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Council-Manager Charter of the Town of Winthrop

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COUNCIL - MANAGER
CHARTER
OF THE
TOWN OF WINTHROP

Effective: January 1, 1974

Amended: September 24, 1974

November 8, 1977

November 7, 1978

June 8, 1982

November 6, 1984

June 9, 1992

November 6, 2007

ARTICLE I

GRANT OF THE POWERS TO THE TOWN

Section 101. INCORPORATION: POWERS OF THE TOWN: The inhabitants of the town of Winthrop shall continue to be a municipal corporation under the name of the Town of Winthrop and shall have all powers that a municipality may have under the Constitution and laws of the State of Maine.

ARTICLE II

TOWN COUNCIL

Section 201. NUMBER, ELECTION, TERM: The Town Council shall be composed of seven members, each of whom shall be elected by the registered voters of the entire town, as provided in Article VIII. Each member shall be elected for a term of three (3) years and until his/her successor is elected and qualified, except, that as the first election after the adoption of this Charter, the three (3) members-elect receiving the next highest number of votes shall serve two (2) years; the two (2) members-elect receiving the next highest number of votes shall serve for one (1) year. In case of an equal number of votes, the relative position of the members-elect shall be determined by lot.

Section 202. QUALIFICATIONS: Council members shall be registered voters 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 Ordinance. If a Council member shall cease to be a registered voter or be convicted of a crime involving moral turpitude or class of crime punishable by imprisonment of one year or more, his/her office shall immediately become vacant.

Section 203. POWERS AND DUTIES: The members of the Town Council shall be the municipal officers of the Town of Winthrop.

Section 203.1: They shall appoint and remove for just cause, the Town Manager, Assessor and Town Attorney, and members of the Board of Assessment Review, the Board of Appeals, the Planning Board, Trustees of the Water and Sewer District and Trustees of the Cobbossee Watershed District.

Section 203.2: By ordinance create, change and abolish offices, department or agencies, other than the offices of Tax Administration and the Board of Education.

Section 204: COMPENSATION: Council members shall receive \$20 for each Council meeting upon attendance, not to exceed in the aggregate seven hundred fifty dollars (\$750) per year in full for their services. Such compensation may be changed by referendum at the regular municipal election and any such changes shall be effective for all Council members on January 1 of the year following the regular municipal election at which such salary change was approved.

Section 205. INDUCTION OF COUNCIL INTO OFFICE: The Town Council shall meet at the usual place on the first Monday in January following the regular town election, and at said meeting Council members-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace or by the Town Clerk. Should a Council member-elect be unable to attend the meeting on the first Monday of January, because of illness or some other reason, the Council member-elect should appear before the Town Clerk or a Justice of the Peace, at the first possible opportunity, but no later than the first Monday of February of the same year, to be sworn into office.

Section 206. COUNCIL TO JUDGE QUALIFICATIONS OF ITS MEMBERS: The Council shall be the judge of the election and qualification of its members and for such purposes shall have the power to subpoena witnesses and require production of records, but the decision of the Council in any such case shall be subject to review by the Courts.

Section 207. REGULAR MEETINGS: The Council shall meet regularly once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Chairperson or of four or more members by causing a notification to be given in a manner provided by the Council. All meetings shall be public except as provided in the laws relating to freedom of access, 1 MRSA, Section 401. et seq, and amendments thereto.

Section 208. CHAIRPERSON: The Council shall elect from among its members a Chairperson and a Deputy Chairperson, each who shall serve at the pleasure of the Council. The Chairperson shall preside at meetings of the Council, shall be entitled to vote on all questions and shall be recognized as head of the Town Government for all ceremonial purposes but shall have no administrative duties. The Deputy Chairperson shall act as Chairperson during the absence or disability of the Chairperson.

Section 209. QUORUM: A majority of the legally constituted Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may request attendance of absent members.

Section 210. VACANCIES IN COUNCIL: If a seat in the Town Council becomes vacant more than six (6) months prior to the next regular election, the Council shall call a special election to fill the unexpired term within sixty (60) days from the date the vacancy occurred. If a seat in the Council becomes vacant less than six (6) months but more than ninety (90) days prior to the next regular election, the Council may appoint a qualified person to fill the vacancy until the next regular election, at which time the unexpired term will be filled.

Section 211. 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 the public for inspection.

