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**ARTICLE I. INCORPORATION AND GENERAL POWERS**

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**\*Editor's note:** Included herein is the town charter, which was ratified at the November 5, 1985 regular election and is effective January 1, 1986. This charter amends the original charter, effective September 27, 1966, and readopted and amended effective November 3, 1970, and January 1, 1977. Effective dates of amendments to the charter will be cited in parentheses following the provision amended. The absence of such a citation indicates that the provision is as contained in the 1985 amended version.

**Op. town atty.** --In reference to the charter amendments approved at the general election held Nov. 2, 1976, the timing of the public hearing was not incorrect and did not have the effect of invalidating the work of the Charter Revision Commission and the question of the ballot on Nov. 2, 1976. The actions of said commission were in conformance with the enabling statute, and the changes approved by the voters on Nov. 2, 1976, should have taken effect in the manner provided in the amendments, Shipman No. 28.

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Section 101. Incorporation.

All the inhabitants dwelling within the territorial limits of the Town of Newington, as heretofore constituted, shall continue forever hereafter to be a body politic and corporate under the name "Town of Newington," hereinafter called "the town," and as such shall have perpetual succession and may hold and exercise all the powers and privileges heretofore exercised by the town and not inconsistent with the provisions of this charter, the additional powers and privileges herein conferred, and all powers and privileges conferred upon towns under the laws of the State of Connecticut.

Section 102. Rights and obligations.

All property, both real and personal, all rights of action and rights of every description and all securities and liens, vested or inchoate, in the town as of the effective date of this charter, are continued in the town. The town shall continue to be liable for all debts and

obligations of every kind, whether or not accrued, for which the town shall be liable on said date. Nothing herein shall be construed to affect the rights of the town to collect any assessment, charge, debt or lien. Any contract that has been entered into by the town prior to the effective date of this revision, or any bond or undertaking that has been given by or in favor of the town, which contains provision that the same be enforced by any commission, board, department or office therein named but abolished by the provisions of this charter, shall be in no manner impaired, but said contract, bond, or undertaking shall continue in full force and effect, with reference to the same upon any such commission, board, department or office shall, except as otherwise provided in this charter, thereafter be exercised and discharged by the council of the town.

Section 103. General grant of powers.

In addition to all powers granted to towns under the constitution, Connecticut General Statutes and special acts, the town shall have all powers specifically granted by this charter, all power fairly implied in or incident to the powers expressly granted, and all other powers relating to the property, government and affairs of the town, the exercise of which is not in conflict with the constitution and Connecticut General Statutes. The enumeration of particular powers in this and any other article of this charter shall not be construed as limiting this general grant of power but shall be considered as an addition thereto.

(Amend. eff. 1-1-92)

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**ARTICLE II. ELECTION\***

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\* **Op. town atty.** --Discussion of effect of uniform Municipal election dates law on election in Newington, Trantolo No. 101, 8-1-69.

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Section 201. Regular town elections.

Regular town election shall be held on the first Tuesday after the first Monday in November in each odd-numbered year. All officials duly elected at such regular town elections, upon qualification, shall take office on the Tuesday following their election and they shall hold offices until their successors have been chosen and qualified. Except as otherwise provided in this charter, all elected town officials, boards and commissions shall have the powers and duties prescribed by law.

(Amend. eff. 1-1-92)

Section 202. Elected officials.

At each regular town election there shall be elected, in accordance with the provisions of the Connecticut General Statutes for a term of two (2) years the following: A mayor, eight (8) councilors, two (2) constables, and as hereinafter defined, a board of education and a board of fire commissioners.

(A) ~~~ *Board of Education.* The board of education shall continue to have such powers and duties as are or may be imposed or vested by the Connecticut General Statutes upon boards of education in the several towns, which statutes shall prevail over any provisions of this charter in event of conflict, and it shall have the power to appoint and remove its nonprofessional employees in accordance with Article IX of this charter. There shall be nine (9) members of the board of education. Members in office on the effective date of this revision shall be continued in office until their terms expire. At each regular biennial town election, nine (9) members of the board of education shall be elected for a term of two (2) years and until their successors are elected and qualified, in accordance with provisions of Section 9-204 of the Connecticut General Statutes.

(B) ~~~ *Board of Fire Commissioners.* There shall be a board of fire commissioners consisting of three (3) members which shall have the powers and duties vested in it by this charter and such as have been or may hereafter be conferred on it by the Connecticut General Statutes or by ordinance. Members shall serve for four-year staggered terms and until their successors are chosen and qualified.

The board of fire commissioners shall supervise, maintain and care for all fire department buildings and fire equipment of said department; shall appoint fire chief(s) and such other officers and personnel as they deem necessary; shall recommend the purchase of additional apparatus and equipment when needed; shall purchase additional apparatus and equipment when duly authorized; and shall annually prepare and submit to the town manager a budget for the maintenance and care of the equipment and buildings of said fire department. The board of fire commissioners' role shall include acting as final board of appeal from personnel actions.

The members of said commission shall make inspections of the department at least twice a year and shall make an annual report to the town of the department's operations during the preceding year, and shall include in such report a statement of the operative status condition of the fire department as determined by such inspections.

The members of said commission, when possible, should attend all fires that occur in town, to observe the condition of the apparatus and the efficiency of said department. They shall have no authority other than that specifically provided herein, to direct the operation of the department at any time. The fire department may take apparatus out of town with approval of at least one commissioner. The board may delegate this authority to the fire chief.

(Amend. eff. 1-1-92)

**Op. town atty.** --The board of fire commissioners has the authority to appoint the local fire marshal (Connecticut General Statutes section 29-297) and this power cannot be abrogated by subsequent ordinance, Nassau No. 14, 12-1-86; where the law does not forbid the holding of two offices, acceptance of another office not incompatible with the first is not an abandonment or resignation of the first (3 McQuillan, Municipal Corporations (3d ed), Section. 12.124), Nassau No. 19, 3-6-87.

Section 203. Minority representation.

At each regular town election no political party shall nominate and no elector shall vote for more than the mayor, five (5) members of council, two (2) constables, and the number of members of the board of education and of the board of fire commissioners as shall be determined by the provisions of this charter and the Connecticut General Statutes. Each

political party shall nominate one-half of the total number of constables as are to be elected and, unless there are independent candidates for these offices, one vote shall be sufficient to elect them.

Election of all officials mentioned in this section, except the mayor, shall be determined in accordance with minority representation provisions of the Connecticut General Statutes.

(Amend. eff. 1-1-92)

#### Section 204. Vacancies in elective offices.

Vacancies in elective offices, except in the board of education, from whatever cause arising, shall be filled by the council for the period until the next regular town election. Vacancies in the board of education shall be filled by the board of education for the period until the next regular town election. In filling any vacancy the council, and the board of education, shall select a person of the same political party as that of the former incumbent. If said former incumbent was elected as an independent candidate, the vacancy shall be filled by an elector not enrolled in any political party except as provided otherwise by the Connecticut General Statutes. Any member of the board of fire commissioners elected to fill a vacancy at a regular town election shall serve for the remaining term of the former incumbent and until the successor has been elected and qualified.

(Amend. eff. 1-1-92)

**Op. town atty.** --Charter prevails over contrary provision of General Statutes re appointments, and vacancies in board of selectmen should be filled by council, Lach No. 10-12-66.

#### Section 205. Independent candidates.

In addition to the procedure for the nomination of candidates provided for in this charter and the Connecticut General Statutes, any elector of the town may be nominated for any elective office except that of registrar of voters and be entitled to have the electors name appear on the voting machines in a line designated "Independent", provided the elector shall file with the town clerk, not less than thirty (30) nor more than forty-five (45) days preceding the town election, an individual petition signed by qualified electors of the town in number equal to five (5) per cent of the total number of electors in the town whose names appear upon the last completed Registry List and further provided that the town clerk, after examining such petition shall certify to the secretary of the state that the petition contains the required number of valid signatures. The town clerk shall notify each elector filing a petition, within seven (7) days after said filing, whether or not the elector has qualified to have his/her name appear on the voting machines. No elector shall be permitted to sign the petition of more candidates for any office than the number for whom an elector will be entitled to vote at the next town election. If any elector signs more than the authorized number of petitions his/her signature shall be counted only on such petitions as are first filed, up to the authorized number.

