

# TOWN OF WINTHROP CHARTER

## ARTICLE 1

### INCORPORATION; SHORT TITLE; DEFINITIONS

#### SECTION 1-1: INCORPORATION

The inhabitants of the Town of Winthrop, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Winthrop."

#### SECTION 1-2: SHORT TITLE

This instrument shall be known and may be cited as the Winthrop Home Rule Charter, 2005.

#### SECTION 1-3: DIVISION OF POWERS

The administration of the fiscal, prudential and municipal affairs of Winthrop, with the government thereof, shall be vested in an executive branch consisting of a council president, a legislative branch consisting of a town council and an administrative service headed by a town manager. Except as otherwise provided in this charter, the legislative branch shall not exercise any executive or administrative function, the executive branch shall not exercise any legislative or administrative function and the administrative service shall not exercise any legislative or executive function.

#### SECTION 1-4: POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or in the general laws of the Commonwealth, it is the intention and the purpose of the voters of Winthrop through the adoption of this charter to secure for themselves and for their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated herein.

#### SECTION 1-5: CONSTRUCTION

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

#### SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the Commonwealth, Winthrop may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the Commonwealth or any agency or political sub-division thereof, or with the United States government or any agency thereof.

#### SECTION 1-7: ETHICAL STANDARDS

Elected and appointed officers and employees of the Town of Winthrop are expected to demonstrate, by their example, in their general conduct and in the performance of their duties and responsibilities, the highest ethical standards, to the end that the public may justifiably have trust and confidence in the integrity of its government. Elected and appointed officers and employees of the Town of Winthrop are expected to recognize and by their acts to demonstrate that they act always as agents for the public, that they hold their offices or positions for the benefit of the public, that the public interest is their primary concern, and that they are expected to faithfully discharge the duties of their offices regardless of personal considerations. Elected and appointed officers and employees of the Town of Winthrop shall not use their official positions to secure or to grant special consideration, treatment, advantage, privilege or exemption to themselves or to any other person beyond that which is available to every other person.

#### SECTION 1-8: REPRESENTATION AND DIVERSITY

The voters of Winthrop are cognizant of and support federal and state laws, which

provide for non-discrimination and openness in appointment and hiring practices. In recognition of these statutes, and in support of them, it is expected that the council president, the town manager and other appointing authorities will, when selecting persons to be appointed to offices or positions of the town, make a good faith effort to assure that the interest of every citizen, in every section of the town, is considered, to the end that the town government will reflect the diversity of the entire community of Winthrop.

#### SECTION 1-9: DEFINITIONS

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

- (a) Appointing Authority – The words “appointing authority” shall mean the officer or multiple member body which appoints the officer, member of a multiple member body or town employee.
- (b) Charter - The word "charter" shall mean this charter and includes any amendment to it hereafter adopted.
- (c) Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.
- (d) Full Council, Full Multiple Member Body - The words "full council" or "full multiple member body" shall mean the entire authorized complement of the town council, school committee or other multiple member body notwithstanding any vacancy which might exist.
- (e) general laws - The words "general laws" (all lower case letters) shall mean laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of two or more cities, or cities and towns of which Winthrop is a member.
- (f) General Laws - The words "General Laws" (initial letter of each word in upper case letters) shall mean the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all

amendments thereto subsequently adopted.

(g) Initiative Measure - The words "initiative measure" shall mean a measure proposed by voters through the initiative process provided under this charter.

(h) Law – The word "law" when used alone shall mean any statute enacted by the General Court of Massachusetts or any statute enacted by the Congress of the United States and whether otherwise called a General Law or a special law or a public law.

(i) Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation within Winthrop, with either a weekly or daily circulation.

(j) Majority Vote - The words "majority vote" when used in connection with a meeting of a multiple member body shall mean a majority of those present and voting, unless another provision is made by charter, by ordinance, by law, or by its own rules.

(k) Measure - The word "measure" shall mean any ordinance, order, resolution, or other vote or proceeding adopted, or which the town council might adopt.

(l) Multiple Member Body - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of two or more persons whether elected, appointed or otherwise constituted, but not including the town council or the school committee.

(m) Organization or Reorganization Plan -The words "organization or reorganization plan" shall mean a plan submitted by the town manager which proposes a change in the organization of the administrative structure of the town government, or to change the way in which a municipal service, or services, are delivered. Such plan may be complex and consist of many parts, or it may be simple and brief.

(n) Quorum - The word "quorum" shall mean a majority of all members of a multiple member body unless some other number is required by law or by ordinance.

(o) Referendum Measure - The words "referendum measure" shall mean a measure adopted by the town council that is protested by voters under the referendum procedures of this charter.

(p) Town - The word "town" shall mean the town of Winthrop.

(q) Town Agency - The words "town agency" shall mean any multiple member body, any department, division, or office of the town of Winthrop.

(r) Town Bulletin Boards - The words "town bulletin boards" shall mean the bulletin board in the town hall on which the town clerk posts official notices of meetings and upon which other official town notices are posted, and the bulletin boards at any other locations as may be designated town bulletin boards by the town council.

(s) Voters - The word "voters" shall mean registered voters of the town of Winthrop.

## ARTICLE 2

### LEGISLATIVE BRANCH

#### SECTION 2-1: COMPOSITION, TERM OF OFFICE

(a) Composition - There shall be a town council consisting of nine members which shall exercise the legislative powers of the town. Six of these members, to be known as precinct councilors, shall be nominated and elected by and from the voters of the six precincts into which the town is divided, and two of the members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. The ninth member shall be a council president chosen as provided in section 2-2.

(b) Term of Office - The term of office for precinct councilors and for councilors-at-large shall be for four years. At each biennial town election three precinct councilors and one councilor at large shall be elected, each to serve for a term of four years.

The terms of office of councilors at large shall begin on the first business day of January in the year following their election, and shall expire when their successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A precinct councilor must be a voter in the precinct from which election is sought. If a precinct councilor or a councilor-at-large removes from the town during the term for which elected such office shall immediately be deemed vacant and filled in the manner provided in section 2-11. If a precinct councilor removes from the precinct from which

elected, or is removed by a change in precinct lines, and more than two years remains of the term for which elected the office shall be deemed vacant and shall be filled in the manner provided in section 2-11. If less than two years of the term remain the precinct councilor may continue to serve during the term for which elected.

(d) Abandonment - Any elected council member shall be considered to have abandoned their office if that person has failed to appear at more than one half of all regularly scheduled meetings of the full council over a one year period. If the office is abandoned, the office shall be deemed vacant and shall be filled in the manner provided in section 2-11. An allowance for exemption to this rule may be granted by a 2/3 vote of a majority of the full body of the Town Council

## SECTION 2-2: COUNCIL PRESIDENT

(a) Election and Term – An officer known as the council president shall be elected at each biennial town election to serve for a term of two years.

(b) Powers and Duties - The council president shall be a voting member of the town council and a voting member of the school committee. The council president shall attend and preside at all meetings of the town council, appoint the members and officers of town council committees, assign council agenda items to council committees and perform other legislative duties specified by the town council. The council president shall have the additional executive powers, duties and responsibilities as are provided in article 3.

(c) Council Vice President - The town council shall elect from among its members a council vice president who shall act as council president during the absence or disability of the council president and, if a vacancy occurs, shall become council president for the remainder of the unexpired term. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary absence or disability and no others and shall include acting as a member of the school committee only when the absence or disability continues for more than thirty days.

## SECTION 2-3: PROHIBITIONS

(a) Holding Other Office or Position - No member of the town council shall hold any other town office, position or employment. No former member of the town council shall hold any compensated appointed office, position or employment for which a salary or other emolument is payable from the town treasury until one year following the date on which such former member's service on the town council has terminated. This provision shall not prevent a person holding an office, position or other employment under the town, who has resigned such office or employment or taken a leave of absence in order to serve as a member of the town council from returning to the same office or other position, or town employment held at the time such leave of absence commenced; provided, however, no such person shall be eligible for any other municipal position until at least one year following the termination of service as a member of the town council.

(b) Interference with Administration – Neither the town council nor any of its members shall direct or request the appointment or employment of any person, or the removal of any person, or in any manner attempt to participate in the appointment or removal of persons in that part of the administrative service of the town for which the town manager is responsible. Except for the purpose of inquiries and investigations pursuant to section 2-7, the town council and its members shall deal with the officers and employees serving under the town manager, solely through the town manager, and neither the town council nor any member of the town council shall give orders or directions to any such officer or employee, either publicly or privately

## SECTION 2-4: COMPENSATION, EXPENSES

(a) Salary - The council president and the members of the town council shall receive such salary for their services as may from time to time be set by ordinance.

No ordinance increasing the salary of town councilors shall be effective unless it shall have been adopted on or before the last day of June in the second year following a town election and it provides

that such salary is to take effect upon the organization of the town government following **two municipal elections**. The council president and the members of the town council shall not be considered 'employees' for the purpose of chapter thirty-two B of the General Laws.

(b) Expenses - Subject to appropriation and to prior authorization, the council president and the council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

#### SECTION 2-5: GENERAL POWERS (Residuary)

Except as otherwise provided by general law or by this charter, all powers of the town shall be vested in the town council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the town by law.

#### SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) Exercise of Powers - Except as otherwise provided by law or by this charter, the legislative powers of the town council may be exercised in a manner determined by the town council.

(b) Quorum - The presence of five members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter, the affirmative vote of five members shall be required to adopt any ordinance or appropriation order.

(c) Rules of Procedure - The town council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

(i) Regular meetings of the town council shall be held at the time and place fixed by ordinance.



(ii) Special meetings of the town council shall be held at the call of the council president, or, on the call of any four or more members, by written notice delivered in hand or to the place of business or residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the council president shall be judge, such notice shall be delivered at least forty-eight weekday hours in advance of the time set for such meeting. A copy of the notice to members shall, forthwith, be posted upon the town bulletin boards.

