



City of Wayland Charter

- **CHAPTER 1. - BOUNDARIES OF THE CITY**

- **Section 1.1. - Boundaries.**

(a)

The following described territory, together with all territories that may be annexed thereto, shall constitute the territory and be known as the City of Wayland, and shall be subject to the municipal control thereof:

That part of Sections 5, 6, 7 and 8, Town 3 North, Range 11 West, Wayland Township, Allegan County, Michigan, described as: Commencing at the intersection of the centerline of Highway US-131, as now relocated, with the north line of said Section 6, thence east along the north line of said Sections 6 and 5, to the northeast corner of said Section 5, thence south along the east line of said Section 5 to the southeast corner of said Section 5, thence west along the south line of said Section 5 to the north one-quarter corner of said Section 8, thence south along the north and south one-quarter line of said Section 8 to a point 300 feet south of the Southeast corner of the north one-half of the northwest one-quarter of said Section 8, thence west along a line 300 feet south of and parallel with the south line of the north one-half of the northwest one-quarter of said Section 8, and the south line of the north one-half of the northeast one-quarter and the south line of the north one-half of the northwest one-quarter of said Section 7, to the centerline of Highway US-131 as now relocated, thence northeasterly along the centerline of said Highway US-131 to the place of beginning.

(b)

Upon annexation or detachment of territory, the boundaries shall be deemed thereby to be changed without amendment to this section.

(c)

The Clerk shall maintain and keep available in his office for public inspection an official description and map of the current boundaries of the City.

State Law reference— Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq., MSA 5.2085 et seq.



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- **Section 1.2. - Ward.**

The City shall consist of and constitute one single ward.

State Law reference— Mandatory that Charter provide for one (1) or more wards, MCL 117.3(e), MSA 5.2073(e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

- **CHAPTER 2. - DEFINITIONS AND GENERAL PROVISIONS**

- **Section 2.1. - Records to be public.**

(a)

All records of the City shall be public, unless otherwise provided by law, shall be kept in City Offices, except when required for official reasons or for purposes of safekeeping to be elsewhere, and shall be available for inspection at all reasonable times.

(b)

All papers, books, or other records of any matter required to be kept by any of the several departments of the municipal government, either by law or by the provisions of any ordinance, shall be deemed public records of such department, and they, or copies, duly certified by the custodian thereof, shall be prima facie evidence of their contents in all suits at law or in equity, or in other proceedings.

State Law reference— Freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

- **Section 2.2. - Definitions and interpretations.**

Except as otherwise specifically provided or indicated by the context of this Charter:

(a)

The word "City" shall mean the City of Wayland.

(b)



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The word "Council" shall mean the City Council of the City of Wayland.

(c)

The word "officer" shall include, but shall not be limited to the Mayor, the members of the Council, and, as hereinafter provided, the administrative officers, deputy administrative officers, and members of the City Boards and Commissions created by or pursuant to this Charter.

(d)

The word "person" may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals.

(e)

The words "printed" and "printing" shall include printing, engraving, stencil, duplicating, lithographing, typewriting, photostating, or any similar method.

(f)

Except in reference to signatures, the words "written" and "in writing" shall include handwritten script, printing, typewriting and teletype and telegraphic communications.

(g)

The words "publish" or "published" shall include publication of any matter, required to be published, in the manner provided by law, or, where there is no applicable law, in one or more newspapers of general circulation in the City, qualified by law for the publication of legal notices, or, as an alternate therefor, shall be posted in at least one public place in each election precinct.

(h)

The words "public utility" shall include all common carriers in the public streets; water, sewage disposal, electric light and power, gas, telephone and telegraph lines and systems, garbage collection and disposal, refuse collection and disposal and reduction plants, transportation, and such other and different enterprises as the Council may, from time to time, determine or designate.

(i)



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All words indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement to which any provision of the Charter is applied.

(j)

The singular shall include the plural, the plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter.

State Law reference— Rules of construction, MCL 8.3 et seq., MSA 2.212 et seq.

- **Section 2.3. - Official performance.**

Whenever this Charter requires the performance of an act by an officer, the act may be performed by a deputy or by a subordinate, under the officer's direction, unless otherwise provided by law.

- **Section 2.4. - Quorum.**

Except as otherwise expressly provided in this Charter, a quorum of any Board created by or under authority of this Charter shall consist of a majority of the number of its members as established by this Charter, or by and under the ordinance creating such Commission or Board. The concurring vote of a majority of such established number of members of each such board shall be necessary for official action by it.

- **Section 2.5. - Sundays and holidays.**

Whenever the date fixed by law or ordinance for the doing or completion of any act falls on Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

- **Section 2.6. - Estoppel.**

No estoppel may be invoked against the City.

- **Section 2.7. - Penalties for violation of Charter.**

Any person or officer of the City found guilty by a Court of competent jurisdiction of any violation of this Charter may be punished by a fine which, in addition to Court costs charged to him, shall not exceed Five Hundred Dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both such fine and imprisonment, in the discretion of the Court. For an officer of the City the punishment



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provided in this section shall be in addition to that of having the office declared vacant as provided in this Charter. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this Charter.

State Law reference— Limitations on penalties, MCL 117.4i(10), MSA 5.2082(10).

- **Section 2.8. - Chapter and section headings.**

The chapter and section headings used in this Charter are for convenience only, and shall not be considered as part of this Charter.

- **Section 2.9. - Amendments.**

This Charter may be amended at any time in the manner provided by law. Should two or more amendments adopted at the same election have conflicting provisions, the amendment receiving the largest affirmative vote shall prevail as to those provisions.

State Law reference— Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22; Charter amendment procedure, MCL 117.21 et seq., MSA 5.2100 et seq.

- **Section 2.10. - Severability of charter provisions.**

If any provision, section, or clause of this Charter, or the application thereof to any person or circumstances, shall be found to be invalid, such invalidity shall not affect any remaining portion or application of the Charter, which can be given effect without the invalid portion or application, and, to this end, this Charter is declared to be severable.

- **Section 2.11. - City liability.**

The City shall not be liable to pay damages for injuries which arise out of governmental functions, sustained by any person either to his person or property by reason of the negligence of the City, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk, within sixty (60) days after the injury resulting in such damages shall have occurred, a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of witnesses known at



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the time by the claimant and a statement that the person sustaining such damages intends to hold the City liable for such damages as may have been sustained by him.

The City shall not be liable for any damage to person or property arising out of any such injury unless there shall have been first presented to the Clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action against the City for any such damages until such claim shall have been filed with the Clerk and until the Council shall have been given reasonable opportunity to act thereon, either by allowing or refusing to allow the claim.

It shall be a sufficient bar and answer in any Court to any action or proceeding for the collection of any demand or claim against the City under this section that the notice of injury and the verified proof of claim as in this section required were not presented and filed within the time and in the manner herein provided. This section shall not apply to claims arising out of the exercise of any proprietary function of the City.

- **Section 2.12. - Transfer of jurisdiction.**

(a)

After the effective date of this Charter, the City shall be vested with all the property, moneys, contracts, rights, credits, effects and records, files, books and papers belonging to the Village of Wayland and to that part of Wayland Township being annexed thereby.

(b)

No right or liability, either in favor or against the Village of Wayland existing at the time this Charter becomes effective and no suit or prosecution of any character shall in any manner be affected by any change, resulting from the adoption of this Charter, but the same shall stand or proceed as if no change had been made. All just debts and liabilities of the City shall be paid in accordance with their purport and all fines and penalties imposed at the time of such change shall be collected.

- **CHAPTER 3. - GENERAL MUNICIPAL POWERS**



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- **Section 3.1. - General powers.**

(a)

Unless otherwise provided or limited in this Charter, the City and its officers shall possess and be vested with all the powers, privileges, and immunities, expressed or implied, which cities are, or hereafter may be, permitted by law to exercise or to include in their Charters. The enumeration or particular powers, privileges, or immunities in this section or elsewhere in this Charter shall not be held to be exclusive.

(b)

The City and its officers shall have power to manage and control its finances, rights, interests, buildings, and property, to enter into contracts, to do any act to advance the interest, good government, and prosperity of the City and its inhabitants, to protect the public peace, health, safety, and general welfare, and to restrain and prevent crime and vice. In the exercise of such powers, the City may enact ordinances, rules, and regulations and take such other action as may be required, in a manner consistent with law. The power of the City shall include, but shall not be limited to, the following:

(1)

To declare as a hazard or nuisance any act or condition, upon public or private property, or both, including, but not limited to, the accumulation of rubbish and the growing of noxious weeds, which is, or may be dangerous to the health, safety, or welfare of the inhabitants of the City; to provide for the abatement thereof, and to provide that the cost of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located.

