

TOWN OF BERLIN
CONNECTICUT
CHARTER



Adopted November 8, 2016

BERLIN TOWN CHARTER

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CHAPTER 1 - INCORPORATION AND GENERAL POWER

Section 1-1. Incorporation. All the inhabitants dwelling within the territorial limits of the Town of Berlin, as heretofore constituted, shall continue to be a body politic and corporate under the name of "The Town of Berlin," hereinafter in the Charter called "the town" and shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by said town and not inconsistent with the provisions of this Charter, the additional powers and privileges herein conferred, and all powers and privileges conferred upon towns under the Connecticut General Statutes.

Section 1-2. Rights and Obligations. All property, both real and personal, all rights of action and rights of every description and all securities and liens in said town as of the date when this Charter shall take effect are continued. The town shall continue to be liable for its debts and obligations. Nothing herein shall be construed to affect the right of the town to collect any assessment, charge, debt or lien. If any contract has been entered into by said town prior to the effective date of this Charter, or any bond or undertaking has been given by or in favor of said town, such contracts, bonds, or undertakings shall be in no manner impaired but shall continue in full force and effect.

Section 1-3. General Grant of Powers. In addition to all powers granted to towns under the Constitution and Connecticut General Statutes, the town shall have all powers expressly granted and all other powers incident to the management of the property, government and affairs of the town, including the power to enter into contracts with the United States or any federal agency, the State of Connecticut or any political subdivision thereof for services and the use of facilities, the exercise of which is not expressly forbidden by the Constitution and the Connecticut General Statutes. The enumeration of particular powers in this and any other chapter of this Charter shall not be construed as limiting this general grant of power but shall be considered as an addition thereto.

CHAPTER 2 - ELECTIONS

Section 2-1. Elected Officials. Nomination and election of state and federal officers, State Senators and Representatives, Judge of Probate, Justices of the Peace, and two (2) Registrars of Voters shall be conducted, and the Registrar of Voters shall prepare lists of electors qualified to vote therefor, in the manner prescribed by the Constitution of Connecticut and the Connecticut General Statutes. The number of Justices of the Peace for the Town of Berlin is fixed at sixty (60) or such number as may be prescribed by the Connecticut General Statutes.

Section 2-2. Municipal Elections. A meeting of the electors of the town for the election of municipal officers, as defined in this chapter, shall be held on the first (1st) Tuesday after the first (1st) Monday in November 1995 and biennially thereafter.

Section 2-3. Mayor. At said meetings there shall be elected a Mayor to serve for a term of two (2) years. The candidate receiving the highest vote total among mayoral candidates shall be the Mayor. However, the losing mayoral candidates shall have the votes they received for Mayor included in the compilation and the determination of the Town Council membership. No elector shall be a candidate for Mayor and Town Council at the same meeting of electors.

Section 2-4. Town Council. At said meetings there shall be elected, on an at large basis, six (6) members of the Town Council to serve for terms of two (2) years each. The six (6) highest vote totals among Town Council candidates shall make up the Town Council, provided not more than three (3) Council members shall be of the same political party. Each elector shall vote for a maximum of six (6) Council members.

Section 2-5. Board of Police Commissioners. At said meeting there also shall be elected three (3) members of the Board of Police Commissioners, and at the meeting of electors in 1997, there shall be elected two (2) members, each of whom shall serve for a term of four (4) years, and so on biennially thereafter. A sufficient number of candidates shall be nominated to succeed each member whose term has expired, so there shall always be five (5) members, with party affiliation as provided in Section 4-3-1 of this Charter, but no party shall nominate candidates in excess of the number which may be elected from that party.

Section 2-6. Board of Assessment Appeals. At said meeting there shall be elected two (2) members of the Board of Assessment appeals and at the meeting of electors in 1997 there shall be elected one (1) member, each of whom shall serve for a term of four (4) years, and so on biennially thereafter. A sufficient number of candidates shall be nominated to succeed each member whose term has expired, so there shall always be three (3) members, but no party shall nominate candidates in excess of the number which may be elected from that party.

Section 2-7. Board of Finance. At said meeting there shall be elected, on an at large basis, six (6) members of the Board of Finance. Three (3) members shall be elected to serve for terms of four (4) years each from 2017 to 2021, provided not more than two (2) of said members elected to four (4) year terms shall be of the same political party, and three (3) members shall be elected to serve for terms of two (2) years each from 2017 to 2019, provided not more than three (3) members of the entire Board shall be of the same political party. At the meeting of electors in 2019 and biennially thereafter there shall be elected, on an at large basis, three (3) Board of Finance members to serve for terms of four (4) years each. At said meetings the three (3) highest vote totals among Board of Finance candidates shall be elected, provided not more than three (3) Board of Finance members shall be of the same political party. Each elector shall vote for a maximum of three (3) Board of Finance members.

Section 2-8. Board of Education. At the biennial meeting of electors of the town as defined in Section 2-2 of this chapter and on the first (1st) Tuesday after the first (1st) Monday of November 1995 and annually thereafter, three (3) members of the Board of Education shall be elected to serve for terms of three (3) years each so that there shall always be nine (9) members. No party designation shall appear in connection with the names of candidates for said Board. Nominations therefor shall be made by a petition signed by one (1%) percent of the registered electors. Such petition shall be filed with the Town Clerk in accordance with Section 9-461 of the Connecticut General Statutes. The Town Clerk shall certify on such petition the number of signers whose names appear on the last-completed voting list, and if such petition fills the requirements hereof he shall certify the name of the candidate so nominated. The three (3) candidates receiving the highest number of votes shall be declared elected. If any vacancy occurs in said Board it may be filled by a majority vote of the remaining members of the Board until the next

annual election, unless the number of remaining members falls below seven (7), in which case a special election shall be called to fill such vacancies for the unexpired portion of the term. Any vacancy to be so filled at the next regular annual election shall be filled by the candidate receiving the fourth (4th) highest number of votes, and, if an additional vacancy is to be filled, the candidate receiving the fifth (5th) highest number of votes shall be declared elected thereto. If the unexpired terms to be so filled are of unequal duration, the candidate receiving the fourth (4th) highest votes shall fill the longer term.

Section 2-9. Nomination of Candidates. The name of any elector of the town shall be placed on the voting machines at the municipal election as a candidate for any office to be filled if he has been nominated by a political party in accordance with the provisions of the Connecticut General Statutes or in whose behalf there shall be filed a petition presenting him as a candidate for election, said petition to be filed in accordance with the requirements of the Connecticut General Statutes, the sufficiency of said petition to be determined by the Town Clerk as provided therein, and which candidacy shall in all other respects meet the requirements and conditions set forth herein. The names of all candidates duly nominated shall be arranged according to the election procedure as established by the Connecticut General Statutes.

Section 2-10. Terms. The terms of all officers and members of elective boards and commissions shall commence on the second (2nd) Tuesday following the meeting of electors, except with respect to the Registrar of Voters, whose term shall commence on the first (1st) Monday in January next succeeding his election. The Mayor and Council members shall be sworn in on the second (2nd) Tuesday following the election. All elective officers and elective members of boards and commissions shall hold office until their successors have been elected and sworn to perform their duties.

Section 2-11. Breaking a Tie and Contested Elections. When, as the result of any state, municipal, primary, or special election held under the provisions of this Charter, it is necessary to break a tie, a special election confined to the tied candidates or issues shall be called by the Town Clerk on that second (2nd) Monday after said election to determine which shall be elected or nominated or in the case of a question whether it shall be accepted or rejected. All voting machines concerning the returns from which there is no disagreement may be unlocked and paper ballots may be used in such election if voting machines are not available in sufficient numbers. The names of candidates shall be arranged as provided in Section 2-9 of this chapter. All recanvassing of votes in case of discrepancy and all election contests shall be governed by the provisions of the Connecticut General Statutes.

Section 2-12. Eligibility. No person shall be eligible for election to any town office who is not at the time of his election a resident and elector of said town and any person ceasing to be a resident and/or elector of said town shall cease to hold elective office in the town.

Section 2-13. Vacancies. Any vacancy in any elective town office, except as provided otherwise in this Charter, shall be filled from the electorate of the town by appointment by the Council for the unexpired portion of the term. In filling any vacancy, the Council shall appoint a person of the same political party as that of the former incumbent unless said incumbent was not an enrolled member of a political party, in which case his successor shall not be an enrolled member of a political party.

Section 2-14. Voting Districts. All officers of the Town of Berlin who are chosen by election shall be elected at large. The voting districts shall continue to be as established on the effective date of this Charter provided the Council upon the recommendation of the Registrar of Voters may, from time to time, by ordinance divide the town into voting districts for the establishment of polling places therein.

CHAPTER 3 - THE TOWN COUNCIL

Section 3-1. The Council. There shall be a Town Council consisting of seven (7) members, including the Mayor, hereinafter referred to as "the Council." No member of the Council shall hold any other elected office under the government of the Town of Berlin.

Section 3-2. Organization. The Council shall meet at 7:00 p.m. on the second (2nd) Tuesday following election day to organize and commence business. The Mayor shall call the meeting to order and shall preside at all Council meetings. The members of the Council shall elect, by a majority vote of all Council members, one of their members to serve as Deputy Mayor for a term of two years, who shall preside in the Mayor's absence provided that when both are absent, the Council may designate from its membership a temporary presiding officer. If the position of the Mayor is vacated, the Council shall elect one of their members to be the new Mayor for the unexpired portion of the term, subject to the provisions regarding party affiliation set forth in Section 2-13 of this Charter.

Section 3-3. Regular Town Council Meetings. The Council shall, at its first (1st) meeting, or as soon thereafter as possible, establish by resolution a place and time for holding its regular meetings. The Council shall cause to be filed, by January thirty-first (31st) of each year with the Town Clerk, a schedule of regular meetings for the ensuing year.

Section 3-4. Special Meetings. The Mayor, or in the case of the Mayor's absence or disability, the Deputy Mayor of the Council, may at any time call a special meeting with twenty-four (24) hours notice, in accordance with Connecticut General Statutes prior to said meeting. Upon written request of three (3) Council members, the Mayor, or in the case of the Mayor's absence or disability, the Deputy Mayor, shall call a special meeting of the Council to be convened within three (3) business days after receipt of such request.

Section 3-5. Emergency Meetings. The Council may call an emergency meeting pursuant to the Connecticut General Statutes.

Section 3-6. Procedure. The Council shall operate under Robert's Rules of Order unless or until such time as the Council, by resolution, adopts different rules or procedure, unless specifically provided otherwise by this Charter. Council approval requires affirmative votes by a majority of Council members present to vote on an issue provided at least four (4) Council members must be present to vote on a matter for said vote to have legal effect. The Council shall keep for public inspection a journal which shall be the official record of the minutes of each Council meeting and public hearing. The minutes shall be authenticated for each meeting by the signature of the Mayor upon

acceptance by the Council.

Section 3-7. Clerk of the Council. The Town Clerk shall act as the Clerk of the Council and shall keep a public record of all proceedings of the Council, including all roll call votes, which shall be authenticated by the Mayor and the Clerk. The Council may by resolution create the position of Secretary of the Council who shall transcribe the minutes and shall outline other duties as deemed necessary by the Council, and shall be compensated as deemed necessary by the Council.

