

# Winterport Town Charter

May 11, 2004

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## **ARTICLE I GRANT OF POWERS TO THE TOWN**

### **Sec. 1.01 - POWERS OF THE TOWN**

The Inhabitants of the Town of Winterport shall continue to be a body both corporate and politic by the name of the Town of Winterport. The Town of Winterport shall have all the powers possible for a municipality to have under the Constitution and Laws of the State of Maine. The legislative authority of the Town of Winterport shall continue to be vested in the Inhabitants of the Town of Winterport acting by means of the Town Meetings and in the Town Council as set forth below.

### **Sec. 1.02 - CONSTRUCTION**

The powers of the Inhabitants of the Town under this Charter shall be construed liberally in favor of the Inhabitants of the Town.

### **Sec. 1.03 - INTERGOVERNMENTAL RELATIONS**

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or with the United States or any agency thereof.

## **ARTICLE II TOWN MEETING**

### **Sec. 2.01 - ANNUAL AND SPECIAL TOWN MEETINGS**

An annual Town Meeting for the consideration of the budget and the transaction of other Town business shall be held on a date to be established annually by the Town Council. The annual and special Town Meetings shall be called by the Council in the manner provided for calling Town Meetings in accordance with provisions of the statutes of the State of Maine. Qualified voters of the Town of Winterport shall have the power to submit an article for the Town Meeting Warrant.

A gallery shall be provided for non-residents who attend the Winterport Town Meeting to distinguish residents from non-residents. Non-residents require special recognition in order to speak before the meeting.

#### Sec. 2.02 - POWERS OF THE TOWN MEETING

1. Affirmative action by the qualified voters at the Town Meeting is required for the following:

- (a) to raise and appropriate all monies for all Town business except the Town's share of the MSAD 22 budget.
- (b) To issue bonds or notes in any amount allowed by law. This section does not apply to bonds or notes issued by the Council in anticipation of taxes to be paid within the current fiscal year.
- (c) To fund a reserve account.
- (d) To transact other Town business presented to it by warrant article.
- (e) To create, to amend, and/or to repeal ordinances pertaining to the Comprehensive Plan, Winterport Land Use Ordinances, Road Acceptance, and any ordinance that imposes a fine, fee, or penalty, except that ordinances necessary to comply with State Mandated Changes shall be created, amended, or repealed by the Town Council.
- (f) To exercise all powers of the Town of Winterport not specifically delegated to the Town Council or other Town officers.

The above appropriations shall become effective only after approval at a Town Meeting by the vote of a majority of those voting on the article at such meeting.

### **ARTICLE III TOWN COUNCIL**

#### Sec. 3.01 - NUMBER, ELECTION, AND TERM

The Town Council shall be composed of 5 members, each of whom shall be elected by the registered voters of the entire Town. Councilors will serve staggered 3 year terms or until their successor is elected and duly qualified.

#### Sec. 3.02 - QUALIFICATIONS

Councilors shall be at least 18 years of age, shall be qualified voters of the Town, and shall reside in the Town during their term of office.

#### Sec. 3.03 - COMPENSATION

Members of the Council shall receive such compensation as shall be approved at the Annual Town Meeting.

#### Sec. 3.04 - INDUCTION OF COUNCIL INTO OFFICE

Councilors-elect shall be required to be sworn to the faithful discharge of their duties by a person qualified by law to administer oaths. The terms of Councilors shall begin at the time they are sworn.

#### Sec. 3.05 - COUNCIL TO BE THE JUDGE OF QUALIFICATIONS OF ITS MEMBERS

The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require production of records, but the decision of the council in any such cases shall be subject to review by the courts.

#### Sec. 3.06 - REGULAR MEETINGS

The Town Council shall, at its first meeting or as soon as possible thereafter, establish a regular place and time for holding its regular meetings and shall meet at least once a month. It shall also provide a method for calling special meetings. All meetings of the Town Council shall be open to the public in accordance with the statutes of the State of Maine, except as those statutes allow executive sessions. An agenda shall be made available in advance of all regular and special meetings and shall include an item to allow public input. The meetings shall be conducted in a manner that encourages citizen attendance and citizen participation.

#### Sec. 3.07 - RECORD OF PROCEEDINGS

The Town Council shall provide for keeping a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same; records shall be retained and disposed of in accordance with State Law.

#### Sec. 3.08 – ORDINANCES; PUBLIC HEARINGS

The Council shall act by motion, ordinance, order, or resolve. All motions, ordinances, orders, and resolves, except motions, ordinances, orders, or resolves making appropriations of money, shall be confined to one subject. All appropriation motions, ordinances, orders, or resolves shall be confined to the subject of appropriations. Every motion, ordinance, order, or resolve shall require on passage the affirmative vote of 3/5 of the members of the Council. The yeas and nays shall be taken on the passage of all motions, ordinances, orders, and resolves and entered on the record of the proceedings of the Council by the Secretary.