(iii) All sessions of the town council and of every committee or sub-committee thereof, shall at all times be open to the public and to the press, unless another provision is made by law.

(iv) An accurate account of the proceedings of the town council shall be kept, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. If requested by any member any vote shall be taken by a roll call. The minutes of any, so-called, executive session shall be made available forthwith upon the expiration of the basis on which such executive session was held.

(v) A portion of time shall be set aside at every regular meeting of the town council to afford the opportunity for residents and taxpayers to address the town council.

(d) Committees - The town council shall establish such committees as it deems to be necessary or desirable to enable it to study and evaluate the matters which come before the town council. In establishing committees the town council may provide that some of the members of at least some of its committees need not be members of the town council.

## SECTION 2-7: ACCESS TO INFORMATION

(a) In General - The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

(b) Town Officers, Members of Town Agencies, Employees - The town council may require the town manager or any member of a town agency or town employee who is not responsible to the town manager to appear before it to give such information as the town council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person and within the jurisdiction of the town council.

(c) Town Manager - The town council may require the town manager to provide specific information to it on any matter within the jurisdiction of the town council and under the supervision of the town manager. The town council may require the town manager to appear before it, in person, to respond to written questions made available to the town manager at the time the request to attend is made to provide specific information on the conduct of any aspect of the business of the town. The town manager may bring to such meeting any assistant, department head or other town officer or employee the town manager may deem necessary to assist in responding to the questions posed by the town council.

(d) Notice - The town council shall give not fewer than five days notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the town council seeks information and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of any such person.

## SECTION 2-8: OFFICERS ELECTED BY TOWN COUNCIL

(a) Town Clerk - The town council shall elect a town clerk to serve for a term of three years and until a successor is chosen and qualified. The town clerk shall, with the approval of the town council, appoint an assistant town clerk to serve conterminously with the town clerk and other employees of the office of the town clerk. The town clerk shall be the keeper of vital statistics for the town; the custodian of the town seal; shall administer the oath of office to all persons, elected or appointed, to any town office; shall issue such licenses and permits as are required by law to be issued by town clerks; supervise and manage the conduct of all elections and all other matters relating to elections; may, if so designated by the town council, be the clerk of the town council, keep its records and give notice of all of its meetings to its members and to the public. The town clerk shall have such other powers and duties as are given to municipal clerks by general law, by this charter, by ordinance or by other vote of the town council.

(b) Clerk of the Council - The town council shall elect a clerk of the council, who may be the town clerk, to serve for a term of three years and until a successor is chosen and qualified. The clerk of the council shall give notice of its meetings to its members and to the public, keep the journal of its proceedings and perform such other duties as may be provided by ordinance or by other vote of the town council.

(c) Town Auditor - The town council may, in its discretion, employ some person as town auditor, or it may provide that the certified public accountant, or firm of such accountants retained by it to perform the annual audit as provided in section 7-12, shall act as town auditor to perform additional periodic financial auditing and oversight functions throughout the year. The town auditor shall conduct, or cause to be conducted, financial and performance audits following government auditing standards as promulgated by the Comptroller-General of the United States. The town auditor shall make periodic reports to the town council in such detail and with such frequency as the town council shall, by ordinance, by rule, or by other vote, direct. All officials of the town shall cooperate with the town auditor in the performance of this audit function. The

town auditor shall have such other powers and duties as may be provided by charter, by ordinance or by other vote of the town council.

The town council shall provide for one of its committees to coordinate the work of the town auditor.

(d) Other Council Employees - The town council may employ other persons within the funds available to it to assist it in carrying out its responsibilities.

(e) Salaries/Compensation - The officers selected by the town council shall receive such salaries or other compensation as may from time to time be provided for such office, by ordinance.

(f) Removal/Suspension - Any person selected by the town council may be removed or suspended by the town council by the use of procedures substantially the same as those contained in the personnel ordinance for the removal or suspension of other town employees.

#### SECTION 2-9: ORDINANCES AND OTHER MEASURES

(a) Emergency Ordinances - No ordinance shall be passed finally on the date it is introduced, except in case of emergency involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to such ordinance, separately voted upon and receiving the affirmative vote of seven or more members of the town council.

Emergency ordinances shall stand repealed on the sixty-first day following their adoption, unless an earlier date is specified in the measure, or unless a second emergency measure adopted in conformity with this section is passed extending it, or unless a

measure passed in conformity with the procedures for measures generally has been passed extending it.

(b) Measures, In General - The town council may pass a measure through all of its stages at any one meeting, except proposed ordinances, appropriation orders and loan authorizations, provided that no member of the town council shall object; but, if a single member objects, a vote on the measure shall be postponed to the next meeting of the town council.

On the first occasion that the question of adopting any measure is put to the town council, except an emergency measure as defined in section 2-9(a), if a single member objects to the taking of a vote, the vote shall be postponed until the next meeting of the town council, regular or special. This procedure shall not be used more than once for any measure notwithstanding any amendments made to the original measure.

(c) Publication - Every proposed ordinance, appropriation order or loan authorization, except emergency ordinances as provided in section 2-9(a), shall be published once in full in a local newspaper or in another manner as may be provided by ordinance, at least seven days before its final passage. After final passage it shall be posted on the town bulletin board and otherwise published as may be required by ordinance. Provided, however, that whenever a proposed ordinance or codification of ordinances or other measure would exceed in length more than ten column inches of ordinary newspaper notice print, then in lieu of publication in a local newspaper, the same may be published and made available at the office of the town clerk, and if so published and made available at least ten days before its final passage this shall be deemed sufficient notice. Whenever the town council provides for publication in this manner, in lieu of the newspaper publication, it shall, at least seven days before final passage publish in a local newspaper or in another manner as may be provided by ordinance, a general summary of the proposed ordinance, appropriation order or loan authorization, and a notice stating the times and places at

which copies of the proposed ordinance, appropriation order or loan authorization may be obtained by the public.

#### SECTION 2-10: COUNCIL REVIEW OF CERTAIN APPOINTMENTS

(a) Policy-Making Multiple Member Bodies - The council president shall submit to the town council the name of each person the council president desires to appoint as a member of one of the policy making multiple-member bodies which are enumerated in section 3-2. The town council shall investigate each such candidate for appointment and may require any person whose name has been referred to it to appear before the town council, or a committee thereof, to give such information relevant to such appointment as the committee, or the town council, may require.

Appointments made by the council president to the policy making multiple member bodies enumerated in section 3-2 shall become effective if approved by a vote of five or more members of the town council.

(b) Non-Policy-Making (Advisory) Multiple Member Bodies - The council president shall submit to the town council the name of each person the council president desires to appoint as a member of any advisory multiple-member body and such other officers, or representatives to regional authorities or districts, as may be established by law or by inter-local agreement which the council president is authorized to appoint. The town council shall investigate each such candidate for appointment and may require any person whose name has been referred to it to appear before the town council, or a committee thereof, to give such information relevant to such appointment as the committee, or the town council, may require.

Appointments made by the council president to advisory multiple member bodies shall become effective on the thirtieth day following the date on which notice of the proposed appointment was filed with the clerk of the council, unless six members of the town council shall within the said thirty days vote to reject such appointment, or unless the

town council has sooner voted to affirm the appointment. Rejection by the town council shall require a two-thirds vote of the full council (six members so voting). The question on rejection of any appointment made by the council president shall not be subject to the procedure of charter objection provided in section 2-9 (b) of this charter.

#### SECTION 2-11: FILLING OF VACANCIES

If a vacancy shall occur in the office of councilor-at-large during the term for which councilors-at-large are elected, the vacancy shall be filled until the next biennial town election by a vote of the remaining members of the town council after not less than seven day's public notice of its intention to so vote.

If a vacancy shall occur in the office of precinct councilor during the term for which precinct councilors are elected, the vacancy shall be filled, until the next biennial town election by the candidate for precinct councilor at the preceding town election who received the next highest number of votes without being elected, provided such candidate remains eligible and willing to serve and provided that such candidate received at least thirty-five percent of the total vote cast for precinct councilors in that precinct at the preceding town election after not less than seven day's public notice of its intention to so vote. If there shall be no such candidate the vacancy shall be filled until the next biennial town election by a vote of the remaining members of the town council after not less than seven day's public notice of its intention to so vote.

If a vacancy shall occur in the office of precinct councilor or councilor-at-large during the last six months of the term for which councilors-at-large are elected, such vacancy shall, if feasible, be filled by vote at the next biennial town election. If it is not feasible to fill the vacancy at such election the vacancy shall be filled as provided in the first and second paragraphs of this section, but the town council may, in its discretion, call a special election to fill any vacancy so occurring.

The provisions of section 2-1(c) shall apply to candidates to fill any vacancy.

## ARTICLE 3

### EXECUTIVE AUTHORITY

#### SECTION 3-1: COUNCIL PRESIDENT, EXECUTIVE AUTHORITY

The executive authority of the town shall be vested in the council president. The council president shall be responsible to see that the charter, the laws, the ordinances and other orders for the government of the town are properly implemented and enforced.

The council president shall exercise a general supervision over the policy direction of all town agencies, unless otherwise provided by law, by the charter or by ordinance, but the council president shall have no administrative duties or responsibilities. It is expressly recognized that the supervision of the administration of all town agencies is the sole responsibility of the town manager. To assist the council president in policy formulation and implementation the town manager shall furnish to the council president, forthwith upon request, any information, materials or otherwise as the council president may request and as the needs of the office of council president and the interest of the town may require. In the event of any conflict between the council president and the town manager the decision on resolution of such difference shall be made by the town council.

The council president shall from time to time submit to the town council proposed town policies, goals and other objectives for its consideration. The town council may amend or modify any proposal submitted by the council president before adopting the same in its final form.

The town manager shall ensure that the council president is kept fully informed of and fully involved in the town's emergency preparedness planning and preparation. In time of public danger or emergency the council president may, subject to the review of such action by the town council, temporarily exercise the town council's supervisory powers over the town manager, but such delegation shall not exceed seven days unless the town



council shall vote to extend such temporary powers not to exceed another seven days.