(2)

To provide for the public welfare by:

(a)

Regulating trades, occupations and amusements within the City, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health or welfare of its inhabitants;

(b)



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Regulating the preparation, storage, transportation, and sale of foods, drugs, and beverages for human consumption;

(c)

Collecting and disposing of garbage and rubbish;

(d)

Regulating and restricting the locations of oil and gasoline stations, in a manner consistent with law;

(e)

Licensing and regulating the number of vehicles, which carry persons or property for hire, fixing the rates of fare and charges, and determining the locations of stands for such vehicles;

(f)

Licensing and regulating billboards and advertising signs and locations thereof;

(g)

Regulating the construction, erection, alteration, equipment, repair, moving, removal, and demolition of buildings and structures and their appurtenances and service equipment;

(h)

Regulating the location, height and type of fences abutting public or between private properties;

(i)

Establishing zones within the City and regulating therein the use and occupancy of lands or structures; the height, area, size and location of buildings; the required open spaces for light and ventilation of buildings, and the density of population;

(j)

Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent fires;

(k)



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Regulating and controlling the use of streams, waters, and watercourses within the City in any manner consistent with the provisions of the law;

(3)

To establish and reasonably control streets, alleys, bridges, and public places, and the space above and beneath them, and the use thereof by:

(a)

Creating and vacating the same and acquiring and disposing of land, or any interest in land, required therefor, including any surplus land which may be incidental to or necessary for the purchase of land required;

(b)

Providing a plan of streets and alleys within and for a distance of not more than three miles beyond the limits of the City;

(c)

Requiring the owners of real property to build and maintain public sidewalks in the area of streets immediately adjacent to such property, and, upon the failure of any owner to do so, constructing and maintaining such sidewalks and assessing the cost thereof against such property as a special assessment;

(d)

Compelling all persons to keep sidewalks which are in the area of streets immediately adjacent to the premises owned, controlled, or occupied by them, free from snow, ice, dirt, wood, weeds, shrubbery, or any other object which obstructs such sidewalks, or which makes the same hazardous or offensive to the public health or safety; and, upon failure of such persons to do so, to cut and remove such weeds and to remove such objects, and to assess the cost thereof against such property as a special assessment;

(e)

Compelling all persons to care for the untraveled portions of streets lying between the traveled portion and the property line which abut upon premises owned, controlled, or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public



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health and safety, and, upon the failure to do so, cutting and removing such weeds and removing such objects and assessing the cost thereof against such property as a special assessment;

(f)

Providing for the grade of streets and requiring public utility users of streets to conform thereto with respect to their tracks or facilities located on, above, or under the streets or alleys; requiring railroads to keep their tracks and the street surface between the tracks, and for a distance of one and one half feet on each side of them, in reasonable repair at all times;

(g)

Regulating the speed of vehicles, trains, and locomotives upon or across the streets within the provisions and limitations of law, and the stopping and parking of the same upon the streets and at street crossings;

(h)

Providing for and regulating the lighting of streets and alleys, whether such lights be located on public or private property to the extent permitted by law;

(i)

Preventing and abating the encumbering of streets and alleys or any part thereof;

(j)

Regulating the location of buildings and structures and of trees and shrubbery at and near street corners and street intersections with alleys and driveways, so as to provide for the public safety and welfare in the use of streets and alleys;

(k)

Providing for and regulating the numbering of buildings upon property abutting streets and alleys and compelling the owners and occupants thereof to affix numbers thereto;

(l)



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Providing for the use by other than the owner, of property located on, above, or under the streets, alleys, and public places, in the operation of a utility, upon the payment of a reasonable compensation therefor to the owner thereof;

(m)

Providing for the planting and general care and protection of trees and shrubbery within the streets and public places of the City and preventing the cutting of limbs and branches for the placing and maintenance of utility wires without the consent of the designated officer or agency of the City;

(n)

Providing for the control over all trees, shrubs and plants in the public streets, highways, parks, or other public places in the City and all dead and diseased trees on private property which, in the judgment of a majority of the Council, may cause a spread of the disease, endangers life, or abutting property, and trees on private property overhanging the street, sidewalk, or public places, including the removing thereof and assessing the cost thereof against the abutting property or a special assessment;

(o)

Prohibiting or regulating of the use, occupancy, sanitation and parking of house trailers within the City, and the right of the City to so regulate any house trailer shall not be abrogated thereof because of any detachment from its wheels or because of placing it on, or attaching it to the ground by means of any temporary or permanent foundation or in any manner whatsoever.

(4)

To undertake any public work or make any public improvement or any repair or replacement thereof, either directly or by contract with public bodies or private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unit or agency;

(5)

To construct, provide, maintain, extend, operate, and improve:

(a)



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Within the City; a city hall, city office buildings, community buildings, police stations, fire stations, civic auditoriums, public libraries, and polling places; and

(b)

Either within or without the corporate limits of the City or Allegan County; Public Parks, recreation grounds and stadiums, municipal camps, public grounds, zoological gardens, museums, airports and landing fields, cemeteries, levees, embankments, and structures for flood control and other purposes relating to the public health, safety, and welfare; electric light and power plants and systems, public heating plants and systems, gas plants and systems, waterworks and water treatment plants and systems, sewage disposal plants and systems, storm sewers, garbage collection and disposal facilities, refuse and rubbish collection and disposal facilities, market house and market places, facilities for storage and parking of vehicles, hospitals, facilities for the landing of helicopters and air vehicles having like landing characteristics, and any other structure or facility which is devoted to or intended for public purposes within the scope of the powers of the City.

(6)

To acquire by purchase, gift, condemnation, lease or otherwise, real and personal property, and interests in property, either within or without the corporate limits of the City or of Allegan County, for any public use or purpose within the scope of its powers, including, but not by way of limitation, the uses and purposes set forth in this section.

(7)

To join with any municipal corporation or with any other unit or agency of government, whether local, state, or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate, or perform separately.

State Law reference— Permissible that Charter provide for regulation of public ways, MCL 117.4h(1), MSA 5.2081(1); permissible that Charter provide for joint use of public property; permissible that Charter provide for plan of streets and alleys within 3 miles of city, MCL 117.4h(3), MSA 5.2081(3); permissible that Charter provide for maintenance and disposition of city property, MCL 117.4e(1), MSA 5.2078(1); permissible that Charter provide for regulations of watercourses, MCL 117.4h(4), MSA 5.2081(4); permissible that Charter provide for zoning, MCL 117.4i(3), MSA 5.2082(3); permissible that Charter provide for regulation of billboards, MCL 117.4i(5), MSA 5.2082(5); permissible that Charter provide for regulating gas stations, MCL 117.4i(2), MSA 5.2082(2); mandatory that Charter provide for the public peace, health and safety of persons and property,



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MCL 117.3(j), MSA 5.2073(j); permissible that Charter provide for condemnation, MCL 117.4e(2), MSA 5.2078(2).

- **CHAPTER 4. - GENERAL PROVISIONS REGARDING OFFICERS OF THE CITY**

- **Section 4.1. - Officers to be elected, terms of office.**

(a)

The elective officers of the City shall be a Mayor, six Councilmen, two Justices of the Peace, and the number of Supervisors to the County Board to which the City is entitled.

(b)

At the regular City election to be held in every even numbered year there shall be elected three (3) Councilmen to serve for a term of two (2) years, and a Mayor. At the regular City election held in every odd numbered year there shall be elected three (3) Councilmen to serve for a term of two years, and the number of Supervisors to the County Board to which the City is entitled; two Justices of the Peace shall be elected for four year terms commencing on the 4th day of July next following their election.

(c)

The terms of office of the Mayor, Councilmen, and Supervisors shall commence on the Monday next following the regular City election at which they were elected. (Am'd. by electors, April 2, 1979)

Editor's note— Justices of the Peace were abolished by MCL 600.9921, MSA 27A.9921. The title of supervisor was changed to commissioner by MCL 46.401 et seq., MSA 5.359(1) et seq.

State Law reference— Mandatory that Charter provide for election of certain officers, MCL 117.3(a), MSA 5.2073(a).

- **Section 4.2. - Officers to be appointed, terms of office.**

(a)

The appointive officers of the City shall be a City Manager, a City Attorney, a Clerk, a Finance Officer if there be one, a Health Officer, a Chief of Police, a Fire Chief, a Treasurer, an Assessor and such other administrative officers as may be established by the Council. The Council may establish additional



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administrative offices and may combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City, but the Council may not diminish the duties or responsibilities of the office of the City Manager. The City Manager and the City Attorney shall be appointed by the Council for an indefinite term, shall be responsible to and serve at the pleasure of the Council and have their compensation fixed by the Council.

(b)

All administrative officers of the City, except the City Manager and City Attorney, shall be appointed by the City Manager for an indefinite term. Such officers, appointed by him, shall be responsible to the City Manager and shall have their compensation fixed by the City Manager in accordance with budget appropriations. Such officers may be removed from office by the City Manager. (Am'd. by electors, April 2, 1979)

- **Section 4.3. - City employees.**

All personnel employed by the City, who are not elected officers or declared to be appointive officers by or under authority of this Charter, shall be deemed to be employees of the City. Each member of the police and fire forces of the City shall take and subscribe to the oath prescribed by Section 1 of Article XI of the State Constitution, but shall not, because of such fact, be an officer of the City.