Before any ordinance shall be passed, at least one public hearing shall be held by the Council, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in Winterport and by posting a notice at the Town Office

and other public places in Winterport. Such ordinances shall be effective on the date of adoption or at such time as may be specified in the ordinance.

#### Sec. 3.09 - VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES

1. Vacancies: The office of Councilor shall become vacant upon death, resignation, or removal from office in any manner authorized by law or forfeiture.
2. Forfeiture of Office: A Councilor shall forfeit his/her office upon conviction of a felony or crimes relating to his/her office or if he/she lacks at any time during his/her term of office any of the qualifications of the office prescribed by this Charter or by law.
3. Filling Vacancies: If a seat on the Town Council becomes vacant more than 6 months prior to the next regular election, the Council shall call a special election to fill the unexpired term within 60 days from the date that the vacancy occurred. If a seat on the Council becomes vacant less than 6 months prior to the next regular election, the Council may call a special election.
4. Forfeiture for Attendance Reasons: A councilor shall forfeit his/her office if he/she fails to attend three consecutive meetings of the Council without being excused by the Council.

#### Sec. 3.10 - QUORUM

A majority of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken.

#### Sec. 3.11 - Council Officers

At its first meeting after the Annual Election, the Council shall elect, by a vote of 3/5 of the members, one of its members as Chairperson and one as Vice-Chairperson for the ensuing year, and the Council may fill, by a vote of 3/5 of the members, for an unexpired term, any vacancies in the offices of Chairperson and Vice-Chairperson that may occur. The Chairperson shall preside at the meetings of the Council, and shall be recognized as head of the Town Government for all ceremonial purposes and by the Governor for purposes of military law, but he/she shall have no regular administrative duties. The Chairperson shall be entitled to vote, and his/her vote shall be counted upon all matters and things as a vote of other members of the Council.

#### Sec. 3.12 - INDEPENDENT ANNUAL AUDIT

Prior to the end of each fiscal year, the Council shall designate the State Department of Audit or private certified accountants who, at the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the Town

Government and shall submit their report to the Town Council and Town Manager. This Audit Report, in a summarized manner, will be made a part of the Annual Town Report, which shall be made available to the public. Such accountants shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by any office, officer, department, or agency of the Town Government.

### Sec. 3.13 - ENUMERATION OF POWERS AND DUTIES

Without limitations of the foregoing, the Council:

1. Shall appoint, and have the power to remove, the Town Manager, members of the Planning Board, members of the Board of Appeals, Water District trustees, Sewer District trustees, and members of other committees as may from time to time be deemed necessary. The affirmative vote of 3/5 of the members of the Council shall be required for the appointment of officials appointed by the Council. The affirmative vote of 3/5 of the members of the Council shall be required for the removal of officials appointed by the Council.
2. Shall have the power to vest in the Town Manager all or part of the duties of any office, where appropriate and not prohibited by law.
3. Shall provide for an annual audit.
4. Shall have the power to by ordinance create, change, and abolish offices, departments, and agencies, other than those offices, departments, and agencies established by this Charter. By ordinance act on such matters where State Law grants ordinance making powers to Town officers. The Council by ordinance may assign additional functions or duties to offices, departments, or agencies established by this Charter, but may not discontinue or assign to any other office, department, or agency any function or duty assigned by this Charter to a particular office, department, or agency.
5. Shall have the power to make, alter, and repeal ordinances pertaining to State Mandated Changes and amendments to the Winterport Land Use Ordinance.
6. Shall have the power to enact and repeal emergency ordinances.
7. Shall have the power to inquire into the conduct of any department, office, or agency of the Town and make investigation as to municipal affairs.
8. Shall present and make recommendations regarding the annual budget and shall present a complete financial report, as prepared by the Town Manager to the Town Meeting.
9. Shall have the power to issue notes in anticipation of taxes to be paid within the fiscal year in which issued.

10. Shall carry out mandates of the Annual and Special Town Meetings.

11. Shall have the power to approve expenditures from accounts, including reserve accounts, in accordance with the action of the citizens at Town Meeting.

12. Shall call regular Town Meetings

13. Shall have the power to call special Town Meetings

#### Sec. 3.14 - PROHIBITIONS

Neither the Council nor any of its members shall, in any manner, dictate the appointment or removal of any administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint. The Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

Except for the purpose of inquiry, the Council and its members shall deal with the administrative services solely through the Manager and neither the Council nor any member shall give orders to any subordinates of the Manager, either publicly or privately.