The town council may extend the period of delegation by successive extensions of not more than seven days each.

The council president shall be recognized as the official head of the town for all ceremonial purposes and shall be recognized by the courts for the purpose of serving civil process and by the governor for military purposes.

The council president shall represent the town in its relations with other units of government. The council president shall present an annual state of the town message to the town council setting out proposed policies to be adopted by the town council which, in the opinion of the council president, addresses the problems and opportunities of the town.

The council president shall, from time to time throughout the year, by written communications, recommend to the town council for its consideration such measures as, in the judgment of the council president, the needs of the town require.

The council president shall be responsible, as provided in article 7, for coordinating the work of the town manager and the school committee in the budget making process.

The council president shall be the primary interface between the elected officers of the town and the administrative service of the town and shall by close and frequent consultation with the town manager provide input and reaction from the elected officers to the appointed administrators and from the appointed administrators to the elected officers.

#### SECTION 3-2: APPOINTMENTS BY THE COUNCIL PRESIDENT

The council president shall appoint, subject to the approval of such appointments by the town council as provided in section 2-10, members of the board of appeals (under the zoning ordinance), the board of assessors, the cemetery commission, the conservation

commission, the board of health, the historical commission, the licensing board, the planning board and such other multiple member bodies as may be provided by ordinance.

#### SECTION 3-3: VACANCY IN OFFICE OF COUNCIL PRESIDENT

(a) Filling of Vacancy - If a vacancy in the office of council president occurs, whether by reason of death, resignation, removal from office, or otherwise, the council vice president shall become the council president. Upon the qualification of the council vice president as the council president under this section, a vacancy shall exist in the council seat held by the council vice president which vacancy shall be filled in the manner provided in section 2-11. If the council vice president shall for any reason decline to serve as council president, the town council shall, forthwith, by majority vote, select a council president from among its members.

(b) Powers, Term of Office – A council vice president serving as council president under this section shall have all the powers of the council president and shall serve for the balance of the term unexpired at the time of assumption of the office.

#### SECTION 3-4: INTERFERENCE WITH ADMINISTRATION

The council president shall not direct or request the appointment or employment of any person, or the removal of any person, or in any manner attempt to participate in the appointment or removal of persons in that part of the administrative service of the town for which the town manager is responsible. The council president shall deal with the officers and employees serving under the town manager, solely through the town manager, and the council president shall have no authority to give any orders or directions to any such officer or employee, either publicly or privately.

### ARTICLE 4

#### ADMINISTRATIVE SERVICE

##### SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM

The town council shall appoint a town manager to serve for an indefinite term and shall fix the compensation for such person, annually, within the amount appropriated by the town council. The appointment of the town manager shall be made by a vote of five or more members of the town council to confirm the nomination of a town manager made by the council president. The town manager shall be a person especially fitted by education, training and previous experience in public administration to perform the duties of the office. The town manager shall be appointed solely on the basis of demonstrated executive and administrative qualifications without regard to political affiliation and in accordance with state and federal anti-discrimination laws and regulations.

A town manager need not be a resident of the town or of the commonwealth at the time of appointment, and may, with the approval of the town council, reside outside of Winthrop while serving as town manager.

The town manager shall not have served as the council president or as a member of the town council for at least twelve months prior to appointment. The town council may from time to time establish, by ordinance, such additional qualifications as seem necessary and appropriate.

The town manager shall devote full time to the office and shall not hold any other public office, elective or appointive, nor actively engage in any other business or occupation during such service, unless such action is approved in advance and in writing by the council president and the town council. This restriction does not exclude the town manager's participation in related professional organizations.

The council president shall initiate and lead the town council in an annual review of the job performance of the town manager for the purpose of assessing the strengths and weaknesses of the town manager's performance. The review shall be based on a written list of performance criteria and goals developed, in concert, by the town manager with the council president and the town council. Copies of the criteria and goals, with an invitation

to submit written comments, shall be available to the public at the office of the council president and at the town council's office. The council president shall submit an evaluation statement to the council. After due consideration the town council shall adopt a written report of its evaluation. The report shall be placed in the town manager's personnel file and a written summary shall be released to the public.

#### SECTION 4-2: TOWN MANAGER, POWERS AND DUTIES

The town manager shall be the chief administrative officer of the town, directly responsible to the council president and town council for the administration of all town affairs for which the office of town manager is given responsibility by or under this charter. The powers and duties of the town manager shall include the following:

(a) To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town manager is given authority, responsibility or control by this charter, by ordinance, by vote of the town council, or otherwise.

(b) To appoint, and in appropriate circumstances to remove, subject to the provisions of any applicable civil service law, all department heads, officers, members of boards and commissions and employees for whom no other method of selection is provided by this charter or by ordinance, except employees of the school department. All appointments and removal of personnel shall be subject to the provisions of state and federal antidiscrimination laws, the limitations of existing appropriations and the town's personnel policies. Notice of all appointments made by the town manager shall be filed with the town council, and copies of the notices of all such appointments shall be posted on the town bulletin board when submitted to the town council. The town council may, by a vote of at least six of its members, reject the proposed appointment of any department head, in which case the town manager shall submit another name for appointment to the office.

(c) To be entrusted with the administration of a human resources system, including, but not limited to, personnel policies and practices, rules and regulations, (including

provisions for an annual employee performance review) and collective bargaining agreements entered into by the town. The town manager shall also prepare and keep current a plan establishing the job classification and staffing requirements for each town agency, except the school department.

(d) To attend all regular and special meetings of the town council, unless unavailable for reasonable cause, and to have a voice, but no vote, in all of its proceedings.

(e) To assure that full and complete records of the financial and administrative activities of the town are kept and to render as often as may be required by the town council, but not less than once in each year, a full report of all town administrative operations during the period reported on, which report shall be made available to the public.

(f) To keep the town council fully advised as to the needs of the town and to recommend to the council president and to the town council and to other town officers and agencies for adoption such measures requiring action by them or by the town council as the town manager may consider to be necessary or expedient.

(g) To have full jurisdiction over the use of all town facilities and property except property under the control of the school committee. The town manager shall be responsible for the preparation of plans and the supervision of work on existing buildings or on the construction of new buildings other than school buildings. The town manager may maintain and repair school buildings if and to the extent that the school committee requests, provided, however, the town may, by ordinance, consolidate maintenance of all municipal buildings and grounds under a single authority.

(h) To prepare, in the manner provided in Article 6, an annual operating budget for the town and a proposed capital outlay program for the five fiscal years next ensuing.

(i) To assure that a full and complete inventory of all property of the town, both real and

personal, is kept, including all property under the jurisdiction of the school committee and the library trustees.

(j) To negotiate, or cause to be negotiated, all contracts involving any subject within the jurisdiction of the office of town manager. All such contracts shall be subject to funding by the town council.

(k) To be the chief procurement officer for the town, as provided in chapter thirty B of the General Laws, responsible for the procurement of all supplies, material and equipment for all departments and activities of the town.

(l) To see that all of the provisions of the general laws, of this charter, town ordinances and other votes of the town council, which require enforcement by the town manager or officers subject to the direction and supervision of the town manager are faithfully executed, performed or otherwise carried out.

(m) To inquire, at any time, into the conduct of office or performance of duties of any officer or employee, department, board, commission or other town agency under the control of the town manager, or any other officer, employee, department, board, commission or other town agency when directed so to do by the town council.

(n) To answer all questions of the town council which relate to matters over which the town manager exercises any supervision.

(o) To coordinate the activities of all town agencies serving under the office of town manager with those under the control of other officers and multiple member bodies elected directly by the voters.

(p) The town manager shall have authority to prosecute, defend and compromise all litigation to which the town is a party and to employ special counsel whenever in the

judgment of the town manager, after consultation with the town's attorney, such employment is deemed to be advisable. The town manager shall keep the council president and the town council informed of the status of the town's legal affairs and all litigation to which the town is a party.

(q) To perform any other duties as are required to be performed by the town manager by ordinances, votes of the town council, or otherwise.

#### SECTION 4-3: TOWN MANAGER, DELEGATION OF AUTHORITY

The town manager may authorize any subordinate officer or employee to exercise any power or perform any function or duty which is assigned to the office of town manager, provided, however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the town manager.

#### SECTION 4-4: ACTING TOWN MANAGER

(a) Temporary Absence - By letter filed with the town clerk, the town manager shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of town manager during a temporary absence. During a temporary absence the council president and the town council may not revoke such designation until at least ten successive working days have elapsed, whereupon the town council may, upon the recommendation of the council president appoint another qualified town administrative officer or employee to serve until the town manager shall return. If no such letter is on file with the town clerk, or if the person designated in such letter is, for any reason, unable to serve, the council president, with the approval of the town council shall designate some suitable person to so serve.

(b) Vacancy - Any vacancy in the office of town manager shall be filled as soon as possible, but, pending such regular appointment the council president shall appoint, subject to the approval of the town council, a qualified town administrative officer or employee to perform the duties of the office on an interim basis. Such temporary

appointment may not exceed three months, but, renewals of not more than three months duration may be voted by the town council until a permanent town manager can be hired. Compensation for such person shall be set by the town council.

(c) Powers and Duties - The powers of a temporary or interim town manager, under (a) and (b) above, shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but shall not include authority to make any permanent appointments or designations.

#### SECTION 4-5: TOWN MANAGER, REMOVAL AND SUSPENSION

The town council may, by a majority vote of the full board, terminate and remove, or suspend, the town manager from office in accordance with the following procedure.

(a) The town council shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all its members which must state the reason or reasons for removal. This 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.

(b) Within five days after receipt of the preliminary resolution the town manager may request a public hearing by filing a written request for such hearing with the town council. This hearing shall be held at a meeting of the town council not later than thirty days after the request is filed nor earlier than twenty days. The town manager may file a written statement responding to the reasons stated in the resolution of removal with the town council provided the same is received at its office more than forty-eight hours in advance of the public hearing.