- **Section 4.4. - Eligibility for office in the city.**

(a)

No person shall hold any elective office of the City, unless he has attained the age of twenty-five (25) and was a resident of the City for at least one year immediately prior to, and was a registered elector and freeholder on, the last day for filing nominating petitions for such office or prior to the time of his appointment to fill a vacancy. Provided, however, that residence for all or any part of said period within an area herein annexed to said City or which may be hereinafter annexed to said City shall be the equivalent of residence within said City.

(b)

No person shall be eligible for any elective or appointive City office who is in default to the City. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof has been served at his last known place of residence according to the records of the City by the City Clerk upon the direction of the Council, or, unless the officer contests his liability for the default in a court of competent jurisdiction.

(c)



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Each candidate for elective office shall file with his petition his affidavit that he possesses qualifications for such office provided for in this Section. Failure to file such affidavit shall invalidate the petition.

(d)

No person who holds or has held the office of Councilman shall be eligible to hold any appointive office for which there is compensation paid by the City until one year has elapsed following the expiration of the term of office for which he was elected. This provision would not apply to such appointive positions as the Board of Review where nominal compensation may be paid by the City; however, the Councilman must have resigned his office or his term expired before such appointment.

(e)

No incumbent elective City officer shall become a candidate for any elective City office, except to succeed himself, without first resigning from his then incumbent elective City office. Provided, that the provisions hereof shall not apply to any incumbent elective city officer whose term of office will expire with the election at which he is to be a candidate for another elective City office. No appointive City officer or employee, shall seek an elective office of the City, unless he resigns from his position with the City.

Editor's note— Requirement that an elected officer be a property owner is a denial of equal protection under the 14th Amendment of the U.S. Constitution. See *Turner v. Touche*, 396 U.S. 346(1969).

State Law reference— Mandatory that Charter provide for qualification of city officers, MCL 117.3(d), MSA 5.2073(d).

- **Section 4.5. - Vacancies in office.**

Any elective City office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:

(a)

For any reason specified by law as creating a vacancy in office;

(b)

If no person is elected to, or qualified for, the office at the election at which such office is to be filled;



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(c)

If the officer shall be found guilty by a court of competent jurisdiction of any act constituting a violation of this Charter;

(d)

If any officer ceases to have the qualifications for eligibility for such office required by this Charter;

(e)

If any officer shall absent himself continuously from the City for more than sixty days in any one calendar year without permission of the Council;

(f)

In the case of members of the Council, if such officers shall miss four consecutive regular meetings of the Council or from seven regular meetings in any calendar year, unless such absences be for confining illness or be excused by the Council at the time they occur;

(g)

If the officer is removed from office by the Council in accordance with the provisions of [Section 4.7](#).

- **Section 4.6. - Vacancies in boards and commissions.**

The office of any member of any Board or Commission created by this Charter shall be declared vacant by the Council:

(a)

For any reason specified by law as creating a vacancy in office;

(b)

If the officer shall be found guilty by a court of competent jurisdiction of an act constituting misconduct in office or violation of this Charter;

(c)



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If such officer shall miss more than two consecutive regular meetings of such Board or Commission, or twenty-five percent of such meetings in any fiscal year of the City, unless such absences shall be excused by such Board or Commission at the time of such absence;

(d)

If the officer is removed from office by the Council in accordance with the provisions of [Section 4.7](#).

- **Section 4.7. - Removals from office.**

Removals by the Council of elective or appointive officers or members of Boards or Commissions may be made for any of the following reasons:

(a)

For any reason specified by law for removal of City officer by the Governor;

(b)

For any act constituting a violation of this Charter;

(c)

Such removals by the Council shall be made only after hearing of which such officer has been given notice by the Clerk at least ten days in advance, either personally or by sending the same by registered mail to his last known place of residence according to the records of the City. Such notice shall include a copy of the charges against the officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal may be being considered, shall be required for any such removal.

- **Section 4.8. - Resignations.**

Resignations of elective officers and of members of Boards and Commissions shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.



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- **Section 4.9. - Filling vacancies.**

(a)

If a vacancy occurs in any elective City office, the Council shall, within thirty (30) days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of said office to fill the unexpired term of the person in whose office the vacancy occurs.

(b)

If a vacancy occurs in any appointive office, it shall be filled in the manner provided for making the original appointment. In the case of members of Boards and Commissions appointed for a definite term, such appointment shall be for the unexpired term.

- **Section 4.10. - Term of office cannot be shortened or extended.**

Except by procedures provided in this Charter, the term of the elective officials of the City and of officers of the City appointed for a definite term shall not be shortened or extended.

- **Section 4.11. - Increase or decrease in compensation.**

The Council shall not grant or authorize extra compensation to any City officer, elective or appointive, or to any employee, agent, or contractor, after the service has been rendered or the contract entered into. Nor shall the salary of any officer, elective or appointive, be increased or decreased after his election or appointment during any fixed term for which he was elected or appointed.

- **Section 4.12. - Oath of office.**

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by the Michigan Constitution and shall file the same with the Clerk, together with any bond required by this Charter or by the Council. In the case of failure to comply with the provisions of this section within ten days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereon be vacant, unless the Council shall, by resolution, extend the time in which such officer may qualify as set forth above.

State Law reference— Oath of public officers, Mich. Const. 1963, Art. XI, § 1.

- **Section 4.13. - Surety bonds.**



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Except as otherwise provided in this Charter, the Council may require any officer or employee of the City to give a bond to be approved by the Council, conditioned upon the faithful and proper performance of the duties of the office or employment concerned, in such sums as the Council may determine. All such officers or employees who receive, distribute, or are responsible for City funds or investments shall be bonded. The resignation, removal, or discharge of any officer or employee, or appointment of another person to such office or employment, shall not exonerate such officer or employee or any sureties of such officer or employee from any liability incurred by such officer, employee or sureties. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City. Bonds required by this section shall not be renewed upon the expiration of the terms for which issued, but, in each case, a new bond shall be furnished. No official bond shall be issued for a term exceeding three years, unless the term of the officers concerned exceeds three years. The bonds of all officers and employees shall be filed with the Clerk, except that the Clerk's bond (unless he is covered within the scope of a blanket surety bond) shall be filed with the Treasurer. The requirements of this section may be met by the purchase by the City of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employments of the City. Any officer or employee who is covered by a blanket surety bond need not be bonded individually for the purpose of qualifying for office.

- **Section 4.14. - Giving surety or being agent for surety.**

No officer, agent, or employee of the City shall become surety on the official bond of any City officer, agent, or employee, nor upon any bond or contract executed to or made with the City, nor except for himself or his immediate family, give or furnish any bail or recognizance in connection with any complaint or warrant charging violation of this Charter or of any ordinance of the City. No officer, agent, or employee of the City shall be the agent of any surety or insurer in connection with any license granted by the City or with respect to which the approval of the Council or any officer of the City is required.

- **Section 4.15. - Delivery of office and its effects by officer to his successor.**

Whenever any officer or employee shall resign, or be removed from office, or the term of office for which he has been elected or appointed, has expired, he shall, on demand, deliver to his successor in the office or to his superior, all books, papers, moneys, and effects in his custody as such officer or employee, and which in any way may appertain to his office or employment. Any person violating this provision may be proceeded against in the same manner as public officers generally for a like offense under the general laws of the state, now or hereafter in force and applicable thereto. Every officer and employee of the City shall be deemed an officer within the meaning and provisions of such general laws of the state for the purpose of this section.

- **Section 4.16. - Nepotism.**



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Unless the Council shall by unanimous vote, which vote shall be recorded as part of the official proceedings, determine that the best interests of the City shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or City employment during the term for which said elective or appointive officer was elected or appointed: Spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the City at the time of the election or appointment of said official.

- **CHAPTER 5. - THE COUNCIL**

- **Section 5.1. - City governing body.**

The Mayor and six (6) Councilmen shall constitute the legislative and governing body of the City. They shall be elected from the City at large.

State Law reference— Mandatory that Charter provide for election of a body vested with legislative power, MCL 117.3(a), MSA 5.2073(a).

- **Section 5.2. - Mayor pro tem.**

(a)

At the first meeting of the Council following each City election, the Council shall organize and elect one of its members to the office of Mayor Pro Tem.

(b)

The Mayor shall preside at Council meetings. He shall be the chief executive officer of the City insofar as required by law, and for all ceremonial purposes. He shall be a conservator of the peace, and shall have the powers conferred by law upon sheriffs in times of emergency to suppress disorder, preserve the public peace and health and safety of persons and property. He shall authenticate by his signature such instruments as may require such authentication, under the provisions of law. He shall have an equal voice and vote with other members of the Council on all matters before the Council, but shall not possess the veto power. He shall do all acts required of him by law.