### **ARTICLE IV TOWN MANAGER**

#### Sec. 4.01 - APPOINTMENT; QUALIFICATION

The Town Council shall appoint a Town Manager for a definite term or at the will of the Council and fix his/her compensation. The Manager shall be appointed on the basis of his/her executive and administrative qualifications. He/She need not be a resident of the Town or State at the time of his/her appointment.

#### Sec. 4.02 – POWERS AND DUTIES OF TOWN MANAGER

The Town Manager shall be the chief executive officer of the Town. He/She shall be responsible to the Council for the administration of all Town affairs placed in his/her charge by or under this Charter. He/She shall have the following powers and duties:

1. To appoint and remove any officials not appointed by the Council or elected by the Town, and all other administrative and Town employees, and to authorize other officials to appoint and remove subordinates except as otherwise provided in this Charter or by law.
2. To direct and supervise the administration of all departments, offices, and agencies of the Town, except as otherwise provided by this Charter or by law.
3. To attend Council Meetings and have the right to take part in discussions but not vote.

4. To see that all laws, provisions of this Charter, and acts of the Council, subject to his/her direction and supervision, are faithfully executed.
5. To prepare and submit the annual budget and 5 year capital program to the Council and Budget Committee.
6. To submit to the Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year.
7. To make such other reports as the Council may require concerning the operations of Town departments, offices, and agencies subject to his/her direction and supervision.
8. To keep the Council and Budget Committee fully advised as to the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as he/she deems desirable.
9. To prepare a personnel policy and job descriptions as required, to be proposed to the Council, and the Council may, by ordinance, adopt them with or without amendment.
10. To assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative, and governmental practices.
11. To perform such other duties as are specified in this Charter or as may be required by the Council.

#### Sec. 4.03 - REMOVAL

The Council may remove the Town Manager at its discretion.

#### Sec. 4.04 – REMOVAL PROCEDURES

The Council may remove the Manager from office in accordance with the following procedures:

1. The Council shall adopt by a 3/5 vote of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 30 days. A copy of the resolution shall be delivered within two working days to the Manager.
2. Within 5 working days after receiving a copy of the resolution, the Manager may file with the Council a written request for a public hearing. If no public hearing is requested within 5 working days, the Council may adopt a final resolution of removal by a 3/5 vote of its members.
3. If a public hearing has been requested, it shall be held at a council meeting not earlier than 10 calendar days nor later than 20 calendar days after the request is filed. After the

hearing, the Council may adopt a final resolution of removal by a 3/5 vote of its members and shall notify the Manager of its decision within 5 calendar days.

4. The Manager shall continue to receive his/her salary until the effective date of the final resolution of removal. In addition, he/she shall receive severance pay and other allowances at the discretion of the Town Council.

#### Sec. 4.05 - ABSENCE OF TOWN MANAGER

By letter filed with the Town Clerk, the Manager shall designate, subject to approval of the Town Council, a qualified Town administrative officer to exercise the powers and perform the duties of Manager during his/her temporary absence. During such absence, the Council may revoke such designation at any time and appoint another officer of the Town to serve until the Manager returns. In the event of failure of the Manager to make such designation, the Council may by resolve appoint any administrative officer of the Town to perform the duties of the Manager until the Manager returns.

### **ARTICLE V SCHOOL ADMINISTRATIVE DISTRICT 22 BOARD OF DIRECTORS**

#### Sec. 5.01 - NUMBER, ELECTION, AND TERM

Town of Winterport representation on the School Administrative District 22 Board of Directors shall consist of 4 members, more or less, based upon population. Each Director shall be nominated and elected by the registered voters of the entire Town.

Each Director shall be elected for a term of 3 years and shall serve until his/her successor is elected unless recalled.

#### Sec. 5.02 - QUALIFICATIONS

School Administrative District 22 Board of Directors candidates shall be at least 18 years of age and qualified voters of the Town, and shall reside in the Town during their term of office. Directors shall be considered Town officers and shall be nominated in accordance with procedures outlined for Town officers in this Charter.

#### Sec. 5.03 - POWERS AND DUTIES

The Directors shall have all the powers conferred, and shall perform all the duties imposed by law, upon Directors in regard to the care and management of the public schools, except as otherwise provided in this Charter.

#### Sec. 5.04 - COMPENSATION

Directors shall receive such compensation as shall be approved at the Annual Town Meeting.

#### Sec. 5.05 - INDUCTION OF DIRECTORS INTO OFFICE

Directors-elect shall be required to be sworn to the faithful discharge of their duties by a person qualified by law to administer oaths. The terms of Directors shall begin at the time they are sworn.