(c) The town council may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members, not less



than ten nor more than twenty-one days following the date of delivery of a copy of the preliminary resolution to the town manager, if the town manager has not requested a public hearing; or, within ten days following the close of the public hearing if the town manager has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the town manager shall, at the expiration of said time, forthwith resume the duties of the office. The town manager shall continue to receive a salary until the effective date of a final resolution of removal. The action of the town council 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 solely in the town council.

## ARTICLE 5

### OTHER ELECTED TOWN OFFICES

#### SECTION 5-1: ELECTED TOWN OFFICES

(a ) In General - In addition to the office of town councilor, the voters shall, at town elections, elect by ballot a school committee, and a board of library trustees.

(b) Other Offices Filled at Town Elections - In addition to the town offices enumerated above, members of a Winthrop Housing Authority, and such other officers, or representatives to regional authorities or districts, as may be established by law or by inter-local agreement may also be filled by ballot at town elections.

(c) Eligibility – Any voter shall be eligible to hold any elected town office, provided, however, no person shall simultaneously hold more than one elective town office.

(d) Coordination - Notwithstanding their election by the voters, the town officers named in this section shall be subject to the call of the town manager, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

(e) Compensation - The town officers named in this section shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing the salary of any elected town officer shall be effective unless it shall have been adopted on or before the last day of June in the second year following a town election and it provides that such salary is to take effect upon the organization of the town government following the next municipal election. Elected town officers shall not be considered 'employees' for the purpose of chapter thirty-two B of the General Laws.

(f) Expenses - Subject to appropriation and to prior authorization, members of multiple member bodies shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

(g) Prohibitions - No member of the school committee shall hold any office or other position under the school committee and no member of the board of library trustees shall hold any office or other position under the board of library trustees. No former member of the school committee shall hold any office or other position under the school committee and no member of the board of library trustees shall hold any office or other position under the board of library trustees until one year following the date on which such member's elected service has terminated. This provision shall not prevent a town officer or other town employee who has taken a leave of absence in order to serve as a member of the school committee or board of library trustees from returning to the same office or other position of town employment held at the time such leave of absence commenced; provided, however, no such person shall be eligible for any other municipal position until at least one year following the termination of service as a member of the school committee or board of library trustees.

(h) Filling of Vacancies – If a vacancy occurs in the school committee, housing authority or board of library trustees the remaining members shall give written notice of the existence of such vacancy to the town council. The town council, with the remaining members or member of such board shall, at a joint meeting, fill such vacancy in a timely manner by a joint

vote. The person chosen to fill any such vacancy shall serve in such office until the next regular town election at which election the balance of the unexpired term, if any, shall be filled by the voters.

(i) Term of Office – The terms of office for members of multiple member bodies shall be for four years each, beginning on the first business day in January following their election and until their successors have qualified. The terms of office of each multiple member body shall be so arranged that as nearly one half of such terms as is possible shall expire at each town election.

(j)- Abandonment - Any elected official member [*of a board or committee other than the Town Council*] shall be considered to have abandoned their office if they no longer meet the eligibility requirements and/or that person has failed to appear at more than one half of all regularly scheduled meetings of that board/committee over a one year period. If the office is abandoned, the office shall be deemed vacant and shall be filled in the manner provided in section 5-1(h). An allowance for exemption to this rule may be granted by a 2/3 vote of a majority of the full body of the appropriate board or committee.

#### SECTION 5-2: SCHOOL COMMITTEE

(a) Composition - There shall be a school committee which shall consist of seven members. Six of the members shall be nominated and elected by and from the voters of the town at large and the council president shall serve, by virtue of office, as the seventh member of the school committee with all of the rights and privileges of other members.

(b) School Committee Chair - As soon as practicable after the school committee members-elect have been qualified following each biennial town election, as provided in section 9-8, the school committee shall organize by electing one of its members to serve as school committee chair and another one of its members to serve as school committee vice chair until the next town election.

The school committee chair shall preside at all meetings of the school committee,

regulate its proceedings and shall decide all questions of order. The school committee chair shall appoint all members of all committees of the school committee, whether special or standing. The school committee chair shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee chair shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the school committee. The school committee vice chair shall serve as chair during the absence or disability of the chair.

(c) School Committee, Powers and Duties - The school committee shall have all powers and duties which are conferred on school committees by general laws and such additional powers and duties as may be provided by the charter, by ordinance, or otherwise and not inconsistent with said grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

1) To appoint a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the school committee and, upon the recommendation of said superintendent, to establish and appoint assistant or associate superintendents (as provided in section fifty nine of chapter seventy-one of the General Laws);

2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be deemed necessary or desirable;

4) To propose and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the town council.

The school committee shall provide ordinary maintenance of all school buildings and grounds; provided, however, the town manager and the town council may provide, in

accordance with the provisions of section 6-1, for a central town maintenance department which may include maintenance of school buildings and grounds.

Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least one member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of such new, remodeled or renovated school building is delegated.

No site for a school building shall be acquired unless the approval of the site by the school committee is first obtained. No plans for the construction of or alterations in a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless with the approval of the school committee and the town manager. The town manager shall notify the school committee, in writing, prior to or at the time of each change in plans after work is begun.

#### SECTION 5-3: BOARD OF TRUSTEES OF THE PUBLIC LIBRARY

(a) Composition – There shall be a board of trustees of the public library which shall consist of six persons elected for terms of four years each, so arranged that three such terms shall expire at each biennial town election.

(b) Trustees of the Public Library, Chair - As soon as practicable after the trustees of the public library-elect have been qualified following each biennial town election, as provided in section 9-8, the said trustees shall organize by electing one of its members to serve as chair of the trustees of the public library and another one of its members to serve as the vice chair of the trustees of the public library until the next town election.

The chair of the trustees of the public library shall preside at all meetings of the trustees of the public library, regulate its proceedings and shall decide all questions of order. The chair of the trustees of the public library shall appoint all members of all committees of the trustees of the public library, whether special or standing. The chair of the trustees of

the public library shall have the same powers to vote upon all measures coming before the trustees of the public library as any other member of the trustees of the public library.

The chair of the trustees of the public library shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the trustees of the public library. The vice chair of the trustees of the public library shall serve as chair during the absence or disability of the chair.

(c) Powers and Duties - The board of trustees of the public library shall be responsible for the management of the library and reading rooms and of all property of the town devoted to library purposes. All funds raised or appropriated by the town for the support and maintenance of the library shall be expended under the direction of the said board, subject to the provisions of this charter. All funds or other property which the town may receive by gift or bequest, or otherwise, for library purposes shall be administered by the said board in accordance with the terms of such gift, bequest or otherwise, subject to the provisions of this charter

The board of trustees of the public library shall in all matters of general municipal policy and procedures be subject to policy directives designed to achieve uniformity and better administrative control as may from time to time be issued by the town manager.

Responsibility for the ordinary maintenance of library buildings and grounds may be transferred to a central municipal maintenance department by ordinance adopted by the town council.

The board of trustees of the public library shall, subject to appropriations, have the following specific powers and duties:

- 1) To elect, subject to the approval of the town manager, a director of the library who shall be charged with the day-to-day administration of the library system, subject to policy directives adopted by the library trustees;

2) To make all reasonable rules and regulations for the operation and management of the library system and for the conduct of its own business and affairs as may be deemed necessary or desirable.

The director of the library shall, subject to the approval of the town manager, appoint and remove all other officers and employees of the library.

#### SECTION 5-4: WINTHROP HOUSING AUTHORITY

(a) Composition – There shall be a Winthrop housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed as provided in MGL chapter 121B, section 5. The elected housing authority members shall serve for terms of four years each, so arranged that two such terms shall expire at each biennial town election.

(b) Powers and Duties - The Winthrop housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The Winthrop housing authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

### ARTICLE 6

#### ADMINISTRATIVE ORGANIZATION

##### SECTION 6-1: ORGANIZATION OF TOWN AGENCIES

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished only through an organization or reorganization plan filed with the town council by the town manager. No organization plan may originate with the town council.

The town manager may, subject only to express prohibitions in a general law, or this charter, propose to reorganize, consolidate or abolish any town agency, in whole or in

part; the town manager may establish such new town agencies as is deemed necessary, provided, however, that no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless this charter specifically so provides.

The town manager may from time to time prepare and submit to the town council plans of organization or reorganization that establish operating divisions for the orderly, efficient or convenient conduct of the business of the town.

Every organization or reorganization plan submitted by the town manager pursuant to this provision shall contain a proposed ordinance which sets out, in detail, such amendments, insertions, revisions, repeals or otherwise of existing ordinances as may be necessary to accomplish the desired reorganization. Such reorganization plan and proposed ordinance shall be accompanied by a message of the town manager which explains the benefits expected to ensue.

Whenever the town manager proposes such a plan the town council shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper, or in another manner as may be provided by ordinance, which notice shall describe the scope of the proposal and the time and place at which any public hearing will be held, not less than seven nor more than fourteen days following said publication.

An organization or reorganization plan shall become effective at the expiration of sixty days following the date the proposal is submitted to the town council unless the town council shall, by a majority vote, within such period vote to disapprove the plan. The town council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

#### SECTION 6-2: MERIT PRINCIPLE

All appointments and promotions of town officers and employees shall be made on the



basis of merit and fitness demonstrated by examination, past performance, or by other evidence of competence and suitability.

#### SECTION 6-3: BOARD OF LICENSE COMMISSIONERS

(a) Composition - The licensing board shall consist of five members appointed by the council president as provided in section 3-2 and 2-10(a). The terms of office for members of the licensing board shall be for three years each, so arranged that as nearly an equal a number of such terms as is possible shall expire each year.