(c)



City of Wayland Charter

The Mayor Pro Tem shall act in the stead of the Mayor in the case of the Mayor's absence or disability to act. He shall succeed to the office of Mayor in the case of a vacancy in that office, thereby creating a vacancy in the office of Mayor Pro Tem. The Council shall fill any vacancy in the office of Mayor Pro Tem, but until such vacancy is filled, the senior member of the Council from the standpoint of continuous service shall act as Mayor Pro Tem. As between persons of equal seniority, the person who received the highest number of votes at the time of his last election shall act.

- **Section 5.3. - Compensation for councilmen.**

The members of the Council shall receive as compensation the sum of five dollars (\$5.00) for each regular or special meeting of the Council attended by him but not to exceed one-hundred and fifty dollars (\$150.00) per annum. The Mayor shall receive as compensation the sum of eight dollars (\$8.00) for each regular or special meeting attended by him but not to exceed two hundred and forty dollars (\$240.00) per annum. Such compensation shall be paid quarterly and except as otherwise provided in this Charter shall constitute the only compensation which may be paid the Mayor and Councilmen for the discharge of any official duty for or on behalf of the City during their tenure of office. The Mayor and Councilmen may be reimbursed for expenses actually incurred by them on City business or in the interest of the City when such reimbursement is approved by the Council. The compensation of the Mayor and the City Council may be changed by resolution of the City Council at least three months preceding any regular City election. This provision shall not operate to change the compensation of an officer after his election in violation of Constitutional provisions.

State Law reference— Mandatory that Charter provide for compensation of its officers, MCL 117.3(d), MSA 5.2073(d).

- **Section 5.4. - Powers, duties, and functions of the council.**

The Council shall determine all matters of policy of the City and adopt ordinances and necessary rules and regulations to make the same effective. Further the Council shall, subject to the limitations of law, raise revenues and make appropriations for the operation of City government, provide for the public peace and health and safety of persons and property, investigate municipal affairs and, when it deems necessary, any office or department of the City, and do and perform all acts required of it by this Charter. In the event of any investigation by the Council, any officer or employee of the City who shall fail or refuse to obey any summons, or to give any evidence pertaining to such investigation, subject to such exceptions as are permitted by law, shall, upon conviction thereof, be guilty of a violation of this Charter.

State Law reference— Mandatory that Charter provide for body vested with legislative power, MCL 117.3(a), MSA 5.2073(a); mandatory that Charter provide for the public peace and health, and for the safety of persons and property, MCL 117.3(j), MSA 5.2073(j); mandatory that Charter provide for



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ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, art. VII, § 22.

- **Section 5.5. - Meetings of the Council.**

(a)

The Council shall provide by ordinance for the time and place of its regular meetings and shall hold at least two meetings in each month.

(b)

Special meetings of the Council may be called by the Clerk on the written request of the Mayor, City Manager, or any three (3) members of the Council on at least six (6) hours written notice to each member of the Council, designating the time, place and purpose of such meetings, and served personally or left at his usual place of residence by the Clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council shall be a legal meeting provided all members are present; or provided all absent members shall in writing waive the above requirements for notice and at which a quorum of the Council is present.

(c)

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice or call of such meeting. If no notice or call of such meeting has been served, and the meeting is legal under the provisions of [Section 5.5\(b\)](#), the Clerk shall state the purpose of the special meeting at the beginning of the meeting and no other business shall be transacted.

(d)

All regular and special meetings of the Council shall be open to the public, and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

(e)

Four members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but, in the absence of a quorum, any number of members less than a quorum may adjourn any regular or special meeting to a later date.

(f)



City of Wayland Charter

The Council shall determine its own rules and order of business, and shall keep a journal in the English language of all of its proceedings, which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be by a "Yes" or "No" vote and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. The people shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(g)

Each Councilman shall be required to attend all meetings of the Council unless excused in accordance with [Sections 4.5](#) [10.095] (e) and (f). The Council may order the attendance of its members and other officers of the City at its meetings in such manner, and may enforce such fines for nonattendance, as may, by ordinance, be prescribed. The refusal of any member of the Council, or other officer of the City to attend such meetings or to conduct himself in an orderly manner thereat shall be deemed a violation of this Charter. The Police Chief shall serve as the sergeant-at-arms of the Council in the enforcement of the provisions of this section.

(h)

Except as otherwise provided in this Charter, a Councilman shall not vote on any question in which he shall have a direct personal financial interest, other than as a citizen of the community, but on all other questions he shall vote, unless excused therefrom by a vote of at least four members of the Council.

State Law reference— Mandatory that Charter provide for keeping of a journal of every session, MCL 117.3(m), MSA 5.2073(m); conflict of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

- **Section 5.6. - Health.**

The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the City by ordinance, the Council shall constitute the board of health of the City, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

- **Section 5.7. - Licenses.**

The Council shall, by ordinance, prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked, and may require and exact payment of such reasonable sums for any license as it may deem proper.



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- **Section 5.8. - Cemetery regulations.**

The Council shall have the power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries, together with improvements thereon and appurtenances thereto, owned or hereafter acquired by the City either within or without its corporate limits. A plan for platting, sale and perpetual care of all lots, plots, and lands therein may be provided. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries may apply equally to all cemeteries within the City belonging to, or under the control of any church or religious society, or any corporation, company or association.

State Law reference— Permissible that Charter provide for cemeteries, MCL 117.4(e), 117.4(f), MSA 5.2078, 5.2079.

- **Section 5.9. - Trusts.**

The Council may, in its discretion, receive and hold any property in trust for park, cemetery, or other municipal purposes. Any trusts now existing for the benefit of the Village of Wayland, or any portion of Wayland Township annexed hereby, shall be continued in full force in accordance with the cy pres doctrine.

- **Section 5.10. - Restrictions on powers of the council.**

(a)

The Council shall not have the power to make any contract with or give any official position to any person who is in default to the City.

(b)

Neither the Council nor any committee or member thereof shall direct or demand the appointment of any person to, his promotion within or to, or his removal from, any office or employment in the City government except those officers directly appointed by the Council. Except for purposes of inquiry authorized by it, the Council, its committees, and its members shall deal with the administrative officers and employees of the City solely through the City Manager concerning matters relating to the performance of their several official duties and employments. No action contrary hereto shall be valid or binding upon the City Manager or any officer or employee of the City. Any violation of the provisions of this paragraph shall constitute a violation of this Charter.

(c)



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Except in those cases where a larger majority is required by law, no ordinance or resolution shall be adopted or passed, nor shall any appointment be made, or any person removed from office as required or permitted by this Charter, except by the affirmative vote of at least four members of the Council.

(d)

There shall be no standing committees of the Council.

- **Section 5.11. - Library board.**

(a)

The Village of Wayland Park Library, as established under the provisions of Act No. 164 of the Public Acts of Michigan of 1877, shall continue to be governed by and under the provisions of said statute; provided, however, that for the purpose of conforming the election of the said Library Board of Directors to the election of the officers of the City of Wayland, and for the purpose of making such election nonpartisan, under the provisions of this Charter, the provisions of Chapters 10 and 16 of this Charter, where applicable, shall be applicable to the election of the said Library Board of Directors.

(b)

This Board shall consist of six (6) Directors, two (2) of whom shall be elected at each annual City election, to hold office for a term of three (3) years, and until their successors are elected and qualified. The members of the Library Board elected to office prior to this Charter acceptance shall continue to serve as members of said Board hereunder, until the end of the term of office for which they were elected and until their successors are elected and qualified in the manner herein provided. The Library Board is empowered to fill any vacancy occurring on said Board by the appointment of a qualified person to hold such office until the next annual election.

- **CHAPTER 6. - CITY LEGISLATION**

- **Section 6.1. - Legislative power.**

The legislative power of the City is vested exclusively in the Council, except as otherwise prohibited by law.



City of Wayland Charter

State Law reference— Mandatory that Charter provide for body vested with legislative power, MCL 117.3(a), MSA 5.2073(a).

- **Section 6.2. - Prior village legislation.**

All valid ordinances, resolutions, rules and regulations of the Village of Wayland which are not inconsistent with this Charter and which are in full force and effect at the time of the effective date of this Charter shall continue in full force and effect, until repealed or amended. Those provisions of any effective valid ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

- **Section 6.3. - Introduction, consideration and style of ordinances.**

(a)

Each proposed ordinance shall be introduced in written form. The style of all ordinances passed by the Council shall be, "The City of Wayland Ordains:"

(b)

Each ordinance, after adoption, shall be identified by number.

(c)

An ordinance or a part of an ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number only.

(d)

If a section of an ordinance is amended the section shall be reenacted and published at length. This requirement shall not apply to the schedules of stop streets, one-way streets, and of parking limitations contained in any traffic ordinance or vehicular traffic regulating portion of the City's ordinance code.

(e)

Each ordinance shall be recorded by the Clerk forthwith in the Ordinance Book, and the enactment of such ordinance and the effective date thereof shall be certified by him therein.