Section 3-8. General Powers and Duties of the Council. (a) The Council shall have the powers and duties which, prior to the effective date of this Charter, were conferred by law upon the existing boards and commissions of said town except as otherwise specifically provided in the Charter, the Connecticut General Statutes or in the Constitution of Connecticut. (b) The legislative power of the town shall be vested exclusively in the Council except as otherwise specifically provided in this Charter. (c) The Council shall propose an annual town budget for consideration by the electors as provided in Chapter 7 of this Charter. (d) Any Council member shall have the power to submit any matter or issue to the Mayor, or in the Mayor's absence or disability, the Deputy Mayor, which shall be placed on the Council agenda for consideration at the next Council meeting. (e) The Council shall have the power to make, alter or repeal ordinances provided such action is permitted by the Connecticut General Statutes; is not inconsistent with this Charter; and is for the preservation of the good order, peace, health and safety of the town and its inhabitants. No such ordinance shall be enacted, altered or repealed without a public hearing held thereon. The notice of such hearing shall be in the form of a legal advertisement appearing in a newspaper having a substantial circulation in said town and by posting a notice in a public place. The notice of such hearing shall be published not less than five (5) days prior to the hearing. The day of the hearing shall be excluded in counting such five (5) day period, and the day of publication included. (f) Council shall have the power to incur indebtedness by issuing bonds or notes as provided in Section 6-10-6 herein. (g) The Council shall have the power to accept or reject any and all gifts made to the town, in all cases subject to any terms of the gift. The power to convey, exchange, purchase, gift, abandon or administer town property, of any nature, shall be vested in the Council. (h) The Town cannot purchase nor contract to purchase if such action would involve a single expenditure exceeding ten thousand (\$10,000.00) dollars unless the Council approves the specific purchase or contract. (i) The Council shall have the power to establish by resolution such study, advisory, or consulting committees, as said Town Council may determine necessary for the proper administration of the Council and for implementation of any activity of project authorized by the Council.

Section 3-9. Initiative. The electors shall have the power to propose to the Council any ordinance, except an ordinance appointing or removing officials, specifying the compensation of hours of work officials and employees, adopting the annual budget other than as provided in Chapter 7 of this Charter, authorizing the levy of taxes, or fixing the tax rate. The ordinance shall be proposed by a petition to the Council, in accordance with and subject to the provisions of the Connecticut General Statutes, setting forth the proposed ordinance and requesting its adoption, which petition shall be signed by qualified electors of the town, in number equal to five (5%) percent or more of the total

number of qualified electors whose names appear upon the last voting list.

The petition shall be filed with the Town Clerk who shall within three (3) days determine whether or not the petition contains the required number of valid signatures and if it does, the Town Clerk shall so certify to the Council at its next regular meeting. The Council shall within sixty (60) days after certification either adopt the proposed ordinance after a public hearing or submit the same to the electors at a special election to be held within ninety (90) days from the date of the Town Clerk's certification, provided that if a general election or a town election is to occur within four (4) months of such certification, the ordinance may be submitted at such election. The ordinance shall be adopted if a majority of those voting vote in the affirmative and such majority consists of ten (10%) percent or more of the total number of qualified electors whose names appear upon the last voting list. No ordinance which shall have been adopted in accordance with the provisions of this section shall be repealed or amended by the Council except by vote of the electors.

Section 3-10. Compensation. Council members shall serve without compensation except for proper expenses approved by the Council.

Section 3-11. Appointment and Removal of Board and Commission Members. (a) The Council, except as otherwise provided in this Charter, shall have the power to appoint electors of the town to fill expired terms and vacancies within appointive boards, commissions and committees, all in the manner for the terms, and with powers and duties not inconsistent with this Charter. The Council shall nominate the directors of the Mattabassett District, and any other regional agency, except as may be specifically provided to the contrary by a multi-town agreement or this Charter. (b) The Council shall have the power to remove any member from any appointive board, commission or committee, as follows: (1) upon such a member's absence from three (3) consecutive meetings of the board, commission or committee, whether a regular or special meeting, without justifiable cause; (2) upon such a member's absence from thirty (30%) percent or more of meetings of the board, commission or committee, whether regular or special meetings, without justifiable cause during the twelve (12) month period commencing on February first (1st) of each calendar year; (3) for cause, after reasonable notice, and a hearing held at a regularly scheduled Council meeting, at which said member shall have an opportunity to be heard and may be accompanied by legal counsel.

Section 3-12. Other Powers. All duties or authority imposed or granted by the Connecticut General Statutes upon municipalities or agents thereof and not now or hereafter specifically, or by implication, imposed upon other officials, boards or commissions by the Charter, shall be performed by the Council.

CHAPTER 4 – ELECTIVE OFFICERS & BOARDS

Section 4-1 . Board of Assessment Appeals. The Board of Assessment Appeals shall have all the powers and duties imposed generally upon said boards by the Connecticut General Statutes.

Section 4-2. Board of Education. The Board of Education of the town shall be responsible for the conduct of the educational system of the town in accordance with the Connecticut General Statutes and any applicable provisions of this Charter. Members shall be elected as provided in Chapter 2 of this Charter. The Board of Education shall

submit to the Council monthly reports detailing the Board's monthly expenses by account as well as transfers of money within the Board of Education budget from one line item to another line item.

Section 4-3-1. Board of Police Commissioners. Establishment. The Police Department shall be maintained by a Board of Police Commissioners, consisting of five (5) electors, not more than three (3) shall be of the same political party and who shall be elected as provided in Chapter 2 of this Charter. Said commissioners shall be sworn to the faithful performance of their duties and shall serve without compensation.

Section 4-3-2. Board of Police Commissioners. Officers, Meetings, Vacancies. Said Board shall elect one (1) of its members to be Chairman and one (1) of its members to be Vice Chairman and shall hold regular meetings and keep written records of the same. Meetings shall be held upon call of the Chairman or of a majority of the members of the Board. A majority of the members of the Board shall constitute a quorum. In the event of any vacancy upon said Board, the Council shall within thirty (30) days fill such vacancy for the unexpired portion of the term of the member with respect to whom such vacancy has occurred. Provided, however, that any such vacancy appointment must be filled by an elector of the same political party as the member who has vacated.

Section 4-3-3. Board of Police Commissioners. Duties. The Board shall have the general management and control of the Police Department of the town; shall make necessary rules and regulations of the government thereof; may appoint officers and members in said Department, and may remove, suspend or otherwise penalize such officers or members; shall be responsible for the good order, conduct, discipline of the officers and members of said Department, and the preservation of the property used by the Department. The Police Chief shall appoint non-sworn police personnel in said department. The purchase of apparatus, supplies or property necessary for said Department shall be made as provided in Section 5-5 of this Charter, based on the specifications and recommendations of said Board.

Section 4-3-4. Board of Police Commissioners. Authority of Policemen. The employees have all such authority with respect to the service of criminal process and the enforcement of the criminal laws as is vested by the Connecticut General Statutes in police officers. Said Board shall designate a Chief of Police, who shall be the chief administrative officer and responsible to said Board. No employee of the Police Department shall serve on said Board.

Section 4-3-5. Board of Police Commissioners. Law Enforcement. Said Board shall cause to be faithfully enforced in said town all the laws of the state and all the ordinances and bylaws of the town, and shall have jurisdiction within said town of the parking of motor vehicles upon its streets and highways, and make regulations concerning the same and concerning traffic, so far as the same shall not be inconsistent with the provisions of the Connecticut General Statutes.

Section 4-3-6. Board of Police Commissioners. Budget. Said Board shall prepare an itemized budget as provided in Chapter 7 of this Charter.

Section 4-4-1. Board of Finance. Qualification and Election of Members. The Board of Finance shall consist of six (6) members who shall be electors of the town and shall, while members of said Board, hold no other elective or appointive office, nor be an

employee of the town. The Board of Finance shall be elected as provided in Chapter 2 of this Charter.

Section 4-4-2. Board of Finance. Officers. At its first meeting following the biennial meeting of electors, the Board of Finance shall elect one of its members to be Chairman and one of its members to be Vice-Chairman and may employ a secretary. The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Board and shall cause to be prepared and filed with the Town Clerk a copy of the minutes and records of each meeting.

Section 4-4-3. Board of Finance. Vacancies. In the event of any vacancy upon the Board of Finance, the Council shall within thirty (30) days fill such vacancy for the unexpired portion of the term as provided in Section 2-13 of this Charter.

Section 4-4-4. Board of Finance. Meetings. (a) The Board of Finance shall, at its first (1st) meeting, or as soon thereafter as possible, establish by resolution a place and time for holding its regular meetings and shall cause to be filed, by January thirty-first (31st) of each year with the Town Clerk, a schedule of regular meetings for the ensuing year. (b) The Chairman, or in his absence the Vice-Chairman, may call special or emergency meetings in accordance with the Connecticut General Statutes, and shall call a special meeting upon the written request of four (4) members of the Board. In an emergency in the absence of the Chairman and the Vice-Chairman, the Mayor may call a special or emergency meeting and preside as chairman in an ex-officio capacity without the right to vote. (c) Four (4) members of the Board shall constitute a quorum and shall be necessary to transact business.

Section 4-4-5. Board of Finance. Powers and Duties. The Board of Finance shall have the budgetary and financial powers and duties set forth in Chapters 6 and 7 of this Charter in addition to those powers and duties set forth in the Connecticut General Statutes not inconsistent with this Charter.

CHAPTER 5 – MANAGER

Section 5-1. Appointment. The Council shall appoint an Interim Manager, in the event of a vacancy in the Manager's position to serve at the pleasure of the Council for not more than one hundred eighty (180) days while a search is conducted for a Manager. The Interim Manager need not be chosen on the basis of executive and administrative qualifications, character, education, training and experience typically required of a Manager. The Interim Manager shall only have power to make interim appointments of municipal employees. Upon completion of a search, the Council shall appoint for an indefinite term a Manager who shall be the chief executive officer of the town to serve at the pleasure of the Council and who shall be chosen exclusively on the basis of executive and administrative qualifications, character, education, training and experience. At the time of appointment, said Manager need not be a resident of the town or of the State of Connecticut but the Manager shall reside in the town during tenure of office. The Manager shall devote full working time to the duties of the Office. The compensation of the Manager shall be fixed by the Council.

Section 5-2. Removal. The Manager may be removed by a majority vote of the entire membership of the Council as herein provided. At least thirty (30) days before the

proposed removal of the Manager, the Council shall adopt a resolution stating its intention to remove the Manager and the reasons therefore. A copy of the resolution shall be served on the Manager who may, within ten (10) days, demand a public hearing. In this event, the Manager shall not be removed until such public hearing has been held. Upon the passage of such a resolution the Council may suspend said Manager from duty, provided the salary of said Manager shall continue until removal from office. Any actions, of the Council in removing the Manager shall be final. Upon the suspension, removal or resignation of the Manager, the Council may appoint a Temporary Manager, who shall be a qualified administrative officer of the town, to serve at the pleasure of the Council for not more than ninety (90) days. The Temporary Manager shall have none of the powers of permanent appointment as are conferred upon the Manager in this Charter.

Section 5-3. Duties of the Manager. The Manager shall be responsible to the Council for the supervision, direction and administration of all departments, agencies and offices, except the Department of Education and the Police Department. The Manager shall:

- a. ensure that all laws and ordinances governing the town are faithfully executed;
- b. make periodic reports to the Council;
- c. attend Council meetings with full right of participation in its discussions but without a right to vote;
- d. prepare and cause to be printed, as soon as possible after the close of the fiscal year, an annual town report;
- e. recommend to the Council such measures as may be deemed necessary or expedient;
- f. keep the Council and the Board of Finance fully advised as to the financial condition of the town;
- g. prepare and submit to the Board of Finance an annual budget;
- h. at the time of an emergency or disaster, expend the necessary funds to assure the smooth operation of town business and the health, safety and well being of the town and its residents, consistent with the Charter;
- i. exercise such powers and perform such other duties as may be required by ordinance or resolution of the Council not inconsistent with this Charter.

Section 5-4. Appointment and Removal of Municipal Employees. (a) The Manager shall appoint all department heads, Town Clerk, Tax Assessor, Collector of Revenue, Treasurer and all other municipal employees except as may be specifically provided otherwise in the Charter and pursuant to Chapter 6 of said Charter. (b) The Manager, after reasonable notice and a hearing, is empowered to remove from office any department head, and any other municipal employee, for cause. Provided however, that at said hearing the person whom the Manager is seeking to remove shall have an opportunity to be heard at said hearing and may be accompanied by legal counsel, and provided that such removal power over a particular employee is subject to any rights of that employee secured under a collective bargaining agreement.