#### Sec. 5.06 - VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES; REMOVAL

1. VACANCIES: The office of Director shall become vacant upon his/her death, resignation, or removal from office in any manner authorized by law or forfeiture.
2. FORFEITURE OF OFFICE: A Director shall forfeit his/her office upon conviction of a felony or crimes relating to his/her office or if he/she lacks at any time during his/her term of office any of the qualifications of the office prescribed by this Charter or by law.
3. FILLING VACANCIES: Vacancies on the School Administrative District 22 Board of Directors shall be filled in accordance with procedures outlined for Town officers in this Charter.
4. REMOVAL: Removal shall be governed by any appropriate State of Maine Statutes and procedures outlined for recall of elected Town officers in this Charter.

### **ARTICLE VI NOMINATIONS AND ELECTIONS**

#### Sec. 6.01 - CONDUCT OF ELECTIONS

The regular municipal election shall be held within the week before Town Meeting. Except as otherwise provided by this Charter, the municipal provisions of the laws of the State of Maine shall apply to elections held under this Charter. Qualified voter shall mean any person qualified and registered to vote under law.

#### Sec. 6.02 - NOMINATIONS

Elected officers of the Town of Winterport shall be defined as Town Councilors, Tax Assessors, and Directors of School Administrative District 22.

1. Petitions: Candidates for Elected Office shall be nominated by petition. Any qualified voter of the Town, being at least 18 years of age, may be nominated for Elected Office by a petition signed by not fewer than 25 qualified voters nor more than 100 qualified voters of the Town. The signatures to nominating petitions need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator. The affidavit shall state the number of signers of the paper, that each signature on it was affixed in his/her presence, and that he/she believes each signature to be the genuine signature of the person whose name it purports to be. The signature shall be

executed in ink or indelible pencil. Each signer shall indicate next to his/her signature the street address where he/she resides.

2. Filing and Acceptance of Nomination Petitions: All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as one instrument not earlier than 75 days nor later than 35 days before the election, unless otherwise specified by the Town Council. The Clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by the candidate's signed acceptance of the nomination.

3. Procedure after Filing Nomination Petitions: Within 5 calendar days after the filing of a nominating petition, the Clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate. The Clerk shall keep on file all petitions found sufficient, at least until the expiration of the term for which the candidates are nominated in those petitions.

#### Sec. 6.03 - NAMES AND ORDERING ON BALLOTS

The first and last names of all candidates nominated for Elected Office, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballots without party designation. When two or more candidates have been nominated for any office, the names of said candidates shall appear on the ballot in alphabetical order by last name. A blank space shall be provided for write-in candidates immediately after the last named candidate.

#### Sec. 6.04 - DETERMINATION OF ELECTION RESULTS

1. Number of Votes: Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled.

2. Plurality: Election shall be determined by a plurality of votes cast. In case of a tie, the candidates shall decide the election by straws unless a petition signed by 25 voters has requested a run-off election.

#### Sec. 6.05 - BALLOTS FOR ORDINANCES

An ordinance to be voted on according to Article VII – Standards for Ordinances shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described ordinance be adopted?" Immediately below such question

shall appear in the following order, the words "yes" and "no" and to the right of each, a space in which the voter may cast his/her vote.

#### Sec. 6.06 - VOTING MACHINES

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

#### Sec. 6.07- ABSENTEE VOTING

Each qualified voter who desires to cast an absentee vote at a regular or special election shall be entitled to an official ballot and the right to cast such ballot in accordance with the provisions of State Law.

### **ARTICLE VII STANDARDS FOR ORDINANCES**

The following standards shall pertain to all Ordinances.

#### Sec. 7.01 - FORM

Every proposed ordinance shall be introduced in writing and in the form required for the final adoption. The enacting clause shall be "The Town of Winterport hereby ordains..." Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

#### Sec. 7.02 – PROCEDURE

These procedures are the minimum procedures needed to enact an ordinance. Where state law requires additional or more stringent conditions of notice, the provisions of state law shall apply. A proposed ordinance may be introduced by any Councilor at any regular or special meeting of the Council. Upon introduction of any ordinance, the Secretary to the Council shall distribute a copy to each Councilor and to the Town Manager. The Secretary shall then file a reasonable number of copies in the office of the Town Clerk and such other public places as the Council may designate. A notice shall be posted in readily accessible locations setting out the time and place for a public hearing on the ordinance and for its later consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Council meeting, and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment, or reject it. If it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure herein before required for a newly introduced ordinance. Every adopted ordinance shall become effective upon adoption or at any later date specified therein.

