

City of Somersworth City Charter



EFFECTIVE 11-12-2013

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City of Somersworth City Charter

ARTICLE I - CITY ESTABLISHED

- 1.1. **INCORPORATION.** The inhabitants of the City of Somersworth shall continue to be a body politic and corporate under its pre-existing name and as such to enjoy all the rights, immunities, powers and privileges and be subject to all duties and liabilities now incumbent upon them as a municipal corporation. All existing property of the City shall remain vested in it and all its existing debts and obligations shall remain obligatory upon it under this revised Charter.

History: Laws 1893, Chapter #171

- 1.2. **NUMBER OF WARDS.** The City shall continue to be divided into five wards, and the general laws relative to wards of cities, offices thereof and voters, checklists, elections and jurors therein shall be applicable to such wards.

History: Referendum 11/6/1973

- 1.3. **WARD BOUNDARIES.** The said City of Somersworth is hereby divided into five wards, which shall be constituted as follows, namely—

WARD 1 shall include all the parts of said Somersworth bounded by a line described as follows: Commencing at the most northerly point of said Somersworth, on the line of the Town of Berwick and the State of Maine, and extending thence southeasterly by said Berwick to a point due east from the easterly end of Washington Street; thence westerly to and through Washington Street, westerly and northwesterly through West High Street and Gonic Road to the City of Rochester; and thence northeasterly by said Rochester to the State of Maine.

WARD 2 shall include all the part of said Somersworth bounded by the following described line: Commencing at the City of Rochester and the northeasterly corner of Ward One, and extending southeasterly and easterly by Ward One to Berwick, Maine at a point due east of the easterly end of Washington Street; thence southerly by Berwick, Maine to a point due east of the easterly end of Fayette Street; thence westerly to and through Fayette Street to Green Street; thence southerly through Green Street to its intersection with Franklin Street; thence westerly through Franklin Street and northwesterly through Memorial Drive to Cemetery Road; thence westerly through Cemetery Road to Maple Street Extension; thence southerly through Maple Street Extension to Blackwater Road; thence westerly through Blackwater Road to the City of Dover; thence northwesterly by said Dover to Rochester; and thence northeasterly by Rochester to Ward One.

WARD 3 shall include all that part of said Somersworth bounded as follows: Commencing at the City of Dover, and the southwesterly corner of Ward Two, and extending thence easterly, northerly and southeasterly by Ward Two to Berwick, Maine at a point due east of the easterly end of Fayette Street; thence southerly by Berwick, Maine to a point due east of the easterly end of Franklin Street; thence easterly to and through Franklin Street to its intersection with Green Street; thence southerly through Green Street to Myrtle Street; thence westerly through myrtle to Horne Street; thence northwesterly thoroughly Horn Street to High Street; thence southwesterly through High Street to the City of Dover, thence northwesterly by said Dover to Ward Two.

WARD 4 shall include all the part of said Somersworth bounded by the following described line: Commencing at the City of Dover and the southerly corner of Ward Three, and extending thence northeasterly, southeasterly, easterly, northerly and westerly by Ward Three to Union Street; thence southerly through Union Street to Indigo Hill Road; thence westerly through Indigo Hill Road to its intersection with Green Street; thence southerly through Green Street to the Town of Rollinsford, thence southwesterly by said Rollinsford and the City of Dover to Ward Three.

WARD 5 shall include all the part of said Somersworth bounded by the following described line: Commencing at the Town of Rollinsford and the southeasterly corner of Ward Four; and thence extending northerly and easterly by Ward Four to Ward Three; thence westerly by Ward Three to Berwick, Maine, at a point due east of the easterly end of Franklin Street; thence southeasterly by said Berwick, Maine, to Rollinsford; and thence southwesterly by said Rollinsford to Ward Four.

No person shall have the right to file as a candidate for office in any of the wards hereby established unless he/she is a registered voter at the time of filing. No person shall have the right to hold office in any of the wards hereby established unless he/she shall have been an actual resident of such ward, or the territory embraced therein, for the period of six months next preceding such election or next preceding the passage of this act.

History: Referendum, 11/05/2013

1.4. CHANGES TO WARD BOUNDARIES. Every ten years, in conjunction with the federal census, a review of the ward boundary lines shall be conducted for the purpose of adjusting such boundary lines to ensure equalization of population within the wards. At the election immediately preceding a scheduled federal census, a Ward Boundaries Review Committee shall be elected consisting of one eligible person from each ward. The City Clerk shall serve as chair of the review committee but will not have a vote. The committee shall review the boundaries of each ward to determine if adjustments are necessary to ensure equal distribution of population within each ward. If adjustments are necessary the committee shall propose such adjustments to the ward boundaries as will provide as nearly as possible an equal number of citizens within each ward. In doing so the committee shall take into consideration the character and makeup of the wards and to the extent possible try to maintain the integrity of each ward as a “city within a city”. The committee shall submit its recommendations to the City Council for review and approval. Upon approval by the City Council the changes shall be submitted to the voters for approval by referendum at the next election.

History: Laws 1973, Chapter 572, Referendum 11/6/1973; Referendum 11/3/2009; Referendum 11/5/2013.

ARTICLE II - ELECTIONS

- 2.1. DECLARATION OF CANDIDACY: All persons who are registered voters at the time of filing and who are otherwise qualified to vote in the municipal elections and wishing to become candidates for any municipal office to be voted on at the next Municipal election shall file in writing with the City Clerk their declaration of candidacy, indicating the office for which they are filing. Said declaration shall be accompanied by a petition of twenty-five (25) registered voters from a ward if for an office elected by that ward, and of fifty (50) registered voters if for an office elected at large. In lieu of petitions, a declaration of candidacy may be accompanied by a fee, for the use of the City, the amount of such fee to be established by City Ordinance. The filing period for the declaration of candidacy shall not be more than fifty-five (55) days nor less than forty (40) days prior to election.

History: Referendum 11/5/2013

- 2.2. BALLOT PREPARATION: The names of the candidates shall be listed in alphabetical order pursuant to the provisions of RSA 656:5-a. To determine the order of names on each ballot, the candidates for each office in the same list shall be temporarily listed alphabetically by surnames and the positions in such list shall be temporarily numbered in ascending order. The candidate whose position in the initial temporary list equals the seed number selected for the election year by the Secretary of State or designee pursuant to RSA 656:5-a for the appropriate list length shall appear first on the ballot. The order of candidates after the candidate in the first position shall follow alphabetically by surname with “a” following “z.”

History: Referendum 11/3/2009; Referendum 11/5/2013

- 2.3. SUPERVISORS OF THE CHECKLIST: The Supervisors of the Checklists shall make up and post, for every election, a list of all legal voters of said City of Somersworth and perform such other functions and duties as prescribed by such sections of RSA 654 as may be applicable. The Mayor with the consent of the City Council shall appoint the Supervisors of the Checklists. Membership on the board will be five supervisors, one from each ward, each appointed annually for a term of five years. Each supervisor so appointed shall be a resident and legal voter of the City of Somersworth. There will not be more than three members who are of the same political party or Independent. Annually and at a time specified by the Board, they shall elect a chairman and a clerk for a period of one year. No supervisor shall serve more than two consecutive years as a chairman. Any vacancy in the board shall be filled for the unexpired term. Incumbent supervisors at the date of the passage of this amendment shall continue in office as supervisor until the expiration of their term of office. The compensation of each member of the Board of Supervisors of the Checklists will be fixed by the City Council. On request of any member of the Board of Supervisors the Police Chief of said City shall detail an officer or officers to attend upon said Board during its sessions to preserve order and obedience to law.

History: Laws of 1925; Referendum 11/3/1981

- 2.4. QUALIFICATION OF VOTERS. Persons who would be qualified to vote in a biennial election if held on the day of such municipal election shall be qualified to vote in all elections held pursuant to this Charter and all elections held hereunder shall be deemed elections within the meaning of all general statutes, penal and otherwise, and said statutes shall apply to municipal elections so far as consistent with the Charter.

History: Referendum 11/6/1973; Referendum 11/3/2009; Referendum 11/5/2013

2.5. ABSENTEE BALLOTS. Any legal voter of said City who is absent from said City on the day of the meeting for the election of City, ward and school officials held in November, biennially or who, by reason of physical disability, is unable to vote in person at said meeting, may vote at said election by so-called absentee ballot. The provisions of RSA 657:1 to 25 inclusive, so far as applicable hereto and not inconsistent herewith, shall apply to such absentee voting in said City provided that the City Clerk shall prepare forms and ballots for such voting and said Clerk shall also prepare the instructions required in RSA 657:1-25.

History: Referendum 11/6/1973; Referendum 11/3/2009

2.6. CONDUCT OF ELECTIONS. The election officers in each ward whose duty it is to conduct regular biennial elections shall conduct a municipal election at City expense in the same manner as a regular biennial election on the Tuesday following the first Monday in November of odd numbered years to elect all elected officials provided for by this Charter. The City Clerk shall fix the polling place therein and give notice thereof when the checklist for the municipal election is first posted. The City Council shall determine the hours of polling no later than 30 days prior to the election. The polls shall, at a minimum, be open between 11:00 a.m. and 7:00 p.m.

History: Referendum 11/6/1973; Referendum 11/5/2013

2.7. PRESERVATION OF BALLOTS. All the ballots cast at each election in the several wards shall be preserved, and after they have been counted the moderator shall deliver all ballots given in to the clerk of the ward, and the clerk shall seal up said ballots, direct delivery of the same, together with the checklists used as such election, within one hour after adjournment of such meeting, to the City Clerk. The City Clerk shall retain such materials as required pursuant to RSA 33-A:3-a.