Section 212. ORDINANCES: In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, these acts of Council shall be by ordinance which:

1. Adopt or amend an Administrative Code, or establish, alter or abolish any Town
department, office or agency;
2. Provide for a fine or other penalty or establish a rule or regulation for violation
of which a fine or other penalty is imposed;
3. Grant, renew or extend a franchise;
4. Regulate the rate charged for its services by a public utility;
5. Convey or lease or authorize the conveyance or lease of any land of the Town;
6. Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done by ordinance, by order or by resolution.

Section 213. ORDINANCES IN GENERAL: PROCEDURE: The council shall act only by ordinance, order or resolve; and all ordinances, orders or resolves, except resolves making appropriations, shall be confined to one subject which shall be clearly expressed in the title. The appropriation resolves shall be confined to the subject of appropriations. No ordinance and no appropriation resolve shall be passed until it has been read on two (2) separate days, except when the requirement of a reading on two (2) separate days has been dispensed with a vote of five-sevenths (5/7) of the voting members of the council. The yeas and nays shall be taken on the passage of all ordinances and entered on the record of the proceedings of the Council by the Clerk. The yeas and nays shall be taken on the passage of Town order or resolve when called for by any member of the Council. Every ordinance shall require on final passage the affirmative votes of a majority of the legal constituted Council. Every ordinance before final passage shall be posted, marked "Proposed Ordinance", at the Town Hall, notice setting forth at least the title of the ordinance, and the time and place for a public hearing shall be published at least seven (7) days prior to the public hearing which may be held separately or in connection with a regular or special Council meeting as may be

adjourned from time to time, and shall take effect and be in full force thirty (30) days from and after it shall have received full passage by the Town Council. No order or resolve shall take effect until ten (10) days after its passage except that the Town Council may by vote five-sevenths (5/7) of its members pass emergency orders or resolves to take effect at the time indicated therein but such emergency orders or resolves shall contain a section in which the emergency is set forth and defined.

Section 213.1. 'PUBLISH' DEFINED: As used in this section, the term "Publish" means any of the following: (1) to print in any one or more newspapers of general circulation in the Town of Winthrop, the ordinance or brief summary thereof, (2) to post certified copies of the ordinance and to fix times when they are available for public inspection, or both.

Section 213.2. ORDER: The Council may act by order when it directs a municipal official to take specific action, regulates municipal activities, regulates the use of municipal facilities, temporary or otherwise, and the like. Orders shall be used to authorize the issuance of bonds, notes or other obligations of the Town.

Section 213.3. RESOLUTION: The Council may act by resolution when it provides for the performance of ministerial, administrative and executive matters. The Council shall act by resolution with respect to the Town budget, appropriations and the purchase, lease or conveyance of any Town real property.

Section 214. AUTHENTICATION AND RECORDING: All ordinances and resolutions adopted by the Council shall be authenticated by the signature of the Clerk and recorded in full by the Clerk in a properly indexed book kept for that purpose.

Section TOWN CLERK: The Town Clerk may act as a clerk of the Town Council and shall keep a public record where required of all proceedings of the Council including all roll call votes. The Town Manager may appoint a person other than the Town Clerk to act as Clerk of the Council.

Section 216. INDEPENDENT ANNUAL AUDIT: Prior to the end of each fiscal year, the Council shall designate the State Department of Audit or a qualified public accountant for the purpose of conducting the annual post-audit of the fiscal year's municipal finances, as authorized by law.

Section 217. APPOINTMENT OF TOWN MANAGER: The Council shall appoint a Town Manager for an indefinite term and fix his/her compensation. The Manager shall be appointed solely on the basis of his/her executive and administrative ability and qualifications.

Section 218. REMOVAL OF THE TOWN MANAGER: The Council may remove the Manager from office, for cause, in accordance with the revised Statutes of the State of Maine per Title 30.

Section 219. COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS: Neither the Council nor any of its members shall directly or indirectly request the appointment of any person to or his/her/ removal from office by the Manager or by any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative services solely through the Manager, and neither the Council, nor any member thereof, shall give orders to any subordinate of the Manager, either publicly or privately.