#### Section 206. Qualifications.

Each candidate for elective office shall be a resident and an elector of the town, and if any elected official at any time shall cease to be a resident of the town said elected official

shall be deemed to have vacated the office.  
(Amend. eff. 1-1-92)

Section 207. Voting districts.

The council shall determine by ordinance the number and geographical boundaries of the districts.

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### **ARTICLE III. THE MAYOR**

Section 301. Election and qualification.

At each regular town election a mayor shall be separately elected by the electors and shall serve until a successor shall be elected and qualified. The mayor shall take office on the Tuesday following the town election.

Section 302. Duties.

The mayor shall be a member and the presiding official of the council and shall have one vote, but only one vote, on each matter voted upon by the council. The mayor shall be recognized as the official head of the town for ceremonial purposes and for military purposes. The mayor shall keep informed on town matters, and may make reports and recommendations to the council and electors of the town on matters of legislative concern and general town policy. The mayor may attend any meeting of any board, commission or other governmental body of the town and shall receive such advance notification of any such meeting as is given to the members of said bodies, and shall have the full right of participation in discussions but shall not have the right to vote.

(Amend. eff. 1-1-92)

Section 303. Appointments.

(A) ~~~ *Salaried Officials.* The mayor shall appoint the town attorney, director of health, and the clerk of the council.

(1) ~~~ *Town attorney.* There shall be a town attorney, appointed by the mayor, who shall be an attorney-at-law admitted to practice in this state. The town attorney shall serve for the term of the mayor making the appointment and shall be paid an annual retainer under terms and conditions as set by the council. The town attorney shall be the legal advisor to the council, manager, and all commissions, boards, departments and offices of the town; shall represent the town in any action or proceeding in which the town or any commission, board, department or office is a party or has an interest; and shall prepare, on written request of the manager, the council, or any member thereof, ordinances and resolutions for consideration by the council. If the town attorney is a member of a law firm, other members of firm may, with the written approval of the mayor, perform any legal services for the town. The town attorney shall have such assistants as the council may determine. All nonprofessional assistants shall be appointed by the manager in accordance with and subject to the provisions of Article IX of this charter. The mayor shall appoint all professional assistants, and shall appoint substitute attorneys to serve in any case where the town attorney has a conflict of interest. In the event there shall be a

dispute, except one involving suspension or removal, between the council and any board, commission or office, as shall require that each side of the dispute shall have legal representation, the town attorney shall represent the council, and the board, commission or office shall have the power to retain an attorney to represent it. In the event there shall be a dispute, except one involving suspension or removal, between or among the boards, commission, or offices of the town as shall, in the opinion of the council, require that each side of the dispute shall have legal representation, the council shall assign the town attorney to represent one of the boards, commissions or offices and retain an attorney to represent the other board, commission or office. In either event the council shall provide for the payment of all such fees.

The town attorney shall not be required to give full time to his/her duties unless the council by ordinance shall determine otherwise.

**Op. town atty.** --The board of education does not have the legal right, without specific council authorization, to appoint an attorney on any legal matter, Rosenblatt No. 86, 7-15-85; a bond counsel is a "professional assistant" pursuant to section 303(A)(1); the position of bond counsel is to be authorized by the town council; the appointment of the bond counsel shall be exercised by the mayor, Nassau and Borowy No. 26, 4-26-88.

(2) ~~~ *Director of health.* The mayor shall appoint a director of health in accordance with the provisions of the Connecticut General Statutes. The director of health shall perform such functions and have such powers and duties as are prescribed by the council and imposed by law on directors of public health. He/she shall have the duty of enforcing the laws, ordinances and regulations concerning public health. He/she shall receive such compensation as the council may determine and shall have such assistance as the council may determine. All nonprofessional and nonmedical professional assistance shall be appointed by the manager in accordance with and subject to the provisions of Article IX of this charter. All medical professional assistants shall be appointed by the mayor.

**Op. town atty.** --Appointment to fill vacancy in office of director of health is for unexpired term and not for a new full term, under section 19-74 of the General Statutes, Lach No. 114, 9-23-69.

(3) ~~~ *Clerk of the council.* The mayor shall appoint a clerk of the council who shall be responsible for maintaining a record of all regular and special meetings of the council. The clerk shall receive such compensation as the council may determine, and shall have such assignments as set forth by the council. The clerk shall serve for the term of the mayor appointing such clerk.

(B) ~~~ *Subcommittees of the Council.* The mayor, as directed by the council, shall appoint such special subcommittees of the council as are required but shall in no way have the power to make appointments which are the responsibility of the council or the manager.

(Amend. eff. 1-1-92)

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#### **ARTICLE IV. THE COUNCIL\***

\* **Op. town atty.** --In exercising powers granted to council under section 413 of the old charter, council is exercising its authority in meeting assembled, whether convened at a

duly called regular or special meeting, but council may not adjourn to an executive session without a resolution to that effect which must state the reason for the adjournment and town manager may not be excluded from executive session, Lach No 50, 6-17-68; a council should adhere to the opinion of the present town attorney when it conflicts with the opinion of a prior town attorney, Nassau No 4. 1-9-86.

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#### Section 401. Composition.

The council shall consist of the mayor and eight (8) members who shall be elected from the town at large at each regular town election for terms of two (2) years as provided herein.

#### Section 402. Powers.

The council shall be the governing and legislative body of the town and shall have, exercise and perform all the rights, powers, duties and obligations which are conferred by law or may hereafter be conferred by the Connecticut General Statutes. The council shall adopt the budget and fix the tax rate except as otherwise provided in this charter. It shall further have the power to make, alter and repeal ordinances or resolutions not inconsistent with this charter and the general laws of the state for the execution of the powers vested in the town, for the government of the town and the management of its business, and for the preservation of good order, peace, health and safety of the town and its inhabitants.

**Op. town atty.** --The town council has the powers granted by Section 21-609 of the Connecticut General Statutes to "the selectmen of any town," Schalz No. 56, 2-11-82; the council has the power of eminent domain as provided in Connecticut General Statutes section 7-148(c)(3)(A), including the general authority to condemn property as provided in section 48-6 of the Connecticut General Statutes Nassau No. 8, 3-10-86.

#### Section 403. Organization.

Each newly elected council shall meet in the town hall at 8:00 p.m. on the Tuesday following its election. The meeting shall be called to order by the town clerk who shall administer the oath of office to all members. In the absence of the town clerk the meeting may be called to order and the oath administered by any elector of Newington authorized by law to administer oaths. The newly elected mayor shall then assume the chair as presiding official of the council and shall designate a deputy mayor from among the members of the council to preside in the absence of the mayor. In the event that both the mayor and the deputy mayor are absent or unable to perform their duties, such duties shall be performed during the period of their absence or disability by a member chosen by the council. The presiding official, whether the mayor, deputy mayor, or member chosen by the council shall have one vote, but only one vote, on each matter voted by the council. The rules adopted by the preceding council shall be the rules of the newly elected council until the adoption of permanent rules.

(Amend. eff. 1-1-92)

#### Section 404. Procedure.

The council shall fix the time and place of its regular meetings and provide a method for calling special meetings. Only business, notice of which has been included in the call for such special meeting, shall be acted upon at any special meeting. The council shall adopt its own rules of procedure except as specifically provided in this charter. The presence of five (5) members shall constitute a quorum, and no ordinance, resolution or vote, except a vote to adjourn or to fix the time and place of the next meeting, shall be adopted by less than five (5) affirmative votes. The council shall keep for public inspection a journal which shall be the official record of its meetings, a copy of which shall be filed in the office of the town clerk in accordance with the provisions of the Connecticut General Statutes. The journal shall also contain the rules of procedure of the council. No ordinances or resolutions shall be adopted except at a regular or special meeting of the council open to the public.