History: Laws 1893, Chapter 171; Referendum 11/5/2013

2.8. CANVASS. The City Council shall, at its next regularly scheduled meeting following the election, or within ten days, whichever is sooner, receive from the City Clerk, who having entered upon the record the number of votes given in each ward for every candidate voted for in the election, the returns of such votes. The City Council shall examine the same and declare and certify that persons having the largest number of votes are elected as Mayor, Councilors, School Board members, Ward Officers, and such other Officers as may be voted upon, and shall cause them to be notified of their election.

History: Referendum 11/3/1981; Referendum 11/3/2009

2.9. RECOUNT PROCEDURES. A candidate who loses a regular, special or run-off election may file a notice of recount with the City Clerk within three (3) days of the election and is entitled to a recount upon payment of a fee, to be set by City ordinance. The City Clerk shall begin the process of recounting the ballots on the Wednesday following the deadline for requesting a recount, and shall give reasonable notice of the time and place thereof to the applicant and each of the opposing candidates. Opposing candidates, their counsel or representatives shall have the right to observe the recount and inspect and challenge ballots under such reasonable rules as the City Clerk may adopt. The recount shall be conducted by the City Clerk and such other election

officials as may be necessary to expeditiously and accurately perform the recount. If the recount shall show that the candidate requesting the recount was elected, the recount fee shall be returned at the conclusion of the recount.

- 2.10. WARD OFFICERS. At each biennial municipal election, the voters of each ward shall choose three selectmen, a clerk and moderator from said ward, who being duly sworn, shall perform and discharge respectfully the duties of said offices for said wards for the term of two years from the first Tuesday after the first Monday in January following their election, and hold office until their successors are duly elected and qualified.

ARTICLE III - MAYOR AND COUNCIL

3.1. **COMPOSITION, ELIGIBILITY, ELECTION AND TERM (OF MAYOR AND COUNCIL):**

- (A) Composition: There shall be a City Council of nine (9) members, four to be known as Councilors at Large, who shall be elected by the qualified voters of the city at large. The other five shall be known as Ward Councilors, and shall be elected by the qualified voters of their respective wards.
- (B) Eligibility: Only persons registered to vote at the time of filing for candidacy and otherwise qualified to vote in the City shall be eligible to hold office as Councilor.

History: Referendum 11/5/2013

- (C) Election and Term: The regular election of Councilors shall be held on the first Tuesday following the first Monday in November in odd numbered years in the manner provided in Article II. All councilors shall serve terms of two years. The terms of councilors shall begin the first Tuesday after the first Monday in January after their election. The four persons elected at large in 2009 shall be elected for four years and thereafter all terms shall be for two years.

History: Referendum, 11/3/2009; Referendum 11/5/2013

3.2. **VACANCIES, CITY COUNCIL:** When, for any reason, a vacancy occurs on the City Council, the following provisions shall govern the filling thereof:

- (A) If a vacancy occurs on the City Council, the City Council shall appoint a person to fill the vacancy until the next municipal or state election, whichever occurs first, at which time an election shall be held for the unexpired term. All votes to fill a vacancy on the City Council shall be by “roll call vote.”

History: Referendum, 11/3/2009; Referendum 11/5/2013

- (B) The City Council shall not vote to fill any vacancies on the City Council until fourteen (14) days after such vacancy has occurred. Such vote may not occur until the said vacancy has been duly posted at City Hall for fourteen (14) days and advertised in a local newspaper three (3) times. It shall take a two-thirds vote of the present membership to suspend said rule. All votes to fill a vacancy on the City Council shall be by “roll call vote.”

History: Referendum, 11/3/2009; Referendum 11/5/2013

- (C) If a vacancy arises during the last year of a councilor’s term on the City Council during the time period between the November election for the position and the end of the term in January, the City Council shall immediately appoint the newly-elected individual to fill the vacancy for the unexpired term.

History: Referendum, 11/3/2009.

- 3.3. GENERAL POWERS AND DUTIES. All rights, responsibilities and authority granted to Cities and Towns by Federal and State Constitutions and Statutes, by this Charter and by duly enacted ordinances and by-laws of the City of Somersworth shall be vested in the Council except as otherwise allowed by law of this Charter. The Council shall provide for the exercise of all rights where allowed, and for the performance of all responsibilities imposed on the City by law. In all of their actions, the Mayor and Council shall be the Municipal Officers of the City.
- 3.4. MAYOR'S ELECTION, TERM AND QUALIFICATIONS. The Mayor shall be elected by the Qualified Voters of the City at the regular municipal election every two years to serve for a two-year term. The Mayor shall be a qualified voter of the City of Somersworth.
- 3.5. MAYORS' DUTIES, VACANCY AND APPOINTMENTS.
 - (A) Duties: The Mayor shall be the presiding officer at meetings of the City Council, shall be recognized as head of the City Government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties. The Mayor shall be recognized as an ex-officio member of the City Council and, as such, may participate in discussion of matters before the Council and shall have the right to initiate bills and other measures. He shall not have veto authority nor voting rights except to break a tie. Within thirty (30) days of assuming the office of Mayor, he/she shall nominate and receive City Council confirmation of a member of the Council who will serve as Acting Mayor. The Acting Mayor shall fulfill duties of Mayor during absences or during such times as the Mayor is unable to perform his/her duties as Mayor.
 - (B) If the Mayor is unable to perform his/her duties for more than 90 days the City Council shall declare the position vacant. In the event the position becomes vacant due to resignation, death or declaration, the City Council shall appoint the at large City Council member who received the next largest number of votes at the immediately prior municipal election to fill the vacancy until the next municipal or state election, at which time an election shall be held for the unexpired term. If this becomes legally or factually impossible the City Council shall, by majority vote of its members, fill the vacancy by temporarily appointing a qualified person. This appointment shall expire two weeks after the date of the next municipal or state election. At said election, the voters shall elect a qualified person to fill the unexpired term. The election shall be conducted pursuant to Article 2, Sections I and II of the Charter. If a vacancy occurs within 90 days before the next regular municipal or general state election, the Acting Mayor shall fulfill the duties of Mayor until two weeks after the date of said election. At this election, the voters shall elect a qualified person to serve as Mayor, who shall immediately assume the duties as Mayor. If this becomes legally or factually impossible, the Acting Mayor shall fulfill duties of Mayor until the new term begins.

History: Referendum 11/3/2009

(C) **Appointments:** The Mayor will nominate subject to the confirmation of the City Council members of all official municipal boards, commissions, and committees except those subject to election by the populace or where the nomination and appointment authority is otherwise prescribed by the City Charter, state law, or federal regulations. Unless otherwise indicated in this Charter, all Articles providing for appointments or elections shall be by simple majority vote. The Mayor, as presiding officer of the City Council, shall have full appointive powers with regard to the naming of Council members to serve as members of the individual Council committees and sub-committees. The Mayor shall have no appointive or nominating powers with regard to the selection of individuals to serve in the classified service of the municipality.

3.6. **COMPENSATION.** The City Council shall determine the annual salary of Councilors by ordinance, but no ordinance increasing salary shall become effective until the date of commencement of the terms of councilors elected at the next regular election, provided that such election follows the adoption of such ordinances by at least six (6) months. Councilors shall receive their actual and necessary expenses incurred in the performance of their duties of office. The Mayor's salary shall be designated by ordinance and such salary shall be twice the salary of individual Councilors, but not less than \$1,000 annually. The Mayor shall receive actual and necessary expenses incurred in the performance of his/her duties of office. In addition to such compensation, the Mayor shall be reimbursed for out-of-pocket expenses incurred in the performance of his/her duties as Mayor up to a maximum of \$500.00 per year. Total reimbursement shall not exceed \$500.00 per year unless specifically authorized by the City Council. All compensation shall be part of the annual budget ordinance adoption.

History: Referendum 11/3/2009; Referendum 11/5/2013

3.7. **MEETINGS.** The Mayor shall preside over all meetings of the City Council and the City Clerk shall act as clerk. All meetings of the City Council shall be subject to RSA 91A governing public meetings and records. Regular meetings shall be held on the first and third Monday of the month at 7:00 p.m. unless otherwise designated by ordinance; and special meetings upon notice mailed to the Mayor and to each Councilor by the City Clerk at the written request of the Mayor or of a majority of the Council. The Council shall establish its own rules, and a majority shall constitute a quorum for the transaction of business. The Mayor shall not be counted to make a quorum.

HISTORY: REFERENDUM 11/3/2009

3.8. **REMOVAL OF MAYOR, CITY COUNCILORS.** The City Council, may, on specific charges and after due notice and hearing, at any time remove from office the Mayor or one of its own members for prolonged absence from or other inattention to duty, mental or physical incapacity, incompetence, felony conviction or misconduct in office upon affirmative vote on a roll call of at least two thirds of all Councilors elected. A vacancy occasioned by the removal under this section shall be filled in the manner provided for in the preceding sections of this Charter: Section 3.2 (Councilors) Section 3.5 (Mayor).

3.9. **ORDINANCES.** Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be "THE CITY OF

SOMERSWORTH ORDAINS” and the effective date of each ordinance shall be specified. All ordinances shall be recorded at length uniformly and permanently by the City Clerk, and each ordinance so recorded shall be authenticated by the signature of the Mayor and City Clerk. Ordinances shall be published, compiled, and revised in such manner and at such times as the City Council shall determine.