Section 5-5. Purchasing and Payments. (a) The Manager shall execute and oversee all purchases made by the town or by any board or commission or agent thereof, except as may be specifically provided otherwise in this Charter, and the Manager may appoint a

Purchasing Agent for the town, except for the Board of Education, which shall act as its own purchasing agent. The Manager cannot, without the Council approval, purchase or contract to purchase if such action involves an expenditure of ten thousand (\$10,000.00) dollars or more unless otherwise provided under state law or regulation. (b) With respect to any purchase of ten thousand (\$10,000.00) dollars or more, the Manager shall invite sealed bids or proposals, giving ten (10) days public notice thereof by publication in the form of a legal advertisement appearing in a newspaper having substantial circulation in said town. The Manager, with Council approval, may waive the requirement for sealed bids if it is deemed to be in the best interest of the town. All sealed bids shall be opened publicly. The Manager, with Council approval, shall award said purchase or contract to the lowest responsible bidder thereon. The Manager, if he shall first determine that it is in the best interest of the town, may reject with Council approval, all bids or proposals. (c) The Manager, with Council approval, shall adjust and settle all bills, invoices and similar demands against the town relating to services or materials provided on behalf of the town and draw orders on the Treasurer for their payment. The Manager or his designee shall make a sworn report to the Treasurer of the amount, number and date of each town order drawn by him at the end of each month; and the Manager shall keep a true account of all expenditures in the form of a permanent record which shall be verified under oath at the end of the fiscal year, as defined in Section 6-10-3 of this Charter, and made available for auditing purposes and public inspection.

Section 5-6. Temporary Manager. (a) In the event of the Manager's absence or disability for a period of less than thirty (30) consecutive days, the Manager may designate, with Council approval, an appointee to serve as Temporary Manager during such a period. The Temporary Manager shall conduct only such business as necessary to the daily management of town affairs and shall have none of the powers of permanent appointment as are conferred upon the Manager in this Charter. (b) In the event the Manager resumes managerial powers and duties, then the office of Temporary Manager shall immediately terminate.

Section 5-7. Acting Manager. (a) In the event of the Manager's absence or disability for a period of thirty (30) consecutive calendar days or more, then the office of the Manager shall be filled by an Acting Manager. (b) The Mayor shall call a special meeting of the Council not more than three (3) business days following the twenty-ninth (29th) consecutive calendar day of the Manager's absence or disability. In the event the Council fails to appoint an Acting Manager at said special meeting, then the Council shall reconvene every two (2) business days until an Acting Manager is appointed. (c) The Acting Manager shall receive compensation at the same rate as the Manager. (d) The Acting Manager shall have all the powers and duties of the Manager except the powers of permanent appointments without Council approval. (e) In the event that the Manager shall remain absent or disabled for a period of time exceeding one hundred fifty (150) consecutive calendar days, then the Manager on or before the one hundred fifty-fifth (155th) consecutive calendar day of absence or disability shall give written notice to the Town Clerk stating an intention to either: (1) take an unpaid leave of absence commencing on said one hundred fifty-fifth (155th) consecutive calendar day; or (2) resume Managerial powers and duties on or before the fourteenth (14th) calendar day following the filing of said notice.

CHAPTER 6 – APPOINTIVE OFFICERS AND DEPARTMENTS

Section 6-1. General. No appointive officer or employee of the town shall serve in an appointive capacity on any board or commission if his duties on the board or commission conflict with the duties of his town position. Nothing herein shall prevent such appointive officer or employee from serving in a consulting capacity when so requested by any board, commission or committee or prevent the Council from naming any officer or employee to a study committee or the like if it deems their special knowledge should be available. All appointive officers, including those previously elected, shall serve until their successors are appointed.

Section 6-2. Town Clerk. The Manager shall appoint the Town Clerk who shall also be the Registrar of Vital Statistics and shall have all the powers and duties imposed and conferred by the Connecticut General Statutes and the terms of this Charter. All fees collected by the Town Clerk in the performance of the duties of any of the offices herein assigned to him shall be paid into the town treasury. The Town Clerk shall be compensated on a salary basis only. Appointment of the Town Clerk shall be made on the basis of competitive examination, professional experience and educational background and may be removed by the Manager or in accordance with Connecticut General Statutes. If the Town Clerk holding office on the effective date of this Charter is appointed on an interim or permanent basis, the requirement of a competitive examination may be waived by the appointing authority.

Section 6-3. Collector of Revenue. The Manager shall appoint a Collector of Revenue who shall have all the powers and duties imposed generally upon collectors of revenue in the Connecticut General Statutes, and the collection of taxes shall be carried out as provided in said statutes. Appointment of the Collector of Revenue shall be made on the basis of competitive examination, professional experience and educational background and may be removed by the Manager or in accordance with Connecticut General Statutes. If the Collector of Revenue holding office on the effective date of this Charter is appointed on an interim or permanent basis, the requirement of a competitive examination may be waived by the appointing authority.

Section 6-4. Treasurer. (a) The Manager shall appoint a Treasurer who shall have all the powers and duties imposed generally upon treasurers by the Connecticut General Statutes. Appointment of the Treasurer shall be made on the basis of competitive examination, professional experience and educational background. If the Treasurer holding office on the effective date of this Charter is appointed on an interim or permanent basis, the requirement of a competitive examination may be waived by the appointing authority. (b) The Treasurer shall receive all money belonging to the town, pay it out on the order of the proper authority and keep a record of all monies received, paid out, when, for what, and to whom, and upon whose authority. Said record shall be open to the inspection of any taxpayer upon request. The Treasurer may invest such monies for short terms with the approval of the Manager, and shall have such further powers and duties as are prescribed by the Connecticut General Statutes. (c) No voucher, claim or charge against the town shall be paid until the same have been approved by the

Treasurer for correctness and legality. Checks shall be valid only when countersigned by the Manager except checks drawn by a duly authorized representative of the Board of Education, which shall be countersigned by the Treasurer. (d) The Manager may appoint an Assistant Treasurer who, having taken the oath of office provided for a Town Treasurer, shall, in the absence or disability of the Treasurer, perform all the duties of the Treasurer. The person holding office may only be removed for cause. (e) The Treasurer shall be authorized to disburse funds by electronic transfer.

Section 6-5. Assessor. The Manager shall appoint an Assessor who shall have all the powers and duties imposed generally upon Assessors by the Connecticut General Statutes. Appointment of the Assessor shall be made on the basis of competitive examination, professional experience and educational background and may be removed by the Manager or in accordance with the Connecticut General Statutes. If the Assessor holding office on the effective date of this Charter is appointed on an interim or permanent basis, the requirement of a competitive examination may be waived by the appointing authority.

Section 6-6. Corporation Counsel. The Council shall appoint a Corporation Counsel who shall be an attorney at law or firm of attorneys admitted to the practice of law in this state to represent the town. The term of appointment is two (2) years, or of such portion thereof as the Council shall determine.

In special circumstances, the Manager, with Council approval, may provide for the temporary employment of an attorney other than or in addition to the Town Attorney(s). The Town Attorney(s) shall appear for and protect the rights of the town in all actions, suits or proceedings brought by or against it or any of its departments, offices, agencies, boards or commissions. The Town Attorney(s) shall be the legal advisor(s) of the Manager, the Council and all other town officers, boards and commissions in all matters relating to the town's interest; shall upon request, provide written opinion(s) on any question of law involving their respective powers and duties. Upon request, the Town Attorney(s) shall negotiate agreements, prepare or approve forms of contracts or other instruments to which the town is a party or in which it has an interest. The Town Attorney(s) shall have the power, with the approval of Council, to appeal from orders, decisions and judgments which the town or any department, officer, commission, board or committee is a party, and with the approval of the Council, to compromise or settle any claims by or against the town, which compromise may be permitted by law.

Section 6-7. Department of Public Works. (a) The Department of Public Works may have supervision and control of the planning, surveying, constructing and reconstructing, altering, paving, repairing, maintaining, cleaning, lighting and inspecting of all public highways, bridges and culverts of the town, and sidewalks where abutting town-owned property, public drains and other public improvements, town buildings, and all engineering work of the town; garbage, rubbish, ash collection and disposal, and it shall have such other powers and duties as pertain to public works which the Manager may prescribe. (b) The Manager may appoint a Director of Public Works who may be the Town Engineer until such time as the Council shall deem otherwise. The Town Engineer shall be a licensed civil engineer in the State of Connecticut. He shall exercise his powers and charge his duties under the supervision of the Manager.

Section 6-8. Director of Health. There shall be a Director of Health, appointed by the

Manager, for a term of four (4) years or until a successor is appointed and qualified, possessing the qualifications and having all the powers and duties as provided by the Connecticut General Statutes. The Manager may appoint such other personnel in the field of public health as he deems necessary, who shall be subject to the supervision of the Director of Health. Nothing herein shall be taken to prevent the Town of Berlin from cooperating with other towns in the formation of a Public Health District under conditions established by the State Department of Health.

Section 6-9. Fire Department. Fire protection shall be provided by the volunteer companies heretofore established, in the organization and conduct of which no change is contemplated. There shall be a Fire Marshal, appointed by the Manager and such deputies as are required, who shall have all the powers and duties of a Fire Marshal, and act in accordance with the provisions of the Connecticut General Statutes.

Section 6-10-1. Finance Director. The Manager shall appoint a Director of Finance and such assistants as deemed necessary. Said Director shall work in close cooperation with the Manager and under the supervision of the Manager. Appointment of the Finance Director shall be made on the basis of competitive examination, professional experience and educational background and may be removed by the Manager or in accordance with the Connecticut General Statutes. If the Director of Finance holding office on the effective date of this Charter is appointed on an interim or permanent basis, the requirement of a competitive examination may be waived by the appointing authority.

Section 6-10-2. Department of Finance. There shall be a Department of Finance headed by the Director of Finance. The Director of Finance shall assist in the preparation of the Annual Budget and in its administration, process bills for payment, keep financial records of the town and perform such related tasks as may be assigned to it by the Manager. In connection with the preparation of the budget, the Director of Finance shall work under the direction of the Manager or Manager's designated representative. Within the Department of Finance there may be a Division of Accounting, a Division of Assessing, a Division of Collection of Revenue and such other divisions or employees as the Council may determine. These divisions may be headed respectively by a Town Accountant, a Town Assessor and a Collector of Revenues. Subject to the approval of the Manager, the Director of Finance may perform the duties of any office under his supervision except those of the Collector of Revenues and the Assessor. The Department of Finance, under the supervision of the Director of Finance, assisted by the Town Accountant, the Tax Assessor and the Collector of Revenues, shall be responsible for the keeping of all accounts, financial and investment records not specifically required by law to be kept by other officers, the assessment and collection of taxes, special assessments and other revenues, the control of expenditures and such other powers and duties as may be required by ordinance or resolution of the Council, provided nothing herein contained shall be so construed as to prevent the Department of Finance from keeping accounts showing the financial transactions of the Board of Education, upon the request of said Board. Accounts shall be kept by the Department of Finance showing the financial transactions for all departments and agencies of the town except as otherwise provided. Forms for such accounts shall be prescribed by the Director of Finance with approval of the Manager. Financial reports shall be prepared for each month by the fifteenth (15th) day of the following month and for each fiscal year within one hundred twenty (120)

days of the end of said fiscal year and for such other periods as may be specified in this Charter or as may be required by the Manager, the Council or the Board of Finance. No contract for public work or other service to the town shall be valid unless it has been examined by the Finance Director or Town Accountant and he shall have attached thereto his certificate that there is a sufficient unencumbered balance of an appropriation applicable thereto to pay the same. He shall record the amount of expenditures and contracts for future expenditures as encumbrances on the appropriation from which they are to be paid.

Section 6-10-3. Department of Finance. Fiscal Year. The fiscal year shall begin on the first (1st) day of July and shall end on the thirtieth (30th) day of June.

Section 6-10-4. Department of Finance. Pensions. The town shall continue to participate in the "pension system" adopted for the officers, elected officials and employees of the town and nothing in this Charter shall be interpreted to alter the rights of any employee or officer therein. The Manager, with Council approval, may amend or alter the pension system now in effect, subject to any limitation imposed by the Connecticut General Statutes or by the town budget or by any collective bargaining agreement. The Manager, with Council approval, shall administer the pension system, receive applications from employees for retirement, and determine the eligibility of said persons for pensions; shall determine periodically the members in the employment of the town who are eligible to retire and the pensions payable to them, contract for necessary actuarial service in connection with the pension plan, and propose estimates for approval for sums necessary to be appropriated for each ensuing fiscal year for the purpose of meeting the obligations of the town regarding pensions. The Finance Director shall maintain a file for each person in the service of the town containing all information pertinent to the status, pay and service of each person.