The council may call at its discretion "work session" meetings to discuss and review pending legislation and may consider other items of concern to the town or its citizenry. The council's rules of procedure will determine the conduct of these meetings. No votes may be taken at a work session meeting.

**Op. town atty.** --The rules of procedure of chapter 90 of the General Statutes, including the meeting warning requirements of section 7-3, apply to public town meetings and do not apply to the council in a council-manager form of government, Dworski No. 66A, 2-11-72.

**Note:** See the town attorney's opinion following, § 406.

#### Section 405. Introduction of ordinances.

All ordinances, together with a written statement of purpose, shall be introduced at regular or special meeting of the council in written form by a member of the council. It shall be the duty of the clerk of the council immediately upon each introduction to file a copy of such proposed ordinance with the town clerk. It shall be the duty of the town clerk or his/her designee immediately upon receipt of such proposed ordinance to prepare sufficient copies of such ordinance, one copy of which shall be retained in the town clerk's office for public inspection, one copy posted on the town bulletin board and one copy distributed to each member of the council and to the manager. No discussion shall be had upon a proposed ordinance at the meeting at which it is introduced, except for an explanation by the councilor moving such ordinance.

(Amend. eff. 1-1-92)

**Op. town atty.** --There is no particular formality required in the enactment of an ordinance, other than the requirements of the charter, and any procedure which clearly signifies the corporate will that the particular ordinance be enacted and become effective, and plainly indicates its terms and purpose is sufficient, Dworski No. 12, 2-11-70; council may read an ordinance at the time of its introduction. Scoler No. 30, 11-4-74.

**Note:** See the town attorney's opinion following § 406.

#### Section 406. Public hearings and passage of ordinance.

Before an ordinance, except an emergency ordinance, shall be passed the council shall hold at least one public hearing, five (5) days' notice of which shall be given by publishing the notice and the proposed ordinance in full at least once in a newspaper having circulation in the town and by posting the notice and the proposed ordinance in

full on the town bulletin board with the full proposed ordinance also available in the town clerk's office. After such public hearing, the council may make such changes as it considers advisable before passing said ordinance. Notice of the passage of an ordinance, described by title or subject matter and statement of purpose, together with such changes in the proposed ordinance, shall be published at least once in a newspaper having a circulation in the town, and an ordinance, except an emergency ordinance, shall become effective fifteen (15) days after such notice is published, provided that if a petition for a referendum is filed with the town clerk within the time specified in Section 410, the ordinance shall not become effective except in accordance with the provisions of Section 410. All adopted ordinances shall be filed with the town clerk and kept as a public record in the form of a suitably indexed volume or volumes of ordinances.

**Op. town atty.** --The town council may elect to amend a proposed ordinance as set forth in a proposed substitute ordinance, assuming that the first public hearing was held in compliance with the charter requirements, and may legally adopt the proposed ordinance, as amended, without holding a second public hearing, Shipman No. 52, 1-7-82; since a proposed ordinance may not be adopted until after a public hearing has been held thereon, a motion to withdraw is proper any time prior to the formal adoption of the proposed ordinance by the town council, Schatz No. 63, 8-13-82.

#### Section 407. Borrowing.

The town shall have the power to incur indebtedness by issuing its bonds and notes as provided by Connecticut General Statutes and the provisions of this charter. The issuance of bonds and notes shall be authorized by resolution of the council adopted in the same manner as provided by Section 406 of this charter, insofar as Section 406 relates to public hearings. Tax anticipation notes shall be issued in accordance with Section 812 without public hearing.

**Op. town atty.** --The town may issue its bonds for construction of an addition to the Lucy Robbins Welles Library, Adinolfi, O'Brien & Hayes, P.C., 4-30-84.

#### Section 408. Obligatory referendum and ordinance.

No resolution authorizing the issuance of bonds or notes, other than notes in anticipation of taxes and other than notes in the amount of one hundred twenty-five thousand dollars (\$125,000.00) or less and no resolution making a special appropriation in excess of three hundred twenty-five thousand dollars (\$325,000.00), shall become effective until the same has been approved by a majority of the qualified electors voting thereon at a regular election or special election called by the council for the purpose. Any special appropriation of three hundred twenty-five thousand dollars (\$325,000.00) or less but in excess of one hundred twenty-five thousand dollars (\$125,000.00) shall be passed by ordinance. A referendum shall not be mandatory when such bond or note authorization, or such special appropriation, shall be for an emergency purpose to protect the public peace, health and safety, or shall be to finance a street, sewer or other improvement to be paid for by a special assessment and not by general taxation; provided however, that such bond or note authorization or special appropriation for emergency purposes shall require not less than six (6) affirmative votes of the council.

(Amend. eff. 1-1-92)

**Op. town atty.** --Grants to the town constitute town revenues and since the town council

will be required to make an appropriation for the total cost of the senior citizens center, and since such appropriation will exceed \$100,000.00, a referendum is required, Schatz No. 74-A, 6-20-83.

Section 409. Emergency ordinance.

An emergency ordinance shall be only for the immediate preservation of the public peace, health and safety; shall contain an explicit statement of the nature of the emergency; shall be adopted by not less than six (6) affirmative votes in the council; and shall take effect immediately. Every such emergency ordinance including any amendment thereto shall automatically stand repealed at the termination of the sixty-first day following the passage of said ordinance unless sooner repealed. In no event shall the annual budget constitute an emergency appropriation.

Section 410. Right of referendum on ordinances.

Electors shall have the right to petition for a referendum in accordance with the Connecticut General Statutes on any ordinance passed by the council except an emergency ordinance, on a special appropriation in the amount of one hundred twenty-five thousand dollars (\$125,000.00) or more. A referendum must be held when there shall be filed with the town clerk, within fifteen (15) days of the published notice of the passage of the ordinance, a petition signed by qualified electors in number equal to five (5) per cent or more of the total number of electors whose names appear upon the last completed Registry List which petition shall be filed with the town clerk who shall within ten (10) days determine whether or not the petition contains a sufficient number of valid signatures, and if it does, shall so certify to the council. The ordinance shall not then take effect until the council has submitted it to a referendum, which shall be held not less than twenty (20) nor more than thirty (30) days after the filing of such petition, except this referendum may be held at a town election or general election if the same occurs not less than ten (10) days nor more than thirty (30) days after the filing of the petition. The ordinance shall be null and void in the event that a majority of the electors voting thereon, such majority consisting of at least ten (10) percent of the qualified electors of the town, shall vote in the negative. Otherwise it shall take effect immediately following the referendum.

(Amend. eff. 1-1-92)

**Op. town atty.** --Section 410 of the Charter does not allow for a referendum on the annual budget and tax rate, Rosenblatt, No. 28.

Section 411. Initiative.

The electors shall have the power to propose to the council any ordinance, except an ordinance appointing or removing officials, specifying the compensation or hours of work officials and employees, adopting the annual budget, authorizing the levy of taxes, or fixing the tax rate. The ordinance shall be proposed by a petition to the council, in accordance with and subject to the provisions of the Connecticut General Statutes, setting forth the proposed ordinance and requesting its adoption, which petition shall be signed by qualified electors of the town, in number equal to five (5) percent or more of the total number of qualified electors whose names appear upon the last completed Registry List. The petition shall be filed with the town clerk who shall within ten (10) days determine

whether or not the petition contains the required number of valid signatures and if it does, the town clerk shall so certify to the council at its next regular meeting. The council shall within sixty (60) days after certification either adopt the proposed ordinance after a public hearing or submit the same to the electors at a special election to be held within ninety (90) days from the date of the town clerk's certification, provided that if a general election or a town election is to occur within four (4) months of such certification, the ordinance may be submitted at such election. The ordinance shall be adopted if a majority of those voting vote in the affirmative and such majority consists of ten (10) percent or more of the total number of qualified electors whose names appear upon the last completed Registry List. No ordinance which shall have been adopted in accordance with the provisions of this section shall be repealed or amended by the council except by vote of the electors.

(Amend. eff. 1-1-92)

#### Section 412. Removals and suspensions.

(A) ~~~ The council shall have the power with not less than six (6) affirmative votes by resolution, in its sole discretion with or without cause, to remove or suspend the manager and shall have the power, for cause, to remove or suspend any person appointed to any other office or position by the council.