(f)



City of Wayland Charter

The ordinances of the City shall be set forth in code form as soon as practicable after the adoption of this Charter.

(g)

No ordinance shall be finally passed by the Council at the same meeting at which it is introduced.

- **Section 6.4. - Publication of ordinances.**

(a)

Before an ordinance may become operative, it shall be published in at least one newspaper which is of general circulation in the City or as noted in the alternate method provided for in [Section 2.2\(g\)](#) of this Charter. The effective date of an ordinance shall be stated therein, but shall not be less than ten (10) days after publication, unless it is declared by the affirmative vote of not less than five (5) members of the Council to be an emergency ordinance. The publication of an ordinance in full as a part of the published proceedings of the Council shall constitute publication as required herein and take effect upon publication.

(b)

All codes and other ordinance subject matter, which are or may be permitted by law to be adopted by reference, shall be adopted and published in the manner permitted and required by law.

(c)

In the event of the codification of the ordinances, the deposit of a number of copies as provided by law in the office of the Clerk, available for public inspection and sale at cost, shall constitute publication thereof.

State Law reference— Mandatory that Charter provide for publication of all ordinances before they become operative, MCL 117.3(k), MSA 5.2073(k).

- **Section 6.5. - Penalties.**

The Council shall provide in each ordinance for the punishment of violations thereof, but, unless permitted by law, no such punishment, excluding the costs charged, shall exceed a fine of five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both, in the discretion of the Court. Imprisonment for violations of ordinances may be in the City or County jail.

State Law reference— Limitation on penalties, MCL 117.4i(10), MSA 5.2082(10).



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- **Section 6.6. - Initiative and referendum.**

An ordinance may be initiated by the electors of the City and a referendum on an ordinance may be had by them by the submission of a petition therefor as provided in this chapter.

State Law reference— Permissible that Charter provide for initiative and referendum, MCL 117.4i(6), MSA 5.2082(6).

- **Section 6.7. - Initiative and referendary petitions.**

An initiatory or a referendary petition shall be signed by not less than twenty (20) percent of the registered electors of the City as of the last general city or state election. Such petition may be the aggregate of two or more petition papers. Each signer of a petition shall sign his name, and shall place thereon, after his signature, the date and his place of residence by street and number. To each petition paper there will be attached a sworn affidavit by the circulator thereof, stating that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was signed in the presence of the affiant. Such petitions shall be filed with the Clerk who shall, within fifteen days, canvass the signatures thereon to determine the sufficiency thereof. Any signatures obtained more than thirty days before filing of such petition with the Clerk shall not be counted. If found to contain an insufficient number of signatures of registered voters of the City, or to be improper as to form or compliance with the requirements of this section, the Clerk shall notify forthwith the person filing such petition, and ten days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

- **Section 6.8. - Council procedure on initiative or referendary petitions.**

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, either:

(1)

If it be an initiatory petition, adopt the ordinance as submitted in the petition within thirty days after receipt thereof, or determine to submit the proposal to the electors; or

(2)

If it be a referendary petition, repeal the ordinance to which the petition refers within thirty days after receipt thereof or determine to submit the proposal to the electors.



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- **Section 6.9. - Same—Submission to electors.**

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any purpose, or, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of electors voting thereon, except in cases where otherwise required by law.

- **Section 6.10. - Same—Status of ordinance adopted.**

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

- **Section 6.11. - Same—Ordinance suspended.**

The certification by the Clerk of the sufficiency of a referendary petition within forty days after passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question, pending repeal by the Council or the final determination of the electors thereon.

- **Section 6.12. - Recall.**

Any elected official may be recalled from office by the electors of the City in the manner provided by statute. A vacancy created by such recall shall be filled in the manner prescribed by this Charter and by statute.

State Law reference— Permissible that Charter provide for recall of its officers, MCL 117.4i(6), MSA 5.2082(6); recall generally, MCL 168.951 et seq., MSA 6.1951 et seq. See also Mich. Const. 1963, Art. II, § 8.

- **CHAPTER 7. - THE ADMINISTRATIVE SERVICE**



City of Wayland Charter

- **Section 7.1. - City manager.**

(a)

The City Manager shall be the chief administrative officer of the City government, in conformity with the provisions of this Charter. He shall be selected by the Council on the basis of training and ability alone. He shall serve at the pleasure of, and be subject to removal by the Council, but he shall not be removed from office during a period of sixty days following any regular City election except by the affirmative vote of five members of the Council.

(b)

The Council shall appoint a City Manager within ninety days after any vacancy exists in such position or they may appoint an Acting Manager during the period of a vacancy in the office, or the City Manager, with the consent and approval of the Council, may designate an administrative officer or employee of the City to act as City Manager if he is temporarily absent from the City or unable to perform the duties of his office. No person who holds or has held any elective City office shall be eligible for appointment as City Manager or Acting City Manager during a vacancy in that office until two years have elapsed following the expiration of the term for which he was elected.

- **Section 7.2. - City manager; functions and duties.**

The City Manager shall be vested with all administrative powers of the City not inconsistent with the provisions of this Charter. He shall perform the duties of his office under the authority of and be accountable to the Council. It shall be the duty of the City Manager to:

(a)

See that all laws and ordinances are enforced;

(b)

Supervise and coordinate the work of the administrative officers and departments of the City, except as otherwise provided in this Charter, and except the work of the Clerk in keeping the Council records and as the Clerical official of the Council;

(c)

Prepare and administer the annual budget under policies formulated by the Council and he shall keep the Council advised as to the financial condition and needs of the City;



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(d)

Establish and maintain a central purchasing service for the City and he or his authorized representative to be the purchasing agent for the City;

(e)

Subject to any employment ordinance of the City, employ or be responsible for the employment of all City employees, and supervise and coordinate the personnel policies and practices of the City;

(f)

Keep informed and report to the Council concerning the work of the several offices and departments of the City and, to that end, he may secure from the officers and heads of all administrative departments such information and special reports as he or the Council may deem necessary;

(g)

In case of conflict of authority between officers and administrative departments or, in case of absence of administrative authority occasioned by inadequacy of Charter or ordinance provisions, resolve the conflict or supply the necessary authority so far as may be consistent with law and the ordinances of the City, and direct the necessary action to be taken in conformance therewith, making a full report immediately to the Council;

(h)

Attend all meetings of the Council, with the right to be heard in all Council proceedings, but without the right to vote;

(i)

Recommend to the Council, from time to time, such measures as he deems necessary or appropriate for the improvement of the City or its services;

(j)

In a manner not inconsistent with this Charter, prepare and maintain an administrative Code defining the duties and functions of the several offices and departments of the City which, when adopted by the Council, shall supplement this Charter in establishing the duties and functions, as established in this Charter, of each officer and department of the City;



City of Wayland Charter

(k)

Furnish the Council with information concerning City affairs and prepare and submit such reports as may be required or which the Council may request, including an annual report which shall consolidate the reports of the several departments;

(l)

See that the terms and conditions in any public utility franchise, or in any contract, are faithfully kept and performed;

(m)

Possess such other powers and perform such additional duties as may be granted to or required of him, from time to time by the Council, so far as may be consistent with the provisions of law;

(n)

Establish any rules necessary to carry out any of the foregoing duties.

- **Section 7.3. - City clerk.**

(a)

The Clerk shall be the Clerk and Clerical Officer of the Council. He shall attend all meetings of the Council, and shall keep its journal.

(b)

He shall keep a record of all actions of the Council at its regular and special meetings.

(c)

He shall have the power to administer all oaths required by law and by the ordinances of the City.

(d)

He shall be the custodian of the City seal, and shall affix the same to documents required to be sealed. He shall also be custodian of all papers, documents, and records pertaining to the City, the custody of which is not otherwise provided by this Charter.



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(e)

He shall give to the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the City is a part.

(f)

He shall notify the Council of the failure of any officer or employee required to take an oath of office or to furnish any bond required of him.

(g)

He shall certify all ordinances and resolutions adopted by the Council.

(h)

He shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the Council, or by the City Manager.

- **Section 7.4. - Finance officer.**

(a)

The Finance Officer shall be the general accountant of the City, shall keep the books of account of the assets, receipts, and expenditures of the City, and shall keep the Council and City Manager informed as to the financial affairs of the City. The system of accounts of the City shall conform to such uniform systems as may be required by law.

(b)

He shall balance all the books of account of the City at the end of each calendar month, and shall make a report thereon, as soon as practical to the City Manager.

(c)

He shall, upon direction of the City Manager, examine and audit all books of account kept by any official or department of the City.

(d)



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The City Manager shall designate a person to act as a Finance Officer from among the administrative officers of the City. When the Council feels that a separate official is required, they may so designate by ordinance and the official will be an appointment and under the supervision of the City Manager and subject to removal by him.