(b) Powers and Duties - The board of license commissioners shall have the power to issue licenses for inn holders or common victuallers, the powers of a licensing board appointed under section four of chapter one hundred and thirty-eight of the General Laws, be the licensing authority for the purposes of chapter one hundred and thirty-eight and chapter one hundred and forty of the General Laws and which shall have all of the other powers with respect to licenses which prior to the adoption of the home rule charter were exercised by the board of selectmen. The board of licensing commissioners may grant licenses relating to alcoholic beverages under chapter one hundred and thirty-eight of the General Laws and those licenses under chapter one hundred and forty of the General Laws which are not, by the provisions of said chapter, placed within the jurisdiction of another town officer or agency, and it shall have all the powers and duties of a licensing authority under said chapters.

### ARTICLE 7

#### FINANCE AND FISCAL PROCEDURES

##### SECTION 7-1: FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

##### SECTION 7-2: FINANCIAL PROJECTIONS

(a) Revenue Projections and Estimates - Annually, on or before the first day of November, the town manager, in consultation with the council president, shall prepare and develop long range financial projections that include actual revenues and expenditures for the preceding fiscal year, estimated revenues and expenditures for the current fiscal year, projected revenues and expenditures for at least the next three fiscal years, an identification of each factor which the town manager, the superintendent of schools and council president believe is likely to have an impact on the financial condition of the town during such period

Revenue and expenditure projections should be clearly stated and their basis explained, along with any policies related to the use, retention or accumulation of any reserves. The report shall provide the basis for the preliminary spending guidelines of the council president for the ensuing fiscal year. Copies of the report shall be made available to the public.

(b) Budget Goals and Objectives to be Formulated by the Town Council - The council president shall schedule one or more meetings of the town council during the month of November for the purpose of formulating goals and objectives for the ensuing fiscal year to guide the town manager in the preparation of the annual operating budget and capital outlay program.. Subsequent to the discussion of the revenue forecast and fiscal trends the town council shall take up at the setting of goals and the establishment of policies to govern the town manager's preparation of the annual operating budget and capital outlay programs. The guidelines prepared by the town council shall be submitted to the town manager as early as possible, but, in no event later than the fifteenth day of December, annually.

#### SECTION 7-3: FINANCE COMMISSION

(a) Composition, Mode of Selection – There shall be a finance commission which shall consist of seven voters appointed by the council president to serve for terms of three years each, so arranged that as nearly an equal a number of terms as is possible shall

expire each year, and of the members of the town council committee to which are referred the budget and other financial matters, as such committee shall be constituted from time to time.

(b) Citizens' Advisory Finance Committee – The seven voters appointed by the town council president shall constitute a citizens' advisory committee on finance and, as such, shall serve as a resource for the town council in all matters affecting finance. The citizens' advisory finance committee shall have such additional powers and duties as may be provided by ordinance.

(c) Powers and Duties – The finance commission shall have full and complete access to all information involving all aspects of the budget preparation process as it becomes available, including revenue forecasting, preliminary spending estimates, and the budgets as submitted to the council president and the town council.

The finance commission shall file a report with the town council, with recommendations concerning the adoption of the annual town budget, with or without amendments, in such detail and at such time as may be provided by ordinance.

#### SECTION 7-4: SCHOOL COMMITTEE BUDGET

(a) Public Hearing - At least twenty-one days before the meeting at which the school committee is scheduled to vote on its final budget request, the school committee shall cause to be published in a local newspaper or in another manner as may be provided by ordinance, a general summary of its proposed budget.

The summary shall specifically indicate any major variations from the current budget and the reasons for such changes. The notice shall further indicate the times and places at which complete copies of the proposed budget are available for examination by the public, and it shall indicate the date, time and place, (not less than seven nor more than fourteen days following such publication), when a public hearing will be held by the school committee on the proposed budget. The school committee shall not take its final vote on its proposed budget until all persons who desire to be heard concerning the

budget proposal have had a reasonable opportunity to be heard.

(b) Submission to Town Manager - The proposed budget adopted by the school committee shall be submitted to the town manager at least twenty-one days before the date the town manager is required to submit a proposed town budget to the town council, to allow the town manager sufficient time within which to consider the effect the school department's requested appropriation will have upon the total town operating budget the town manager is required to submit to the town council under this article. The action of the school committee in adopting the proposed budget, following the public hearing, shall be summarized and the results of a roll call vote taken on each amendment to the proposed budget as may be offered shall be recorded.

#### SECTION 7-5: SUBMISSION OF BUDGET AND BUDGET MESSAGE

Not less than sixty days before the start of the town's fiscal year, the town manager, after consultation with the council president, shall submit to the town council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The town manager shall simultaneously provide for the publication in a local newspaper or in another manner as may be provided by ordinance, of a notice and a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget for the town are available for examination by the public. If the town manager has not submitted a proposed operating budget within the time and in the manner provided in this section the town council may, in such circumstance, prepare its own proposed operating budget.

#### SECTION 7-6: BUDGET MESSAGE

The town manager's message shall explain the budget both in fiscal terms and in terms of the work programs linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the town for the ensuing fiscal

year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the town's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the town manager deems desirable.

#### SECTION 7-7: THE BUDGET

The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the town manager deems desirable or the town council may require for effective management and an understanding of the relationship between the budget and the town's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures, and methods to measure outcomes and performance related goals;
- (2) Proposed longer term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other high level organization unit when practicable, the proposed method of financing each such capital expenditure and methods to measure outcomes and performance related to the goals; and
- (3) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the town

and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance, exclusive of reserves.

#### SECTION 7-8: ACTION ON THE BUDGET

(a) Public Hearing - Forthwith upon its receipt of the proposed operating budget the town council shall provide for the publication in a local newspaper or in another manner as may be provided by ordinance of a notice stating the time and place, not less than seven nor more than fourteen days following such publication, at which it will hold a public hearing on the proposed operating budget as submitted by the town manager.

(b) Review - The town council shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each such agency in connection with its review and consideration. The town council may require the town manager, or any other town agency, to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget.

(c) Action by Town Council - The town council shall adopt the budget, with or without amendments, within forty-five days following the date the proposed budget was received by it. In amending the budget the town council may add or increase programs or amounts and may delete or decrease programs or amounts, except expenditures required by law or for debt service, provided, however, the net total of all amendments to the proposed budget (the total town budget, as amended) shall not increase the total of authorized expenditures to an amount greater than the total amount of estimated income from all sources as contained in the revenue projections prepared in accordance with the provisions of section 7-2. If the town council fails to take any action with respect to any item in the proposed budget within forty-five days following the date of its receipt of the proposed budget, such amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the

purposes specified.

#### SECTION 7-9: SUPPLEMENTARY BUDGETS, OTHER APPROPRIATIONS

(a) Intradepartmental Transfers - With the approval of the town manager funds appropriated for one line item within the appropriation made for a particular town agency may be transferred to another line item within the same town agency. Whenever such a transfer is authorized by the town manager notice of the transfer and the circumstances under which such transfer was deemed advisable, shall be filed with the clerk of the town council. The town council may at its next meeting held following receipt of such notice void any such transfer.

(b) Interdepartmental Transfers - With the approval of the town council funds appropriated to the use of one town agency may be transferred to the use of another town agency. Requests for the transfer of funds from one town agency to another shall be made by the town manager, in writing, to the town council and shall include a statement setting forth the reason the additional funds are needed by the agency to which it is proposed they be transferred. A copy of this request shall, forthwith, be posted on the town bulletin board. The town council shall, by ordinance, provide a procedure governing such requests and it shall specify the circumstances under which notice by publication in a newspaper or in another manner as may be provided by ordinance, shall be required.

(c) Appropriation - Whenever the town manager shall submit to the town council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual operating budget or for an item, or items, not included in the annual operating budget as adopted, the town council shall not act upon such request until it has given public notice of the request. The town council shall, by ordinance, determine the level of appropriation request above which amount newspaper publication or in another manner as may be provided by ordinance, will be required and below which amount posting on the town bulletin boards will be sufficient.

SECTION 7-10: PERSONAL LIABILITY FOR EXPENDITURES IN EXCESS OF  
APROPRIATION

No official of the town of Winthrop, except in the case of an emergency involving the health and safety of the people or their property, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the town in any contract for the future payment of money in excess of such appropriations. It is the intention of this section that the provisions of section thirty-one of chapter forty-four of the General Laws shall be strictly enforced. Any official who violates the provisions of this section shall be personally liable to the town for any amounts so expended to the extent the town does not recover such amounts from the person to whom such sums were paid.

SECTION 7-11: CAPITAL IMPROVEMENT PROGRAM

The town manager shall submit a capital improvement program to the town council at least one hundred twenty days before the start of each fiscal year. The capital improvement program shall be based on material prepared by the capital improvement program committee established by ordinance. It shall include:

1. a clear and concise general summary of its contents;
2. a list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need for each capital improvement; cost estimates, methods of financing and recommended time schedules for each improvement; and,
3. the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the town manager with regard to the capital



improvements still pending or in the process of being acquired, improved or constructed.

#### SECTION 7-12: INDEPENDENT AUDIT

The town council shall annually provide for an outside audit of the books and accounts of the town to be made by a certified public accountant, or a firm of certified public accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the town or any of its officers. The town manager shall annually provide a sufficient sum of money to conduct the audit. The award of a contract to audit shall be made by the town council on or before September fifteenth of each year. A standing committee of the council shall be assigned to coordinate the work of the individual or firm selected with the town officials. The report of the audit shall be filed in final form with the town council not later than March first in the year following its award.

#### ARTICLE 8

Elections; Election Related Matters

#### SECTION 8-1 TOWN ELECTIONS

(a) Date of Town Elections - Regular town elections shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

(b) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty, for an office to be filled by voters of a precinct, fifty.

(c) Ballot Position - The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the Town Clerk in the presence of such candidates, or their representatives, as may choose to attend such drawings.