(B) ~~~ The council shall act first by suspending such person and promptly serve such person with a copy of the resolution of suspension together with the reasons therefor, if any. If within ten (10) days after service of said resolution such person shall file a request in writing with the town clerk for a public or private hearing before the council, the hearing requested shall be held at time and place set by the council, not less than five (5) days nor more than fifteen (15) days after the filing of the request. At such hearing the person may be represented by counsel. If no hearing is requested, or at the conclusion of the hearing, the council shall promptly, by resolution, terminate the suspension and either restore the person to, or remove him/her from the office or employment. During the period of suspension any such person shall be ineligible to perform the duties of the office or employment. Compensation if any, shall be continued during the period of suspension or for thirty (30) days from the date of suspension, whichever is longer. There shall be no appeal from the decision of the council.

#### Section 413. Investigation.

The council shall have the power to investigate any and all town officials, commissions, boards, departments and offices. The council shall have the power, for the purposes of such investigation, to issue subpoenas.

(Amend. eff. 1-1-92)

#### Section 414. Compensation.

The members of the council shall serve without compensation, but shall be entitled to reimbursement for their legitimate expenses incurred in the performance of their official duties.

#### Section 415. Concurrent offices.

No member of the council shall hold any employment or elective or appointive office in

or under the town government except the office of justice of the peace. This section shall not be construed to prevent members of the council from representing the town as members of intertown or regional bodies or agencies.

**Op. town atty.** --Section 415 of the charter prohibits any member of the council from holding any appointive office in or under the town government during his/her term of office, therefore the mayor would be prohibited from being designated as the deputy treasurer, Shipman, No. 44.

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## **ARTICLE V. THE MANAGER**

**Section 501.** Appointment, qualification and tenure.

The town manager, hereinafter referred to as the manager, shall be appointed, and may be removed or suspended by the council. Said appointment, removal or suspension shall be with no less than six (6) affirmative votes by resolution. The manager shall be chosen on the basis of professional experience, training, and executive and administrative qualifications. The manager shall serve for an indefinite term at the pleasure of the council. At the time of appointment the manager need not be a resident of the town or state, but while in office shall reside within the town within a period of no more than six (6) months. The manager shall devote full time to the duties of the office.

(Amend. eff. 1-1-92)

**Op. town atty.** --An employment agreement, upon execution, would not be binding upon future councils but could be affirmed in whole or in part by future councils. However, future councils would be bound to pay any benefits accrued and not yet then paid to the manager as of that date, Borowy No. 3, 12-17-85; five (5) affirmative votes of the council are required to approve a written employment agreement with the town manager. A council should adhere to the opinion of the present town attorney when it conflicts with the opinion of a prior town attorney, Nassau No. 4, 1-9-86.

**Section 502.** Powers and duties.

The manager shall be the chief executive of the town and shall have the powers and duties conferred upon chief executive officers of towns by the Connecticut General Statutes, except such powers as may be delegated to others by this charter. The manager shall be directly responsible to the council for the supervision and administration of all commissions, boards, departments, offices and agencies of the town except those elected by the people, appointed by the council, appointed by the mayor, or appointed by regional state or federal authority, unless such responsibility is expressly delegated by the appointing authority. The manager shall perform the duties of any office over which he/she has a power of appointment until he/she has made such appointment. The manager shall see that all laws and ordinances governing the town are executed faithfully; shall make periodic reports to the council and shall attend its meetings with full right of participation in its discussions but without the right to vote; shall prepare and cause to be printed an annual report at the close of the fiscal year; shall recommend to the council

such measures as may be deemed necessary or expedient and shall keep the council fully advised as to the financial condition of the town.

The manager shall prepare and submit to the council an annual budget and shall exercise such other powers and perform such other duties as may be required by ordinance, resolution or vote of the council, unless inconsistent with this charter. The council shall not diminish by ordinance, vote or otherwise the powers and duties of the manager granted by this charter.

(Amend. eff. 1-1-92)

**Op. town atty.** --Town manager under Sections 502 and 708 of the charter has the authority to appoint a police chief based on such qualifications as he finds reasonable and proper, Lach No. 32, 11-21-67; the town council has the powers granted by Section 21-60 of the Connecticut General Statutes to "the selectmen of any town," Schatz No. 56, 2-11-82.

#### Section 503. Appointments.

The manager, except as otherwise specifically provided in this charter, shall appoint all department heads and all full-time employees of the town and may remove all those over whom the manager has the power of appointment. The manager shall not appoint an immediate relative to any position. All appointments and removals of classified service employees shall be in accordance with the provisions of Article IX of this charter.

#### Section 504. Acting manager.

(A) ~~~ During the period of a vacancy or a suspension in the office of manager, the council shall appoint by resolution, a person, other than a council member, as acting manager, for a period not to exceed ninety (90) days. He shall have all powers and duties of the manager provided for herein.

(B) ~~~ The manager may designate a town employee to serve as temporary acting manager during the period of the manager's temporary absence or disability. In the event that the council shall determine that it is reasonably probable that the absence or disability shall be of a duration longer than one month, the council shall by resolution appoint a town employee to perform the duties of the temporary acting manager, for a period not to exceed ninety (90) days. Said temporary acting manager shall have all the powers and duties of the manager.

#### Section 505. Compensation.

The council shall fix the compensation of the manager and of any acting or temporary acting manager. The compensation of the manager may be decreased with not less than six (6) affirmative votes by resolution, such vote being taken at least thirty (30) days prior to the beginning of the fiscal year.

**Op. town atty.** --An employment agreement, upon execution, would not be binding upon future councils but could be affirmed in whole or in part by future councils. However, future councils would be bound to pay any benefits accrued and not yet then paid to the manager as of that date, Borowy No. 3, 12-17-85.

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## **ARTICLE VI. OFFICIALS AND BOARDS RESPONSIBLE TO THE COUNCIL\***

\* **Op. town atty.** --It is not required that vacancies on appointed commissions be filled by persons who are members of the same political party as the person previously holding the vacated position, Lach. No. 22, 7-12-67; regularly scheduled meeting of a commission may be adjourned, a public session may be adjourned to an executive session, not necessarily at a regular date, but date and time of executive session must be announced, Lach No. 44, 3-19-68; the procedure for removal of members of boards and commissions accountable to the town council should adhere to Section 412(B) of the charter and, if the council believes that it has cause to remove an appointee, it shall pass a resolution suspending the appointee and serve the appointee with a copy thereof together with the reasons therefor, Schatz No. 68, 11-9-82; no state statute or local law prohibits a fire commissioner from holding a position on the town plan and zoning commission simultaneously. The nature of the two offices, the rights, duties and obligations connected with them are distinct and separate and therefore are not incompatible, Nassau No. 19, 3-6-87.

**Code references** --Plan commission and zoning commission consolidated, § 13-1, for provisions pertaining to the zoning board of appeals, see § 13-31 et seq. and App. A, Art. VI, §§ 4, 5.

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### Section 601. Town plan and zoning commission.

There shall be a town plan and zoning commission consisting of seven (7) regular members and three (3) alternate members which shall have the powers and duties conferred upon it by the Connecticut General Statutes, or by ordinance. Members and alternates of the town plan and zoning commission shall be appointed by the council for staggered terms of four (4) years. The town plan and zoning commission shall have such professional, technical and clerical assistance as the council may determine, to be appointed in accordance with the provisions of Article IX of this charter.

(Amend. eff. 1-1-92)

### Section 602. Zoning board of appeals.

There shall be a zoning board of appeals consisting of five (5) regular members and three (3) alternate members which shall have all the powers and duties conferred upon it by the Connecticut General Statutes or by ordinance. Members and alternates of the zoning boards of appeals shall be appointed by the council for staggered terms of five (5) years. The zoning board of appeals shall have such professional, technical and clerical assistance as the council may determine, to be appointed in accordance with provisions of Article IX of this charter.