Section 6-10-5. Department of Finance. Pay Plan. The Manager, with Council approval, is authorized to prepare and administer a pay plan for appointed employees of the town, provided nothing herein shall be in derogation of the budgetary powers of the Council or the Board of Finance, or in derogation of the powers of the Board of Education with respect to its employees, as set forth in this Charter or in the Connecticut General Statutes.

Section 6-10-6. Department of Finance. Bond Authorization and Borrowing.

(a) The town shall have the power to borrow money for its general or special purposes and issue its bonds, notes, or other obligations in evidence thereof. Such bonds, notes, or other obligations shall be issued in accordance with the terms and conditions of any applicable special acts and the Connecticut General Statutes and may finance facilities or purposes within or outside of the town's geographic borders.

(b) All finance or capital leases whether or not subject to a non-appropriation clause, shall be approved in accordance with the provisions of this section.

(c) Bonds, notes or other obligations shall be authorized upon adoption by the Council of an ordinance authorizing the project, the issuance of the obligations, and appropriating the proceeds thereof and approved in its entirety by the Board of Finance. Notice of passage of the ordinance as approved by the Board of Finance and the Council shall be provided by newspaper publication of its title and a statement of its passage. Adoption of

an ordinance exceeding five million (\$5,000,000.00) dollars shall be subject to automatic referendum approval by a majority of those voting thereon. Adoption of an ordinance of five million (\$5,000,000.00) dollars or less shall be subject to referendum approval by a majority of those voting thereon if (1) the Council, by majority vote concurrent with the adoption of the ordinance, sends the ordinance to referendum, or (2) not later than the fourteenth (14th) day from publication, counting the day of publication as the first (1st) day, a petition containing three (3%) percent or more of the total numbers of qualified electors whose names appear upon the last voting list is filed with the Town Clerk requesting the ordinance be submitted to referendum approval. The petition will be subject to certification in accordance with Section 3-9 of this Charter. The referendum shall be held within ninety (90) days of adoption of the ordinance or the Town Clerk's certification, whichever is applicable, provided that if a general election or a town election or referendum is to occur within six (6) months of such adoption or certification, the ordinance may be submitted at such election or referendum, unless prior thereto the Council repeals its approval. Notice of the referendum shall be published not more than fifteen (15) nor less than five (5) days previous to holding the referendum or in accordance with notice applicable to the election or referendum the vote on the ordinance is to be submitted in conjunction with.

(d) The Council and the Board of Finance, or such officials the ordinance shall designate, shall determine the rate of interest of such bonds, notes, or other obligations, their form, their date, the dates of principal and interest payments, the manner of issuance, the series of issuance and the amount thereof, by whom such bonds, notes, or other obligations shall be signed or countersigned, and all other particulars thereof.

(e) Any proceeds of bonds, notes, or other obligations which, upon a finding of the Council and the Board of Finance are determined to be not required for the purpose for which they have been issued, may upon vote of the Council, with the approval of the Board of Finance, be appropriated for any capital project or debt service.

(f) The town may borrow in anticipation of the receipt of taxes, provided that such obligations shall mature within the fiscal year in which such obligations were issued. Obligations issued in anticipation of taxes shall be authorized by resolution of the Council, with the approval of the Board of Finance, which may delegate to town officials the authority to determine all particulars with respect to such borrowings, and, notwithstanding any other section of this chapter, shall not be subject to referendum.

(g) In addition to the authority to issue bonds otherwise provided by this chapter, the Council, with the approval of the Board of Finance, may authorize the issuance of revenue bonds, notes, or other obligations to which the full faith and credit of the town need not be pledged. The payment of such obligations shall be secured by a pledge of the mortgage of the property used in, or the revenue derived from, any revenue producing project or enterprise of the Town of Berlin, or both mortgage of said property and said revenue, and such other revenue or property, the Council and the Board of Finance shall determine, and in connection therewith the town may enter into, such agreements of trust, credit enhancement, remarketing and other agreements necessary and appropriate to issue such obligations and secure the payment therefore. Such bonds, notes, or other obligations shall be authorized in the manner provided for bonds for general or special purposes of the town, and, except as above provided, shall be subject to all the limitations

of this chapter.

(h) In the event the Board of Finance does not approve any authorization, appropriation, expenditure or other terms recommended by the Council pursuant to this section within thirty (30) days of the Council's action on the matter, a joint meeting of the Council and the Board of Finance shall be called and held within fourteen (14) days of disapproval by the Board of Finance or inaction within thirty (30) days, at which meeting the matter may be adopted only with the approval of at least nine (9) members of the joint board. Unless so adopted, said authorization, appropriation, expenditure or other term shall be rejected. The Mayor shall be the chairman of the joint board and seven (7) members shall constitute a quorum.

Section 6-10-7. Department of Finance. Expenditures. (a) No voucher, claim or charge against the town shall be paid until the same has been preaudited by the Finance Director or Town Accountant and approved by him for correctness and legality. Checks shall be drawn by him for the payment of approved claims which shall be valid only when countersigned by the Manager and Treasurer with respect to the above duty. (b) No officer, agency, commission member or committee member authorized to expend town funds shall exceed the amounts allocated to him or it by the Annual Budget or any special appropriation. Every payment made in violation of the provisions of this Charter shall be deemed illegal and any official authorizing or making such payment to or any part thereof shall be liable to the town for the full payment thereof.

Section 6-10-8. Department of Finance. Surety Bonds. All officers or employees of the town, as may be required to do so by the Connecticut General Statutes or by the Manager and Council, shall, before entering upon their official duties, execute to the Town of Berlin, in a form approved by the Corporation Counsel, and shall file with the Town Clerk, a surety company bond in a penal sum to be fixed by the Manager, with Council approval, conditioned upon the faithful performance of their duties and further conditioned as may be specifically required by the applicable Connecticut General Statute or by the Manager, with Council approval, in cases where there is not statutory requirement. The Manager, with Council approval, may, if deemed in the best interest of the town, prescribe a blanket bond, name schedule bond, schedule position bond, or prescribe which officers or employees shall be covered by a specific type of bond. Premiums for such bonds shall be paid by the Town of Berlin. Custody of all bonds shall be as prescribed by the Manager, subject to Council approval.

Section 6-10-9. Department of Finance. Report. The Finance Director shall prepare a comprehensive annual financial report in accordance with the pronouncements of GASB (government accounting standards board) or successor organization. The report shall be presented to the Manager, the Council and the Board of Finance no later than December thirty-first (31st) of each year.

CHAPTER 7 – BUDGETARY PROCESS

Section 7-1. Routing of Annual Budget Requests. All departments, boards, commissions, committees, and such other non-town agencies which desire to submit a request for an appropriation from the town budget, shall submit such budget request including revenue estimates by the fifteenth (15th) day of January to the Manager.

Section 7-2. Managerial Budget Duties. The Manager shall review all budget requests and revenue estimates seeking an appropriation from the town budget. The Manager shall prepare a proposed Town Budget and present said budget, together with the budget of the Board of Education as submitted to the Manager along with whatever analysis or comments the Manager wishes to provide, to the Board of Finance by the first (1st) day of March of the year in which the budget is to be enacted.

Section 7-3. Board of Finance Budget Duties. (a) Upon reviewing the Manager's proposed budget, the Board of Finance shall prepare a budget for each fiscal year which shall include, in a form prescribed by the State Office of Policy and Management or successor agency: (1) An itemized statement of all actual receipts from all sources during the last fiscal year; (2) An itemized statement by classification of all actual expenditures during the same year; (3) An itemized estimate of anticipated revenues during the ensuing fiscal year from each source other than from local property taxes and an estimate of the amount which should be raised by local property taxation for such ensuing fiscal year; (4) An itemized estimate of expenditures of such ensuing fiscal year; (5) The amount of revenue surplus or deficit at the beginning of the fiscal year for which estimates are being prepared. In addition to the above requirements it shall include an itemized list of requested appropriations from all town agencies including the Board of Education for such ensuing fiscal year. (b) In the preparation of said budget, the Board of Finance shall meet with the Town Council to hear and receive the Council's priorities for the town and shall meet with the Board of Education to hear and receive the Board's priorities for the school system. The Board may establish individual hearings for all boards, commissions and town officers desiring to be heard relative to a particular budget request and may request from any entity seeking an appropriation from the annual budget any information it may need or require in connection with preparing a town budget. (c) The Board of Finance shall then present the proposed town budget to the electors and taxpayers at the Annual Budget Hearing to be held no later than the second (2nd) Tuesday in April. No less than four (4) Board of Finance members shall be present at said hearing.

Section 7-4. Annual Budget Hearing. The Board of Finance shall prepare and recommend the town budget for the Annual Budget Hearing as specified in Section 7-3 of this chapter. The budget recommended shall, in the judgment of the Board of Finance, meet all expenditure needs of the town within its financial resources. At this hearing the Town Manager or designee shall present the General Government Budget and Water Control Budget and the Superintendent of Schools or designee shall present the Board of Education Budget. Within two (2) days of the Annual Budget Hearing, the Board of Finance shall meet to determine the town budget to be recommended to the Council. Should the Board of Finance fail to recommend a budget by said date, the budget for the current fiscal year shall be submitted to the Council as the recommended budget of the Board of Finance.

Section 7-5. Town Council Approval. Joint Board. Within five (5) days of receipt of the town budget as recommended by the Board of Finance, the Council shall meet to approve the budget as presented, reduce the budget by line item, or reject the budget. If the Council approves the budget, with or without reductions, the budget shall automatically be sent to referendum as set forth in Section 7-6 of this chapter. If the

Council rejects the budget, immediately following such rejection said budget shall be considered at a joint meeting of the Council and the Board of Finance, at which meeting the budget may only be revised with the approval of at least nine (9) members of the joint board. Unless so revised, said budget shall be considered approved by the joint board. In either event, the budget shall automatically be sent to referendum as set forth in Section 7-6 of this chapter. The Mayor shall be the chairman of the joint board and seven (7) members shall constitute a quorum.

Section 7-6. Annual Town Budget Referendum.

(a) The general government and Board of Education budgets recommended by the Council or the joint board pursuant to Section 7-5 shall be separately brought before the persons qualified to vote at the annual town budget referendum. A sufficient number of copies of said budgets shall be made available for distribution in the office of the Town Clerk at least five (5) business days prior to the referendum. The Council shall give timely and suitable notice of the availability of said copies and it may utilize other channels to make the proposed town budget available to the public, such as Internet sites or newspapers, provided that timely and suitable notice is given as to said availability. Notice of the referendum shall be published not more than fifteen (15) nor less than five (5) days previous to holding the referendum. Said budgets shall become effective only after they have been submitted to the persons qualified to vote on the voting ballots at the normal and usual polling places.

(b) The annual town budget referendum shall be held on the last Tuesday of April. The polls shall be open from 6:00 am to 8:00 pm.

(c) The questions on the ballot shall be as follows:

"Question 1. Shall the proposed general government budget for the ____ fiscal year be adopted? Yes. No."

"Advisory Question 1. If you voted no on the general government budget, is the budget...Too High. Too Low."

"Question 2. Shall the proposed Board of Education budget for the ____ fiscal year be adopted? Yes. No."

"Advisory Question 2. If you voted no on the Board of Education budget, is the budget...Too High. Too Low."

(d) At the closing of the polls, the Town Clerk shall cause the votes to be counted, and any such budget shall, if approved by a majority of those persons voting thereon, be adopted.

(e) In the event that any such budget is not approved by a majority of those persons voting thereon, the proposed budget or budgets, as the case may be, shall be rejected. Within ten (10) days following said referendum, the Board of Finance shall meet to make revisions to the rejected budget(s) to be recommended to the Council, and may hold additional public hearings. Within five (5) days of receipt of the revised budget(s), the Council shall meet to approve the revised budget(s) as presented, reduce the revised budget(s) by line item, or reject it or them. If the Council rejects the budget(s), immediately following such rejection said budget(s) shall be considered by the joint board, at which meeting the budget(s) may only be revised with the approval of at least

nine (9) members of the joint board. Unless so revised, said budget(s) shall be considered approved by the joint board. Upon approval of any such budget by either the Council, with or without reductions, or the joint board, the budget(s) shall automatically be sent to a second referendum. The second referendum shall be held four (4) weeks following the first referendum and conducted in the same manner as set forth in this section.