3.10. AUTHENTICATION AND RECORDING: CODIFICATION: PRINTING.

- (A) Authentication and Recording: The City Clerk shall authenticate by his/her signature and record in full a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.
- (B) Codification: Within three (3) years after adoption of this Charter and at least every ten (10) years thereafter, the Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published 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 New Hampshire, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Somersworth City Code. Copies of the code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.
- (C) Printing of Ordinances and Resolutions: The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Somersworth City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of New Hampshire or the codes or technical regulations and other rules and regulations included in the code.

ARTICLE IV - CITY MANAGER

- 4.1. APPOINTMENT, QUALIFICATIONS, COMPENSATION. The Council shall appoint a City Manager for an indefinite term and fix his/her compensation, subject to annual review. The manager shall be appointed solely on the basis of his/her executive and administrative qualifications. He/she need not be a resident of the City or State at the time of his/her appointment, but may reside outside the City while in office only with the approval of the Council. The Council shall by a majority vote of its members appoint a City Manager within 120 days from the effective date of this Charter. No member of the governing body shall be eligible for appointment or act in the capacity of Manager during the current term of his/her office or within one year after the expiration of the member's term.
- 4.2. REMOVAL. The Council may remove the Manager from office in accordance with the following procedures:
- (A) The Council shall adopt by affirmative roll call vote of 2/3 of all 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 forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager.
 - (B) Within five (5) days after a copy of the resolution is delivered to the Manager, he/she may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply no later than five (5) days before the hearing.
 - (C) The Council may adopt a final resolution of removal, which may be made effective immediately, by an affirmative roll call vote of 2/3 of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he/she has not requested a public hearing or at any time after the public hearing if he/she has requested one. The Manager shall continue to receive his/her salary until the effective date of a final resolution or removal. The action of the Council in removing the Manager shall be final.
- 4.3. POWERS AND DUTIES OF THE MANAGER. The City Manager shall be the chief administrative officer of the City. He/she shall be responsible to the Council for the administration of all City affairs placed in his/her charge by or under this Charter. He/she shall have the following powers and duties:
- (A) He/she shall appoint and, when he/she deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel

rules adopted pursuant to this Charter. He/she may authorize any administrative officer who is subject to his/her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

- (B) He/she shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or law.
- (C) He/she shall attend all Council meetings and may have the right to take part in discussion but may not vote.
- (D) He/she shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him/her or other officers subject to his/her direction and supervision, are faithfully executed.
- (E) He/she shall prepare and submit the annual budget and capital program to the Council.
- (F) He/she shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (G) He/she shall make such other reports as the Council may require concerning the operations of the City departments, offices and agencies subject to his/her direction and supervision.
- (H) He/she shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City, as he/she deems desirable.
- (I) He/she shall perform such other duties as are specified in this Charter or may be required by the Council.

4.4. APPOINTIVE OFFICERS. There shall be appointed by the Manager: the City Clerk, Chief Assessor, Tax Collector, City Engineer, Police Chief, Fire Chief, Highway Commissioner, and such other officers as are necessary to administer all departments. The powers and duties of those officers and heads of departments so appointed shall be those prescribed by state law, by this Charter, or by ordinance. All such appointments shall be without definite term unless for provisional, temporary, or emergency service not to exceed the maximum periods which may be prescribed by the rules and regulations of the merit plan.

4.5. ACTING CITY MANAGER. If a vacancy occurs in the office of City Manager, the following provisions shall govern the appointment of Acting Manager:

- (A) If a vacancy occurs due to a removal, death or resignation: The council shall fill the vacancy within 120 days. In the interim the City Council shall appoint a qualified person

to serve as Acting Manager until a new Manager is appointed in accordance with provisions in section 4.1.

History: Referendum 11/3/2009.

- (B) If a vacancy occurs due to a suspension, absence, or disability: The City Council may appoint an Acting Manager for the duration of such suspension, disability or absence.
 - (C) The Acting Manager shall have all the powers and perform all the duties of the City Manager and shall be paid such salary for his/her services as may be prescribed by the Council.
 - (D) The City Council may relieve the Acting Manager from his/her duties at any time and designate another qualified person to serve until the Manager returns to duty. However, the Acting Manager will not be subject to the provisions in section 4.2.
- 4.6. NON-INTERFERENCE. Except for the purpose of inquiries and investigations, the Council or its members shall deal with City Officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee either publicly or privately.
- 4.7. ADMINISTRATIVE CODE. The first Manager under this Charter shall draft and submit to the Council within nine months after assuming office an ordinance dividing the administrative service of the City into departments, divisions, and bureaus and defining the functions and duties of each. After the adoption of that ordinance, upon recommendation of the Manager, the Council by ordinance may create, consolidate, or abolish departments, divisions, and bureaus of the City and define or alter their functions and duties. Such ordinances shall be known as the "ADMINISTRATIVE CODE". Each officer shall have supervision and control of his/her department and the employees therein, and shall have the power to prescribe rules and regulations consistent with general law, this Charter, the administrative code, and the rules and regulations of the merit plan.

ARTICLE V - PERSONNEL SYSTEM

5.1. MERIT PLAN.

- (A) APPOINTMENTS: All appointments and promotions of City Officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- (B) PERSONNEL DIRECTOR: The City Manager shall be the personnel director, who shall administer the personnel system of the City.
- (C) PERSONNEL RULES: The manager shall prepare personnel rules. The Manager shall refer such proposed rules to the Council, and the Council shall by ordinance adopt them with or without amendment. These rules shall provide for:
 - 1. The classification of all City positions, based on the duties, authority, and responsibilities of each position, with adequate provisions for re-classification of any position whenever warranted by changed circumstances.
 - 2. A pay plan for all City employees.
 - 3. Methods of determining the merit and fitness of candidates for appointment or promotion.
 - 4. The policies and procedures regulating reduction in force or removal of employees.
 - 5. The hours of work, attendance regulations and provisions for sick and vacation pay.
 - 6. The policies and procedures governing relationships with employee organizations.
 - 7. The policies and procedures governing persons holding provisional appointments.
 - 8. Policies regarding in-service training programs.
 - 9. Grievance procedures, including procedures for the hearing of grievances by the personnel board, which may render advisory opinions based on its findings to the City Manager with a copy to the aggrieved employee.

History: Referendum 11/4/2008 deleted Personnel Advisory Board (Section 5.2) in its entirety.

5.2 COMPENSATION. The compensation of all officers and employees not fixed by this Charter shall be fixed in the rules and regulations of the Merit Plan by a schedule of pay which shall include a minimum and maximum and such intermediate rates as may be deemed desirable for each class of position provided for in said rules and regulations. In increasing or decreasing items in the

City budget, the Council shall not increase or decrease any individual salary but act solely with respect to total salaries in the various departments of the City.

- 5.3. CERTIFICATION OF COMPENSATION. No compensation shall be paid without certification by the Manager, or such officer as he/she may direct, that the recipients are employed by the City and that their rates of compensation comply with the pay schedule provided for in Section 5.3. If such officer approves payments not in conformity therewith, he/she and his/her surety shall be liable for the amount of such payments.
- 5.4. RETIREMENTS. The Merit Plan may contain provisions for a system for the retirement of any City employee who shall have attained an age or condition of health which warrants retirement from further service. Any such plan shall provide payments to those employees retiring after the inauguration of such plan.
- 5.5. EMPLOYEES WHEN CHARTER ADOPTED. No employee of the City at the time this Charter is adopted shall be required to take any examination in order to continue within the employment of the City. All other provisions of the Merit Plan will apply to such employees.

History: Special Municipal Election 11/4/2008.

ARTICLE VI – CODE OF CONDUCT FOR PUBLIC OFFICIALS AND EMPLOYEES

- 6.1. **PREAMBLE.** Public service is a public trust. It is the intent of this Charter to promote public confidence in representative government, uphold and expect the highest standards of ethics and conduct from all of its employees and officials, whether elected, appointed or hired. They shall maintain the highest standards of personal intent, integrity, honesty and fairness in discharging their public duties and never abuse their positions or powers for improper or personal gain. This is in the best interest of all citizens and serves to protect the integrity and reputations of city employees and residents dedicated to public service.
- 6.2. **PURPOSE.** The purpose of this code is to establish guidelines for the ethical standards of conduct for city government elective and appointive public servants and employees. They are expected to act in the best interest of the city and disclose any personal, financial or other interests in matters affecting the city that come before them for consideration and/or action. This code establishes a process for guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair and transparent to all parties involved.
- 6.3. **ELIGIBILITY FOR ELECTIVE AND APPOINTIVE SERVICE.** The following provisions shall govern eligibility to elective and appointive office:
- (A) In accordance with RSA 48:1 pertaining to city officers, no employee of the city shall serve as Mayor or City Councilor in the city government while they are in the employ of the city. No regular full time or regular part time employee of the city shall hold any appointive office in the city government while they are in the employ of the city. City employees are valued and may serve in a non-voting advisory capacity to the City Council, boards and commissions.
 - (B) In accordance with State RSA 671:18 pertaining to school district elections, no person employed on a salaried basis by the school administrative unit of the city shall serve as a School Board member.
 - (C) Except for the Mayor or City Councilor serving as an ex-officio member of the School Board, as provided by this Charter, no City Councilor or School Board member shall simultaneously serve on both bodies.
- 6.4. **CONFLICTS OF INTEREST.** No elective or appointive officer or employee of the city shall take part in a decision concerning the business of the city in which he/she or a member of their family and/or household directly has a financial interest, aside from his/her salary as such officer or employee, greater than any other citizen or taxpayer.
- (A) For the purpose of this Charter, family member shall be defined as grandparent, parent, spouse, child, grandchild or sibling, whether by blood or marriage.