### Section 603. Library directors.

The six (6) members of the board of directors of Lucy Robbins Welles Library, Incorporated, selected by the town shall have the powers and duties prescribed for library

directors by the Connecticut General Statutes or by the council as per agreement of August 16, 1939 between Lucy Robbins Welles Library, Inc. and the Town of Newington. Members shall be appointed by the council for terms of six (6) years. The library director shall be appointed and may be removed by the town manager in accordance with the provisions of Article IX of this charter and with the concurrence of a majority of the full board of directors.  
(Amend. eff. 1-1-92)

Section 604. Board of tax review.

There shall be a board of tax review consisting of three (3) members which shall have all the powers and duties conferred upon it by the Connecticut General Statutes or by ordinance. Members shall be appointed by the council for staggered terms of four (4) years. The members of the board of tax review shall receive such per diem compensation as the council may determine consistent with the Connecticut General Statutes.

Section 605. Board of parks and recreation.

There shall be a board of parks and recreation consisting of eleven (11) members which shall determine the uses of town parks and public greens, and such other public grounds as the council may direct; shall recommend to the council the acquisition and development of new parks and recreational places; shall plan and arrange recreational facilities and programs for the town; and shall have such other powers and duties as may be conferred upon it by ordinance. Members shall be appointed by the council for staggered terms of four (4) years. The manager shall appoint, with the concurrence of the board, a superintendent of parks and recreation and such other full-time employees as the council may determine in accordance with Article IX of this charter.

**Op. town atty.** --Development agency has the power and duties described in sections 8-188--8-200b of the General Statutes, including the power of eminent domain set forth in section 8-193, Dworski No. 80, 6-6-72; change in zoning of privately owned property, Rosenblatt No. 20, 11-6-78; the board of parks and recreation having jurisdiction over recreational facilities, is the regulatory body for the Mortensen Community Center; (a) the board of parks and recreation may allow the Newington Little League to sell advertising space at Badger Field on condition that a legitimate public purpose can be found by the board and that sufficient compensation is to be paid to the board for the privilege of such a franchise; and (b) the board of parks and recreation may allow the Newington Little League to operate a concession out of the town-owned building at Badger Field so long as adequate rental for such a privilege is paid to the board, and so as long as the public interest is served by such activity, Borowy No. 21, 6-19-87.

Section 606. Development commission.

There shall be a development commission consisting of nine (9) regular members and three (3) alternate members which shall have the powers and duties conferred upon it by the Connecticut General Statutes or by ordinance. Members shall be appointed by the council for staggered terms of three (3) years. The development commission shall have such professional, technical and clerical assistance as the council may determine, to be appointed by the manager in accordance with Article IX of this charter.

(Amend. eff. 1-1-92)

**Op. town atty.** --Development agency has the power and duties described in sections 8-188--8-200b of the General Statutes, including the power of eminent domain set forth in section 8-193, Dworski No. 80, 6-6-72; the development commission cannot act as an applicant for a change in zoning of privately owned property, Rosenblatt No. 20, 11-6-78.

Section 607. Conservation commission.

There shall be a conservation commission consisting of seven (7) regular members and three (3) alternate members appointed by the council for staggered terms of four (4) years. The conservation commission shall advise and make recommendation to the manager, the council and other boards and commissions of the town regarding the development and conservation of natural resources, including water resources within the territorial limits of the town, and shall have such powers and perform such other duties as are conferred upon it by the Connecticut General Statutes and the council. The conservation commission shall have such professional, technical and clerical assistance as the council may determine, to be appointed by the manager in accordance with Article IX of this charter.

**Op. town atty.** --Development agency has the power and duties described in sections 8-188--8-200b of the General Statutes, including the power of eminent domain set forth in section 8-193, Dworski No. 80, 6-6-72; the development commission cannot act as an applicant for a change in zoning of privately owned property, Rosenblatt No. 11-6-78.

Section 608. Commission on aging and disabled.

There shall be a commission on aging and disabled consisting of nine (9) members which shall have the powers and duties conferred upon it by ordinance. The commission on aging and disabled shall have such clerical assistance as the council may determine, to be appointed in accordance with the provisions of Article IX of this charter.

(Amend. eff. 1-1-92)

Section 609. Town treasurer.

There shall be a town treasurer appointed by the council for a term of two (2) years, who shall have the powers and duties prescribed by the Connecticut General Statutes. The treasurer shall receive such compensation and shall have such duties and other assistants as the council may determine, to be appointed in accordance with the provisions of Article IX of this charter. The council shall designate a deputy treasurer, who, in the absence or inability of the treasurer to act, may perform all the duties of the treasurer.

(Amend. eff. 1-1-92)

Section 610. Auditor.

The council shall annually appoint an independent public accountant or firm of independent public accountants to examine and certify the financial records of the town in accordance with the provisions of the Connecticut General Statutes. The independent public accountant or firm of independent public accountants shall receive such compensation and shall perform such other duties and render such other reports as the council may determine.

(Amend. eff. 1-1-92)

Section 611. Town planner.

There shall be a town planner, with professional qualifications for the position. The town planner shall be appointed by the council for an indefinite term to serve at the pleasure of the council. The town planner shall be the administrative officer for the town plan and zoning commission until the council shall determine otherwise. The council shall prescribe the planner's duties and compensation.

(Amend. eff. 1-1-92)

Section 612. Other commissions, boards, departments, agencies and offices.

There shall be such other commissions, boards, departments, agencies, offices and alternate members of boards and commissions as the council may determine by ordinance. Any professional, technical and clerical assistance as the council may determine shall be appointed by the manager in accordance with Article IX of this charter.

(Amend. eff. 1-1-92)

**Op. town atty.** --Council has authority under charter section 611 [612] to establish an aesthetic and environment commission so long as said commission is purely advisory. Dworski No. 63, 12-27-71.

Section 613. Terms of office and vacancies.

(A) ~~~ The terms of members of the town plan and zoning commission, zoning board of appeals, library directors, board of tax review, board of parks and recreation, development commission, conservation commission and town treasurer shall run from the first of December in the year of appointment to the thirtieth of November in the year of expiration. Vacancies on boards, commissions or any similar bodies shall be filled by the council in accordance with the Connecticut General Statutes for the balance of unexpired terms. Members of these boards and commissions, with the exception of the members of the board of tax review, shall receive no compensation.

(B) ~~~ The terms of office of members of such other commissions, boards, departments, agencies, or offices as the council may determine according to Section 612 shall also be from the first of December in the year of appointment to the thirtieth of November in the year of expiration.

(C) ~~~ No person shall serve more than two (2) consecutive terms as chairperson of any appointed board, commission or similar body.

(D) ~~~ A person chosen to fill a vacancy as chairperson shall be deemed to have served a full term as chairperson if more than one-half of the term remains at the time the vacancy is filled.

(Amend. eff. 1-1-92)

Section 614. Consultant services.

The council may retain such technical and professional consultant services as it shall deem necessary to obtain expert opinion and recommendations. This action shall be by ordinance.

(Amend. eff. 1-1-92)

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## **ARTICLE VII. ADMINISTRATIVE OFFICES AND DEPARTMENTS UNDER MANAGER**

### **Section 701. Town clerk.**

The town clerk shall be appointed and may be removed by the manager in accordance with the provisions of Article IX of this charter. The town clerk shall have the powers and duties conferred or imposed by law on town clerks and shall have such other powers and duties as are prescribed in this charter or by the council or by the manager. The town clerk shall receive such compensation as the council may determine, and shall have such deputies, clerks, and other assistants as the council may determine, to be appointed in accordance with the provisions of Article IX of this charter. All fees collected by the town clerk shall be paid into the town treasury.

(Amend. eff. 1-1-92)

### **Section 702. Highway department and engineering department.**

There shall be a highway department headed by the superintendent of highways, and an engineering department headed by the town engineer, and such other employees in each department as the council may determine. The manager shall appoint both the superintendent of highways and the town engineer. The manager may remove the superintendent of highways or the town engineer in accordance with and subject to the provisions of Article IX of this charter. The manager shall appoint and may remove employees of these departments in accordance with and subject to the provisions of this charter. The highway department shall have such powers and duties as are inherent in a highway department relating to the construction, maintenance and repairing of town streets, and shall perform such other duties as may be prescribed by the council or by the manager. The town engineer shall have such powers and duties as are prescribed by the council or by the manager.