(f) In the event that any such budget is rejected at the second referendum, within ten (10) days following said referendum the Board of Finance shall meet to make revisions to the rejected budget(s) to be recommended to the Council, and may hold additional public hearings. Within five (5) days of receipt of the revised budget(s), the Council shall meet to approve the revised budget(s) as presented, reduce the revised budget(s) by line item, or reject it or them. If the Council rejects the budget(s), immediately following such rejection said budget(s) shall be considered by the joint board, at which meeting the budget(s) may only be revised with the approval of at least nine (9) members of the joint board. Unless so revised, said budget(s) shall be considered approved by the joint board. Upon approval of any such budget by either the Council, with or without reductions, or the joint board, such budget shall be adopted.

Section 7-7. Contingency Fund. The estimate of expenditures submitted by the Board of Finance may include a recommendation for a contingency fund which shall not exceed two (2%) percent of the total expenditures for the current fiscal year. No expenditure or transfer may be made from this fund without approval of the Council and the Board of Finance.

Section 7-8. Capital and Non-Recurring Fund. The reserve fund established for capital and non-recurring expense may, with the approval of the Council and the Board of Finance, be established by: (1) transferring to it part of any general fund cash surplus available at the end of the fiscal year; (2) levying an annual tax of not more than two (2) mills earmarked for the fund; (3) retaining it in surplus cash funds already held for capital and nonrecurring expenditures; and (4) the transfer of unused appropriations from the general fund as provided in Section 7-12 of this Charter. All or a portion of said fund may be used to finance planning, construction or acquisition of any specific item or piece of equipment or capital projects. Any use of the surplus in the Capital Non-recurring Fund may be allocated by the Council with the approval of the Board of Finance.

Section 7-9. Appropriation of Expenditures. The Council, with the approval of the Board of Finance, may recommend that payment for any non-recurring expenditure which would increase the tax rate unduly may be apportioned over a period of not more than five (5) years. The amount apportioned each year must be included in the budget as a fixed charge until the total amount is paid.

Section 7-10. Setting the Tax Rate. After the grand list is finalized pursuant to the Connecticut General Statutes and the budget adopted, the Board of Finance shall set the new tax rate within three (3) days of budget adoption.

Section 7-11. Non-Budgeted Appropriations and Transfers. Subject to the limits provided in this section, the Council, with the approval of the Board of Finance, may at any time appropriate unbudgeted, unencumbered and contingency funds in the town treasury. Approval of a Town Meeting is required before the Council may vote on for any non-budgeted appropriation greater than twenty-five thousand (\$25,000.00) dollars or

any non-budgeted appropriation which would cause the total of such non-budgeted appropriation during a given fiscal year to exceed two hundred fifty thousand (\$250,000.00) dollars.

The Council, with the approval of the Board of Finance, may transfer the whole or any part of the unencumbered balance of any appropriation, except for the Department of Education appropriations, to any other department for which the Council may legally appropriate money. However, such a transfer may be made from budget appropriations only in the last three (3) months of the fiscal year, and there shall be attached to the ordinance making the transfer a certificate of the Manager that such transfer is necessary, with the reasons therefor. Transfer of unencumbered funds from one item of a department budget to another item of the same budget may be made by a department head with the approval of the Manager, the Council and the Board of Finance.

The Manager is authorized to make transfers from one line item to another within any division of a department budget subject to the following guidelines: (1) No transfers will be made to hire additional staffing that has not been properly authorized by the Council and the Board of Finance; (2) Transfers will not be made to purchase major pieces of equipment such as vehicles and machinery, or items, specifically deleted by the Council or the Board of Finance; (3) The Manager's authority to transfer shall be limited to the amount of five thousand (\$5,000.00) dollars for any single transfer.

Section 7-12. Lapse of Appropriations. Non-capital appropriations shall lapse at the end of the fiscal year for which they were made, and any balance shall be credited to the general fund. An appropriation for a capital outlay shall not lapse until the object for which the appropriation was made has been accomplished or no expenditure from or encumbrance of the appropriation has been made for three (3) consecutive fiscal years. Such unused capital outlays shall be transferred to the capital non-recurring expense fund at fiscal year end.

Section 7-13. Financial Records. The Manager is responsible for determining the method by which and the place where all records and any books of accounts of the town or any of its departments are to be kept. Forms for these records are subject to the approval of the State Office of Policy and Management or successor agency.

Section 7-14. Annual Audit. The accounts of the town shall be audited annually in accordance with the Connecticut General Statutes. The Board of Finance shall select an independent public accountant, approved by the State Office of Policy and Management or successor agency, to make the audit. If a new auditor is selected, his name must be filed with the State Office of Policy and Management or successor agency at least ninety (90) days before the end of the fiscal year. Certified copies of the audit report must be filed with the Town Clerk, the Council and the Board of Finance within six (6) months after the close of the fiscal year, unless an extension of time is granted by the State Office of Policy and Management or successor agency.

Section 7-15. Annual Town Report. The Manager must prepare and publish for distribution an annual town report which must include the following: (1) Comments and recommendations of the auditor, general purpose financial statements and the notes to the financial statements (2) Annual report of Collector of Revenue in detail as required by law, and (3) All appropriate annual reports by boards, commissions, committees, and

elected or appointed officials which are submitted by a date specified by the Manager.

CHAPTER 8 –APPOINTIVE BOARDS AND COMMISSIONS - GENERALLY

Section 8-1. Compensation. Members of all appointive boards, commissions and committees, and members of all elective boards shall serve without compensation except for proper expenses of the said board, commission or committees which, when approved by said board, commission or committees, are to be paid by the town subject to Council review for adequacy of appropriated funds.

Section 8-2. Minority Representation. There shall be minority political representation on all boards, commissions and committees pursuant to the Connecticut General Statutes or as otherwise stated in this Charter.

Section 8-3. Schedule of Regular Meetings. All boards, commissions and committees shall cause to be filed by January thirty-first (31st) of each year with the Town Clerk, a schedule of regular meetings for the ensuing year. If no schedule is filed by January thirty-first (31st), the board or commission failing to so file may hold no meeting until thirty (30) days after a schedule of regular meetings has been filed.

Section 8-4. Terms. All terms of members of appointive boards, commissions and committees shall commence February first (1st).

Section 8-5. Chairman. All boards, commissions and committees shall annually elect a chairman and vice-chairman at its first (1st) meeting in February of the respective board, commission or committee. The Mayor shall be the Chairman of the Council.

Section 8-6-1. Constables. Establishment. Beginning in 2003, the Council shall appoint at its second regularly scheduled meeting not more than seven (7) Constables, with no more than a bare majority to be from one (1) political party. Said Constables shall serve a term of two (2) years, and shall have such constabulary duties as set forth by ordinance or state statute, whichever shall take precedence.

Section 8-6-2. Constables. Authority. Constables of the town shall have all the authority granted them by the Connecticut General Statutes. No Constable shall have authority to serve criminal process.

Section 8-7-1. Water Control Commission. Establishment. There shall be a Water Control Commission charged with the responsibility of providing adequate water supplies, and water pollution control, including but not limited to sewerage systems for the town, with the powers authorized by the Connecticut General Statutes, as from time to time amended, except as limited or amended in the following section.

Section 8-7-2. Water Control Commission. Membership. Said Commission shall consist of five (5) electors, not more than three (3) of whom shall be of the same political party, all to serve for terms of five (5) years each, or until a successor is appointed and qualified. No member shall serve as a paid employee of the town. In the month of January each year, the Council shall appoint an elector to fill each expired term. The Director of Health shall be an ex-officio member of said commission without the right to vote. A majority of the Commission shall constitute a quorum.

Section 8-7-3. Water Control Commission. Alternate Members. There shall be three

(3) alternate members of the Water Control Commission, who shall be electors of the town, all said alternate members to be appointed by the Council for a term of three (3) years each. Not more than two (2) alternate members shall be from the same political party, and the minority party shall be represented.

Section 8-7-4. Water Control Commission. Meetings. Absence of Regular Members. If a regular member of the Water Control Commission is absent or disqualified, the Chairman or Acting Chairman of the Commission shall designate an alternate member to act as nearly an equal a number of times as possible. When seated, each alternate shall have all the power and duties as set forth in this chapter.

Section 8-7-5. Water Control Commission. Officers. Said Commission shall annually elect a Chairman, Vice Chairman and Secretary from among its members. Such members shall serve without compensation.

Section 8-7-6. Water Control Commission. Duties. Said Commission shall have charge of and be responsible for the layout, construction and installation, operation and use, maintenance, improvement, extension or discontinuance of, and shall have full authority and jurisdiction over, all water systems and of sewerage system, appurtenances and facilities, including drains and pipes discharging directly or indirectly into said systems, serving the town and the inhabitants thereof, wherever the same may at any time be located, and which are or may become public. The authority of any existing fire district shall not be impaired by the terms of this chapter. Said Commissions shall be authorized to enter into contracts with any municipality, public authority for the purpose of insuring for the town an adequate water supply and adequate sewerage systems. Said Commission may, from time to time, submit to the Manager recommendations for the appointment and compensation of engineers, and other officers, agents and employees for the approval of the Manager and Council, to contract for such further services as may be required to carry out the powers and duties imposed by law subject to any proper appropriation. Said Commission shall have the power in the name of the town and subject to any appropriate provisions of the Connecticut General Statutes to acquire real property or any interest therein by purchase, lease, gift, devise or condemnation, as to the latter, where free interest in the property is required, as approved by the Council, necessary for or incidental to the carrying out of the powers enumerated in this section of the ordinance; to set rates for the use of water; to set rates for the use of sewerage systems and to assess benefits and damages in the layout of any public improvement included within the scope of the powers herein granted, in such manner as hereinafter set forth.

Section 8-7-7. Water Control Commission. Benefits and Damages. Before any public improvement for which said Commission may assess benefits shall be laid out, constructed or altered, the cost of same, including damages to be paid, and all benefits to be paid by the persons including the town and/or the taxing district served by the said Commission, benefited thereby, shall be ascertained after public hearing in time and manner as now by law provided in the Connecticut General Statutes. In applying the cost of any public improvement to or upon the persons or property specifically benefited thereby, such Commission may in its rules and regulations determine and adopt a flat assessment rate for the construction of all sewers and house connections and shall have the power to change and alter such rates from time to time and shall in addition have the power to waive a portion of the assessment on any corner lot. Upon recommendation of

the Manager, after consultation with the Water Control Commission, all benefits accruing to the town shall be approved by the Council and payment therefore authorized from the General Funds of the town. Upon completion of construction of any public improvement, said Commission shall give notice thereof by certified mail to all persons benefited thereby and all benefit assessed shall therefore be immediately due and payable. Said Commission may defer payments of any part or all of any benefit until such time as any parcel of land so assessed is, in the opinion of said Commission, benefited. Said Commission shall have the power to enter into agreement with property owners assessed to extend the payment of such assessment over a period not to exceed fifteen (15) years at an annual interest rate established by said Commission.

Section 8-7-8. Water Control Commission. Liens. The value of benefits shall constitute the lien amount due to the Water Control Commission. Any such lien shall be an inchoate lien and accrue to the land assessed by the Water Control Commission vote ordering the layout, construction or alteration of such public work, provided within thirty (30) days from such passage a caveat briefly describing the public work for which such benefits were assessed and the property on which such assessment is a lien, together with the names of the owners thereof and the amount of benefits assessed against it, shall have been delivered, for record, to the Town Clerk a certificate describing the premises, the amount assessed, and the public work or improvements for which it was assessed. Said lien shall take precedence over all other liens and encumbrances except taxes due the town and may be enforced in the same manner as is provided in the enforcement of tax liens.