(B) For the purpose of this Charter, household shall be defined as persons living in the same housing unit and common living space.

- 6.5. DISQUALIFICATION FROM DECISION MAKING PROCESS. No elective or appointive officer or employee of the city shall take part in a decision concerning the business of the city in which they or a member of their family and/or household directly has a financial interest, aside from his/her salary as such officer or employee, greater than any other citizen or taxpayer. In such an instance, the elective or appointive officer or employee shall recuse him/herself from discussion and decision-making. Officials, board members or employees who have been recused shall immediately leave the room or shall move to an area designated for members of the general public. When recused, he/she shall not participate in further discussions, unless clearly stating for the record that he/she is doing so only as a general member of the public.
- 6.6. PRIVATE USE OF CITY PROPERTY AND PERSONNEL. No elective or appointive officer or employee shall devote any city property or labor to private use except as may be provided by law or ordinance.
- 6.7. ACCEPTANCE OF GIFTS OR GRATUITIES. No elective or appointive officer or employee of the city shall solicit or accept any gift or gratuity which could, in any manner, be reasonably construed to affect or influence the performance of his/her official duties.
- 6.8. DISPOSITION OF FEES. No elective or appointive officer or employee of the city shall collect any fees, salaries or other payments in connection with his/her official duties for his/her own use except as provided by law or ordinance.
- 6.9. MISUSE OF INFORMATION. No elective or appointive officer or employee of the city shall utilize or dispense information gained through said office or employment for the personal profit of themselves or others, as opposed to the public good of the community.
- 6.10. FUTURE EMPLOYMENT. No elective or appointive officer or employee of the city shall solicit, negotiate for or promise to accept employment with any person, firm or corporation with which his/her department, body or agency is engaged on behalf of the city in the transaction of business which is or may be affected by his/her official action. No elective officer may become employed by the city within one (1) year after their term of office ends.
- 6.11. CIVIL PENALTY. Any elective or appointive officer or employee of the city found to have violated any of the provisions of this section shall be personally liable, to the fullest extent permitted by law, for any extent that the city suffers loss.
- 6.12. APPLICABILITY. This Article shall apply to all elective and appointive officers and employees of the city, including officers and employees of the school system.
- 6.13. ETHICS COMMISSION. The City Council shall appoint a five (5) member Ethics Commission for terms of three (3) years. It is recommended at least one member of the Commission be a former City Councilor or School Board member. The Commission will only investigate complaints filed against municipal elective and appointive officials.

- (A) Members shall be chosen for their independence, integrity, civic commitment, and high ethical standards.
 - (B) No person while a member shall hold nor seek any municipal public office, including boards and commissions, or be a paid representative and/or lobbyist who influences city legislation on behalf of a special interest.
 - (C) The Ethics Commission shall elect annually from among its members its own chair.
 - (D) The Ethics Commission will only review complaints based on alleged violations of this Article.
 - (E) Complaints must be filed in writing, by a resident of Somersworth, on a form approved by the City Attorney, supplied by, and available at, the office of the City Clerk, and must be filed no later than ninety (90) days from the alleged conflict of interest event.
 - (F) The complaint shall specify the provision of the code that the complainant believes was violated and must be signed before a Notary Public. When signing the complaint, the complainant shall certify that he/she has read the Code of Conduct and that they believe the matter within the complaint is a fair subject of inquiry.
 - (G) Any elected or appointed official against whom a written complaint is filed shall be given a copy of the complaint, and upon written request shall be afforded an opportunity to be heard and to present evidence to the Ethics Commission.
 - (H) Within thirty (30) days of concluding an investigation into a written complaint, the Ethics Commission shall issue a written statement setting forth its findings.
 - (I) If the Ethics Commission believes a complaint warrants further action, including recall or censor, it will forward its recommendation to the City Council or School Board for adjudication.
 - (J) The Ethics Commission shall not have the power to impose any monetary or other penalty.
 - (K) The City Council shall adopt, by ordinance, supplementary provisions to implement this Charter section that are consistent with the language and intent of this Article.
- 6.14. EDUCATION. At the time that an employee is hired, newly elected or appointed official takes the oath of office or attends his/her first meeting, he/she shall receive a copy of this code, and acknowledge in writing that they have received a copy of this code.
- 6.15. SCOPE. In the interpretation of this Article, bearing in mind the purpose as set forth in paragraph 6.2 above; whenever possible it shall be interpreted so as to be consistent with any statutory or regulatory provisions.

History: Referendum, 11/3/2009

ARTICLE VII - FINANCIAL PROCEDURES

- 7.1. FISCAL YEAR. The fiscal year of the City shall begin on the first day of JULY and end on the last day of June, unless another date shall be fixed by ordinance.
- 7.2. SUBMISSION OF BUDGET AND BUDGET MESSAGE. On or before the 15th day of MARCH of each year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.
- 7.3. BUDGET MESSAGE. The Manager's budget message shall explain the proposed budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, and include such other material as the Manager deems desirable.
- 7.4. BUDGET. The budget shall provide a complete financial plan of all the City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:
- (A) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments, and agencies in terms of their respective work programs, and the method of financing such expenditures.
 - (B) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable, and the proposed method of financing each such capital expenditure; and
 - (C) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
- 7.4.1 LIMITATION ON BUDGET INCREASE.
Recognizing that final tax rates for the City of Somersworth are set by the Department of Revenue Administration pursuant to RSA 21J:35, I, the Manager shall submit a proposed budget and an accompanying message to the Council, and the Council shall adopt its annual budget proposals and shall act upon such proposals, in accordance with the mandates of this section.

Override Provision. Budgetary restrictions described in any part of Section 7.4.1 may be overridden upon a vote of two-thirds (2/3) of all elected members of the Council. Such override expires following adoption of the annual budget. Subsequent budgets or supplemental appropriations require additional two-thirds (2/3) override votes, or the limitations expressed in this section will apply.

In establishing a municipal budget, the Manager and Council shall be allowed to assume an estimated property tax rate in an amount not to exceed the tax rate established during the prior fiscal year increased by a factor equal to the change in the National Consumer Price Index – Urban as published by the United States Department of Labor for the calendar year immediately preceding the year of the budget adoption.

- (A) Exception to budget increase limitation. Capital expenditures, and the total or any part of the principal and interest payments of any municipal bond, whether established for school or municipal purposes, may be excepted from being included in the expenditures that are subject to the prior limitation upon a two-thirds (2/3) vote of all members of the City Council. The exception made under this section shall expire upon adoption of the budget for the next budget year, unless two-thirds (2/3) of all members of the City Council vote to renew the exception for the next budget year.

- (B) Budget limitation in a revaluation year. When the Council accepts an increase in real estate values as the result of a City-wide revaluation, the Council shall adhere to a maximum increase in real estate tax revenues as follows: The real estate taxes raised from the prior budget year shall be increased by a factor no more than the change in the National Consumer Price Index – Urban as published by the United States Department of Labor for the calendar year immediately preceding budget adoption, then this figure shall be used in establishing the new municipal budget.

- (C) Budget limitation with annual changes in assessments. When annual changes in real estate values occur as a result of State of New Hampshire assessing requirements, the Manager and Council shall adhere to a maximum increase in real estate tax revenues as follows: The real estate taxes raised from the prior year shall be increased by a factor of no more than the change in the National Consumer Price Index – Urban as published by the United States Department of Labor for the calendar year immediately preceding budget adoption, plus real estate taxes calculated by applying the prior year real estate tax rate to the net increase in new construction. “Net increase in new construction” is defined as the total dollar value of building permits less total dollar value of demolition permits issued for the period of April 1 – March 31 preceding budget adoption.

- (D) Total Expenditures. Total expenditures for any given budget year shall not exceed the amount of funds reasonably calculated to be derived by the tax rate established herein, increased by the other revenues generated by the municipality.

Explanatory Note:

- This amendment places a cap on the level of City spending based on the National Consumer Price Index. Capital expenditures and debt expenditures are included in the cap. The cap may be overridden by a two-thirds (2/3) vote of the Council.

History: Referendum 11/6/2012

7.5. CAPITAL PROGRAM.

- (A) Submission to Council: the Manager shall prepare and submit to the Council a six-year capital program at least three months prior to the final date of submission of the budget.

History: Referendum, 11/3/2009

- (B) Contents: the capital program shall include:
1. a clear general summary of its contents;
 2. a list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 3. cost estimates, method of financing, and recommended time schedules for each such improvement; and
 4. the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

7.6. COUNCIL ACTION ON BUDGET.

- (A) NOTICE AND HEARING. The Council shall publish in one or more newspapers of general circulation in the City the general summary of the budget and notice stating:
1. the times and places where copies of the message and budget are available for inspection by the public, and
 2. the time and place, not less than two weeks after such publication, for a public hearing on the budget.
- (B) AMENDMENT BEFORE ADOPTION. After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, providing that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

- (C) ADOPTION. The Council shall adopt the budget on or before the 30th day of the 12th month of the fiscal year currently ending. If it fails to adopt the budget by this date, the City budget as submitted by the Manager shall become the adopted budget of the City for the fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

7.7. AMENDMENTS AFTER ADOPTION.

- (A) SUPPLEMENTAL APPROPRIATIONS. No supplemental appropriation shall be made for any purpose not included in the budget as adopted unless voted by a two-thirds majority of the Council after a public hearing held to discuss said supplemental appropriation. The Council shall, by ordinance, designate the source of any money so appropriated.