ARTICLE III

TOWN MANAGER

Section 301. TOWN MANAGER: CHIEF ADMINISTRATOR: The Town Manager shall be the chief administrative officer and the head of the administrative branch of the Town Government, Town Treasurer and Tax Collector, and shall be responsible to the Council for the proper administration of all affairs of the

Town. He/She shall have the power and shall be required to:

Section 301.1 Appoint, prescribe the duties of, and when necessary for the good of the service, remove all officers and employees of the Town, except as otherwise provided herein, and except as he/she may authorize the head of a department or office to appoint and remove subordinates in such departments or offices.

Section 301.2 He/She shall prepare and submit the annual town budget prior to December 31st of any given year, the annual capital program and fiscal financial and administrative reports to the Council. He/She shall prepare and annually revise a five (5) year capital program.

Section 301.3. He/She shall prepare and submit to the Council as of the end of the fiscal year, a complete report on the finances and administrative activities of the Town for the preceding 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.

Section 301.4 He/She shall attend the meetings of the Council and keep the Council advised of the financial condition and future needs of the Town, and make such recommendations as may seem to him/her to be advisable or desirable.

Section 301.5. See that all laws and ordinances governing the Town are faithfully executed.

Section 301.6. Act as purchasing agent for all departments of the Town except the School Department.

Section 301.7 Perform such other duties as may be prescribed by this charter or required of him/her by the Council, not inconsistent with this Charter.

Section 301.8 Prepare an administrative code, submit same to the Council and be responsible for its administration after its adoption.

Section 301.9 He/She shall assist, insofar as possible residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.

Section 302. ABSENCE OF TOWN MANAGER: By letter filed with the Clerk of the Council, the Manager shall designate, subject to the approval of the Council, a qualified person to exercise the powers and perform the duties of the Manager during his/her temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another person to serve until the Manager shall return or his/her disability shall cease.

ARTICLE IV

DEPARTMENT OF EDUCATION

Section 401. SUPERINTENDING BOARD OF EDUCATION: The Department of Education shall be administered by a five (5) member superintending board of education, herein afterwards referred to as the Board of Education. Each member shall be elected for a term of three (3) years or until his/her successor is elected and qualified.

Section 402. QUALIFICATIONS: Matters relating to qualifications and vacancies shall be governed by MRSA, Title 30.

Section 403. ORGANIZATIONS: QUALIFICATIONS: QUORUM: The members of the Board of Education shall meet for organization on the first Monday in January after their election. The members-elect shall be sworn to the faithful discharge of their duties by a Justice of the Peace or by the Town Clerk, and a record made thereof. The majority of the whole number of the Board of Education shall be a quorum,

and they shall elect their own chairperson, vice-chairperson, and finance committee.

Section 404. POWERS AND DUTIES: The Board of Education shall have all the powers conferred and shall perform all the duties imposed by law upon superintending boards of education in regard to the care and management of the public schools of the Town, except as otherwise provided in this Charter. Annually, the Board of Education shall adopt in itemized budget detailing proposed expenditures, anticipated receipts, and projected balances, and the Board of Education's budget estimate shall be presented to the Town Manager and the Town Council at least sixty (60) days prior to the start of the new fiscal year. Each member of the board of Education shall be entitled to receive as salary the sum of three hundred dollars (\$300) per year, for all services rendered. Such compensation may be changed by vote of the Council.

Section 404.1. LINE ITEM BUDGET: The school budget shall also include the Board of Education's recommended appropriation for each of the following line item categories of proposed expenditures, the sum of which shall constitute the total proposed appropriation for school purposes:

- Line 1: Instructional, Salaries and Expenses, Student and Staff Support Services,
- Line 2: Administrative Salaries and Expenses, and Non-Instructional Services
- Line 3: Operation and Maintenance of Plant
- Line 4: Student Transportation
- Line 5: Adult Education Programs
- Line 6: Capital Outlay and Debt Service

The Council, after reviewing the proposed budget, may change the proposed appropriation in any of the above line item categories prior to approving the final budget. Approval of the school budget shall fix the appropriation for each of the line item categories. Thereafter, the Board of Education may not make transfers between categories without Council approval. The Council is authorized to define by ordinance the types of expenditures included within each line item category but may not by ordinance create additional line item categories within the school budget. Notwithstanding the above, the Council may at the request of the Board of Education make separate appropriations as may be deemed necessary to fund individual items not included in the above categories.

ARTICLE V

BUDGET

Section 501. FISCAL YEAR: The fiscal year of the Town government shall begin with the first day of July and shall end with the last day of June of each year, but may be fixed by ordinance. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The School Department's fiscal year shall be as fixed by State law. The School Department shall, however, coordinate its fiscal management with the Town in order to satisfy accounting practices.