State Law reference— Mandatory that Charter provide for a system of accounts, MCL 117.3(m), MSA 5.2073(m); uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

- **Section 7.5. - City attorney.**

(a)

The City Attorney shall act as legal advisor of and be responsible to the Council. He shall advise the City Manager concerning legal problems affecting the City administration and any officer or department head of the City in matters relating to his official duties when so requested in writing and shall file with the Clerk a copy of all written opinions given by him.

(b)

He shall prosecute ordinance violations and shall represent the City in cases before the courts and other tribunals.

(c)

He shall prepare or review all ordinances, regulations, contracts, bonds, and such other instruments as may be required by this Charter or by the Council, and shall promptly give his opinion as to the legality thereof.

(d)

Upon request of the Council, he shall attend meetings of the Council.

(e)

He shall defend all officers and employees in all actions arising out of the performance of their official duties.

(f)

He shall perform such other duties as may be prescribed for him by this Charter or the Council.



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(g)

Upon the Attorney's recommendation, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist the City Attorney.

- **Section 7.6. - City treasurer.**

(a)

The Treasurer shall have the custody of all moneys of the City, the Clerk's bond, and all evidences of value or indebtedness belonging to or held in trust by the City.

(b)

He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine, and shall report the same in detail to the City Manager and Finance Officer.

(c)

He shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, and City taxes and moneys as are provided by law.

(d)

He shall perform such other duties in connection with his office as may be required of him by law or the ordinances or resolutions of the Council.

- **Section 7.7. - Assessor.**

(a)

The Assessor shall possess all the powers vested in and shall be charged with the duties imposed upon assessing officers by law.

(b)

He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the City.

(c)



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He shall perform such other duties as may be prescribed by law or the ordinances of the City.

- **Section 7.8. - Compensation of assessor and treasurer.**

The initial compensation of the Assessor and the Treasurer shall each be twelve hundred (\$1200.00) dollars per year payable in installments and at the same time as appointed City Officials. They may be reimbursed for expenses actually incurred by them on City business or in the interest of the City when such reimbursement is approved by the Council. The compensation of the Assessor or the Treasurer may be changed by resolution of the City Council at least three months preceding any regular City election. This provision shall not operate to change their compensation after their election in violation of constitutional provisions.

- **Section 7.9. - Deputy clerk, assessor, or treasurer.**

The Clerk, Assessor, and Treasurer may appoint and remove their deputies, subject to budget allowances therefor and the approval of the City Manager. Each deputy shall possess all powers and authorities of his superior officer.

- **Section 7.10. - City planning.**

The Council shall provide for and maintain a City Planning Commission which shall possess all of the powers and perform the functions of planning commissions as set forth in Act No. 285 of the Public Acts of 1931 as amended. The Citizen members of the planning commission shall be appointed by the Mayor subject to confirmation by the Council. The members of the Commission may receive such compensation and reimbursement for the necessary expenses incurred in connection with their work as may be approved by the City Council. (Am'd. by electors, April 2, 1990)

- **Section 7.11. - Zoning board of appeals.**

The City Council may serve as the Zoning Board of Appeals, or in its discretion a separate Board may be designated and appointed by the Mayor with the approval of the Council. The Board shall have such powers and duties as are authorized by statute.

- **Section 7.12. - Additional administrative powers and duties.**

From time to time, upon recommendation of the City Manager, the Council may, by ordinance, prescribe additional administrative powers and duties or diminish any powers and duties in a manner not inconsistent with this Charter, to be exercised and administered by appropriate officers and departments of the City.



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- **Section 7.13. - Merit system of personnel management.**

The Council may provide by ordinance for a merit system of personnel management for the City.

- **Section 7.14. - Employee benefits.**

The Council shall have the power to make available to the administrative officers and employees of the City and its departments, an actuarial pension plan, and any recognized standard group plan of life, hospital, health, or accident insurance or any one or more thereof.

- **CHAPTER 8. - JUSTICE COURT^[2]**

Footnotes:

--- (2) ---

Editor's note— This chapter has been superseded by MCL 600.9921, MSA 27A.9921, which created the district court system.

- **Section 8.1. - Establishment of court.**

There is hereby established a Justice Court in the City to be presided over by the Justices of the Peace elected in accordance with [Sections 4.1](#) and [4.4](#).

- **Section 8.2. - Justices of the peace.**

There shall be two (2) Justices of the Peace to be elected whose terms of office shall be as provided by statute and this Charter.

- **Section 8.3. - Compensation and bond of the justices.**

The Justices of the Peace shall receive as their compensation the usual fees of this office as provided by statute. The Council may, however, by ordinance, whenever it deems that the best interests of the City will be served thereby, provide that the Justices of the Peace be paid an annual salary.



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Any salary provided shall be in lieu of all fees, costs and charges to which such Justices would be entitled but for the provision of this section, except those for the performance of marriage ceremonies.

The Justices of the Peace before entering upon the duties of their office shall give bonds to the Treasurer of the County of Allegan in such sum as is provided by statute and the City of Wayland in like amount. Such bonds shall be subject to the provisions of [Section 4.13](#).

- **Section 8.4. - Power and jurisdiction; general.**

The Justices of the Peace of the City shall have and exercise therein and within the County the same jurisdiction, powers and duties as are or may be conferred upon or required of Justices of the Peace in townships by statute and shall be subject to such general laws with respect to such Justices, except as otherwise provided in this Charter. They shall have concurrent jurisdiction with other Justices in the County of Allegan as to all crimes, offenses, and misdemeanors when alleged to have been committed within the County of Allegan whether within or without the City of Wayland.

- **Section 8.5. - Jurisdiction in charter and ordinance cases.**

The Justices of the Peace shall have authority to hear, try, and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by this Charter and the ordinances of the City and to punish offenders for the violation of such Charter and ordinances as is prescribed and directed.

- **Section 8.6. - Extended jurisdiction.**

The Justices of the Peace shall also have:

(a)

Jurisdiction to the amount of five hundred dollars (\$500.00) in all civil matters ex contractu and ex delicto with such exceptions and restrictions as are provided by law.

(b)

Such power and authority as can under Public Act 279 of 1909, as amended, be conferred by this Charter to set aside the verdict or judgement in any civil cause and grant a new trial therein, to be exercised in such manner and on such conditions as provided in said act. The filing of a motion for a new trial or to set aside a verdict or judgement shall have such an effect on the time for taking an



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appeal from any judgement and upon the issuance and levy of execution or other similar process and sale thereunder and on other proceedings in said cause as provided in said act.

(c)

Such additional powers and authority as may now or hereafter be conferred upon city Justices of the Peace by statute.

- **Section 8.7. - Procedure in justice court.**

The proceedings in all suits and actions before the Justice and in the exercise of the powers and duties conferred upon and required of the Justice, shall, except as otherwise provided in this Charter, be according to and governed by the statutes applicable to justice courts and to the proceedings before such courts.

- **Section 8.8. - Place and conduct of courts.**

The Council may furnish necessary supplies and a suitable place for the conducting of court by the Justices. It may regulate the hours of court of said Justices and may make other necessary and proper rules and regulations for the conduct of the business of the court which are not inconsistent with this Charter or the statutes.

- **Section 8.9. - Transfer of cases.**

In case of the absence, disability or disqualification of both Justices, any other Justice of the Peace or Municipal Judge of the County of Allegan shall be qualified to act in the place of and for the Justices in the performance of any duties imposed upon him by statute or this Charter.

- **Section 8.10. - Fees, fines and penalties; prosecution of state penal cases.**

All fees and fines, penalties, forfeitures and moneys collected or received by the Justices for any violation of the City Charter or ordinances shall be paid over to the City Treasurer on or before the 1st day of the next month after the collection or receipt thereof; and the Justice shall take the receipt of the Treasurer therefor and file the same with the Clerk. Failure of the Justice to comply with the foregoing provision shall constitute misconduct in office.

If the Justices be paid an annual salary, all fees, and all fines, penalties, forfeitures and moneys collected in City ordinance and Charter cases shall be credited to the general fund of the City.



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All costs and fines recovered for the violations of the penal laws of the State, when collected by the Justices of the Peace, shall be disposed of as provided by statute.

The expenses of prosecution before the Justices for violation of the penal laws of the State, and of punishing the offenders, shall be paid by the County of Allegan.

- **Section 8.11. - Docket.**

The Justices of the Peace shall keep, at the place of holding court, a docket in the manner required by statute. Failure to comply with the requirements of this section shall constitute misconduct in office.

- **Section 8.12. - Constables.**

The City Council may appoint one or more citizens of the City as Constables for a term of one year commencing December 1st of each year. Such Constables shall have like powers and authority in matters of civil and criminal nature, and in the relation of service of process, civil and criminal, as are conferred by law on Constables in townships. They shall have the power also to serve all process issued for breaches of ordinances of the City. The bond of the Constable shall be that required of Constables in townships. A Constable shall receive as compensation the usual fees of the office of Constable usually provided by the general laws of the State, unless the Council, by ordinance, shall otherwise prescribe.