Section 8-7-9. Water Control Commission. Appeals. Any person claiming to be aggrieved by any assessment of said Commission, hereunder, may take an appeal to a judge of the Superior Court in the time and manner now by law provided; but any such appeal shall not delay the laying out, construction or altering of such public works provided that the town shall be liable to pay or may recover, as the case may be, any additional sums found on the final decision of such appeal to be due to or from the owners of property taken, damaged, or benefited, and on any such appeal the benefits assessed shall be a lien upon the land on account of which they were assessed, which such lien shall be attached from the time of the vote ordering the layout, construction or alteration, provided the same shall not remain a lien thereon for a longer period than three (3) months after the determination of such appeal unless the Secretary of said Commission shall, within that time, deliver for record to the Town Clerk a substitute certificate of lien, in the same form as hereinabove set forth.

Section 8-7-10. Water Control Commission. Taxing Districts. (a) For the purpose of assessment of taxable property for water and sewerage system taxes, which shall be levied and collected in accordance with law, all taxable property in the town not within the limits of the established fire districts, shall be so segregated into two (2) taxing districts, one (1) of which shall include all property served by either water or sewerage system lines, or by both, under the jurisdiction of said Commission as set forth herein, and the other of which shall include all properties not so served. Said Commission shall define the limits of the taxing district that shall be so served and said Commission shall, on the first (1st) day of September of each year cause to be prepared and placed on file with the Town Clerk, a map of the taxing district so served as defined or redefined during

the previous twelve (12) months. (b) In the event of the elimination or dissolution of any or all of the fire districts, taxable property within the limits of said district shall be segregated in the two (2) taxing districts as provided in subsection (a) hereof.

Section 8-7-11. Water Control Commission. Rules and Regulations. Said Commission shall adopt, and thereafter from time to time may amend, rules and regulations, or it may affirm any rules and regulations in force at the time of passage of this Charter and it shall set rates for the use of water and for the use of sewerage systems and include rates in said rules and regulations. Users of facilities of said Commission shall be deemed to have assented to said rules and regulations. Said rules and regulations, or any revision thereof or amendments thereto shall, prior to adoption or affirmation, be submitted to a public hearing, notice of which shall be given publication in a newspaper having a circulation with said town not less than ten (10) days prior to the date of said hearing. Said rules and regulations shall set forth and shall govern the conduct and operations and the powers and duties of said Commission, and after adoption in the manner above described shall be of binding validity, and said Commission may in such rules and regulations provide for enforcement by suitable penalties and bring in the name of the town appropriate civil actions to recover any such penalty. The Superior Court shall have jurisdiction to enforce any breach of such rules and regulations and may punish any offender by a fine not exceeding one hundred (\$100.00) dollars or by imprisonment not exceeding thirty (30) days, or both.

Section 8-7-12. Water Control Commission. Financing. Said Commission shall submit its budget pursuant to Chapter 7 of this Charter.

Section 8-8-1. Planning and Zoning Commission. Members. (a) There shall be a Planning and Zoning Commission which shall consist of seven (7) members who shall be electors of the town. All members of the Planning Commission or Zoning Commission in the office at the time of the adoption of this Charter shall continue in office until the last of December, 1995, at which time the terms for which they were appointed will expire. (b) In January, 1996, the Council shall appoint seven (7) members of the Planning and Zoning Commission for terms as follows: one (1) member for one (1) year term, two (2) members for a two (2) year term, two (2) members for a three (3) year term and two (2) members for a five (5) year term, provided that no more than four (4) members shall be of the same political party. Thereafter, in the month of January, Council shall appoint a member to the Planning and Zoning Commission to fill any expired term. No member of the Planning and Zoning Commission shall hold a salaried municipal office in Berlin. Town Ordinance #1-96 as the terms of members of the Planning and Zoning Commission expire, members shall be appointed by the Council for a term of five (5) years.

Section 8-8-2. Planning and Zoning Commission. Alternate Members. (a) There shall be three (3) alternate members of the Planning and Zoning Commission who shall be electors of the town, all said alternate members to be appointed by the Council and shall serve for a term of five (5) years each and no more than two (2) of said alternates shall be of the same political party. (b) In January, 1996, the Council shall appoint three (3) alternate members of the Planning and Zoning Commission for terms as follows: one (1) member for a one (1) year term, one (1) member for a three (3) year term and one (1) member for a five (5) year term, provided that no more than two (2) alternate members shall be of the same political party. Thereafter, in the month of January, the Council shall

appoint an alternate member to the Planning and Zoning Commission to fill any expired term. No alternate member of the Planning and Zoning Commission shall hold a salaried municipal office in Berlin.

Section 8-8-3. Planning and Zoning Commission. Meetings. Absence of Regular Members. If a regular member of the Planning and Zoning Commission is absent or disqualified, the Chairman or Acting Chairman of that Commission shall designate an alternate to act in his place, choosing alternates in rotation so that they shall act as nearly an equal number of times as possible. If an alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. When seated, each alternate shall have all the powers and duties set forth in this chapter.

Section 8-8-4. Planning and Zoning Commission. Disqualification. No member or alternate of the Planning and Zoning Commission shall be a member of the Zoning Board of Appeals. No member shall appear for or represent any person, firm, corporation or other entity in any matter pending before the Planning and Zoning Commission, nor shall any member participate in the hearing or decisions of the Planning and Zoning Commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense. In the event of such disqualification such facts shall be entered upon the record of the Planning and Zoning Commission and the Chairman or Acting Chairman shall choose an alternate.

Section 8-8-5. Planning and Zoning Commission. Miscellaneous. The Planning and Zoning Commission shall elect a Chairman, Vice Chairman and a Secretary from its regular members, shall adopt rules for its transactions of business and shall keep public record of its activities. Action of the Commission shall be taken only upon the vote of the majority of its members. The Town Planner, or his successor, shall act in an advisory capacity to the Planning and Zoning Commission. Vacancies arising from any cause shall be filled by the Council.

Section 8-8-6. Planning and Zoning Commission. Governing Laws. Except as otherwise set forth in this chapter, the Planning and Zoning Commission shall be governed by the provisions of the Connecticut General Statutes. All provisions of Chapters 124 and 126 of the Connecticut General Statutes, not inconsistent with the provisions of this chapter, are hereby adopted. The Secretary shall make copies of said applicable statutes in pamphlet form available to the public at a reasonable price upon request. The Secretary of the Planning and Zoning Commission shall make copies of the Zoning Regulations and Subdivision Regulations available to the public at a reasonable price upon request.

Section 8-9-1. Zoning Board of Appeals. The Zoning Board of Appeals shall have all the powers and duties imposed generally upon said boards by the Connecticut General Statutes.

Section 8-9-2. Zoning Board of Appeals. Members. There shall be a Zoning Board of Appeals which shall consist of five (5) members who shall be electors of the town, provided that no more than three (3) members shall be of the same political party. All members of the Zoning Board of Appeals shall continue in office until such time the terms for which they were elected will expire. Thereafter, in the month of January, Council shall appoint a member to the Zoning Board of Appeals to fill any expired term.

No member of the Zoning Board of Appeals shall hold a salaried municipal office in Berlin. As the terms of members of the Zoning Board of Appeals expire, members shall be appointed by the Council for a term of five (5) years.

Section 8-9-3. Zoning Board of Appeals. Alternate Members. (a) There shall be three (3) alternate members of the Zoning Board of Appeals who shall be electors of the town. All alternate members shall continue in office until the time the terms for which they were elected will expire. Thereafter, in the month of January, all said alternate members will be appointed by the Council and shall serve for a term of five (5) years each and no more than two (2) of said alternates shall be of the same political party. If a regular member of the Zoning Board of Appeals is absent, the Chairman or Acting Chairman of the Board shall designate an alternate member to act in his place, choosing alternates in rotation so that they shall act as nearly as equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. When seated, said alternates shall have all the powers and duties set forth in this chapter for the Zoning Board of Appeals and its members.

Section 8-9-4. Zoning Board of Appeals. Disqualification. No member or alternate of the Zoning Board of Appeals, shall be a member of the Planning and Zoning Commission. No member shall appear for or represent any person, firm, corporation or other entity in any matter pending before the Zoning Board of Appeals, nor shall any member participate in the hearing or decisions of upon any matter in which he is directly or indirectly interested in a personal or financial sense. In the event of such disqualification such facts shall be entered upon the record of the Zoning Board of Appeals and the Chairman or Acting Chairman shall choose an alternate.

Section 8-9-5. Zoning Board of Appeals. Miscellaneous. The Zoning Board of Appeals, by vote of its regular members only, shall elect a Chairman, Vice Chairman and a Secretary from among its regular members. In all meetings of such Board, each shall be held at the call of the Chairman and at such other times as the Board determines and shall be open to the public. Such Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. Vacancies on the Zoning Board of Appeals arising from any cause shall be filled for the unexpired portion of term by the Council. The Zoning Inspector, or his successor, shall act in an advisory capacity to the Zoning Board of Appeals.

Section 8-9-6. Zoning Board of Appeals. Governing Laws. Except as otherwise set forth in this chapter, the Zoning Board of Appeals shall be governed by the provisions of the Connecticut General Statutes. All provisions of Chapters 124 and 126 of the Connecticut General Statutes, not inconsistent with the provisions of this chapter, are hereby adopted. The Secretary shall make copies of said applicable statutes in pamphlet form available to the public at a reasonable price upon request. All changes in Zoning Regulations or boundaries, each rule or regulation of the Zoning Board of Appeals and each amendment or repeal thereof and each order, requirement or decision of said Board, and each change in the Subdivision Regulations shall be filed in the office of the Town Clerk and shall be a public record, as provided by the Connecticut General Statutes.

Section 8-10-1. Economic Development Commission. Members. There shall be an Economic Development Commission composed of seven (7) electors of the town, not more than four (4) of whom shall be of the same political party, all to serve for a term of

five (5) years each. In the month of January of each year, the Council shall appoint an elector to fill each expired term. Each member shall hold office until his successor is appointed and qualified.

Section 8-10-2. Economic Development Commission. Duties. The Commission shall conduct research into the economic conditions and trends in the town, shall make recommendations to appropriate officials and agencies of the town regarding action to improve its economic conditions and development, shall seek to coordinate the activities of and cooperate with unofficial bodies organized to promote such economic development and may hire specialists, when needed with approval of the Manager and Council, and may advertise and may prepare, print and distribute books, maps, charts and pamphlets which in its judgment will further its official purposes.

Section 8-10-3. Economic Development Commission. General. Said Commission shall have such other powers and duties not inconsistent herewith as are provided by the Connecticut General Statutes.

Section 8-11-1. Public Building Commission. Members. There shall be a Public Building Commission composed of seven (7) electors of the town, not more than four (4) of whom shall be of the same political party, all to serve for terms of five (5) years each. In the month of January of each year the Council shall appoint an elector to fill each expired term. Each member shall hold office until a successor is appointed and qualified.

Section 8-11-2. Public Building Commission. Duties. It shall be the duty of the Public Building Commission to develop preliminary plans and cost estimates and supervise the construction of, addition to, or alteration of any building approved by the Council, based upon a statement of need, including specified requirements and specifications. Plans and estimates should include, where necessary, site improvement and other appurtenances, together with any equipment and furnishings.

Section 8-11-3. Public Building Commission. Preliminary Approval. (a) Should any board, commission or municipal department determine that the town needs require the construction of, addition to, or alteration of a building, then said board, commission or department shall submit a statement of need to the Manager for consideration by the Council. Upon receipt of such a statement of need the Manager shall place it on the Council agenda. Said requesting Board should appear at any Council meeting wherein said statement of need appears as an agenda item and testify in support of said statement. The Council, after review of the statement of need, may approve said statement. (b) In the event the Council approves the statement of need and said construction, addition, or alteration cost is estimated to exceed one million (\$1,000,000.00) dollars, the Council shall forward said statement to the Public Building Commission within five (5) business days along with an appropriation as may be recommended by the Manager and approved by the Board of Finance in order to secure proper cost estimates. (c) The Public Building Commission may thereafter select and engage, and in the name of the town enter into contracts following RFP process for all professional services including but not limited to architects, landscape architects, engineers and clerk of the works for appropriate services, in all cases subject to appropriations as set forth herein. Said architect shall thereafter prepare preliminary plans and project construction budget.

