissioners, park commissioners and cemetery commissioners, in office at the time the charter is adopted, shall continue to perform their duties until June 30 in the year following the year in which the charter is adopted. At such time these offices shall be abolished. It is the intention of this provision, however, that the said boards shall continue to exercise the control and management of the public works activities of the town until full integration of such functions into a new public works department is achieved, as provided in section 5-4. It is the specific intention of this provision, however, that the said boards shall coordinate all of their activities with the select board in order that as much cooperation and coordination as is practical to achieve prior to the actual transfer of functions might be achieved.

The school committee shall continue to perform all of the maintenance and repair functions in, on and around the school buildings and grounds it now performs until the department of public

works, which is established in section 5-4, has had an opportunity to develop a plan for the assumption of the duties and responsibilities. It is the intent of this provision that such assumption of duties shall take place as of July 1 in the second year following the year in which the charter is adopted; provided, however, that the town manager may request an additional year before the department of public works shall assume the said functions.

- (l) The select board shall, immediately following the election at which the charter is adopted, initiate procedures to recruit a town manager. In addition to the general qualifications stated in section 4-1, the initial qualifications for this position shall be that the person have served full-time as a city or town manager for not less than three years and that the appointee be a member or associate member in good standing of the International City Management Association. The appointment to fill this position shall be made effective not later than November 1 in the year in which the charter is adopted. There shall be a widespread, diligent search for candidates to be considered for appointment to the office of town manger.
- (m) The position of executive secretary to the select board is hereby abolished, effective not later than two weeks following the appointment of the town manager or November 15, whichever occurs later. Nothing contained in the charter shall be construed to grant to the incumbent of that office at the time the charter is adopted, any right or privilege to be retained in the employment of the town.
- (n) The playground and recreation committee established by vote of the 1968 annual town meeting (article 5) is hereby abolished and the terms of office of all members terminated, effective upon the appointment of the town manager. The powers and duties of the recreation committee shall be exercised by the director of recreation who shall report directly to the town manager.
- (o) The town clerk, the treasurer-collector, the constables, and the commissioners of trust funds who have heretofore been elected and who will henceforth be appointed under the provisions of this charter shall serve for the balance of their terms but their successors shall be appointed.
- (p) Beginning with the election in the year following the year in which the charter is adopted, members of the planning board shall be elected for three-year terms.
- (q) Until such time as the town meeting acts, by bylaw, to establish a different time for submission by the town manager of a proposed budget as provided in section 6-3, the time shall be at least one hundred and twenty days before the start of the fiscal year.

Section 8-6 Disposition of Special Laws

- (a) **Partial Repeal of Certain Special Laws** – The following special laws, insofar as they confer power upon the Town of Winchester that the town would not otherwise hold under the charter, general laws or the constitution, are retained; otherwise, they are hereby repealed, it being the intention of this paragraph that portions of any special laws that limit or restrict a power conferred or the manner in which it is to be exercised be repealed, and that any powers that are conferred are to be exercised in accordance with the provisions of the charter:

Chapter fifteen of the acts of nineteen hundred and seventy-one; Chapter five hundred and seventy-seven of the acts of nineteen hundred and sixty-nine; Chapter five hundred and eleven of the acts of nineteen hundred and sixty-nine; Chapter four hundred and fifty-one of the acts of nineteen hundred and sixty-seven; Chapter fourteen of the acts of nineteen hundred and forty-

eight; Chapter two hundred and seven of the acts of nineteen hundred and forty-one; Chapter twenty-three of the acts of nineteen hundred and forty-one; Chapter one hundred and ten of the acts of nineteen hundred and thirty-eight; Chapter two hundred and seventy-nine of the acts of nineteen hundred and twenty-eight; Chapter one hundred and eighty of the acts of nineteen hundred and twenty-seven; Chapter two hundred and seventeen of the acts of nineteen hundred and twenty-two; Chapter five hundred and five of the acts of nineteen hundred and twelve; Chapter two hundred and seventy-three of the acts of nineteen hundred and three; Chapter four hundred and twenty-six of the acts of nineteen hundred and two; Chapter three hundred of the acts of nineteen hundred and one; Chapter eighty-two of the acts of nineteen hundred; Chapter ninety-two of the acts of eighteen hundred and ninety-four; Chapter thirty-five of the acts of eighteen hundred and ninety-three; Chapter four hundred and thirteen of the acts of eighteen hundred and ninety; Chapter twenty-six of the acts of eighteen hundred and eighty-two; Chapter ninety-eight of the acts of eighteen hundred and seventy-five; Chapter two hundred and seventy-seven of the acts of eighteen hundred and seventy-three; Chapter two hundred and sixty-five of the acts of eighteen hundred and seventy-two.