- **Section 8.13. - Violations bureau.**

The Council shall have power and authority as provided by law to establish by ordinance a Violations Bureau within the Court for the handling of such violations of ordinances and regulations of the City, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating any of such ordinances may within the time specified in the notice of such charge answer at the Violations Bureau to the charges set forth in such notice by paying a fine, in writing pleading guilty to the charge, waiving a hearing in court and giving power of attorney to make such a plea and pay such a fine in court. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given a receipt which so states. The creation of such a bureau shall not operate so as to deprive any person of a full and impartial hearing in Court should a person so choose.

- **Section 8.14. - Transfer of justice of peace jurisdiction under state constitution.**



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When a new system for Courts of lower jurisdiction is adopted by statute, as required by Article VI, Section 26 of the State Constitution, the City Council shall have the power to adopt, by ordinance, whatever system of Courts is substituted by statute. Such ordinance shall have the same force and effect as if its provisions were written into this Charter.

The Council shall also have the power to provide for a Municipal Court by ordinance, if in its judgement such a Court is deemed advisable and necessary for the City of Wayland. Such Municipal Court shall have all the powers and jurisdiction as conferred upon it by statute. Should such court be established it shall be presided over by a Municipal Judge who shall be an attorney licensed to practice law in the State of Michigan.

- **CHAPTER 9. - SUPERVISORS^[3]**

Footnotes:

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Editor's note— This chapter has been superseded by state law which provides for election and appointment of members of the board of commissioners, MCL 46.401 et seq., MSA 5.359(1) et seq.

- **Section 9.1. - Number of supervisors.**

The City shall have the maximum number of representatives on the County Board of Supervisors to which it is entitled by law.

- **Section 9.2. - Election of supervisors.**

The representatives of the City on the County Board of Supervisors shall be elected in each odd numbered year to serve for two year terms starting at 8:00 o'clock P.M. on the Monday next following the regular City election at which they were elected. The candidates receiving the highest vote, to the extent of the number of supervisors to which the City is entitled, shall be declared elected. Such representatives shall meet all requirements of [Section 4.4](#) [10.094] of this Charter and may hold no other elective or appointive City office or employment. In case any representative of the City on the County Board of Supervisors shall be unable to perform the duties of his office for any reason, the Council may appoint another qualified person to serve temporarily in his stead.



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Whenever the City is entitled to more than the initial number permitted by statute on the Board of Supervisors, the additional Supervisors shall be appointed by the Council until the next City election for Supervisors.

- **Section 9.3. - Duties of supervisors.**

Except as otherwise provided in this Charter, the representatives of the City on the Board of Supervisors shall perform the statutory duties of Supervisors. In the performance of his duties each Supervisor shall represent the City, its inhabitants and its government to the best of his ability.

- **Section 9.4. - Compensation for supervisors.**

Representatives of the City on the Board of Supervisors shall be entitled to retain any compensation and expense allowance paid to them by the County as members of the Board of Supervisors, but shall receive no extra compensation from the City for their work as Supervisors.

- **CHAPTER 10. - ELECTIONS^[4]**

Footnotes:

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State Law reference— Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that Charter provide for the time, manner and means of holding elections, MCL 117.3(c), MSA 5.2073(c).

- **Section 10.1. - Qualifications of electors.**

The residents of the City having qualifications of electors in the State of Michigan shall be electors of the City.

State Law reference— Qualifications for registration as elector, MCL 168.492, MSA 6.1492.

- **Section 10.2. - Election procedure.**



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The election of all City officers shall be on a nonpartisan basis. The general election statutes shall apply and control all procedures relating to City elections, including: qualifications of electors, establishment of precincts, verification of petitions, registration of voters, and voting hours. The Clerk shall give public notice of each City election in the same manner as is required by law for the giving of public notice of general elections in the State.

State Law reference— Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.; mandatory that Charter provide for registration of electors, MCL 117.3(c), MSA 5.2073(c); registration of electors generally, MCL 168.491 et seq., MSA 6.1491 et seq.

- **Section 10.3. - Precincts.**

The election precincts of the City shall remain as they existed in the Village and Township on the effective date of this Charter including the addition of the annexed territory, until altered by the Council. The City Council shall by ordinance establish convenient election precincts in accordance with this Charter and statutes.

State Law reference— Election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

- **Section 10.4. - Regular city election.**

A nonpartisan regular City election shall be held on the first Monday in April of each year.

State Law reference— Mandatory that Charter provide for election of certain officers, MCL 117.3(a), MSA 5.2073(a).

- **Section 10.5. - Special elections.**

Special elections shall be held when called by resolution of the Council at least forty-nine (49) days in advance of such election, or when required by law. Any resolution calling a special City election shall set forth the purpose of such election.

State Law reference— Special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

- **Section 10.6. - Election commission.**

An Election Commission is hereby created consisting of the City Clerk as Chairman, Chief of Police and one other qualified employee or individual appointed by the Mayor. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by law relating to the conduct of elections in the City. The compensation of the election personnel shall be determined in advance by the Council.



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- **Section 10.7. - Nominations.**

The method of nomination for all candidates for City elections shall be by petitions. Such petitions for each candidate shall be signed by not less than thirty (30) nor more than sixty (60) registered electors of the City. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular City election. Where the signature of any individual appears on more petitions than he is so permitted to sign, the signatures bearing the most recent date shall be invalidated.

Nominating petitions for candidates to be nominated at any regular City election, or to be elected at a special election shall not be circulated more than thirty (30) days prior to the last date for filing, and all such petitions shall be filed with the Clerk before four (4) o'clock in the afternoon on the forty-ninth (49th) day preceding each election.

State Law reference— Mandatory that Charter provide for nomination of elective officers, MCL 117.3(b), MSA 5.2073(b); nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

- **Section 10.8. - Form of petitions.**

The Election Commission shall prepare the form of nominating petitions which shall be substantially the same as that designated for the nomination of state nonpartisan judicial officers. Official petition forms shall be provided and maintained by the City Clerk and no other forms shall be used by candidates for City offices. Before the Clerk shall furnish a nominating petition to any person, he shall enter on each petition form in typewriter or ink the name of the person to be nominated as a candidate and the name of the office for which he is to be a candidate. No petition which has been altered with respect to such entries shall be received by the Clerk for filing.

- **Section 10.9. - Approval of petitions.**

(a)

The Clerk shall accept only nominating petitions which are on forms provided by him and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for respective elective City offices as set forth in this Charter. The Clerk shall receive no nominating petition for any person named thereon as a candidate unless the petition is accompanied by an executed affidavit or other proofs establishing the facts which show the eligibility of such candidate for the office named in the executed affidavit. When a petition is filed by persons other than the person whose name appears thereon as a candidate it may be accepted only when accompanied by the written consent of the candidate.



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Any petition filed in the office of the Clerk which is not accompanied by such executed affidavit or letter of consent or other proofs shall not be valid.

(b)

The Clerk shall, forthwith after the filing of a petition, notify, in writing, any candidate whose petition is then known not to meet the requirements of this section, but the failure to notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within three days after the last date for filing petitions, the Clerk shall make his final determinations as to the validity and sufficiency of each nomination petition and whether the candidate has the qualifications required for his respective elective City office by this Charter and shall write his determinations thereof on the face of the petition.

(c)

The Clerk shall immediately notify, in writing, the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient or who is found not to be qualified shall be delivered by personal messenger or by certified or registered mail. Any candidate whose petition is found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 o'clock P.M. on the fifth day after the last day for filing original petitions; thereafter no further petitions may be filed.

(d)

Withdrawal of a candidate's name from consideration on the ballot must be made in writing and in conformance with the time allowed by statute.

(e)

All nominating petitions filed shall be open to public inspection in the office of the Clerk, except during a five day period immediately following the last day for filing such petitions.

(f)

Provision in regard to filing of petitions ([Section 10.7](#)) and notification of candidates ([Section 10.9](#)(b) and (c)) shall be in accordance with [Section 2.5](#) of this Charter.

- **Section 10.10. - Form of ballot.**



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(a)

The form, printing and number of ballots or the preparation of the voting machines used in any City election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear in regard to City office. In all City elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

(b)

If two or more candidates or nominees for the same office have the same or similar surnames the Election Commission shall print the residence address under the names of each of such candidates or nominees on the ballots (or labels or slips to be placed on voting machines when used), provided, that for any such candidate who is an incumbent of such office, the candidate shall be designated as "Incumbent."

(c)

Except as provided in this section, there shall be no supplementary identification of candidates or nominees on the ballot.

State Law reference— Arrangement of ballot, MCL 168.706, MSA 6.1706.

- **Section 10.11. - Board of canvassers.**

The City Council shall appoint the Board of Canvassers and set their compensation; their qualifications, terms of office, and duties, will be as provided by law.

Editor's note— The board of canvassers is now appointed pursuant to MCL 168.30a et seq., MSA 6.1030(1) et seq.