Section 502. PREPARATION AND SUBMISSION OF THE BUDGET: The Manager or his/her designee shall be the budget officer. The budget officer shall submit to the Council the budget message of the first Monday in April of each year, which shall be a budget estimate, the budget summary, the budget detail and the capital program. Budget authority of the Council shall be limited to the final determination of the total appropriation to be made to each of the several officer, departments and agencies of the Town, excepting the Department of Education. This budget shall be compiled from detailed information furnished by the administrative officer and boards on blank forms which shall be designated by the Manager, and shall contain:

Section 502.1. Exact statement of the financial condition of the Town.

Section 502.2. An itemized statement of appropriations recommended for current expenses, and for permanent improvement; with the comparative statements in parallel columns of estimated expenditures for

the current year. An increase or decrease in any item shall be indicated.

Section 502.3. An itemized statement of estimated revenue from all sources, other than taxation; and a statement of taxes required, comparative figures from current and the next preceding year.

Section 502.4. Such other information as may be required by the Town Council. The proposed budget prepared by the budget officer shall be reviewed by the Town Council which shall approve the budget with or without amendments. The Council shall fix the time and place for holding public meetings on such budget, and shall give the public notice of such hearings. The Council shall thereafter, review and adopt the budget, with or without change, no later than sixty (60) days after all final budget estimates are filed. In the event the Council shall fail to adopt the budget within the sixty (60) day period, the budget as presented by the budget officer shall automatically become the budget for the fiscal year.

Section 503. BUDGET ESTABLISHES APPROPRIATIONS: 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 for purposed therein named.

Section 504. APPROPRIATION RESOLVE: As early as possible, but no later than sixty (60) days following the final submission of all departmental budgets, after the beginning of the fiscal year, the Council shall pass an annual appropriation resolve, which shall be based upon the budgets submitted by the Town Manager, and the School Department. The total amount appropriated shall not exceed the estimated revenue of the Town. Before the annual appropriation resolve has been passed the Council may make appropriation for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriations resolve is in force.

Section 505. BUDGET SUMMARY: At the head of the budget there shall appear a summary of the budget, which need not be itemized, further than by principle sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized also by departments and kinds of expenditures, in such a manner as to present the taxpayers a simple and clear summary of the detailed estimates of the budget.

Section 506. EXPENDITURES AND DEPARTMENTAL REVENUE: The budget for all departments, including the School Department, shall include all proposed expenditures. The Town Council shall make a gross appropriation for each department, including the School Department, for the ensuing municipal year. The gross appropriation for each department shall not be exceeded except by the consent of the Council, but the school budget shall be expended under the direction and control of the Board of Education.

Section 507. TRANSFER OF APPROPRIATIONS: At the request of the Town Manager, the Council may by resolution, transfer any unencumbered appropriation balance, or portion thereof, between the general accounts.

Section 508. 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 509. BORROWING: Money may be borrowed, within the limits fixed by the Constitution and Statutes of the State now or hereafter applying by the issue and sale of bonds or notes pledged on the credit of the Town the proceeds to be used for any purpose for which municipalities are or hereafter may be authorized to borrow money by general law. No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two (2) places publicly in the Town, and publishing said notice in at least one daily newspaper distributed in Winthrop at least two (2) weeks before final action by the Council. Bonds and notes shall be issued in the same manner and subject to the same provisions as govern the issuance of general obligation securities of municipalities. Every order for the

issuance of bonds shall provide for a tax levy for each year of an amount necessary to meet the annual payment of principal and interest; and such amounts shall be included in the tax levy for each year until the debt is extinguished. Tax anticipation notes shall be issued by order by a majority of the Council in the same manner and subject to the same provisions as govern the issuance of such notes by municipalities.

ARTICLE VI

TAX ADMINISTRATION

Section 601. ASSESSOR: There shall be established a division of assessment, the head of which shall be the Tax Assessor. The assessor, appointed as herein before provided, shall exercise the same powers and be subject to the same duties and liabilities, that similar officers of the several towns and cities in the State may exercise, and may now or hereafter be subject to, under the laws of the State.