## SECTION 8-2 PRECINCTS

The territory of the town shall be divided into six precincts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits. Each such precinct shall be established in accordance with sections one through ten of chapter fifty-four of the General Laws. The town council shall from time to time, but at least once in each ten years, review such districts to insure their uniformity in number of inhabitants.

## SECTION 8-3 APPLICATION OF STATE LAWS

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

## SECTION 8-4 FREE PETITION

(a) Individual Petitions, Action Discretionary - The town council and the school committee shall receive all petitions which are addressed to them and signed by a voter and may, in their discretion, take such action with regard to such petitions as they deem necessary and appropriate.

(b) Group Petitions; Action Required - The town council or the school committee, as the case may be, shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it and which is signed by at least fifty voters. The hearing shall be held by the town council or the school committee, or, in either case, by a committee or subcommittee thereof and the action by the town council or school committee shall be taken not later than three months after the petition is filed with the town clerk. Hearings on two or more petitions filed under this Section may be held at the same time and place. The town clerk shall mail notice of the hearing to the ten petitioners

whose names first appear on each petition at least seven days before the hearing. Notice by publication at least seven days prior to all such hearings shall also be made, and shall be at public expense. No hearing shall be held upon any one subject more than once in any given twelve month period.

#### SECTION 8-5 CITIZEN INITIATIVE MEASURES

(a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the clerk of the council. The petition shall be addressed to the town council, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least fifty voters. The petition shall be accompanied by an affidavit signed by ten voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) Referral to Town Attorney. - The clerk of the council shall forthwith following receipt of each such proposed petition deliver a copy of the petition to the town attorney. The town attorney shall, within fifteen days following receipt of a copy of the petition, in writing, advise the town council whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the town council. If the opinion of the town attorney is that the measure is not in proper form the reply shall state the reasons for such opinion, in full. A copy of the opinion of the town attorney shall also be mailed to the person designated as clerk of the petitioners committee.

(c) Submission to Town Clerk - If the opinion of the town attorney is that the petition is in a proper form the town clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed measure, as determined by the town attorney, together with the names and addresses of the first ten voters who signed the originating petition. Within thirty days following the

date the blank forms are issued by the town clerk the petitions shall be returned and filed with the town clerk signed by at least five per cent of the total number of voters as of the date of the most recent town election. Signatures to an initiative petition need not all be on one paper, but all such papers pertaining to any one measure shall be fastened together and shall be filed as a single instrument, with the endorsement thereon of the name and residence address of the person designated as filing the same. With each signature on the petition there shall also appear the street and number of the residence of each signer.

Within ten days following the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent town election.

The town clerk shall attach to the petition a certificate showing the results of the examination by the board of registrars of voters and shall return the petition to the clerk of the council. A copy of the board of registrars of voter's certificate shall also be mailed to the person designated as clerk of the petitioners committee.

(d) Action on Petitions - Within thirty days following the date a petition has been returned to the clerk of the council, and after publication in accordance with the provisions of Section 2-9(c), the town council shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the town council fails to act with respect to any initiative measure which is presented to it within sixty days following the date it is returned to it, the measure shall be deemed to have been rejected on such sixtieth day. If an initiative measure is rejected, the clerk of the council shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.

(e) Supplementary Petitions - Within sixty days following the date an initiative petition has been rejected a supplemental initiative petition may be filed with the clerk of the council, but only by persons constituting the original petitioners committee. The

supplemental initiative petition shall be signed by a number of additional voters which is equal to five percent of the total number of voters as of the date of the most recent town election. If the number of signatures to such supplemental petition is found to be sufficient by the town clerk, the town council shall call a special election to be held on a date fixed by it not less than thirty nor more than ninety days following the date of the certificate of the town clerk (for the board of registrars of voters) that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, if any other town election is to be held within one hundred and twenty days following the date of the said certificate, the town council may omit the calling of such special election and cause said question to appear on the election ballot at such approaching election for determination by the voters.

(f) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper or in another manner as may be provided by ordinance, not less than seven nor more than fourteen days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the town clerk.

(g) Form of Question - The ballots used when voting on a measure proposed by the voters under this Section shall contain a question in substantially the following form:  
Shall the following measure which was proposed by an initiative petition  
take effect?

(Here insert a fair, concise summary prepared by the petitioners,  
and approved by the Town Attorney.)

( YES ) ( NO )

(h) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective forthwith, unless a later date is

specified in such measure.

#### SECTION 8-6: REFERENDUM PETITION; EFFECT ON FINAL PASSAGE

If within twenty-one days after the final passage of any measure a petition signed by voters equal in number to at least three per cent of the total number of voters, and addressed to the town council protesting against such measure or any part thereof taking effect, is filed with the town clerk, the same shall thereupon and thereby be suspended from taking effect; and the town council shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded the town council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular town election, or at a special election which may, in its discretion, be called for the purpose and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof. The petition described in this section shall be termed a referendum petition and Section 8-5 shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

#### SECTION 8-7: MEASURES NOT SUBJECT TO INITIATIVE AND REFERENDUM

Measures which include the following subject matter shall not be subject to initiative and referendum procedures: (a) revenue loan orders; (b) appropriations for the payment of debt or debt service; (c) internal operational procedures of the town council; (d) emergency measures; (e) the town budget as a whole or the school committee budget as a whole; (f) an appropriation of any sum of money, for any purpose amounting to less than one half of one percent of the total operating budget of the town, (g) appropriation of funds to implement a collective bargaining agreement; (h) procedures relating to election, appointment, removal, discharge or any other personnel action; and (i) proceedings providing for the submission or referral of a matter to the voters at an election.

#### SECTION 8-8: SUBMISSION OF PROPOSED MEASURE TO VOTERS

The town council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special town election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

#### SECTION 8-9: MEASURES WITH CONFLICTING PROVISIONS

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

### ARTICLE 9

#### GENERAL PROVISIONS

#### SECTION 9-1: CHARTER REVISION OR AMENDMENT

This charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the amendments to the constitution of the commonwealth and any laws of the commonwealth enacted to implement said constitutional amendment.

#### SECTION 9-2: SEVERABILITY

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

### SECTION 9-3: RULES OF INTERPRETATION

The following rules shall apply when interpreting the charter:

(a) Specific Provisions to 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.

(b) Number and Gender - Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

(c) Computation of Time - In computing time under the charter, if seven days or fewer, only business days (not including Saturdays, Sundays, or legal holidays) shall be counted; if more than seven days, every day shall be counted, provided, however, if the last day of the period so computed would fall on a Saturday, Sunday or a legal holiday the period shall end at five o'clock P.M. on the first business day following such Saturday, Sunday or legal holiday.

### SECTION 9-4: REMOVAL OR SUSPENSION

(a) Excessive Absence, Member of Multiple Member Body - If any person appointed to serve as a member of a multiple member body shall fail to attend four or more consecutive, regular meetings, or one-half or more of all of the meetings of such body held in one twelve-month period, the remaining members of the multiple member body may, by majority vote of the remaining members of such body, declare the office to be vacant, provided, however, that not less than ten days prior to the date said vote is scheduled to be taken the body has given in hand, or mailed, by certified mail, return receipt requested, notice of such proposed or pending vote to the last known address of such person. A copy of any such vote which is adopted shall, forthwith, be delivered to the office of the town clerk.



(b) Removal and Suspension, Generally - Any appointed town officer, or member of a multiple member body, not subject to the provisions of the state civil service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed town officer, or member of a multiple member body of the town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the town.. Suspension may be conterminous with removal and shall not interfere with the rights of the officer or member under the removal procedure given below.

The appointing authority, when removing any such officer or member of a multiple member body of the town, shall act in accordance with the following procedure:

(i) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand, or by certified mail, return receipt requested, to the last known address of the person sought to be removed.

(ii) Within five days following delivery of such notice the officer or member of a multiple member body of the town may request a public hearing before the appointing authority at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

Hearings held under this section shall be conducted by the appointing authority, or by a hearing officer designated by the appointing authority.

## SECTION 9-5: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town agency shall be placed on file in the office of the town clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any town agency shall become effective until five days following the date it is so filed.

## SECTION 9-6: PERIODIC REVIEW OF CHARTER AND ORDINANCES

(a) Review of Ordinances - Not later than the first day of July, at five year intervals, in each year ending in a five or in a zero, the town council shall provide for a review to be made of the ordinances of the town for the purpose of preparing a proposed revision or recodification of the same. Such review shall be made by a special committee to consist of nine members who shall be chosen as provided in section 2-10(a). Vacancies shall be filled in the manner of original appointment.

The special committee, which shall be referred to as the ordinance review committee, shall file its report with the clerk of the council, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the council agenda for action before the fifteenth day of May in said year, and, if not so scheduled by the clerk of the council, or within the next twenty-one days, the matter shall come before the council for action at its next regular meeting and no other business shall be in order until such report has been acted upon, by roll call vote.

The review of town ordinances shall be under the supervision of the town attorney, or special counsel appointed for that express purpose. A revision, recodification or republication of the ordinances shall be made at five year intervals. Copies of the revision, recodification or republication shall be made available to the public at a cost not to exceed the actual cost of such reproduction.

In each year between such reenactments, an annual supplement shall be published which

shall contain all ordinances and amendments to ordinances adopted in the preceding year.

(b) Review of Charter - The special committee established to review town ordinances shall also consider proposed revisions to the town charter. The committee shall hold at least one open, public hearing at which the public will be afforded the opportunity to comment on the existing charter and to make comments or suggestions concerning ways in which the charter might be changed.

#### SECTION 9-7: UNIFORM PROCEDURES GOVERNING 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 as they may by their own rules prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple member body shall be held on the call of the chair or by one third of the members thereof by written notice delivered in hand or to the place of residence of each member at least forty-eight weekday hours in advance of the time set, which shall contain notice of the subjects to be acted upon. A copy of the said notice shall also be posted on the town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and the media.