### Sec. 7.03 - EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more police power emergency ordinances. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of all qualified and present Councilors shall be required for adoption. After its adoption the ordinance shall be posted at the Town Office and in public places in Winterport. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

### Sec. 7.04 – AUTHENTICATION AND RECORDING, CODIFICATION AND PRINTING OF ORDINANCES

1. AUTHENTICATION AND RECORDING: All ordinances adopted by the Council shall be authenticated by the signature of the Secretary of the Council and recorded in full by the Secretary in a properly indexed book kept for the purpose.

2. CODIFICATION: Within three years after adoption of this Charter, and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all ordinances, except for emergency ordinances. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution, and other laws of the State of Maine, and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be known and cited officially as the Winterport Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price.

3. PRINTING OF ORDINANCES: The Council shall cause each ordinance, except for emergency ordinances, and each amendment to this Charter, to be printed promptly following its adoption. Copies of the printed ordinances and Charter amendments shall be furnished to officials, placed in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price.

## **ARTICLE VIII INITIATIVE, REFERENDUM, AND RECALL**

### Sec. 8.01 - ENACTMENT OF ORDINANCES BY INITIATIVE

The qualified voters of the Town shall have the power to propose ordinances to the Council, provided that such power shall not extend to salaries of Town officers or employees. If the Council should fail to adopt in substance any ordinance so lawfully

proposed, the qualified voters of the Town shall have the power to adopt or reject the proposed ordinance at an election.

Any 5 qualified voters may begin initiative proceedings with a request in writing to the Town Clerk. The Clerk shall provide the appropriate petition blanks within 5 working days from the date they are requested. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain, or have attached thereto, throughout their circulation the full text of the proposed ordinance.

These 5 qualified voters shall be referred to as the Requesting Committee during the initiative procedure. The Requesting Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by the minimum number of voters. The minimum number shall be the greater of 5% of the number of votes cast in the Town at the last Gubernatorial Election or 70.

Any voter of Winterport may circulate the petition. The petition shall be signed only once by qualified voters of the Town and each voter's signature shall be followed by his/her address. To each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence, and that he/she believes each signature to be the genuine signature of the person whose name it purports to be, and that each signer had the opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 working days after the petition circulation period ends, the Town Clerk shall certify to the Council, and notify the Requesting Committee, that the petition has been signed by at least the required minimum number of voters.

Any such proposed ordinance shall be examined by the Town Attorney before being circulated for signatures. The Town Attorney may review and render a legal opinion regarding illegalities and constitutionality. His/her opinion shall be given to the Requesting Committee and shall accompany the petition while it is circulated.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same ordinance may not be accepted by the Clerk until 120 days after the expiration of the previous filing period.

Upon receipt of certification, the Council shall, within 30 days, hold a public hearing. Notice of the public hearing shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Winterport and by posting a notice at the Town Office and other public places in Winterport. A Town election shall be held within 60 days after said public hearing for the purpose of submitting to vote the question of

adopting such ordinance, unless, in substance, such ordinance shall be enacted by the Council prior to the call for said Town election.

Every adopted ordinance shall become effective upon adoption or at any later date specified therein.

#### Sec. 8.02 - REFERENDUM

The qualified voters of the Town shall have power to require reconsideration by the Council of all ordinances, orders, and resolves; and if the Council fails to repeal an ordinance, order, or resolve so reconsidered, to approve or reject it at a Town election provided that such power shall not extend to any emergency ordinance or salaries of officers or employees.

Any 5 qualified voters may begin referendum proceedings with a request in writing to the Town Clerk for the appropriate petition blanks, within 7 days after enactment of any ordinance subject to referendum by the Charter. The Clerk shall provide the appropriate petition blanks within 5 working days from the date they are requested. The complete text of the proposed referendum shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain, or have attached thereto, throughout their circulation the full text of the referendum.

These 5 qualified voters shall be referred to as the Requesting Committee during the referendum procedure. The Requesting Committee shall have 30 days from the date of enactment to cause the petitions to be signed by the minimum number of voters. The minimum number shall be the greater of 5% of the number of votes cast in the Town at the last Gubernatorial Election or 70.

Any voter of Winterport may circulate the petition. The petition shall be signed only once by qualified voters of the Town and each voter's signature shall be followed by his/her address. To each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence, and that he/she believes each signature to be the genuine signature of the person whose name it purports to be, and that each signer had the opportunity before signing to read the full text of the referendum proposed or sought to be reconsidered.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 calendar days after the petition circulation period ends, the Town Clerk shall certify to the Council, and notify the Requesting Committee, that the petition has been (*signed*) by at least the required minimum number of voters.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings

thereon shall be terminated. The matter shall not be subject to resubmission and the ordinance shall continue in effect.