Section 8-11-4. Public Building Commission. Review and Cost Estimate. (a) Upon

completion of the preliminary plans and development of a project construction budget, the Public Building Commission shall promptly forward such to the board, commission or municipal department which created the statement of need for review and a finding of substantial compliance with said statement of need. (b) In the event the board, commission or municipal department which created the statement of need finds the preliminary plans and cost estimates to be in substantial compliance with said statement, they shall forward same to the Manager for placement on the Board of Finance agenda for approval of funds for final plans, specifications, architectural fees and construction costs. Upon approval of funds by the Board of Finance, the project shall be forwarded to the Council for its consideration. (c) In the event the board, commission or municipal department which created the statement of need finds the preliminary plans and cost estimates not to be in substantial compliance with said statement, they shall either withdraw the statement of need from consideration or resubmit the original statement of need with proposed revisions to the Manager for placement on the Council agenda for reconsideration. The original statement of need shall not be changed without Council approval. (d) In the event the Council approves a revised statement of need, the Council shall forward said statement to the Public Building Commission within five (5) business days along with any additional appropriation as may be recommended by the Manager and approved by the Board of Finance in order to secure proper cost estimates. The Public Building Commission shall then proceed pursuant to Section 8-11-3(c) of this chapter.

Section 8-11-5. Public Building Commission. Project Appropriation. In the event the project appropriation is approved by a majority vote of the Council, with the approval of the Board of Finance and in accordance with Sections 7-11 or 6-10-6 of this Charter, the architect shall then prepare final plans and submit same to the Public Building Commission for approval, and thereafter to the board, commission or department which created the statement of need for approval. The Public Building Commission shall then invite sealed bids for construction of the project, giving thirty (30) days public notice thereof by publication at least twice in a newspaper having a circulation in the town and region, and shall let the contract to the lowest responsible bidder thereon, as evidenced by documentation of past performances and personal knowledge. If it shall determine that it shall be in the best interest of the town to do so, it may reject any or all such bids or proposals. All said sealed bids or proposals shall be opened publicly.

Section 8-11-6. Public Building Commission. Contracts. No bid can be accepted if it does not fall within the approved appropriation. If no bid falls within the approved appropriation or is accepted under the procedures set forth in Section 8-11-5 of this chapter, then all bids shall be rejected and the statement of need shall be returned to the requesting agency for revision and resubmission to the Council pursuant to Section 8-11-4(c) of this chapter. If a bid falls within said appropriation and is accepted by the Public Building Commission under the aforesaid procedures, said Commission shall seek advice of Corporation Counsel to review proposed contracts, bonds and insurance before entering into contracts with the selected bidder for the construction of the project.

Section 8-11-7. Public Building Commission. Monthly Reports. The Public Building Commission, in conjunction with the Finance Director, shall submit a written report at least monthly to the Manager, the Council and the Board of Finance. Said monthly report

shall include total project cost, total contracts approved and let, total expenditures made on each contract to date, and all additions to or deletions from each contract. No contract shall be entered into by the Public Building Commission or any agent thereof that exceeds the project construction budget without approval of the Council and the Board of Finance, and no transfers of surplus from one project construction budget item to another shall be made without approval of the Council and the Board of Finance.

Section 8-11-8. Public Building Commission. Action by Council and Board of Finance. The Council and the Board of Finance shall act within thirty (30) days of initially considering any agenda item concerning matters set forth in Section 8-11 of this chapter.

Section 8-11-9. Public Building Commission. Validity of Bond Authorization Determined Solely By Reference to Section 6-10-6 of this Charter. Borrowing by the town shall be authorized solely in accordance with the ordinance process incorporated into Section 6-10-6 and borrowing authorized and obligations issued in accordance therewith shall constitute valid authorizations and obligations binding upon the town in accordance with their terms, notwithstanding the failure to comply with the provisions of this Section 8-11.

Section 8-12-1. Conservation Commission. Members. There shall be a Conservation Commission composed of seven (7) electors of the town, not more than four (4) of whom shall be of the same political party and two (2) alternates not of the same political party, all to serve for terms of five (5) years each. In the month of January of each year, the Council shall appoint an elector to fill each vacancy and expired term. Each member shall hold office until a successor is appointed and qualified.

Section 8-12-2. Conservation Commission. Duties. (A) Said Commission shall be engaged in development, conservation, supervision, and regulation of natural resources and the development, coordination, study, and promotion of matters of environmental protection within the territorial limits of the town. (B) Said Commission shall have all the duties and powers, not inconsistent with this Charter, as are now or may hereafter be conferred or imposed upon such commission by Section 7-131a of the Connecticut General Statutes, as amended. (C) Said Commission shall conduct research into the utilization and possible utilization of land areas of the town and may coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare and distribute books, maps, charts, plans and pamphlets as necessary for its purposes within the Commission's budget allocation. It may propose a greenways plan for inclusion in the plan of conservation and development of the town prepared pursuant to Section 8-23. It may inventory natural resources. It shall keep an index of all open areas publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information on the proper use of such areas, and may from time to time recommend to the Planning and Zoning Commission the Manager, the Town Council or the legislative body plans and programs for the development and use of such areas. It may make recommendations to the Planning and Zoning Commission, Inland Wetlands and Water Courses Commission, and other municipal agencies, boards or commissions, on proposed land use changes. It may recommend acquisition of land and easements to the Manager for consideration and possible approval by the Council. It may promulgate rules and regulations, including, but not limited to, the establishment of

reasonable charges for the use of land and easements, for any of its purposes as set out in this section. It may supervise and manage town owned open space or park property upon delegation of such authority by the entity which has supervisory or management responsibilities for such space or property. It shall keep up to date on federal and state aid programs and procedures. It shall keep records of its meetings and activities and shall make an annual report to the town as provided in this Charter.

Section 8-12-3. Conservation Commission. General. (a) Said Commission shall have such other powers and duties not inconsistent herewith as are provided by the Connecticut General Statutes. (b) Said Commission shall have such professional, technical and clerical assistance as the council may determine or as set forth in the general statutes. (c) Said Commission shall maintain liaison with other boards and commissions and departments of the town as needed and shall cooperate with the parks and recreation commission as to the operation and maintenance of town lands within its jurisdiction. (d) In case of a dispute between the Conservation Commission and the Parks and Recreation Commission as to jurisdiction over a proposed activity on a particular parcel of land, the Town Council shall determine which commission shall have jurisdiction over the property.

Section 8-13-1. Parks and Recreation Commission. Members. There shall be a Parks and Recreation Commission composed of seven (7) electors of the town, not more than four (4) of whom shall be of the same political party, all to serve for terms of three (3) years each. In the month of January of each year, the Council shall appoint an elector to fill each vacancy and expired term. Each member shall hold office until a successor is appointed and qualified.

Section 8-13-2. Parks and Recreation Commission. Duties. It shall be the duty of the said Commission to supervise the use of all public parks and playgrounds within the limits of the town; to provide recreation programs; to control the activities carried on within said areas; to establish rules and regulations for use of said areas; to maintain all parks and recreation grounds of the town; to prepare plans and make recommendations to the Manager for expansion, improvement and acquisition of park areas within the town; and to supervise the carrying out of such other duties as may be specified by the Manager and Council.

Section 8-13-3. Parks and Recreation Commission. Miscellaneous. All purchasing shall be carried out by the Manager as set forth in Chapter 5 of this Charter. No person shall be employed without approval of the Manager.

Section 8-14-1. Inland Wetlands and Water Courses Commission. Membership. Pursuant to the Connecticut General Statutes there shall be, in the Town of Berlin, an Inland Wetlands and Water Courses Commission consisting of seven (7) electors, not more than four (4) of whom shall be of the same political party, and two (2) alternates of said town to be appointed by the Council, not more than one (1) shall be of any one (1) political party, all to serve for terms of three (3) years. Vacancies and unexpired terms shall be filled by the Council for the unexpired portion of the term. In the month of January of each year, the Council shall appoint an elector to fill each vacancy and expired term. Each member shall hold office until a successor is appointed and qualified.

Section 8-14-2. Inland Wetlands and Water Courses Commission. Duties. (a) It shall

be the duty of the Inland Wetlands and Water Courses Commission to promulgate such regulations in conformity with the regulations promulgated by the State of Connecticut as are necessary to protect the inland wetlands and water courses within the territorial limits of the Town of Berlin; to license such activities as may be regulated by its regulations and those of the State of Connecticut; and, to perform such further functions as may be prescribed to such agencies by the Connecticut General Statutes. (b) It shall be the duty of the Inland Wetlands and Water Courses Commission to control pollution in the Town of Berlin. Said Commission shall recommend, in a report to the Manager, actions necessary to abate local sources of contamination affecting water resources. Said Commission shall further assist in the formation of any regional approach necessary to carry out such abatement and to explore federal and state assistance programs in relation to pollution abatement.

Section 8-14-3. Inland Wetlands and Water Courses Commission. General. The ordinance adopted by the Town of Berlin on March 14, 1974 concerning the Inland Wetlands and Water Courses Commission is hereby repealed.

Section 8-15-1. Reserved for future use.

Section 8-16-1. Commission for the Aging. Members. There shall be in the Town of Berlin a commission to study the needs of and to coordinate programs for the aging. Said Commission for the Aging shall consist of five (5) electors, not more than three (3) of whom shall be of the same political party, who shall be appointed by the Council. Said members so appointed shall serve without compensation and until their successors are appointed and qualified. Not more than a bare majority of the members of said Commission shall hold other political office in said Town of Berlin and the age group concerned shall be represented. The Council may designate appropriate terms of office for the members of this Commission not to exceed in any case, five (5) years.

Section 8-16-2. Commission for the Aging. Duties. The Commission shall study continuously the condition and needs of elderly persons in the community in relation to health, recreational and other matters. It shall analyze the services for the aged provided by the community, both by public and private agencies, and shall make their recommendations to the Manager, who shall transmit said recommendations where necessary to the Council for action in regard to the development and integration of public and private agencies, in cooperation with state and other services to the extent possible.

Section 8-16-3. Commission for the Aging. General. The town may make appropriations to cover the expense of the Commission, including reasonable clerical services, provided that any budget shall be adopted pursuant to Chapter 7 of this Charter. The ordinance adopted at the Town Meeting on December 17, 1963 concerning a Committee for the Aging is hereby repealed.

Section 8-17-1. Berlin VNA. Establishment. It is the intent of this Charter that public nursing service shall continue to be provided by the Berlin VNA as established. Said Berlin VNA shall comply with their own bylaws as well as the Connecticut General Statutes. The Berlin VNA shall continue as heretofore established for the purpose of providing nursing service to the Town of Berlin. There shall be a Board of Directors which shall consist of twelve (12) electors of the Town for terms of three (3) years, provided, one third (1/3) of said directors' terms shall expire each year.

Section 8-17-2. Berlin VNA. Appointments and Vacancies. All directors, elected or appointed, holding office at the date of the passage of the Charter shall be continued in said office until the expiration of the term of office. All expired terms of office shall be filled by the Council. Any vacancy in an unexpired term of office shall be filled by the Council for the remainder of said term.

Section 8-17-3. Berlin VNA. Duties. The Berlin VNA shall be responsible for providing public health nursing services, visiting nurse services, school health services and other health services, which do not conflict with the duties of the Director of Health of the Town of Berlin in accordance with Connecticut General Statutes and regulations of the Department of Health Services and the statutes and regulations of the United States Government.

Section 8-17-4. Berlin VNA. Officers and Meetings. Said Berlin VNA shall elect by ballot from its members the following officers: Chairman, Vice Chairman, Secretary and Treasurer for a term of one (1) year or until a successor shall have been elected. The Board of Directors shall meet monthly unless otherwise designated by the Board of Directors. A majority of members shall constitute a quorum.

Section 8-17-5. Berlin VNA. Administrator. The Berlin VNA shall select an Administrator, and shall delegate to said Administrator such powers and duties as the Berlin VNA deems necessary to provide the services stated in Section 8-17-3.

Section 8-18-1. Berlin-Peck Memorial Library. Establishment. There is established a public library in the Town of Berlin known as the Berlin-Peck Memorial Library in accordance with the restricted gift of the Kensington Library Society and Chapter 190 of the Connecticut General Statutes. There shall be a Library Board consisting of nine (9) members to be appointed by the Council, not more than five (5) of whom shall be of the same political party.