History: Referendum, 11/3/09.

- (B) EMERGENCY APPROPRIATIONS. 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 such emergency ordinance authorize the issuance of emergency notes which may be renewed from time to time, but the emergency 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.
- (C) REDUCTION OF APPROPRIATIONS. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendation as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one or more appropriations.
- (D) TRANSFER OF APPROPRIATIONS. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.
- (E) LIMITATIONS: EFFECTIVE DATE. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The

supplemental and emergency appropriations and reductions or transfer or appropriations authorized by this section may be made effective immediately upon adoption.

7.7.a. LAPSE OF APPROPRIATIONS. Every appropriation, except an appropriation for capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it has been made is accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriations.

7.8. ADMINISTRATION OF BUDGET.

(A) WORK PROGRAMS AND ALLOTMENTS. At such time as the Manager shall specify each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revisions as early as possible in the fiscal year. He/she may revise such allotments during the year if he/she deems it desirable and shall revise them to accord with any supplemental, emergency, reduced, or transferred appropriations made pursuant to Section 6.7.

(B) PAYMENTS AND OBLIGATIONS PROHIBITED. No payments shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom 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 in violation of the provisions of this Charter 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 City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorization of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

7.9. DEPOSITORY. The City Council shall designate the depository or depositories for the City funds and shall provide for the daily deposit of all City monies. The City Council may provide for such security for the City deposits as it may deem necessary, except that personal surety bonds shall not be deemed proper security.

History: Referendum 11/6/1973

7.10. INDEPENDENT AUDIT. An independent audit shall be made of all accounts of the City government at least annually and more frequently if deemed necessary by the City Council. Such audit shall be made by certified public accountants experienced in municipal accounting and an abstract of the results shall be made public. An annual report of the City's business shall be made available.

History: Referendum 11/6/1973

7.11. OFFICIAL BONDS. Any City officer elected or appointed by authority of this Charter may be required by the City Council to give a bond to be approved by the City Solicitor for the faithful performance of the duties of his/her office, but all officers receiving or disbursing City funds shall be so bonded. All official bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the City. Such bonds shall be filed with the City Clerk.

History: Referendum 11/6/1973

7.12. BORROWING PROCEDURE. Subject to the applicable provisions of State law and the rules and regulations provided by ordinance in the Administrative Code, the City Council by resolution may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidence of indebtedness therefore, and may pledge the full faith, credit and resources of the City for payment of the obligation created thereby. Borrowing for a term exceeding one year shall be authorized by the Council only after a duly advertised public hearing.

History: Referendum 11/6/1973

7.13. BONDING. All bond issues shall require two-thirds affirmative vote of the City Council. All issues must meet requirements set forth by the State of New Hampshire regulating bond issues and long-term indebtedness.

History: Referendum, 11/3/2009

7.14. PURCHASING. Bidding and purchasing procedures shall be set forth in the Administrative Code for purchases in excess of limits established by the City Council. The Manager shall coordinate the purchasing procedure and shall make the necessary administrative purchasing rules in accordance with the ordinances, as he/she deems necessary.

HISTORY: REFERENDUM 11/3/2009

ARTICLE VIII – INITIATIVE PETITIONS AND REFERENDUMS

8.1. Initiative Petitions

- (A) The registered voters of the City shall have the power to propose ordinances to the City Council.
- (B) The City Council shall hold a public hearing and act, by taking a vote, on the merits of every initiative petition which concerns a matter in which the City is empowered to act. The petition shall be addressed to the City Council, shall contain a request for passage of a particular measure set forth in the petition, and shall be signed by a number of registered voters equal to at least one percent (1%) of the number of voters voting in the last Presidential Election.

The initiative petition shall include the personal signature and legible name and address of each registered voter and shall be filed with the City Clerk as one instrument of endorsement. The Clerk shall verify the number of registered voters signing the petition and shall attach thereto a certificate showing the result of such examination. Within three (3) days of its issuance, the Clerk shall publish a notice of the certification. Within seven (7) days, the City Clerk shall transmit the petition and certificate to the City Council and shall send a copy of the certificate to the first signer of the petition. The petition shall be considered valid following certification unless written objection regarding the number of signatures certified is made by a voter no more than seven (7) days after the certificate has been published. The validity of any such objection shall be determined by the City Council.

- (C) The City Council shall hold a public hearing within thirty (30) days of the date of certification of any measure proposed in any petition signed by one percent (1%) of the number of voters voting in the last Presidential Election, unless a question of its' legality is raised by a member of the City Council. If a question of legality is raised by any Councilor, the measure shall be referred to a City Attorney for review. If the measure proposed may be lawfully passed by the City Council, the public hearing shall be scheduled within thirty (30) days of the date of the attorney's opinion. If the measure may not be lawfully passed by the City Council, it shall be returned to the petitioners with an explanation.

The City Clerk shall mail notice of the hearing to ten (10) petitioners whose names appear first on each petition at least seven (7) days prior to the hearing. Notice by publication of a summary of contents of the petition at least seven (7) days prior to all such hearings shall also be made, and shall be at public expense.

Hearings on two (2) or more petitions filed under this section and addressing different substantive issues may be held at the same place and time. No hearing shall be held upon more than one petition containing the same subject matter in any given twelve (12) month period.

- (D) Following the public hearing, the Council may:

1. pass said measure without alteration
2. deny said measure and refer petitioners to procedures referenced in Section 8.2.

8.2. Referendum Petitions

- (A) The registered voters of the City shall have the power to require reconsideration by the Council of any adopted ordinance.
- (B) Referendum petitions must be filed with the City Clerk within thirty (30) days after action by the Council on any measure or any part thereof sought to be reconsidered. Referendum petitions must be signed by a number of registered voters equal to at least ten percent (10%) of the number of voters voting in the last Presidential Election of the City. The procedures set forth above concerning initiative petitions shall apply to referendum petitions.
- (C) When a referendum petition is filed with the City Clerk, the measure or part thereof sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:
1. there is a final determination of insufficiency of the petition, or
 2. the filers of the petition withdraw it, or
 3. there is a final decision rendered on the vote taken pursuant to Section 8.2 (D) below.
- (D) When a referendum petition has been finally determined sufficient, the City Council shall submit the referred measure or part thereof protested to the voters of the City at a special election to be held on a date fixed by the City Council. Such special election shall be held no less than thirty (30) nor more than ninety (90) days after the date of the certificate heretofore mentioned; provided that if any election is to occur within one hundred twenty (120) days after the date of said certificate, the City Council may, at its discretion, omit the calling of a special election and submit the referred measure or part thereof to the voters at such approaching election.
- (E) Notwithstanding any other provisions of this Charter, this Article shall not apply to Article VII (Financial Procedures) of this Charter or any action taken pursuant thereto.

8.3. Submission of Proposed Measure to Voters

The Council of its own motion may submit any measure or proposition for repeal or amendment of a measure to the voters at any regular or special City election.

8.4. Measures with Conflicting Provisions

If two (2) or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

History: Referendum 11/3/2009

ARTICLE IX – SPECIAL ASSESSMENT

9.1. CITY COUNCIL RESOLUTIONS. The City Council, by two thirds vote of the members present, shall have the power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property especially benefited and shall so declare by resolution. Such resolution shall state the estimated costs of the improvement, what portion of the cost thereof shall be paid by special assessments, and what part, if any, shall be a general obligation of the City, the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

History: Referendum 11/6/73

9.2. PROCEDURE FIXED BY ORDINANCE. The City Council shall prescribe by general ordinance complete special assessment procedure concerning plans and specifications, estimates of costs, notice and hearing, the making of the assessment roll and correction of errors, the collection of special assessments, and other matters concerning the making of improvements by the special assessment method.

History: Referendum 11/6/1973

ARTICLE X - SCHOOL BOARD

10.1. ELECTION AND TERMS OF SCHOOL BOARD. One member of the School Board shall be elected from each ward, and four members of the School Board shall be elected at large. The four persons elected at large in 2009 shall be elected for four years, and thereafter all terms shall be for two years. Election of all members shall be by nonpartisan ballot as provided in RSA 59:73 to 86 inclusive. The ward members shall be residents of the ward from which elected, and the at large members shall be residents of the City. The members so elected shall take office on the first Tuesday after the first Monday in January next following their election.

History: Laws 1893, Chapter 171:21 as amended by laws 1923, Chapter 219:2, laws 1939, Chapter 269:8; laws 1973, Chapter 491:6; Referendum 11/6/73; Special Municipal Election 11/4/08; Referendum 11/3/2009

10.2. COMPENSATION. The School Board members shall receive the same annual salary as set by the City Council and under the same restrictions and timing as for City Councilors in Article 3.6 of this Charter. School Board members shall receive their actual and necessary expenses incurred in the performance of their duties of office. The salaries and expenses for School Board members shall be a charge against the City's budget and not the budget of the School Department. All compensation shall be part of the annual budget ordinance adoption.