Upon receipt of certification, the Council shall, within 30 days, hold a public hearing. Notice of the public hearing shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Winterport and by posting a notice at the Town Office and other public places in Winterport. A Town election shall be held within 60 days after said public hearing for the purpose of submitting to vote the question of repealing such ordinance, unless it shall be repealed by the Council prior to the call for said Town election. Such ordinance shall be repealed when a majority of those voting thereon shall have voted in the affirmative.

After a petition has been certified by the Town Clerk, the referred ordinance shall be suspended from going into operation until it has been approved by a majority of those voting in the Town election.

#### Sec. 8.03 - RECALL

Any 10 qualified voters may begin at any time proceedings to recall one or more Elected Officers by submitting a request in writing to the Town Clerk for the appropriate petition blanks. The Clerk shall provide the appropriate petition blanks within 5 working days from the date they are requested. The complete text of the proposed recall shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain, or have attached thereto, throughout their circulation a statement detailing the reason or reasons for recall and the names of the Recall Committee.

These 10 registered voters shall be referred to as the Recall Committee. The Recall Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by the minimum number of voters. The minimum number shall be the greater of 10% of the number of votes cast in the Town at the last Gubernatorial Election or 140.

Any voter of Winterport may circulate the petition. The petition shall be signed only once by qualified voters of the Town and each voter's signature shall be followed by his/her address. To each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence, and that he/she believes each signature to be the genuine signature of the person whose name it purports to be, and that each signer had the opportunity before signing to read the full text of the recall petition.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 working days after the petition circulation period ends, the Town Clerk shall certify to the Council, and notify the Recall Committee, that the petition has been signed by at least the required minimum number of voters.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and request for recall of the same Elected Officer shall not be accepted by the Clerk until 120 days after the expiration of the previous filing period. Upon receipt of certification, the Council shall, within 30 days, hold a Town election for the purpose of submitting to vote the question of recall. Notice of the Town election shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Winterport and by posting a notice at the Town Office and other public places in Winterport. An Elected Officer shall be recalled when a majority of those voting thereon shall have voted in the affirmative. The Council shall, within 60 days after the voters have recalled an Elected Officer, hold a special election to fill the vacancy unless the recall takes place within 6 months of the next election for that office.

An Elected Officer that is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy created by the recall. Qualified voters who seek to fill the vacancy created by the recall shall have until the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for a regular municipal election.

Pending action by the voters of the Town, the Elected Officer that recall proceedings have been initiated against shall continue to carry out all the duties and exercise all the privileges of his/her office.

The ballot for recall shall contain the following question: "Shall (name of person being subjected to recall) be recalled from the office of (name of Office)?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the right of each a square in which the voter may cast his/her vote.

## **ARTICLE IX TAX ADMINISTRATION**

### **Sec. 9.01 – ESTABLISHMENT**

There shall be established, as provided by the Laws of the State of Maine, a Board of Assessors composed of three members, each of whom shall be elected by the registered voters of the entire Town. Members will serve staggered 3 year terms or until their successors are elected and duly qualified.

### **Sec. 9.02 ASSESSORS' AGENT**

The Board of Assessors shall hire or contract for, with the advice and consent of the Town Council, a Certified Assessors' Agent experienced in the matters of assessing taxable property.

### **Sec. 9.03 - BOARD OF ASSESSORS; POWERS AND DUTIES**

The Board of Assessors shall be empowered with the powers and subject to the duties prescribed in the Laws of the State of Maine.

The Board of Assessors shall have the power to:

1. Assess the value of all taxable property within the Town of Winterport for the purpose of taxation.
2. Review and revise assessed values for the purpose of taxation of taxable property within the Town limits.
3. Administer oaths.
4. Take testimony.
5. Hold hearings on complaints and other matters in a timely manner.
6. Adopt regulations regarding the procedure of assessment review not inconsistent with statutory provisions.
7. Make findings of fact and conclusion of values.

## **ARTICLE X BUDGET**

### **Sec. 10.01 - FISCAL YEAR**

The fiscal year of the Town government shall begin the first day of July and shall end on the last day of June of the following year, or such other fiscal year as the Council may decide. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

### **Sec. 10.02 - PREPARATION AND SUBMISSION OF THE BUDGET**

The Town Manager, at a time to be determined by the Town Council, shall submit to the Council and Budget Committee a budget and an explanatory budget message. The budget shall contain:

1. A statement of the financial condition of the Town.
2. An itemized statement of appropriations recommended for current expenses, and for permanent improvements, with comparative statements in parallel columns of estimated expenditures from the current and the immediately preceding fiscal years. An increase or decrease in any item shall be indicated.