(b) Rules and Journals - Each multiple member body shall determine its own rules and order of business unless another provision is made by ordinance or by law, and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record and for the convenience of the public certified copies shall be placed on file in the office of the town clerk and in the public library. In case of any dispute concerning any such record the official copy shall always be deemed to be the copy kept by the clerk of the multiple member body.

(c) Voting - If requested by any member, any vote of any multiple member body shall be

taken by a call of the roll and the vote of each member shall be recorded in the journal, provided, however, if the vote is unanimous, only that fact need be recorded.

(d) Quorum - A majority of the members of a multiple member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. Unless some other provision is made by law, by ordinance or by the multiple member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to adopt any vote representing an exercise of the powers of the multiple member body.

#### SECTION 9-8: OATH OF OFFICE OF ELECTED TOWN OFFICERS

The council president, councilors-elect, school committee members-elect and library trustees-elect shall, on the first business day in January following the biennial town election, meet and be sworn to the faithful discharge of their duties. The oath may be administered by the town clerk, or by a judge of a court of record, or by a justice of the peace. A certificate that said oath or oaths have been taken shall be entered in the journal of the town council.

In case of the absence of any elected official on said day, the oath of office may at any time thereafter be administered to such person who for any reason shall not have taken the oath on the day named. A certificate of each oath subsequently taken shall be entered in the journal of the town council.

After the oath has been administered to the councilors-elect, the town council shall meet to organize by electing from among their number a person to serve as the council vice president, as provided in section 2-2. If the council president is unable to preside during such election the council member senior in years of service on the town council shall preside during such election. If two or more members are equally senior in years of service on the town council the member senior both in years of service and age shall preside. The council president and the council vice president shall be sworn by the town

clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

After the oath has been administered to the school committee members-elect, the school committee shall organize by electing from among their number a person to serve as the chair and a person to serve as the vice-chair, as provided in section 5-2. If the town clerk is unable to preside during such election the member senior in years of service on the school committee shall preside during such election. If two or more members are equally senior in years of service on the school committee the member senior both in years of service and age shall preside. The chair and the vice-chair shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

After the oath has been administered to the trustees of the public library-elect, the trustees of the public library shall organize by electing from among their number a person to serve as the chair and a person to serve as the vice-chair, as provided in section 5-3. If the town clerk is unable to preside during such election the member senior in years of service on the board of trustees of the public library shall preside during such election. If two or more members are equally senior in years of service on the board of trustees of the public library the member senior both in years of service and age shall preside. The chair and the vice-chair shall be sworn by the town clerk, or, in the case of the absence of the town clerk, by any person qualified to take oaths or affirmations.

#### SECTION 9-9: CERTIFICATE OF ELECTION OR APPOINTMENT

Every person who is elected, including those elected by the town council, or appointed to an office of the town, shall receive a certificate of such election or appointment from the town clerk. Except as otherwise provided by law, every person who is elected, including those elected by the town council, or appointed to an office of the town, before performing any act under such appointment or election, shall take and subscribe to an oath to qualify to enter upon the duties of office. A record of such oath shall be kept by

the town clerk.

#### SECTION 9-10: LIMITATION ON OFFICE HOLDING

No person shall simultaneously hold more than one full time town office or position of employment. Any hours worked in any part time position shall not be the same or otherwise conflict with the hours worked in a full time position.

#### SECTION 9-11: ENFORCEMENT OF CHARTER PROVISIONS

It shall be the duty of the council president to see that the provisions of the charter are faithfully followed and complied with by all town agencies and town employees.

Whenever it appears to the council president that any town agency or town employee is failing to follow any provision of this charter the council president shall, in writing, cause notice to be given to such agency or employee directing compliance with the charter. If it shall appear to the town council that the council president personally is not following the provisions of the charter it shall, by resolution, direct the attention of the council president to those areas in which the council members believe there is a failure to comply with charter provisions.

The procedures made available in chapter two hundred and thirty-one A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

#### SECTION 9-12: PUBLIC FORUMS

(a) Scheduled Meetings – The council president shall convene at least two open, public citizen forums, annually, for the purpose of providing an opportunity for the public to bring matters to the attention of the elected and appointed officers of the town.

One such citizen's forum shall be held in the fall, during the month of October, and shall primarily focus on the delivery of services by the town, and one such citizen's forum

shall be held in the spring, during the month of March, and shall primarily focus on budgeting and other spending matters

The council president shall preside, regulate the proceedings and decide all questions of order. The town manager and all elected and appointed officials of the town shall be required to attend in order to be available to respond to questions raised by the public and to hear comments, criticisms and suggestions made with respect to areas within the scope of the responsibilities of such elected and appointed officials.

All citizens' forums shall be held in a place convenient for the public and at least two weeks notice shall be given by newspaper or in another manner as may be provided by ordinance, advertisement and such other methods as are deemed to be necessary or desirable. The notice shall state the date, time and place at which each citizen's forum will be held and the subjects to be discussed.

(b) Meetings on Petition of Voters – The council president shall call public forums upon the receipt of a written request setting forth the purpose, or purposes for which such meeting is to be called, and signed by three hundred, or more voters. The council president shall preside and regulate the proceedings of such meetings. The council president, in conjunction with the town manager, shall cause the attendance of town officials and employees as may be necessary to respond to the issues and concerns raised by the voters in their petitions.

#### SECTION 9-13: ANNUAL REPORT OF THE TOWN

An annual report which contains a general summary of the activities of all town agencies shall be published within one hundred and twenty days following the close of each fiscal year. The annual report, to be published under the direction of the council president, shall contain reports by the council president, the town council, the town manager, the treasurer, the school committee, the board of library trustees and such other town agencies as may be required by ordinance to provide such reports. Copies of the annual

report shall be made available for distribution to the public at the office of the town clerk and at one or more convenient places within the town.

#### SECTION 9-14: NOTICE OF VACANCIES

Whenever a vacancy occurs, or is about to occur, in any town office or town employment the appointing authority shall forthwith cause public notice of such vacancy, or impending vacancy, to be posted on the town bulletin board for a period of not less than fourteen days. Any person who desires to be considered for appointment to said office or employment may file with the appointing authority a statement in clear and specific terms setting forth such person's qualifications for the position. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least fourteen days have elapsed following such posting, and until all persons who have filed statements in application have been considered.

### ARTICLE 10

#### TRANSITIONAL PROVISIONS

##### SECTION 10-1: CONTINUATION OF EXISTING LAWS

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

In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law which would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

##### SECTION 10-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION



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

#### SECTION 10-3: TRANSFER OF RECORDS AND PROPERTY

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

#### SECTION 10-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the town before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.

#### SECTION 10-5 TIME OF TAKING EFFECT

This charter shall take effect upon its ratification by the voters and in accordance with the following schedule

(a) All town officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the ratification by the voters of the home rule charter, but, being mindful that on the first business day in January of the year following the year the charter has been so ratified, that the executive authority will thereafter be vested in a council president and the legislative authority will be vested in a town council.

(b) The first election of officers under this charter shall be held on the first Tuesday

following the first Monday in November 2005 for the purpose of electing a council president, a town council, one member of the school committee and two members of the board of trustees of the public library. So much of this charter shall become effective as is necessary to conduct such election. The board of selectmen shall issue the warrants for such elections.

The candidate for the office of town councilor-at-large who receives the highest number of votes shall be declared elected to a term of four years (expiring at the end of 2009) and the candidate for the office of town councilor-at-large who receives the next highest number of votes shall be declared elected to a term of two years (expiring at the end of 2007). The precinct councilors from the odd numbered precincts (1, 3, 5) shall be elected for terms of four years (expiring at the end of 2009) and the precinct councilors from the even numbered precincts (2, 4, 6) shall be elected for terms of two years (expiring at the end of 2007).

The terms of office of the members of the school committee who were elected at the election at which this charter was adopted and the term of the member elected at the special election in November (2005) shall expire at the end of calendar year 2009. The term of office of the members of the school committee elected at the election held in the spring of 2004 shall be extended to the end of calendar year 2007. The term of office of the members of the school committee who were elected at the election held in the spring of 2003 shall expire at the end of calendar year 2007. At the town election held in November, 2007 three members shall be elected to the office of school committee member, for terms of four years (expiring at the end of calendar year 2011). Thereafter at each town election three candidates shall be elected to the office of school committee member for terms of four years each to fill expiring terms.

The terms of office of the two members of the board of trustees of the public library who were elected at the election at which this charter was adopted shall expire at the end of calendar year 2009. The term of office of the two members of the board of trustees of the

public library who were elected at the election held in the spring of 2004 shall be extended to the end of calendar year 2007. The terms of the two members of the board of trustees of the public library who were elected at the election held in the spring of 2003 shall expire at the end of calendar year 2007. At the town election held in November, 2007 the three candidates receiving the highest number of votes shall be declared elected to a four year term (expiring at the end of calendar year 2011) and the candidate receiving the fourth highest number of votes shall be declared elected to a two year term expiring in at the end of 2007. Thereafter at each biennial town election three persons shall be elected for terms of four years each.

(c) Forthwith following the first election the persons elected as council president and town council members shall be sworn to the faithful performance of their duties and shall take up so much of the powers and duties of their offices as are necessary to begin the process of transition from the existing form of government to the new form of government. This preparation for the transfer shall include a review by the town council members of policies and procedures to govern the conduct of the business of the town council and the adoption by it of rules by which it will conduct its business.

The person chosen as council president shall meet as needed with the members of the board of selectmen and the school committee, and shall be considered a member ex officio of such bodies, but without the power or authority to vote. The council president shall have a right to meet with any town officer, town agency or town employee during regular business hours for the purpose of acquiring and advancing knowledge and information necessary to assist a smooth and orderly transition from the existing form of government to the new form of government on the first business day of January in the year following the year in which the charter is adopted.

The town shall provide suitable offices in a public building and access to clerical services and office machines to the council president-elect and councilors-elect to enable them to undertake and to carry out their transitional assignments.