### **Section 703. Tree warden.**

The tree warden shall be appointed and may be removed by the manager, and shall have all the powers and duties conferred upon tree wardens by the Connecticut General Statutes and shall have such powers and duties as may be prescribed by the council or the manager.

### **Section 704. Department of building inspection.**

There shall be a department of building inspection consisting of the building official and such other employees as the council may determine. The manager shall appoint the building official and such other employees as the council may determine. The manager may remove the building official and other employees of the department of building inspection in accordance with and subject to Article IX of this charter. The building official shall be the administrative officer of the town plan and zoning commission and the zoning board of appeals until the council shall determine otherwise. The building official shall enforce the provisions and perform the duties of the building code and zoning regulations and shall perform such other duties as may be assigned by the council or the manager.

(Amend. eff. 1-1-92)

Section 705. Department of human services.

There shall be a department of human services consisting of the director and such other employees as the council may determine. The department of human services shall administer all forms of public assistance, except those which the town council determines shall be administered by other commissions, boards or agencies. The director of human services shall supervise the department and shall have such powers and duties as the council may prescribe and as conferred by the Connecticut General Statutes. The director of human services and any employees of the department shall be appointed and may be removed by the manager in accordance with and subject to the provisions of Article IX of this charter.

(Amend. eff. 1-1-92)

Section 706. Department of senior and disabled center services.

There shall be a department of the senior and disabled center services consisting of the director and such other employees as the council may determine. The director shall be responsible for the overall administration of the Joseph P. Doyle Community Complex and the programs, services and staff provided at or by the department of senior and disabled center services. The director shall be the town's municipal agent for elderly persons. The director and any employees of the department shall be appointed and may be removed by the manager in accordance with and subject to the provision of Article IX of this charter.

(Amend. eff. 1-1-92)

Section 707. Department of police.

There shall be a department of police. The manager shall be the director until the council shall determine otherwise and shall be the traffic authority as defined in the Connecticut General Statutes.

The department of police shall consist of the chief of police and such other officers and employees of such rank and grades as the council may determine. The department of police shall be responsible for: The preservation of the public peace; prevention of crime; apprehension of criminals; regulation of traffic; protection of rights of persons and property; and enforcement of laws of the state, the ordinances of the town and all rules and regulations made in accordance therewith.

All police officers of the department shall have the same powers and duties with respect to the service of criminal process and enforcement of criminal laws as are vested in police officers by the Connecticut General Statutes. The duties of dog warden as provided in the Connecticut General Statutes shall be under the jurisdiction of the department of police. The manager shall appoint and may remove the chief of police in accordance with and subject to the provisions of Article IX of this charter and the Connecticut General Statutes. The chief of police shall appoint and may remove the dog warden in accordance with the provisions of the Connecticut General Statutes. The chief of police shall be the executive officer of the department of police; with the approval of the manager he/she shall appoint and may remove, in accordance with and subject to the provisions of Article IX of this charter, all other officers and employees of the department and make rules and

regulations concerning the operation of the department and the discipline and the conduct of all officers and employees thereof.

(Amend. eff. 1-1-92)

**Op. town atty.** --Town manager under sections 502 and 706 [707] of the charter has the authority to appoint a police chief based on such qualifications as he finds reasonable and proper, Lach No. 32, 11-21-67.

Section 708. Department of finance.

There shall be a department of finance consisting of the director of finance, the revenue collector, the assessor, the purchasing agent, and such other employees as the council may determine. The department of finance shall be responsible for the keeping of accounts and financial records, for the assessment and collection of taxes, special assessments and other revenues and for the administration of the financial affairs of the town, and shall have such other powers and duties relating to finance as may be prescribed by the council.

(A) ~~~ *Director of Finance.* The director of finance shall have direct supervision over the department of finance. The director of finance shall be appointed and may be removed by the manager in accordance with and subject to the provisions of Article IX of this charter. The director of finance shall have the powers and duties conferred by the Connecticut General Statutes and such other duties as may be assigned by the council or the manager.

(B) ~~~ *Purchasing agent.* All supplies, materials, equipment and services required by all commissions, boards, departments and offices of the town, except the board of education, and except the library board with respect to the purchase of books and other materials peculiar to libraries, shall be purchased by the purchasing agent. The board of education and the library board may avail themselves of the purchasing agent's services in purchasing any commodity or service. The purchasing agent shall have such other duties as may be prescribed by the council or the manager. The manager shall be the purchasing agent until the council shall determine otherwise. When the council shall determine that someone other than the manager shall be the purchasing agent then that person shall be appointed and may be removed by the manager in accordance with the provisions of Article IX of this charter.

(C) ~~~ *Revenue collector.* The revenue collector shall be appointed and may be removed by the manager in accordance with and subject to the provisions of Article IX of this charter. The revenue collector shall at all times be an elector of the town. The revenue collector shall have all the powers and duties conferred upon revenue collectors by the Connecticut General Statutes and such other duties as may be assigned by the council or the manager.

(D) ~~~ *Assessor.* The assessor shall be appointed and may be removed by the manager in accordance with and subject to the provisions of Article IX of this charter. The assessor shall have all the powers and duties conferred upon assessors and boards of assessors by the Connecticut General Statutes and such other duties as may be assigned by the council or the manager.

(Amend. eff. 1-1-92)

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## **ARTICLE VIII. FINANCIAL PROVISIONS\***

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\* **Op. town atty.** --Council has authority to abate special assessments, Lach No. 53, 7-19-68.

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Section 801. Fiscal year.

The fiscal year of the town shall be the Uniform Fiscal Year as defined by the Connecticut General Statutes.

Section 802. General form of budget preparation.

The manager may, or at the request of the council shall, require each department, office or agency of the town supported wholly or in part by town funds, or for which specific town appropriation is made, including the board of education, to set forth, in narrative or such other form as the manager may prescribe, a program or programs showing services, activities and work accomplished during the current year and to be accomplished during the ensuing fiscal year.

(Amend. eff. 1-1-92)

Section 803. Departmental estimates.

The manager shall compile preliminary estimates for the annual budget. The head of each department, office or agency of the town as described in Section 802, shall, at least one hundred and fifty (150) days before the end of the fiscal year, except the board of education which shall, at least one hundred and twenty (120) days before the end of the fiscal year, file with the manager on forms prescribed and provided by the manager's office a detailed estimate of the expenditures to be made by said department, office or agency and the revenue other than tax revenues, to be collected thereby in the ensuing fiscal year and such other information as may be required by the council or manager. Each commission, board, department and office shall be entitled to an opportunity to be heard by the manager with respect to its estimates.

(Amend. eff. 1-1-92)

Section 804. Duties of the manager on the budget.

Not later than one hundred five (105) days before the end of the fiscal year, the manager shall present to the council the proposed budget for the ensuing fiscal year for all commissions, boards, departments and offices including the board of education, such budget hereinafter referred to as the manager's proposed budget. At the time of its submission to the council, the manager shall file a copy in the office of the town clerk as a public record and within ten (10) days thereafter shall cause sufficient copies of the proposed budget, including the board of education budget to be prepared in order that they may be available to interested persons.

(Amend. eff. 1-1-92)

Section 805. Duties of the council on the budget.