Section 8-18-2. Berlin-Peck Memorial Library. Terms. Members shall be appointed by the Council for three (3) year terms. Members shall be electors of the town and shall serve without compensation. All Members serving at adoption of this Charter shall serve until their term expires.

Section 8-18-3. Berlin-Peck Memorial Library. Duties and Functions. The Library Board shall have charge of the Library and may expend such sums of money as are available and necessary for the operation and maintenance of the Library facilities, provided any such expenditure must comply with the provisions of Chapter 5 and Section 6-10 of this Charter.

Section 8-18-4. Berlin-Peck Memorial Library. Rules and Regulations. The Library Board may adopt reasonable rules and regulations for the conduct of its affairs and for the use of the Library facilities, subject to the approval of the Manager. Decisions of the Board shall be made by a majority vote of those present and voting and no business shall be transacted without five (5) members present. The Board shall keep accurate records of its meetings and actions.

Section 8-18-5. Berlin-Peck Memorial Library. Building Facilities and Staff. The Town of Berlin shall provide and maintain a suitable building for the Library and will sufficiently staff said building with town employees to operate the Library.

Section 8-18-6. Berlin-Peck Memorial Library. Powers. The Library Board shall have all of the powers and authority granted to public libraries under the Connecticut General Statutes as may be amended from time to time.

Section 8-18-7. Berlin-Peck Memorial Library. Budget. The Library Board shall submit a budget proposal pursuant to Chapter 7 of this Charter.

Section 8-18-8. Berlin-Peck Memorial Library. General. The ordinance adopted at the Town Meeting on July 29, 1986, concerning the establishment of a public library as amended at the Town Meeting on October 24, 1988, is hereby repealed.

Section 8-19. Appointment of Board of Ethics. Members. The Board of Ethics shall be composed of three (3) regular members and two (2) alternate members, all of which shall be resident electors, to be appointed by the Town Council. Of the three (3) regular members initially appointed, two (2) shall be appointed for a term of three (3) years and one (1) shall be appointed for a term of two (2) years. In February 1996, the Council shall appoint two (2) alternate members to the Board of Ethics, one (1) for a term of three (3) years and one (1) for a term of two (2) years thereafter, in the month of January, the Council shall appoint an alternate member to fill any expired term. No political party shall have as appointees more than two (2) regular members and one (1) alternate member on the Board of Ethics at one (1) time. All subsequent appointments to the Board of regular members shall be for a term of three (3) years. Any member having served for six (6) years in succession shall be ineligible for reappointment to the Board. For individuals filling a vacancy, successive years of service will commence with the next appointment period. No individual while a regular or, alternate member of the Board shall hold any other town office. (d) If a regular member of the Board of Ethics is absent or is disqualified, the Chairman of the Board shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal in number of times possible. If an alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

CHAPTER 9 –CODE OF ETHICS

Section 9-1. Definitions. As used herein the following terms shall have the following meanings: (a) "Officials" shall include all elected and appointed officials, including all members of any administrative board, commission or other agency thereof, whether paid or unpaid; (b) "Employee" shall include all employees of the town whether full or part-time; (c) "Participating," as used herein, shall include the rendering of advice or recommendation, investigation, approval, disapproval, or otherwise.

Section 9-2. Purpose. There is hereby established a code of ethics for all town officials and employees. The purpose of this code is to establish ethical standards for all such officials and employees by prohibiting acts or actions incompatible with the best interests of the town and by directing disclosure of such officials and employees in private, financial or other interests in matters affecting the town. The provisions and purpose of this code and such rules and regulations and standards as shall be established hereunder, are hereby declared to be in the best interest of the Town of Berlin.

Section 9-3. Conflict of Interest. A person subject to this code has an interest which is in substantial conflict with the proper discharge of his duties or employment in the public

interest and of his responsibilities as prescribed in the Connecticut General Statutes and the laws of the Town of Berlin, if he has reason to believe or expect that he will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. He does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the Connecticut General Statutes and the laws of the Town of Berlin if any benefit or detriment accrues to him as a member of a business, profession, occupation or group to no greater extent than any other member of such business, profession, occupation or group.

Section 9-4. Standards of Conduct. (a) Any official or employee who has a substantial or controlling financial or significant personal interest in any transaction or contract with the town, or in the sale of real estate, materials, supplies, or services to the town, shall make known promptly by a writing filed with the Town Clerk such interest in any matter on which he may be called to act in his official capacity. He shall refrain from voting upon the making of such contract or sale. (b) No official or employee shall accept any valuable gift over the sum of twenty-five (\$25.00) dollars whether in the form of service, loan, thing or promise from any person, firm or corporation which, to his knowledge, is interested directly or indirectly, in any manner whatsoever, in business dealings with the town having any relationship or connection with such official or employees in the discharge of his duties. (c) No official or employee, without proper legal authorization, shall disclose confidential information except as required under the "Right to Know" laws of the State of Connecticut, concerning the property, government or affairs of the town. No official or employee shall use information acquired in the course of his public duties, to advance the financial or other private interest of himself or any other. (d) No official or employee shall request or permit the use of town-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business or such use in connection with exchange of private equipment for use by the town, as certified by the appropriate lending agency to the Manager. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. (e) No official or employee shall, after the termination of service or employment with such municipality for a period of one (1) year after such termination, appear before any board or agency of the town for compensation by any private interest to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration. (f) To the extent that he knows thereof, all officials and employees of the town, whether paid or unpaid, who participate in the discussion or give official opinions to the Council, or any board or commission, on pending legislation, shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interests he has in such legislation.

Section 9-5. Administration of Code. (a) The administration of this Charter should be charged to the Board of Ethics. The Town Clerk shall receive any written complaint given under oath of violations of this Code and shall forward such to the Chairman of the Board of Ethics within five (5) days from receipt. The Chairman shall call a meeting of the Board of Ethics within fourteen (14) days of receipt to determine if probable cause exists to proceed to a hearing. If the Board determines that no probable cause exists the

matter shall be dismissed. Should the Board determine that probable cause exists, the Chairman shall call a hearing for the complainant to present evidence of the ethical violation before the board within fourteen (14) days of the probable cause determination. The complainant must be present and testify under oath at such hearing. The person whose conduct is called into question may, following the presentation of evidence by the complainant, request a reasonable continuance to bring rebuttal witnesses and evidence at the continued hearing. (b) After any such hearing, if the Board of Ethics finds that none of the provisions of this chapter have been violated by the person charged, the Board of Ethics shall dismiss all complaints and shall notify the person so charged and the complainant of its action. After the hearing, if the Board of Ethics finds that any of the provisions of this chapter have been violated by the person so charged, the Manager, with Council approval, shall take such appropriate action as deemed necessary, including suspension, censure or dismissal from employment as may be applicable. Any person so aggrieved by the action of the Manager and Council may take an appeal to the appropriate court as provided by the Connecticut General Statutes.

Section 9-6. Applicability of Provision. This code shall apply in all instances except where superseded by an applicable statutory provision and such statutory provision is mandatory or when such statutory provision is discretionary but deemed by the Council to be more appropriate or desirable.

Section 9-7. Validity of Sections. In the event any section or provision of this chapter shall be declared invalid for any reason whatsoever, it shall not affect the other sections or provisions hereof.

CHAPTER 10 —MISCELLANEOUS PROVISIONS

Section 10-1. Amendments. Action to amend this Charter shall be initiated by the Council or by a petition of not less than ten (10%) percent of the electors, all as set forth in the Connecticut General Statutes. Within thirty (30) days after such action is initiated, the Council, hereby designated the appointing authority, shall appoint a Charter Revision Commission which shall be governed by provisions of the Connecticut General Statutes. The Council may from time to time appoint a Charter Revision Study Committee, which Committee shall study the need for any revisions to this Charter. It shall report results of its study to the Council, without regard to any time limit except such as may be established by the Council. The Charter Revision Study Committee shall be dissolved forthwith upon the appointment of a Charter Revision Commission in accordance with this section.

Section 10-2. Legal Procedures. No action or proceeding, civil or criminal pending on the effective date of this Charter brought by or against the town or any commission, board, department or office thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained; but all such actions or proceedings may be continued.

Section 10-3. Continuation in Office. Unless specifically terminated or provided otherwise in this Charter, all elected or appointed officers or members of any board or commission holding office at the date of passage of this Charter, shall continue in the office to which elected or appointed until the expiration of the term to which elected or appointed; as such term is defined in this Charter.

Section 10-4. Saving Clause. If any section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which the section or part of the section held invalid may appear.

Section 10-5. Existing Laws and Ordinances. All Connecticut General Statutes in their application to the Municipal Code including town ordinances, special acts, home rule ordinances, and rules and regulations of the town, or rules and regulations of departments, agencies, boards, commissions and committees of the town, shall continue in full force and effect, except insofar as they are inconsistent with the provisions of this Charter. The following Special Acts, Ordinances and Resolutions are hereby repealed: Section 1-21 and 1-22 on page 17 of the "Ordinances and Special Acts of the Town of Berlin," Section 1-25 on page 20, Section 1-28 on page 21, Section 1-34 on page 26, Section 2-1 on page 29, Section 2-4 on page 35, Section 2-7 on page 37, Section 2-10 on page 39, Section 2-11 on page 41, Section 2-14 on page 44, Section 2-20 on page 61, and Section 2-22 on page 66 of the 1963 Supplement; Section 2-26 on page 71, Section 5-1 on page 77, and the following unnumbered sections: on page 80 relating to alternate members of the Planning Commission, on page 82 of said 1963 Supplement, and pages 87 and 93 of the 1970 Supplement relating to the Park and Recreation Commission, on page 88 relating to the Water and Sewer Commission, on page 93 relating to removals, and all special acts or parts of special acts, ordinances, home rule ordinances, or resolutions of the Town Legislative Body relating to the town, which are in any way inconsistent with the provisions of this Charter are all repealed.

Section 10-6. Connecticut General Statutes. Whenever the term "Connecticut General Statutes" is employed in this Charter, it shall mean the Connecticut General Statutes of the State of Connecticut, Revision 1958, as said statutes may be from time to time amended or revised. Whenever the term "Charter" is employed herein, it shall include such amendments as may be from time to time made hereto. Robert's Rules of Order Revised shall govern the organization and conduct the meetings of all boards, commissions and committees established by this Charter.

Section 10-7. Term Commencement. Terms of all persons elected at the biennial meetings of the town on the first (1st) Tuesday following the first (1st) Monday of November, 1995, shall commence on the date of the election or, on the date of the expiration of the terms of the predecessors unless provided otherwise, and continue as provided in this Charter.

Section 10-8. Terminology. Whenever used in this Charter unless the context clearly indicates a contrary intent or unless otherwise provided herein, masculine, feminine or neutered pronouns shall be interchangeable such that the use of pronouns of any gender shall mean and include all genders.

Section 10-9. Effective Date. The provision of this Charter necessary to implement election of any municipal officer pursuant to this Charter shall be effective upon adoption of this Charter and provided for in the Connecticut General Statutes.

Revised by the Town Ordinance 2/20/96. 1-96 Revised by the Town Ordinance 2/20/96. 2-96. Rev. Adopted at Town Election on 11//07/95. Section 6-5(b).

Rev. Adopted at Town Election on 11/06/2001. Chapter 6. Sections 6-1, 6-2, 6-3, 6-4, 6-5, 6-7, and 6-14.

Rev. Adopted at State Election on 11/05/2002. Sections 2-3, 6-10-6, 7-5, 8-9-2. and Misc. Technical Changes

Rev. Court Ordered removal of Historic District Commission from Town Charter. Docket No. CV 05-4011215S August 17, 2006

Revisions adopted at State Election on 11/08/2016. Establishment of a Board of Finance, authorization of up to two budget referenda, authorization for an automatic referendum on bonding ordinances over \$5 million dollars, and directly elect the Mayor as part of a seven member Town Council.

Dated at Berlin, Connecticut this 8th day of December, 2016.

Kathryn J. Wall, Berlin Town Clerk