History: Referendum, 11/3/2009; Referendum, 11/5/2013

10.3. CITY REPRESENTATIVE. The Mayor shall appoint the Mayor or in his/her discretion a member of the City Council to serve as the City's representative as an ex-officio member of the School Board. Such representative shall be a non-voting member of the School Board. The above section 10.2 of this Article shall not apply to the City representative.

10.4. VACANCIES. When for any reason a vacancy occurs on the School Board, the following provisions shall govern the filling thereof:

(A) If a vacancy occurs on the School Board, the City Council shall appoint a person to fill the vacancy until the next municipal or state election, whichever occurs first, at which time an election shall be held for the unexpired term. All votes to fill a vacancy on the School Board shall be by "roll call vote."

(B) The City Council shall not vote to fill any vacancies on the School Board until fourteen (14) days after such vacancy has occurred. Such vote may not occur until the said vacancy has been duly posted at City Hall for fourteen (14) days and advertised in a local newspaper three (3) times. It shall take a two-thirds vote of the present membership to suspend said rule. All votes to fill a vacancy on the School Board shall be by "roll call vote."

- (C) If a vacancy arises during the last year of a School Board member's term on the School Board during the time period between the November election for the position and the end of the term in January, the City Council shall immediately appoint the newly-elected individual to fill the vacancy for the unexpired term.

History: Referendum 11/5/2013

10.5 RESPONSIBILITIES. The general management and control of the public schools in said City and of the buildings and property pertaining thereto shall be vested in a School Board consisting of nine members. Such Board shall have the power and perform the duties and be subject to the liabilities granted or imposed by or through the statutes of the State, including the prescribing of regulations for attendance at and for the management, classification, and discipline of the schools; but all bills, notes and demands made or contracted for school purposes shall be paid from the City Treasury. Said School Board shall, in January of each even numbered year, elect one of its nine regular members to act as chairman, who shall have a vote on all matters; and five of said nine members shall constitute a quorum for the transaction of business.

10.5. FINANCIAL PROCEDURES – SCHOOL BOARD.

- (A) BUDGET MESSAGE. The School Board's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the School Department for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the school's debt position.

History: Special Municipal Election 11/4/08.

- (B) BUDGET. The budget shall provide a complete financial plan of the School Department funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems desirable or the Council may require. In organizing the budget the School Board shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:
 - i. Proposed expenditures for current operations during the ensuing fiscal year, and the method of financing such expenditures;
 - ii. Proposed capital expenditures during the ensuing fiscal year, when practicable, and the proposed method of financing each such capital

expenditure; and the total of the proposed expenditures shall not exceed the total of estimated income.

(C) CAPITAL PROGRAM:

- i. Submission to Council: The School Board shall prepare and submit to the Council a five-year capital program at least three months prior to the final date for submission of the budget.
- ii. Contents: The capital program shall contain:
 1. a clear general summary of its contents,
 2. a list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements,
 3. cost estimates, method of financing and recommended time schedules for such improvements, and
 4. the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

ARTICLE XI - MISCELLANEOUS PROVISION

11.1. **OATH OF OFFICE.** Every person elected or appointed to any City office before entering upon the duties of his/her office shall take and subscribe to an oath of office as provided by law which shall be filed and kept in the office of the City Clerk.

History: Referendum 11/6/1973

11.2. **NOTICE OF ELECTION OR APPOINTMENT.** Written notice of election or appointment of any City officer shall be mailed to him/her at his/her address by the City Clerk within forty-eight hours after the appointment is made or the vote canvassed. If within ten days from the date of the notice, such officer shall not take, subscribe to, and file with the City Clerk an oath of office, such neglect shall be deemed a refusal to serve, and the office shall thereupon be deemed vacant, unless for the good cause shown, the Council shall extend the time in which such officer may qualify.

History: Referendum 11/6/1973

11.3. **VACANCY DEFINED.** In addition to other provisions of this Charter, a vacancy shall be deemed to exist in any office when an officer becomes permanently disabled and unable to perform his/her normal duties, dies, resigns, is removed from office, is convicted of a felony, or is judicially declared to be mentally incompetent.

History: Referendum 11/6/1973

11.4. **USE OF STREETS BY PUBLIC UTILITIES.** Every public utility shall pay such part of the cost of improvements or maintenance of streets, alleys, bridges, and public places as shall arise from its use thereof, and shall protect and save the City harmless from all damages arising from said use.

HISTORY: Referendum 11/6/1973

11.5. **LIABILITY FOR DISCHARGE.** The removal in accordance with this Charter with or without cause of a person elected or appointed or otherwise chosen for a fixed term shall give no right of action for breach of contract unless otherwise provided by statute or common law.

History: Referendum 11/6/1973; Referendum 11/3/2009

11.6. **NOTICE OF CLAIM.** As a condition of precedent of the commencement of an action in law or bill in equity for money or damages, the City Clerk shall be notified by registered mail within 60 days of the time of the injury or damage or discovery of the injury or damage if it could not reasonably have been discovered at the time of the occurrence of the injury or damage as to the date, time, and location where the injury or damage occurred.

HISTORY: Referendum 11/6/1973; Amended Referendum 11/6/2001

11.7. VIOLATIONS. Any person who violates any provisions of this Charter, unless otherwise provided, or violates any City ordinance for which no other punishment is provided, shall be fined not exceeding five hundred dollars (\$500.00).

HISTORY: Referendum 11/6/1973

11.8. PUBLIC RECORDS. All records of the City shall be public, except those specifically protected by law.

History: Referendum 11/6/1973

ARTICLE XII - RECALL PROCEDURE

- 12.1. ELECTED OFFICERS SUBJECT TO RECALL. Any holder of the office of Mayor, City Council, or School Board may be recalled and removed therefrom by the qualified voters of the City as herein provided.
- 12.2. REASONS FOR RECALL. The Mayor or members of the City Council or School Board may be removed or recalled for missing three (3) or more consecutive meetings called for the regular transaction of business or other inattention to duty, mental incapacity, conviction of a felony, incompetence, misconduct in office or other relevant charge. The Mayor or City Councilors shall not be removed or recalled in cases of votes on ordinances, resolutions, appropriations, appointments, or zoning changes unless a distinct conflict of interest occurs. The vacancy caused by the removal or recall of the Mayor or City Councilor shall be filled in accordance with applicable sections of this Charter (City Council Article III Section 3.2) (School Board Article X Section 10.2).
- 12.3. REMOVAL OR RECALL OF THE MAYOR, CITY COUNCIL, OR SCHOOL BOARD MEMBERS. The City Council may upon passage of a resolution or within seven (7) days of certification of a petition of ten percent (10%) of the voters in the relevant ward in the case of ward Councilors or School Board members, or at large in the case of at large Councilors or School Board members or the Mayor, form a recall committee to investigate charges to cause the removal or recall of the Mayor, City Councilor or School Board member. Said Committee shall be composed of two (2) City Councilors and three (3) citizens of the community, who are not officers or classified employees of the City. Within seven (7) days after the formation of said committee this committee shall hold a public hearing on said charges and within thirty (30) days of the formation of said committee shall file a report to the City Council on said charges. Upon receipt of the report, the Council may order the removal of the individual by two-thirds (2/3) roll call vote of all its members. If the Councilors do not choose to remove the individual involved, that individual will be subject to recall in accordance with the provisions of Section 12.4. The Mayor shall call any special meetings needed to accomplish this process.
- 12.4. PROCEDURE FOR RECALL. This Section is valid when the procedure in Section 10.3 has been completed and the Council has not removed the individual charged. Any qualified voter of the City may make and file with the City Clerk an affidavit containing the name of the officer sought to be removed and a statement of the grounds of removal. The City Clerk shall thereupon deliver to the voter making such an affidavit a sufficient number of copies of petition blanks for such recall and removal, printed forms of which he/she shall keep on hand. Such blanks of the form, one signature per petition sequentially numbered shall be issued by the City Clerk with his/her signature and official seal thereto attached; they shall be dated and addressed to the Councilors, shall contain the name of the person to whom issued, the name of the person sought to be removed, the office from which such removal is sought, the grounds of removal as stated in such affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the City Clerk. Said recall petition shall be

completed and filed with said City Clerk within fourteen (14) calendar days after the filing of the affidavit. Said petition, before being returned and filed, shall be signed by qualified voters equal in number to thirty-five percent (35%) of the registered voters in the relevant ward in the case of ward Councilors or School Board members, or at large in the case of at large Councilors, School Board members or the Mayor at the time of the issuance of the petition. Every signature shall be witnessed by the petitioner and to each signature shall be added the place of residence of the signer giving street and number.