The council shall hold two (2) public hearings at which any elector or taxpayer may have the opportunity to be heard regarding appropriations for the ensuing fiscal year. The first such hearing shall be held not later than fifteen (15) days following the presentation of the proposed budget of the town manager. The council, at least five (5) days prior to the aforementioned first public hearing, shall cause to be published in a newspaper having circulation in the town, a notice of such public hearing and a summary of said manager's proposed budget showing anticipated revenues by major sources, and proposed expenditures by functions or departments in the same form as prescribed for the budget estimates in Section 803, and shall also show the amount proposed to be raised by taxation. After consideration of the budget and within thirty (30) days after holding the first public hearing, the council shall hold the second public hearing. The council, at least five (5) days prior to the aforementioned second public hearing, shall cause to be published in a newspaper having circulation in the town, a notice of such public hearing and summary of the tentative town budget which it proposed to adopt in the same form as prescribed herein for publication of the manager's proposed budget. Within ten (10) days after holding such second public hearing, the council shall complete its consideration of the budget, and after making such modifications and amendments to said budget as it may deem advisable, it shall adopt the town budget by a majority vote of all its members. The council shall simultaneously fix the tax rate in mills which shall be levied on taxable property in the town for the ensuing fiscal year. In the event the council shall fail to adopt the town budget on or prior to the date provided, the manager's proposed budget as submitted to the council shall be deemed to have been finally adopted by the council as the town budget, and thereafter expenditures shall be in accordance with said budget. In the event the council shall fail to fix the tax rate on or prior to the date prescribed, the manager shall fix said tax rate in mills.

In accordance with the Connecticut General Statutes, the council shall be deemed to be the budget-making authority and the legislative body of the town and shall have all the powers and duties contained in said Statutes for the creation of a "Reserve Fund for Capital and Nonrecurring Expenditures."

(Amend. eff. 1-1-92)

**Op. town atty.** --The council has the right to "concern" itself with line items in the fire department's budget, bearing in mind the distinction between the budget making process and budget administration, Rosenblatt, No. 33.

Section 806. Effect of adoption of town budget.

The adoption of the town budget shall constitute the appropriation to each commission, board, office and department, or major subdivision thereof when so indicated in the budget, of the sum estimated in the budget to be expended by each unit respectively except that the board of education shall have the authority to expend the total sum appropriated to it in accordance with the Connecticut General Statutes.

Section 807. Special appropriations.

The council may appropriate subject to the limitations imposed in Article IV, Section 408 of this charter, any unappropriated and unencumbered balance in the town treasury, provided there shall be attached to the resolution or ordinance making such appropriation

the certificate of the director of finance that such balance actually exists free from encumbrances.

(Amend. eff. 1-1-92)

Section 808. Transfer of appropriation.

The manager may at any time transfer any unencumbered appropriation balance or portion thereof from one classification to another within the same department, office or agency, except within the board of education. The council may transfer the whole or any part of the unencumbered balance of any appropriation, except the appropriation of the board of education, to any other purpose which the council may legally appropriate money, provided that such a transfer may be made from budget appropriations only in the last six (6) months of the fiscal year and that there shall be attached to the resolution making the transfer, the certificate of the director of finance that such balance exists free from encumbrances.

Section 809. Effect of appropriation.

No money from any town fund, including but not limited to the general fund, shall be expended or obligation for any expenditure incurred by any commission, board, department or office of the town except in accordance with an appropriation by the council. No contract, work order, purchase order or other authorization to spend money by any commission, board, department or office, except the board of education, shall be valid until the director of finance certifies in writing that there is an unexpended and unencumbered balance of an appropriation sufficient to meet the estimated cost thereof. The director of finance after such certification shall immediately encumber the appropriation with the estimated cost. The board of education shall set up its own system of budgetary control and certification of the sufficiency of unexpended and unencumbered balance of an appropriation.

Section 810. Lapse of appropriation.

The unencumbered balance of all general fund appropriations shall lapse at the end of the fiscal year for which they were made, and any such balance shall be credited to the general fund.

Section 811. Borrowing to meet emergency appropriations.

In the absence of unappropriated funds to meet emergency appropriations under the provisions of Article IV, Section 408 of this charter, the council may by resolution authorize the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation was made.

(Amend. eff. 1-1-92)

Section 812. Borrowing in anticipation of taxes.

The council may by resolution authorize the borrowing of money in anticipation of the collection of taxes for any fiscal year by the issuance of negotiable notes of the town.

Section 813. Notes redeemable prior to maturity.

No notes shall be made payable upon demand. Any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

Section 814. Competitive bidding.

The council, the board of education, and the library board shall each establish rules and regulations covering purchases of goods and services for the town, schools, and library respectively. Sealed bids or proposals shall be invited by the respective purchasing authority for any purchase or contract for purchasing, including a continuing order for contract for the purchase of the same commodity or services over a period of one year involving the expenditure of ten thousand dollars (\$10,000.00) or more. Invitation for sealed bids or proposals shall be by giving ten (10) days public notice thereof by publication at least once in one (1) newspaper having a circulation in the town and by posting on the town bulletin board.

Sealed bids or proposals shall not be required for professional services when professional requirements or ethics prohibit such bidding, or when either the council, the board of education, or the library board shall determine, for reasons expressly stated that sealed bids or proposals are unnecessary or not in the best interests of the town.

The purchase or contract shall be let to the lowest responsible bidder or all bids or proposals shall be rejected. All sealed bids or proposals shall be opened publicly and shall be kept for a period of one year thereafter in the office of the purchasing agent or the board of education or the library board as applicable, where they shall be available for public inspection.

(Amend. eff. 1-1-92)

Section 815. Contracts for public works.

Contracts for the construction of streets, sewers, town and school buildings and other public works with any private contractor shall be made in accordance with relevant provisions of the Connecticut General Statutes and under such rules and regulations as may be established by the council or the board of education, whichever has jurisdiction. However, on any contract involving the expenditures of ten thousand dollars (\$10,000.00) or more, sealed bids or proposals shall be invited and ten (10) days public notice given thereof by publication at least once in one (1) newspaper having circulation in the town, and by posting on the town bulletin board, unless the council or the board of education or public building committee, whichever has jurisdiction, shall determine for reasons which it shall expressly state that sealed bids are not in the best interest of the town. The purchase or contract shall be let to the lowest responsible bidder, or all bids or proposals shall be rejected. All sealed bids or proposals shall be opened publicly and shall be kept for a period of one year thereafter in the office of the purchasing agent or the board of education where they shall be available for public inspection.

(Amend. eff. 1-1-92)

Section 816. Payments of claims.

Payrolls, bills or other claims against the town, except those of the board of education, shall not be paid until the same has been verified for correctness and legality by the director of finance, and all payments shall be made by check drawn on a town bank

account signed by the director of finance and countersigned by the town treasurer as provided in Article VI, Section 609 of this charter. All payrolls, bills or other claims against the board of education shall be verified as such board may provide, and payment shall be made by check signed by an agent designated by the board of education and countersigned by the town treasurer as provided in Article VI, Section 609. The director of finance and the treasurer, on approval of the council and the board of education shall each designate a deputy, or deputy agent covered by the bond of said principal, who may sign or countersign certificates, payrolls, bills, claims and checks.  
(Amend. eff. 1-1-92)

Section 817. Fees collected by the town officials and employees.  
All fees collected by officials and employees of the town in their official capacities shall be paid into the town treasury, except witness fees payable to police officers and fees payable to constables and justices of the peace.  
(Amend. eff. 1-1-92)

Section 818. Official bonds.  
The manager, town clerk, director of finance treasurer and agent of the town deposit fund, revenue collector, building official and persons authorized to sign and countersign town checks and such other officials and employees as may be determined by the council, shall, before entering on their respective duties, execute to the town, in the form prescribed by the council and approved by the town attorney, and file with the town clerk, a surety bond to be fixed by the council, conditioned upon the honest and faithful performance of such official duties. The council, if it deems it to be in the best interest of the town, may prescribe a name schedule bond, schedule position bond or blanket bond, or may designate which commissions, boards, departments, offices and agencies, shall be covered by a specific type of the aforementioned bonds. Premiums for such bonds shall be paid by the town.  
(Amend. eff. 1-1-92)

Section 819. Penalties for violation of any provision of this charter.  
Any person or persons who make or cause to be made any payment from town monies in violation of the provisions of this charter, or who receive such payment shall be jointly and severally liable to the town for the full amount of such payment. Any contract, verbal or written, made in violation of this charter shall be null and void. Any person or employee of the town who violates any of the provisions of this charter shall be subject to a penalty in such amount as shall be determined by ordinance and such a violation may be grounds for removal.  
(Amend. eff. 1-1-92)

Section 820. Annual audit.  
The council shall cause an audit of the town accounts, including those of the board of education, to be made once a year, or more often if deemed necessary, by the town auditor as provided for in Article VI, Section 610. The report of such audit shall be public record and available for public inspection.  
(Amend. eff. 1-1-92)

[\[TOP\]](#)

## **ARTICLE IX. PERSONNEL\***

\* **Op. town atty.** --The particular board, agency or supervisor of the activity involved has the authority to appoint part-time employees, Lach No. 41, 2-26-68; where collective bargaining contract is in effect between town and employees, interference by municipal employer is not permitted except through recognized bargaining agent, Lach No. 50, 6-17-68; under section 503 of the charter a salaried full-time fire chief must be appointed by the manager, not the board of fire commissioners, and would be within the classified service under sections 901 and 902 of the charter. Dworski No. 97, 329-73.