Section 602. BOARD OF ASSESSMENT REVIEW: APPOINTMENTS: VACANCIES: There shall be a Board of Assessment Review to consist of three (3) members other than members of the Town Council, who shall be appointed by the Town 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. As associate member shall also be appointed. Compensation, if any, to such members shall be determined by the Town Council. Vacancies in the membership of such Board shall be filled by appointment by the Council for the unexpired term.

Section 603. BOARD OF ASSESSMENT REVIEW: POWERS AND DUTIES: The Board of Assessment Review shall have the powers and duties as provided in MRSA, Titles 30 and 36.

ARTICLE VII

MUNICIPAL DEVELOPMENT

Section 701. PLANNING BOARD: There shall be a town Planning Board which shall be appointed, have powers and perform such duties as are provided by municipal ordinance and the laws of the State of Maine.

Section 702. ZONING ORDINANCES: There shall be a Zoning Ordinance.

Section 703. BOARD OF APPEALS: There shall be a Board of Appeals which shall be appointed, have such powers and perform such duties as are provided by municipal ordinance and the laws of the State of Maine.

ARTICLE VIII

NOMINATIONS AND ELECTIONS

Section 801. MUNICIPAL ELECTIONS: The regular election for the choice of members of the Town Council and the Board of Education and such Library Trustees as are elective shall be held annually on the first Tuesday after the first Monday in November in accordance with the procedures of MRSA, Title 30 (2061).

Section 802. ABSENTEE BALLOTS: Absentee ballots may be cast at all elections and the procedure therefore shall be as set out in Title 21 of the Maine Revised Statutes, except that the duties of the Secretary of State shall be performed by the Clerk, in accordance with Title 30, Sec. 2062, 2063 and 2064.

ARTICLE IX

INITIATIVE, REFERENDUM AND RECALL

Section 901. PETITION FOR OVERRULE OF ACTION OF COUNCIL: The following shall be subject to overrule by referendum as follows:

Section 901.1 All Ordinances

Section 901.2 Orders or resolves authorizing bond issues and notes (other than tax anticipation notes) of one hundred fifty thousand (\$150,000) or more for capital improvements or capital equipment. If, within twenty (20) days after the enactment of any such ordinance, order or resolve, a petition signed by not less than twenty-five percent (25%) of the number of registered voters who voted in the last gubernatorial election, is filed with the Town Clerk requesting its reference to 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 election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Pending action by the voters of the Town, the referred ordinance, order or resolve shall be suspended from going into operation until it has received a vote of the majority of the voters voting on the said question. Any ordinance, order, or resolve which is overruled by referendum may not be re-adopted by the Council for a period of five (5) years unless the subject matter of the ordinance, order or resolve is approved by referendum vote.

Explanation: This amendment would limit the Council's authority to enact or appeal orders and ordinances after they have been the subject of a referendum vote.

Section 902. PETITION FOR ENACTMENT OF ORDINANCE: A petition signed by not less than twenty-five percent (25%) of the number of registered voters who voted in the last gubernatorial election may at any time petition for the enactment of any proposed lawful 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 (3) 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 of 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 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 repetition, 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. Any ordinance adopted by referendum shall thereafter be amended or repealed only by referendum.

Section 903 FORM OF BALLOT: The form of the ballot for the proposed ordinance or repeal of such ordinance, order or resolve shall be substantially as follows:

“Shall the ordinance, order or resolve entitled _____ be adopted?”

“Shall the ordinance, order or resolve entitled _____ be repealed?”

(The voters shall indicate by a cross or check marked placed in the box under the word “Yes” and “No” their opinion of the same.)

YES

NO

Section 904. WITHDRAWAL OF PETITIONS: A petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the town by filing with the Town Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

ARTICLE X

GENERAL PROVISIONS

Section 1001. REPEALING CLAUSE: All acts and parts of acts of the private and special laws of Maine relating to the Town of Winthrop inconsistent with the provisions of this Charter are repealed.

Section 1002. SEPARABILITY: If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

Section 1003. SHORT TITLE: This Charter shall be known and may be cited as the "Council-Manager Charter of the Town of Winthrop". The Clerk shall cause it to be printed and made available to the public promptly.

Section 1004. ORDINANCES NOT INCONSISTENT CONTINUE IN FORCE: All ordinances of the Town of Winthrop 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. the Town Council shall establish a review committee to study all ordinances of the Town. Said committee shall make recommendations to the Council for revisions, adoption or repeal of the town ordinances.