(d) Recruitment of Town Manager

1. Recruitment Committee, Composition, Mode of Selection - Forthwith following the election at which this charter is approved by the voters a recruitment committee shall be established for the purpose of soliciting, receiving and evaluating applications for the position of town manager. The recruitment committee shall consist of five persons who shall be chosen as follows: the board of selectmen shall designate two members, the school committee and the advisory committee shall each designate one member, and one member shall be chosen by the charter commission. The persons chosen by the said agencies may, but need not, be members of the agency by which they are designated and not all of the members need be residents of Winthrop.

2. Organization - Not more than twenty-one days following the election at which the charter is adopted the persons designated as provided in (1), above shall meet to organize and to plan a process to advertise the vacancy and to solicit by other means candidates for the office. The committee shall be called together by the town clerk and shall proceed notwithstanding the failure of any town agency to designate its representatives.

3. Funding - The sum of \$15,000 shall forthwith be credited to an account established for the committee for the purpose of meeting its anticipated expenses, which may include in-state and out of state travel and transportation.

4. Powers and Duties, In General - The recruitment committee shall review all applications that are received by it, screen all such applicants by checking and verifying work records and other credentials, and provide for preliminary interviews to be conducted with such number of candidates as it deems to be necessary, desirable or expedient.

5. Powers and Duties, Recommendations - Not more than one hundred and eighty days following the date on which the committee meets to organize, the committee shall submit to the council president the names of not less than three persons whom it believes to be best suited to perform the duties of the office of town manager. Within twenty-one days

following the date the council president receives the list of nominees and after conducting personal interviews with the candidates, the council president shall submit the name of one of the candidates to the town council to serve as town manager. Upon the confirmation of the appointment of a town manager the committee established hereunder shall be considered discharged.

(e) On the first business day of January in the year following the year in which this charter is adopted the terms of office of the members of the board of selectmen, the town moderator and of the representative town meeting members shall all be terminated, and their offices abolished. The town council, library trustees and school committee shall organize as provided in section 9-8. Each other elected and appointed town officer and employee shall continue to serve in the same office or position until the expiration of the term for which elected or appointed, a vacancy occurs by reason of death or resignation, or some other provision is made in accordance with the provisions of this charter concerning the office or employment. The provisions of this Home Rule Charter shall become fully effective on said first business day of January in the year following the year in which the charter is adopted.

(f) Until such time as another salary is established for the office of the council president, in accordance with the procedure provided in section 2-4(a), the initial salary for the council president shall be five thousand two hundred dollars (\$5,200) annually. Until such time as another salary is established for the office of the council member, in accordance with the procedure provided in section 2-4(a), the initial salary for members of the town council shall be two thousand six hundred dollars (\$2,600) annually for each councilor. In order to establish a salary for the purpose of recruiting the first town manager and until such time as another salary is established for the office of town manager, in accordance with the procedure provided in section 3-4, a salary range of \$95,000 to \$110,000 is hereby established for the said office.

(g) Not later than thirty days following the date of the ratification of this charter by

the voters the town clerk shall give to each member of the Massachusetts House and Senate who represent any part of Winthrop a copy of the vote ratifying this charter and the following petition for the enactment of a special law applicable to Winthrop in the following form:

AN ACT EXCEPTING WINTHROP FROM CERTAIN PROVISIONS OF THE CIVIL SERVICE LAW

Be it enacted, etc.

For the purpose of classifying positions under the civil service law and rules, Winthrop, notwithstanding the provisions of a home rule charter establishing its form of government, shall continue to be governed by the provisions of section fifty-two of chapter thirty-one of the General Laws and not by the provisions of section fifty-one of said chapter thirty-one.

Nothing in this act shall be construed to affect the civil service status of any person currently covered by such law and rules.

This act shall take effect upon its passage.

The above draft is provided for guidance and general scope and may be altered by the General Court to conform to its normal practice. The board of selectmen, or the council president, is hereby authorized to approve any change in said special law as may be proposed by the General Court.

(h) Not later than thirty days following the election at which this charter is adopted the board of selectmen shall appoint seven persons to be a committee to begin a review of the town by-laws for the purpose of preparing such revisions and amendments as may be needed or necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. If possible, at least two of the persons appointed to the committee shall have been members of the Winthrop Charter

Commission. The committee shall submit a report, with recommendations, to the council president and council forthwith following the election held in the year in which this charter is adopted. The review shall be conducted under the supervision of the town counsel, or, by special counsel appointed for that express purpose.

(i) Forthwith following the election held in the year in which this charter is adopted the council president-elect shall appoint in the manner provided in section 2-10(a) seven persons to be a committee to review the town by-laws for the purpose of preparing such revisions and amendments as may be needed or necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. If possible, two of the persons appointed to the committee shall have been members of the Winthrop Charter Commission. The committee appointed by the council president may, but need not, consist of the same persons who served on the committee appointed by the select board pursuant to paragraph i, above. The committee shall submit a report, with recommendations, within one year following its creation and may submit interim reports, with recommendations, at any time. The review shall be conducted under the supervision of the town attorney, or by special counsel appointed for that express purpose.

Not later than the last day of June in the second year following the year in which the charter is adopted (June 30, 2007) the council shall adopt a codification of ordinances containing all of the pre-existing by-laws of the town which are appropriate for continuation as ordinances and such new ordinances as may be necessary or desirable. The codification may be adopted by reference, by enacting an ordinance referring to a document in existence, and for the convenience of the voters with certified copies on file in the office of the town clerk and at the main branch of the public library.

All proposed ordinances introduced after the approval of the code shall be adopted as amendments, additions or deletions to the code and by reference thereto.

(j) All multiple member bodies in existence when this charter is adopted shall continue in existence with the same make-up and the same powers, duties, authorities and responsibilities until some specific action is taken by the town manager or the town

council in accordance with the provisions of the charter to alter any such multiple member bodies.

(k) Notwithstanding any provision of this charter which might appear to the contrary it is recognized that it will not be possible for the first person selected as town manager to begin at once to exercise all of the powers, duties and responsibilities which are assigned to the office of the town manager. It is recognized that it is in the best interest of the town of Winthrop that such assumption be on a gradual basis as the town manager, council president, town council and other municipal officials are able to adopt ordinances and other regulations as are necessary to implement all of the provisions of the charter.

(l) None of the powers, duties, authorities and responsibilities of the town manager, as provided in article 3 of this charter shall take effect until a town manager has been appointed and has assumed office pursuant to the provisions of section 10-5 (d).

(m) The position of town administrator (nee executive secretary) is hereby abolished not later than sixty days following the date of appointment of the first town manager under this charter. Nothing in this charter shall be construed to grant to the incumbent town administrator any right or privilege to be retained in the employment of the town. It is the intention of this charter that there shall be a wide spread and diligent search for candidates for the position of town manager. The incumbent town administrator may be a candidate for appointment to the position of town manager.

(n) The position of town accountant shall, after allowing time for the assumption of power and authority by the town manager and town council, be divided into two separate and distinct functions. The powers, duties and responsibilities of the town accountant's office which are associated with auditing, including those described in sections fifty, fifty-one, fifty-three and fifty-four A of chapter forty-one of the General Laws shall be assigned to the town auditor function established by section 2-8(c) of the charter. The remaining powers, duties and responsibilities of a town accountant having to do with the



regular payment of bills and invoices submitted by municipal agencies, including those described in sections fifty-two, fifty-six, fifty-seven and fifty-eight of chapter forty-one, shall be exercised by a person in the executive branch under the title town accountant.

(o) The council president and town council shall have authority to adopt measures which clarify, confirm or extend any of the transitional provisions in order that such transition may be made in the most expeditious and least contentious manner possible.

(p) Town Administrative Organization - Until such time as a different form of organization shall be provided, in accordance with the provisions of this charter, the following outline of the administrative organization of the town as it is presently constituted shall continue to be operative, but appointments shall be made as hereafter provided:

Accountant, Town Manager

Aging, Council on Council President and Town Council

Airport Hazards Committee Council President and Town Council

Animal Control Officer Town Manager

Appeals, Board of Council President and Town Council

Board of Assessors Council President and Town Council

Building Inspector Town Manager

Cable TV Commission Council President and Town Council

Capital Improvement Committee Town Manager

Cemetery Commissioners Council President and Town Council

Civil Defense Dept. Town Manager

Town Clerk Elected by Town Council

Conservation Commission Council President and Town Council

Constables Council President and Town Council

Contributory Retirement Board as provided in MGL. c.32, §20, 4, (b)

Fire Chief Town Manager

Commission Disabilities Council President and Town Council

Harbor Management & Planning Comm. Council President and Town Council

Harbormaster Town Manager

Board of Health Council President and Town Council

Historic Commission Council President and Town Council

Insect Pest Control Superintendent Town Manager

Insurance Committee Council President and Town Council

Parking Clerk Town Manager

Personnel Board Town Manager

Planning Board Council President and Town Council

Police Chief Town Manager

Police Signal, Superintendent of Town Manager

Plumbing & Gas Inspector Town Manager

Public Utilities Committee Council President and Town Council

Public Works, superintendent of Town Manager

Recreation Commission Council President and Town Council

Registrars of Voters Council President and Town Council

Scholarship Committee Council President and Town Council

School Building Committee Council President and Town Council

Treasurer/Tax Collector Town Manager

Veterans Agent Town Manager

Weights & Measures, Inspector of Town Manager

Town Counsel Town Manager

Tree Warden Town Manager

Water Dept., Superintendent Town Manager

Wire Inspector Town Manager

\*The appointment of the fire and police chiefs may be 'vetoed' by a 2/3rds vote of the town council.

(Note: The members of multiple member bodies shall be so appointed that as nearly an equal number of terms as is possible shall expire each year.)

NOTE: This list deals only with who will make the appointment, other limits on who may be appointed that may exist in a statute or a by-law will continue in effect.

If, for example, a by-law now requires the board of selectmen to appoint a person with certain specific education or other skills that part of the by-law will remain in effect and the manager's appointment will be restricted in the same way.