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### Section 901. Merit system.

Officials and employees in the classified services of the town as described in Section 902 below shall be appointed, promoted and removed solely on the basis of merit and fitness demonstrated by examination or other evidence of competence. The council shall, by ordinance, establish a classified service system, including a grievance procedure, for all town employees, except the following: Elected officials and persons appointed to fill vacancies in elective offices; members of boards and commissions and other officials appointed by the council; certified employees of the board of education; persons employed in professional capacity to make or conduct a temporary or special inquiry, study or investigation; part-time personnel and persons employed for a temporary period not exceeding three (3) months.

**Op. town atty.** --The granting of bonus points to supernumeraries and auxiliaries solely because of their status as supernumeraries and/or auxiliaries would constitute an unlawful preference in violation of Section 904 of the charter and in contravention of the purpose and intent of civil service laws. The bonus-point preference system does not purport to define job related characteristics and therefore may not be legally implemented.

However, the law is constantly changing and must be analyzed to determine if such a system reflects a purpose to exclude minorities or other specially protected persons or whether the effect, regardless of intent, is such, Shipman No. 53, 1-15-82.

(Amend. eff. 1-1-92)

### Section 902. Classified service.

The classified service shall include appointees to all positions now or hereafter created except those noted in Section 901. It shall be the duty of the personnel director to cause to be prepared a statement of the duties and responsibilities of each position in the classified service and of the minimum qualifications for appointments to such positions. These statements shall comprise the classification plan of the town, which shall become effective upon approval by resolution of the council and which may be amended, upon recommendation of the personnel director by resolution of the council. New or additional positions in the classified service may be created and changes in the duties and responsibilities of existing positions may be made by resolution of the council upon

recommendation of the personnel director. A pay plan for all positions in the classified service shall be similarly prepared, adopted and amended. The personnel director shall also cause to have prepared a set of personnel rules which shall provide, among other things, for the method of holding competitive examinations, administration of the classification plan, probationary periods of employment, hours of work, vacations, sick leave and other leaves of absence, removals, and such other rules as may be necessary to provide an adequate and systematic procedure for the handling of the personnel affairs of the town. Such rules and amendments thereto become effective upon being filed by the personnel director with the town clerk. Copies of such rules and any amendments thereto shall be distributed to all members of the classified service.

**Op. town atty.** --Under section 503 of the charter a salaried full-time fire chief must be appointed by the manager, not by the board of fire commissioners, and would be within the classified service under sections 901 and 902 of the charter, Dworski No. 97, 3-29-73.

#### Section 903. Personnel director.

The personnel director shall be the manager, or when the council shall so determine a person qualified in personnel administration shall be appointed by the manager, in accordance with this article. The personnel director shall be responsible for administering the personnel affairs of the town and for making recommendations respecting personnel matters to the council and the manager.

#### Section 904. Prohibitions.

Except in the case of a bona fide occupational qualification or need, no town employee or applicant for employment by the town shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against for reasons set forth in Connecticut General Statutes or because of any reason unconnected with the performance of the duties of the position. Any employee in the classified service shall take a leave of absence from the service of the town after becoming elected to any public office in the Town of Newington in accordance with Connecticut General Statutes.

**Op. town atty.** --Full-time employees in classified service may not attend political testimonial nor purchase tickets therefor, Barron No. 94, 6-16-69. Section 904 has been obviated to the extent that it is inconsistent with Public Act No. 76-424, but only to that extent, and its terms will govern all other activities which are intended to be regulated thereby, Shipman, No. 36. There is no prohibition in the charter against a classified service employee holding other town appointive offices, therefore a town employee in the classified service may be designated as deputy treasurer, and may be assigned such duties as the council may determine, Shipman, No. 44.

#### Section 905. Retirement.

The council may provide by ordinance a system of retirement allowances for the town's regular full-time paid employees and for contributions by employees and the town to a fund from which such allowances shall be paid. The town may: Enter into contract with any company or institution authorized to do business in this state for the purpose of insuring the whole or any part of this retirement plan; elect to participate in the Connecticut Municipal Employee's Retirement Fund; elect to participate in the old-age and survivors insurance system under Title II of the Social Security Act, in accordance

with the provisions of the Connecticut General Statutes; or elect any combination thereof. The council may authorize the transfer of the management and investment of the town's pension funds to any fiduciary institution chartered or licensed to operate in the State of Connecticut under the provisions of the Connecticut General Statutes.

Section 906. Conflict of interest.

Any elected or appointed town official, or any town employee, who has a personal or financial interest in any matter to be acted upon or coming before his/her board, commission, or office shall make full record disclosure in writing of that interest which shall be incorporated in the minutes of the particular board, commission or office, and a full copy of such minutes shall be filed in the office of the town clerk, and such person shall be disqualified to act in any way upon such matter. Violation of this section with knowledge, expressed or implied, will make said decision voidable.

**Op. town atty.** --The town can restrict certain post-employment activities of its employees, Nassau No. 16, 1-20-87.

**Note:** See also the town attorney's opinion following § 2-45 of the Code.

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## **ARTICLE X. MISCELLANEOUS**

Section 1001. Effective date.

In the event that this charter, as amended, shall be ratified by the electors of the town, this charter, as amended, shall become effective on the first day of January, 1992.

(Amend. eff. 1-1-92)

Section 1002. Existing laws, ordinances, rules and regulations and special acts.

As of the effective date of this charter, all general laws and special acts applying to the town, all ordinances and by-laws of the town, and all rules and regulations of commissions, boards, departments and agencies of the town shall continue in force, except insofar as they are inconsistent with the provisions of this charter or are repealed.

Section 1003. Transfer of records and property.

All town records, property and equipment of any commission, board, department, or office or part thereof, all powers and duties of which are assigned to any other commission, board, department or office by this charter shall be transferred and delivered intact to the commission, board, department or office to which such powers and duties are so assigned. If part of the powers and duties of any commission, board, department or office or part thereof are by this charter assigned to another commission, board, department or office, all town records, property and equipment relating exclusively thereto shall be transferred and delivered intact to the commission, board, department or office to which such powers and duties are so assigned.

Section 1004. Amendment.

This charter may be amended in the manner prescribed by the Connecticut General Statutes.

Section 1005. Severability.

If any portion of this charter shall be found inconsistent with the constitution or Connecticut General Statutes by a court of competent jurisdiction, such finding shall not affect the remainder of this charter and the remainder of this charter shall remain in full force and effect until amended or repealed.

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**CHARTER COMPARATIVE TABLE**

The Home Rule Charter is set out in this volume as adopted at an election held on November 5, 1985. The following table shows the disposition of amendments to the charter.

TABLE INSET:

Effective Date ~	~	Disposition ~
1-1-92 ~	~	103 ~
~	~	201--204 ~
~	~	206 ~
~	~	302, 303(A), ~
~	~	403, 405, 408 ~
~	~	410, 411, 413 ~
~	~	501, 502 ~
~	~	Art. VI (title) ~
~	~	601, 603, 606 ~
~	Add ~ ~	608 ~
~	Rnbd ~ ~	608--613 ~
~	as ~ ~	609--614 ~
~	Amd'd ~	613 ~