3. An itemized statement of estimated revenues and all sources, and a statement of taxes required. The itemized statement shall include comparative figures from the current and the immediately preceding fiscal years.

4. Such other information as may be required by the Town Council.

The proposed budget prepared by the Manager shall be reviewed by the Town Council and Budget Committee. The Town Council and the Budget Committee shall hold regular workshops on the budget that shall be publicized and open to the residents of the Town of Winterport. The Council and Budget Committee shall then review the budgets and recommend them, with or without change, to the annual Town Meeting.

#### Sec. 10.03 - BUDGET ESTABLISHED APPROPRIATIONS

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

#### Sec. 10.04 - BUDGET ESTABLISHES AMOUNT TO BE RAISED BY PROPERTY TAX; CERTIFICATION TO THE ASSESSOR

From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy. A copy of the budget as finally adopted shall be certified by the Clerk and filed with the Board of Assessors, whose duty it shall be to levy such taxes for the corresponding tax year.

#### Sec. 10.05 - BUDGET SUMMARY

At the beginning of the budget there shall appear a summary, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax. The budget shall be itemized by departments and kinds of expenditures in such a manner as to present to taxpayers a simple and clear accounting of budget estimates.

#### Sec. 10.06 - DEPARTMENTAL EXPENDITURES

The budget for all departments shall include all proposed expenditures. The Town Meeting shall make a gross appropriation for each department for the ensuing fiscal year. The gross appropriation for each department shall not be exceeded, and monies shall not be transferred from one department to another.

#### Sec. 10.07 - INTERIM EXPENDITURES

In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year not to exceed the amount of the previous year's appropriation.

#### Sec. 10.08 - LAPSE OF APPROPRIATIONS

General fund appropriations that have not been expended or encumbered, except those accounts designated by the Council to be continuing, shall lapse at the close of the fiscal year.

#### Sec. 10.09 - PAYMENTS AND OBLIGATIONS PROHIBITED

No payment shall be made or obligation incurred against any appropriations except in accordance with appropriations duly made. The Town Manager shall certify that there is *a* sufficient unencumbered balance in such appropriation, and that sufficient funds are, or will be available, to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation without an appropriation shall be deemed to be in violation of the provisions of this Charter and shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he/she shall also be liable to the Town for an amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments, provided such action is made or approved by ordinance.

#### Sec. 10.10 - RESERVE ACCOUNTS

Reserve accounts, as permitted to municipalities by State Law, may be established by the Town Council. Town Meeting approval is required for the following:

1. Funding of a reserve account.
2. Transfer of funds from one reserve account to another.

#### Sec. 10.11 - BUDGET COMMITTEE

The Budget Committee is an advisory committee that is selected to review the proposed budgets of the Town Manager and the Town Council. The Budget Committee shall consist of 7 members, serving staggered two year terms, with no term limits. Each year the Town Council shall recommend residents of the Town for membership on the Budget Committee depending upon the number of vacancies. Nominations for the Budget Committee may be accepted from the floor of the Town Meeting. The Budget Committee shall be appointed at the annual Town Meeting by secret ballot by the townspeople present and voting.

#### Sec. 10.12 - INDEPENDENT ANNUAL AUDIT

Prior to the end of each fiscal year, the Town Council shall designate the State Department of Audit, or certified public accountants, who, as of the end of the fiscal year shall make an independent audit of accounts and other evidences of financial transactions of the Town government. The auditor shall submit the report to the Town Council and to

the Town Manager. Such accountants shall not maintain any accounts or records of the Town business, but shall post audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department, or agency of the Town government. This shall be a financial audit in accordance with generally accepted auditing practice for governments.

#### Sec. 10.13 - AMENDMENTS AFTER ADOPTION

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

#### Sec. 10.14 - EMERGENCY APPROPRIATION

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

### **ARTICLE XI PLANNING BOARD**

#### Sec.11.01 - ESTABLISHMENT

There shall be a Planning Board composed of seven members and one alternate appointed by the Council. The term of office shall be three years.

#### Sec. 11.02 – POWERS AND DUTIES

Within the limits of its budget, the Planning Board shall have the power to make such studies as it deems desirable or such studies assigned by the Town Meeting or Town Council. The Planning Board shall submit a written summary to the Councilors describing the findings of any and all studies.

The Planning Board shall administer the subdivision, site plan, and shoreland ordinances. These ordinances shall be adopted at Town Meeting.

### **ARTICLE XII BOARD OF APPEALS**

#### Sec.12.01 – ESTABLISHMENT

There shall be a Board of Appeals composed of seven members and one alternate appointed by the Council. The term of office shall be three years.