- (b) **Special Laws Repealed: Action Taken Thereunder Preserved** – The following special laws are repealed; provided, however, that nothing contained in the charter shall be construed to revoke, invalidate or to otherwise alter acts done in compliance therewith or under authority thereof, and that such revocation and repeal shall not serve to revive any other law:

Chapter one hundred and ninety-four of the acts of nineteen hundred and seventy-three; Chapter one hundred and thirty of the acts of nineteen hundred and seventy-three; Chapter eighty-six of the acts of nineteen hundred and seventy-two; Chapter six hundred and fifty-nine of the acts of nineteen hundred and seventy-two; Chapter five hundred and twenty-eight of the acts of nineteen hundred and seventy-one; Chapter five hundred and fifteen of the acts of nineteen hundred and seventy-one; Chapter one of the acts of nineteen hundred and seventy; Chapter four hundred and fifty-two of the acts of nineteen hundred and sixty-eight; Chapter fifty-seven of the acts of nineteen hundred and sixty-three; Chapter five hundred and twenty-five of the acts of nineteen hundred and sixty two; Chapter four hundred and thirty-five of the acts of nineteen hundred and sixty-two; Chapter two hundred and fifteen of the acts of nineteen hundred and sixty-two; Chapter two hundred and ninety-five of the acts of nineteen hundred and sixty-one; Chapter four hundred and ninety-three of the acts of nineteen hundred and fifty-three; Chapter eleven of the acts of nineteen hundred and forty-nine; Chapter four hundred and twenty-nine of the acts of nineteen hundred and forty-six; Chapter four hundred and seventy-four of the acts of nineteen hundred and thirty-nine; Chapter seventy-one of the acts of nineteen hundred and thirty-seven; Chapter two hundred and six of the acts of nineteen hundred and thirty-three; Chapter one hundred and ninety-three of the acts of nineteen hundred and thirty-two; Chapter two hundred and four of the acts of nineteen hundred and twenty-nine; Chapter one hundred and sixty-seven of the acts of nineteen hundred and twenty-eight; Chapter thirty-two of the acts of nineteen hundred and twenty-two; Chapter sixty-eight of the acts of nineteen hundred and twenty-one; Chapter five hundred and three of the acts of nineteen hundred and twenty; Chapter three hundred and seventeen of the acts of nineteen hundred and seventeen; Chapter six hundred and ninety-two of the acts of nineteen hundred and twelve; Chapter six hundred and eight of the acts of nineteen hundred and eleven; Chapter three hundred and fifty-seven of the acts of nineteen hundred and six; Chapter two hundred and fifty-one of the acts of eighteen hundred and ninety-nine; Chapter one hundred and ninety-eight of the acts of eighteen hundred and ninety-seven; Chapter seventy-

one of the acts of eighteen hundred and ninety-four; Chapter one hundred and eighty-six of the acts of eighteen hundred and ninety; Chapter two hundred and seventy-two of the acts of eighteen hundred and eighty-nine; Chapter one hundred and forty-six of the acts of eighteen hundred and eighty-nine; Chapter one hundred and ninety-four of the acts of eighteen hundred and eighty-eight; Chapter two hundred and thirty-four of the acts of eighteen hundred and sixty-four; Chapter one hundred and fifty-seven of the acts of eighteen hundred and sixty-one.

(c) **Special Laws Specifically Retained** – The following special laws are hereby recognized, confirmed and retained:

Chapter two hundred and seventeen of the acts of nineteen hundred and sixty-four; Chapter six hundred and seventy-six of the acts of nineteen hundred and fifty-six; Chapter one hundred and twenty of the acts of nineteen hundred and fifty-four; Chapter two hundred and eighty-one of the acts of eighteen hundred and seventy-three; Chapter two hundred and fifty-five of the acts of eighteen hundred and fifty.