- 12.5. PETITION FOR RECALL CERTIFIED. Within ten (10) days after the filing of said petition, the City Clerk shall ascertain by examination thereof and of the election returns and checklists used when said office was filled, whether the petition is signed by the requisite number of qualified voters, and shall attach thereto his/her certificate showing the result of such examinations. He/she shall, if necessary, be allowed extra help by the City Council. If then insufficient he/she shall return the petition to one of the persons designated thereon as filing it, and no new petition shall be filed for the same purpose.
- 12.6. RECALL ELECTION, WHEN HELD. If the petition shall be found and certified by the City Clerk to be sufficient, he/she shall submit the same with his/her certificate to the City Council without delay, and the Council shall, if the officer sought to be removed does not resign within five (5) days thereafter, thereupon order an election to be held on a Tuesday fixed by it, not less than thirty (30) days nor more than forty-five (45) days after the date of the City Clerk's certification that a sufficient petition is filed; provided, however, that if any other municipal election is to occur within sixty (60) days after the date of said certificate, the City Council may, in its discretion, postpone the holding of the removal election to the date of such other municipal election. If a vacancy occurs in said office after the removal election has been so ordered, the election shall nevertheless proceed as in this section provided.
- 12.7. INCUMBENT'S DUTIES, PENDING RECALL. The incumbent shall continue to perform the duties of his/her office until the removal election. If then re-elected, he/she shall continue in office for the remainder of his/her unexpired term, subject to recall as before, except as provided in Section 10.6 of this Charter. If not re-elected in the removal election, he/she shall be deemed removed upon the certification of the "Canvass" provisions in Section 2.8 of the City Charter.
- 12.8. RESTRICTION ON RIGHT OF RECALL. No recall petition shall be filed against any officer within three months after assuming office nor in the case of an officer re-elected in a re-election until six months after the election.
- 12.9. DISQUALIFICATION BY RECALL. No person who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any City office within two years after such removal by recall or resignation.
- 12.10. "QUALIFIED VOTER" DEFINED. The term "qualified voter" is defined in Section 2.4 of the City Charter.

ARTICLE XIII - SAVING CLAUSES, ADOPTIONS AND IMPLEMENTATION

- 13.1. **SAVING CLAUSE.** So much of the previous Charter of the City and of laws passed in amendment or supplementary thereof as is now in force or voted on other referendum at this election relative to the constitution of bounds of its several wards, its Police Commission, its school district and sewer, lighting, and other special precincts and their government and affairs, to its water works, municipal court, and to the borrowing of money in aid of its school districts, is hereby continued in force, with the exception of such provisions as are inconsistent with this Charter; but all special legislation relative to the government of the City, not herein expressly saved, is hereby repealed. All general laws relative to the government of cities shall remain in force in the City so far as the same can be applied consistently with the intents and purposes of this Charter, but are hereby annulled as far as inconsistent herewith. In all existing laws, ordinances, and regulations hereby saved, references to the bodies or officers hereby abolished and superseded, or to bodies or officers whose constitution or functions are hereby altered, shall be taken to mean the body or officer upon whom jurisdiction of the matter in question is conferred by this Charter or by the administrative code.
- 13.2. **TENURE OF OFFICE.** The incumbents when this Charter takes effect who are elected by popular vote, of all municipal offices not hereby abolished or superseded, shall continue to hold the same until the expiration of their respective term where a term of years exists, or until such offices are abolished by lawful ordinances.
- 13.3. **SEPARABILITY.** The sections of this act and of charters created hereunder are separable. If any portion of this act, or any Charter adopted under the provisions hereof, or if the application of the act or such Charter to any person or circumstances shall be invalid, the remainder thereof or the application of such invalid portions to other persons or circumstances shall not be affected hereby.
- 13.4. **REFERENDUM.** Upon the filing of the final report, the Municipal Officers shall order the proposed new Charter or revised Charter to be submitted to the voters at the next regular or special municipal election held at least thirty (30) days after the filing of the final report (RSA 49-B:4). A separate ballot shall be used at said election. On the ballot there shall appear in **boldface type** the following question relative to the adoption of the new Charter (RSA 49-B:6-1): “Shall the municipality approve the new Charter recommended by the Charter commission?”
Yes___ No___
- 13.5. **ADOPTION.** If a majority of the ballots cast favor the adoption of the new Charter, the new Charter becomes effective on January 5, 2010.

History: Referendum, 11/3/2009

ARTICLE XIV - ADOPTION OF HOME RULE IN SOMERSWORTH

14.1. REFERENDUM. The City of Somersworth had adopted the home rule amending process provided for in Revised Statutes Annotated 49-B, which permits the City to adopt amendments to its Charter by popular referendum without the necessity of legislative act.

History: Referendum 11/4/1969

ARTICLE XV - WATER WORKS

15.1. AUTHORITY TO ESTABLISH WATER WORKS. That the City of Somersworth is hereby authorized to construct, manage, maintain and own suitable water works in said City for the purpose of introducing into and distributing through the village of Great Falls in said City, an adequate supply of pure water in subterranean pipes, for extinguishing fires and for the use of its citizens and for such other purposes as water may be required in said City; and for that purpose may take, purchase and hold in fee simple or otherwise any real or personal estate, and any rights therein, and water rights necessary for carrying into effect the purposes of this act, and erect, construct and maintain such dams, reservoirs, stand pipes, and building as may be necessary for such water works; and to excavate and dig canals and ditches in any street, place, square, passway, highway, common, or other place through which it may be deemed necessary and proper for constructing said water works; and relay, change and repair the same at pleasure, having due regard for the safety of its citizens and security of the public travel; and said City may take or purchase at a fair and equitable valuation the property, rights and franchises of any and all aqueduct or water companies now chartered or doing business in said Somersworth, and should said City and any such aqueduct or water company or said property either party may apply to the Superior Court for the County of Strafford, at the trial term thereof, for estimating the value of said property rights, and franchises, and said Court shall refer the same to the County Commissioners of said County and proceed as provided in Section 8.2 of this act.

History: Laws 1891; Amended Referendum 11/6/2001

15.2. AUTHORITY TO TAKE WATER. Said City is authorized and empowered to take water from the Salmon Falls River and to enter upon, take, and appropriate any streams, springs, or ponds not belonging to any aqueduct company outside of said City of Somersworth and to secure, by fence or otherwise, such streams, springs or ponds, and dig ditches and canals, make excavations or reservoirs, through, over, in or upon any land or enclosure through which it may be necessary for said aqueduct to pass, or said excavations, reservoirs, and water-works to be or exist for the purpose of obtaining, holding, preserving, or conducting such water, and placing such pipes or other materials or works as may be necessary for building and operating such aqueducts and water-works or for repairing the same, provided, if it shall be necessary to enter upon and appropriate any stream, spring, and pond, or any land for the purpose aforesaid, or to raise or lower the level of the same, and if said City shall not agree with the owners thereof for the damage that may be done by said City, or if such owners shall not be known, said City or said owner or party injured may apply to the Supreme Court for the County of Strafford, at the trial term thereof, to have the same laid out and damages determined, and the said Court shall refer the same to the County Commissioners for said County, who shall appoint a time and place of hearing, and give notice thereof in the same manner as provided by law for laying out highways, and said commissioners shall make report to said Court and said Court may issue execution accordingly. If either party shall desire, before reference to said Commissioners, they shall be entitled to a trial by jury in such manner and under such regulations as the Court may prescribe.

History: Laws 1891; Amended Referendum 11/6/2001

- 15.3. AUTHORITY TO CONTRACT. The City of Somersworth is authorized and empowered to contract with any individual or entity to pump water and to make such other contracts and establish such regulations and for the use of water as may from time to time be deemed proper and for the more convenient management of said water works. The operations of the Municipal Water Treatment Plant and Water Distribution Systems are to be operated by the Public Works and Utilities of the City of Somersworth under the direction of the City Manager.

History: Laws 1891; Amended Referendum 11/6/2001

- 15.4. ENACTMENT (SECTIONS 8.1 THROUGH 8.4); WILLAND POND. Said City is also authorized, at any annual or special meeting, by majority vote for those present and voting, to make regulations for the management of said water works, to borrow or hire such sum of money, on the credit of the City, as may from time to time be deemed advisable, for the purpose of defraying the expense of purchasing real estate, water rights, streams, springs, ponds, and all other rights of aforesaid, and for constructing, maintaining, and operating said water works, and to issue notes or bonds of the City therefore, payable at such times and at such rates of interest as may be thought proper.

This act shall take effect upon passage; provided, however, that this shall not be construed as to give the City of Somersworth the right to take water from Willand Pond.

History: Amended Referendum 11/6/2001

- 15.5. COLE’S POND. The City of Somersworth is authorized and empowered to enter upon, take and appropriate the water of a certain pond in Somersworth, commonly known as Cole’s Pond or Lily Pond, for the purpose of furnishing said City with a supply of water for the extinguishment of fires, for the use of its inhabitants, and for other purposes.

History: Laws 1913, Chapter 289.

- 15.6. MISCELLANEOUS POWERS. To secure said pond by fence, or otherwise, and dig ditches and canals, make excavations, build dams and reservoirs to be or exist; for the purpose of obtaining, holding preserving or conducting such water and placing such pipes or other materials or works as may be necessary for building, operating or repairing the same. Said City of Somersworth is also authorized and empowered to take and appropriate any land that may be necessary to protect any water supply that they may establish or acquire.

History: Laws 1913, chapter 289.

- 15.7. EMINENT DOMAIN. In case that City aforesaid shall not be able to agree with the owner of any property, or right taken for the purpose of this act, for the damages to be paid therefore, or in case the owner is unknown, either party may apply to the Superior Court for Strafford County to have the same laid out and damages determined; and the court shall refer the same to three disinterested

referees, to be selected and appointed by the judge of said court for that purpose, and said board of referee shall, as soon as may be thereafter, fix a time for hearing said parties and their witnesses; and if either party shall be dissatisfied with the award of said referees and shall at the first term after coming in of the report file a notice to that effect and elect to have a trial by jury, such trial will be had in the same manner as is provided upon the return of the assessment of damages by County Commissioners in the laying of highways. Provided, however, that entry upon and taking property, rights and estates, laid out and taken for the purpose of this act, shall not be postponed by reason of failure of the parties to agree upon the compensation to be paid or by reason or proceedings being instituted by either party for the assignment of damages as provided in this act; but said City of Somersworth may enter upon, take and occupy such property, rights and estate by filing a bond to the satisfaction of the Superior court or that clerk thereof, conditioned upon the payment of all damages that may be afterwards agreed upon or allowed in any case.