#### Sec. 12.02 – POWERS AND DUTIES

The Board of Appeals shall have the power to hear appeals that may arise under the land use ordinance or any other regulatory ordinance enacted pursuant to this Charter or the laws of the State of Maine, which provide therein for such appeals.

### **ARTICLE XIII GENERAL PROVISIONS**

#### Sec. 13.01 - ELECTED OFFICERS' TERMS

The term of any elected officer shall begin immediately upon taking the oath of office. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified. The definition of officer shall include Councilors, School Administrative District 22 directors, and Assessors.

#### Sec. 13.02 - SWEARING IN OFFICERS

Every Town officer shall be sworn to the faithful discharge of the duties incumbent upon him/her according to the Constitution and laws of the State of Maine and the Charter and ordinances of the Town . Every Town officer or official shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

#### Sec. 13.03 - PERSONAL FINANCIAL INTEREST

Any officer or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the Town or in the sale of any land, material, supplies, or services to the Town, or to a contractor supplying the Town, shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as an officer or employee in the making of such sale or in the making or performance of such contract. Any officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section and is found to be guilty of malfeasance in office or position by an appropriate court of law, shall forfeit his/her office or position. Violation of this section with the knowledge, actual or constructive, of the person or corporation contracting with, or making a sale to, the Town shall render the contract or sale subject to void by the Council.

#### Sec. 13.04 - PROHIBITIONS

##### 1. Activities Prohibited

- a. No elected Town officer shall hold more than one elected Town office concurrently.

b. No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to any Town position or appointive Town administrative office because of race, gender, age, disability, or political or religious opinions or affiliations.

c. No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment under the personnel provisions of this Charter, or the rules and regulations made thereunder, or in any manner commit, or attempt to commit, any fraud preventing the impartial execution of such provisions, rules, and regulations.

d. No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in municipal service.

e. No person who holds an elected or compensated appointive Town position shall solicit any assessments, contributions, or services for any political party from any employee in municipal service.

f. Nothing herein contained shall affect the right of any person to hold membership in, and support, a political party, to vote as he/she chooses, to express privately and publicly his/her opinions on all political subjects and candidates, to maintain political neutrality, and to attend political meetings.

## 2. Penalties:

a. Any Person found in violation of this section by a Court of the State of Maine, or the United States of America, or by the Council acting in a judicial capacity (subject to review by an appropriate court of law), shall be ineligible for a period of 5 years thereafter to hold any Town office or employment and shall immediately forfeit his/her office or position.

## Sec. 13.05 - SEPARABILITY

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

## Sec. 13.06 - GENERAL PROVISIONS BOARD/COMMITTEE PROCEDURES

All Town Boards and Committees shall adopt rules of procedure similar in nature to those of the Town Council. These procedures shall include provisions explaining executive sessions and include a method whereby all votes shall be recorded and the yeas

and nays shall be taken. The procedures adopted by appointed boards shall be submitted to the Council for approval.

#### Sec. 13.07 - CHARTER AMENDMENTS

Amendments to the Charter shall be governed by the Revised Statutes of the State of Maine, as amended.

### **ARTICLE XIV TRANSITIONAL PROVISIONS**

#### Sec. 14.01 - FIRST ELECTION

At the time of its adoption, this Charter shall become effective immediately, only for the purpose of conducting the election of necessary Town officers. Said election shall be conducted in accordance with the provisions of this Charter. The Selectmen shall prepare and adopt temporary regulations, if necessary, applicable only to the first election and designed to insure its proper conduct.

#### Sec. 14.02 - TIME OF TAKING FULL EFFECT

This Charter shall be in full effect for all purposes on the first day of the fiscal year following the election of officials under this Charter.

#### Sec. 14.03 - FIRST COUNCIL

Selectmen with terms expiring after July 1, 2005 shall be sworn in as Councilors and shall continue to serve as Councilors for the remainder of their term or until their successors are elected and qualified unless recalled. At the first election after the adoption of this Charter, Councilors shall be elected to fill the terms of those whose terms expire.

#### Sec. 14.04 - FIRST COUNCIL MEETING

As soon as is practical after the election of officials under this Charter, the Town Clerk shall call a meeting of members of the Council at the Town Office for the following purposes:

1. Electing a chairperson, and Vice chairperson.
2. Adopting ordinances and resolutions deemed necessary by the Council or as required by this Charter.

#### Sec. 14.05 - SCHOOL ADMINISTRATIVE DISTRICT 22 BOARD OF DIRECTORS

Winterport representatives to the School Administrative District 22 Board of Directors