15.8. ENACTMENT. This act shall take effect upon its passage. (Approved February 13, 1913)

History: Laws 1913, Chapter 289; Amended Referendum 11/6/2001

ARTICLE XVI - SEWERAGE SYSTEM

16.1. AUTHORITY. For the defraying of the cost of construction, management, maintenance, operation, reconstruction, replacement and repair of the city sewers and sewer systems, including treatment and disposal works, and for the payment of the interest and principal of any debt incurred to pay such costs, the Mayor and City Council may establish a scale of rent, to be called sewer rents, which shall be paid by the owner or owners of real estate connected by sewage drains with city sewers and sewer systems, or whose real estate received special benefit therefrom in any way. The Mayor and City Council may prescribe the manner in which and the time at which such rents are to be paid and collected and may change the scale of rents from time to time as may be deemed advisable. Such rents may be based upon the metered consumption of water on the premises connected with the sewer system, the number and kind of plumbing fixtures connected with sewer system, the number of persons served by the sewer system or upon any other equitable basis. Funds raised from sewer rents shall be used only for the purposes prescribed in this section.

History: Laws 1962, Chapter 442

16.2. NOTICE OF CHARGES. Notice of the charges for sewer rents shall be given to the owner or owners of real estate chargeable therefore in such manner as the Mayor and City Council shall prescribe. The procedure for the abatement of sewer rents and for appeals in case of neglect or refusal to abate shall be as prescribed in RSA 252: 14, 15 and 16.

History: Laws 1963, Chapter 442

16.3. LIEN. All charges for sewer rents shall become a lien upon the real estate served by the City sewer system or the real estate on account of which they are charged. Such lien shall continue for one year from the last item charged in said sewer rents and may be enforced by suit in behalf of the City against the owner or owners of such real estate. In case an appeal has been taken and the charges sustained in whole or part, such lien shall continue until the expiration or one year from such decision. The record of the charge for sewer rents made by the City shall be sufficient notice to maintain suit upon such lien against subsequent purchase or attaching creditors of such real estate.

History: Laws 1963, Chapter 442

16.4. RULES AND REGULATONS. The Mayor and City Council may adopt rules and regulations pertaining to the use of the sewerage system and other regulations relating to the system as in their judgment the sewerage system, pumping station, treatment plant or other structure demands for proper maintenance or operation. Any person willfully violating such regulations shall be fined not more than ten dollars (\$10.00) for each day of neglect or refusal after written notice has been given.

History: Laws 1963, Chapter 442

16.5. BOARD OF SEWER COMMISSIONERS. The Mayor and City Council may by ordinance establish a board of sewer commissioners, consisting of three members, which board shall perform all of the duties and possess all the powers in the City of Somersworth otherwise hereby conferred upon the Mayor and City Council. If a board of sewer commissioners is established, the Mayor and City Council shall by ordinance fix the term of office and compensation for the members thereof.

History: Laws 1963, Chapter 442

16.6. INCONSISTENT LAWS. Such provisions of RSA 252 or amendments thereto as may be inconsistent with the provisions of this act shall not apply to the City of Somersworth.

History: Laws 1963, Chapter 442

16.7. ENACTMENT. This act shall take effect sixty (60) days after its passage. (Approved July 2, 1963. Effective August 31, 1963.)

History: Laws 1963, Chapter 442

ARTICLE XVII - LIGHT AND POWER PLANT

17.1. AUTHORITY. That the City of Somersworth, in the County of Strafford, be and hereby is authorized for the purpose of lighting its streets and public buildings, and for the use of its citizens and for other purposes, to take or purchase franchises and property of any light or power company that is now or may hereafter be doing a light or power business in said City of Somersworth, including dynamos, batteries, wires, engines, boilers, and all other machinery, tools and apparatus used in the manufacture, distribution and operation of such light or power plant in said City of Somersworth and should such light or power company be unable to agree upon what is a fair and equitable price for their property, either party may apply to the Superior Court for said County of Strafford, at a trial term thereof, for appraisal of the values of said property, rights and franchises; and said court shall refer the questions to three disinterested referees to be selected and appointed by a judge of said court for the purpose; and said board of referees shall as soon as may be thereafter, fix a time for hearing said parties and their witnesses, and report their findings to the Superior Court, which shall issue its decree thereon; and provided further that if either party shall elect a trial by jury, upon application to said court for said referees, a trial by jury shall be had in such manner and under such regulations as said court may prescribe; and after such purchase or taking, the said City for the purpose aforesaid may erect and maintain poles and extend wires over or under the streets in said City, and may take, purchase and hold a fee simple, or otherwise, any real or personal estate and any rights therein, necessary for carrying into effect the purpose of this act; things as may be necessary for said light and power plant, and to excavate and dig ditches in any highway, place, square, passway or common, or other place, and to relay, change and repair the same at please, having due regard for the safety of its citizens and the public travel; and said City may purchase light and power from other producers whenever it is deemed necessary.

History: Laws 1897, Chapter 129

17.2. COMMISSIONERS. The immediate management, control and direction of the light and power plant of the City shall be vested in a board of three commissioners to be chosen by the Mayor and Council of said City of Somersworth, and they, the said commissioners, may appoint a superintendent of the said plant, and such other agents or servants as they may deem necessary. They may make such rules and regulations for their own government, and in relation to all officers and agents appointed by them, as they may deem proper.

History: Laws 1897, Chapter 129

17.2.1. DUTIES. Said commissioners shall have the control and management of the construction of said plant, wires and pipes, and make all such contracts and agreements, for and on behalf of the City in relation thereto as the City is hereby authorized to make, and as they may deem proper and advisable, and shall have full charge and control over said plant, wires and pipes when constructed. They shall establish rates and tolls and prescribe rules and regulations for the use of

light and power, and may sell and dispose of such articles of personal property connected with said plant as they shall deem expedient, and may purchase such property as may be in their judgment necessary for said plant, and the purpose contemplated by this act; and they shall annually make a detailed report to the City of the condition of the plant and its system of wires and pipes and the funds belonging to this department, and expenses and income thereof, which shall be published in the city report each year.

- 17.3. FINANCES. All monies received in any way on account of said light and power plant shall be paid into the City treasury and shall be kept and applied exclusively for the uses of said light and power plant, including the payment of the bonds issued under this act and in the interest thereon; and all bills and claims for expenditures connected with said plant shall be paid only by orders drawn by the commissioners, and the City treasurer shall keep his accounts relating to the light and power plant, including all bonds and notes of the City given from loans and money raised for said plant separately and distinctly from all other receipts and payments.
- 17.4. FUNDING. The Mayor and City Council of said City of Somersworth are hereby authorized to raise and appropriate and to borrow and hire such sums of money, not to exceed thirty thousand dollars (\$30,000), on the credit of the City, as may from time to time be deemed necessary for the purpose of defraying the expense of purchasing real estate, water rights and privileges, and other rights, machinery and property as aforesaid, and for constructing, maintaining and operating said light and power plant, and for payment of machinery and other necessary appliance purchases, and to issue notes and bonds of the City therefore in such amounts and payable at such times and at such rates of interest as may be thought proper and may exempt such notes and bonds from taxation when held by the inhabitants of the City.

History: Laws 1897, Chapter 129

- 17.5. ENACTMENT. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect upon its passage.

History: Laws 1897, Chapter 129.

ARTICLE XVIII – MASTER PLAN

- 18.1. ADOPTION. The City shall adopt and maintain a Master Plan setting forth the City’s vision for its future and the goals and objectives necessary for implementing and fulfilling its vision.
- 18.2. REVIEW. The Master Plan shall serve as a general guide for the orderly and efficient development and redevelopment of the City of Somersworth. The Master Plan may be reviewed, revised or amended from time to time but in any event shall be subject to a thorough review not less than every ten years to coincide with the United States Census process. The review will include an analysis of the existing Master Plan and such review shall include proposed revisions or alterations in the Master Plan and public hearings thereon. The review shall be conducted by a committee appointed by the Mayor and shall include members of the City Council, School Board, land use boards, business community, and members of the general public.
- 18.3. DEVIATIONS. All policy and ordinance decisions before the City Council, School Board, or any land use board of the City of Somersworth, shall be reviewed for consistency with the Master Plan prior to their adoption. Any deviations from the Master Plan shall be reviewed and approved by the City Council. The reasons for such deviations shall be fully explained and become part of the public record of the City Council’s deliberations prior to approval by the City Council.

History: Referendum 11/3/2009

ARTICLE XIX – STATE OF THE CITY ADDRESS

- 19.1. STATE OF THE CITY ADDRESS. Annually, on or before the 15th day of MARCH, the City Manager, in concert with the Superintendent of Schools, Mayor and School Board Chairman, shall prepare a State of the City Address to a joint meeting of the City Council and School Board. The State of the City Address shall, but not be limited to, review of performance of the existing fiscal year budget, capital expenditures and plans, an analysis of conformance with the City Master Plan, and plans for the forthcoming fiscal year to enhance or maintain the City of Somersworth and the services that the City provides.

History: Referendum 11/3/2009