- **Section 10.12. - Canvass of votes.**

The Board of Canvassers shall meet at the call of the Clerk within two (2) days following each City election, but no later than 10:00 o'clock A.M. on the second day, and shall publicly determine the vote upon all questions and propositions, and shall declare whether the same have been adopted or rejected and which persons have been elected to office and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the City duplicate certificates of the determination of the Board and shall file one certificate with the County Clerk and the other in his own office.



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State Law reference— Canvass of returns, MCL 168.323, MSA 6.1323.

- **Section 10.13. - Tie vote.**

If, at any City election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the City Council shall name a date for the appearance of such persons before said Council one week after said election for the purpose of determining the election of such candidates by lot as provided by statute.

State Law reference— Determination of election by lot, MCL 168.851, 168.852, MSA 6.1851, 6.1852.

- **Section 10.14. - Recount.**

A recount of the votes cast at any City election for any office or upon any proposition may be held in accordance with election statutes.

State Law reference— Recounts, MCL 168.861 et seq., MSA 6.1861 et seq.

- **CHAPTER 11. - GENERAL FINANCE**

- **Section 11.1. - Fiscal year.**

The fiscal and budget year of the City and all of its agencies shall begin on the first day of July of each year.

State Law reference— Uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

- **Section 11.2. - Budget procedure.**

On or before the second Monday in March of each year, each officer, department and Board of the City, shall submit to the City Manager an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The City Manager shall compile and review such budget requests and shall then prepare his budgetary recommendations and submit them to the Council at its meeting nearest the third Monday in April of each year.

- **Section 11.3. - Budget document.**



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The budget document shall present a complete financial plan for the ensuing year. It shall include at least the following information:

(1)

A brief and concise budget summary, showing the estimated receipts and expenditures of each fund and the total of all funds.

(2)

A statement of the detailed estimates of all proposed expenditures for each fund, itemized for each department and activity by objects of expenditure showing, in parallel columns, the expenditures for the preceding year, the appropriation and expenditures for the current year, and the recommendations of the City Manager as to the appropriations to be made for the ensuing year, including any appropriation for contingencies. Expenditures for the current year shall be computed as the actual expenditures to the last day of February, or the last day of the month preceding this for which he has a financial statement available, plus the estimated expenditures from that date to the end of the current fiscal year.

(3)

Detailed statements of estimates of all anticipated income of the City from taxes and sources other than current taxes and borrowing, compared with the amounts received by the City from each of the same or similar sources for the last preceding year and for the current year.

(4)

A statement of the estimated financial condition of each City fund reflecting the estimated surplus or deficit in each such fund and showing all the transfers made from each such fund.

(5)

A statement of the bonded or other indebtedness of the City showing the amount required in the ensuing year for retirement on the debt and necessary interest requirements.

(6)

A statement of outstanding delinquent taxes and delinquent special assessments which have been levied during the current and preceding fiscal years of the City and a reasonable estimate of the amount expected to be collected during the next fiscal year of the City.



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(7)

An estimate of the amount of money proposed to be raised by taxation and the amount to be raised from bond issues which together with the estimated income from other sources will be necessary to meet the proposed expenditures.

(8)

Such other information as may be required by the Council.

- **Section 11.4. - Budget hearing.**

A public hearing on the budget proposal shall be held before its final adoption. Notice of the time and place of holding such hearing shall be published by the Clerk at least ten days in advance thereof. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the Clerk for a period of not less than one week prior to such public hearings.

- **Section 11.5. - Adoption of the budget.**

(a)

At a meeting held not later than the second regular meeting in May, the Council shall by resolution, adopt a budget for the next fiscal year and make appropriation of the money needed therefor. Such resolution shall designate the sum to be raised by taxation for the general purposes of the City and for the payments of principal and interest on its indebtedness. Failure to adopt such resolution within the time herein set shall not invalidate either the budget or the tax levy therefor.

(b)

Should the Council fail to adopt a budget for the next fiscal year on or before the first Monday in June, the budget proposal as recommended to the Council by the City Manager shall be deemed to have been finally adopted by the Council and, without further action by the Council shall constitute an appropriation of the money needed for municipal purposes during the next fiscal year. It shall be deemed due and legal authority for a levy of the amount necessary to be raised by taxes upon real and personal property subject to the provisions of [Section 12.1](#). If any budget adopted in this manner requires an amount to be raised by taxes upon property in excess of the limitation provided in [Section 12.1](#), the budget and appropriations and each item thereof shall be adjusted by the City Manager to conform to such limitations.

State Law reference— Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073(h).



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- **Section 11.6. - Budget control.**

(a)

Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the City except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council, by resolution, may transfer any unencumbered appropriation balance, or any portion thereof, from one account department, fund, or agency to another. Transfer of the unencumbered balance of any bond issue must be made in accordance with law.

(b)

The Council may make additional appropriations during the fiscal year for unanticipated expenditures required by the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety, in accordance with powers authorized in [Section 11.9\(c\)](#) of this Charter.

(c)

Except in those cases where there is no other logical account to which an expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation for the contingency fund (or other similar fund) shall be transferred to the logical account, and the expenditure then charged to such account.

(d)

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

(e)

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall, subject to restrictions imposed or permitted by law, revert to the general fund.



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- **Section 11.7. - Collection and deposit of moneys.**

The Council shall designate the depository or depositories of City funds, and shall provide for the regular deposit of all City moneys. The Council shall provide for such security for City deposits as is authorized or permitted by law, except that personal surety bonds shall not be deemed proper security.

State Law reference— Designation of depositories, MCL 129.12, MSA 3.752; deposit of public moneys, MCL 211.43b, MSA 7.86.

- **Section 11.8. - Independent audit: annual report.**

An independent audit shall be made of all accounts of the City Government at least annually and more frequently if deemed necessary by the Council. Such audits shall be made by a qualified public accountant experienced in municipal accounting selected by the Council. An annual report of the City business shall be made available for distribution to the public by the City Manager in such printed form as will disclose pertinent facts concerning the activities and finances of the City government. The Council shall provide the funds to defray the cost of the annual audit and report herein required in each annual budget of the City.

- **Section 11.9. - Municipal bonding power.**

Subject to the applicable provisions of law, the Council may, by ordinance or resolution, authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidence of indebtedness therefor. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

(a)

General obligation bonds which pledge the full faith, credit, and resources of the City for the payment of such obligations;

(b)

Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in [Section 11.6](#);



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(c)

In case of fire, flood, or other calamity, emergency loans due in not more than five years for the relief of inhabitants of the City and for the preservation of municipal property;

(d)

Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments; such special assessment bonds may be an obligation of the special assessment district or districts alone, or may be both an obligation of the special assessment district or districts and a general obligation of the City;

(e)

Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the City is authorized by this Charter to acquire or operate;

(f)

Bonds for the refunding of the funded indebtedness of the City;

(g)

Revenue bonds as authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the City;

(h)

Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the State which the City may be permitted by law to pledge for the payment of the principal and interest thereof.

State Law reference— City authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1), MSA 5.2074(1).

- **Section 11.10. - Limits of borrowing powers.**

(a)



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The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum percentage permitted by statute, provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections of the Charter: [11.9\(b\)](#) (tax anticipation notes), [11.9\(d\)](#) (special assessment bonds even though they are a general obligation of the City), [11.9\(e\)](#) (mortgage bonds), [11.9\(g\)](#) (revenue bonds), [11.9\(h\)](#) (bonds in anticipation of State returned revenues), and any other obligations excluded by law from such limitation. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

(b)

The amount of emergency loans which may be made under the provisions of [Section 11.9\(c\)](#) may not exceed the maximum amount permitted by law, and such loan may be made even if it causes the indebtedness of the City to exceed the limit of the net indebtedness fixed in this Charter.

(c)

No bonds shall be sold to obtain funds for any purpose, other than that for which they were specifically authorized, and if such bonds are not sold within three years after authorization such authorization shall be null and void.

(d)

The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such issues, filing of petitions for a referendum on such issuance, holding of such referendum, and other applicable procedural requirements.

State Law reference— Limitation of net bonded indebtedness incurred for all public purposes, MCL 117.4a(1), MSA 5.2074(1).

- **Section 11.11. - Preparation and record of bonds.**

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this Charter, except that, whenever the proceeds of any bond issue or part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may authorize the use of said funds for the retirement of bonds of such issue or for any other purpose and in such manner as permitted by law. All bonds or other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Clerk, under



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the seal of the City. Interest coupons may be executed with the facsimile signature of the Mayor and the Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

State Law reference— Cremation or disintegration of public obligations, MCL 129.121 et seq., MSA 3.996(1) et seq.

- **Section 11.12. - Deferred payment contracts.**

The City may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than ten (10) years nor shall the total amounts of principal payable under all such contracts exceed a sum and manner permitted by law.

All such deferred payments shall be included in the budget for the year in which the installment is payable.

- **CHAPTER 12. - TAXATION^[5]**

Footnotes:

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State Law reference— General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

- **Section 12.1. - Power to tax—Tax limit.**

The City shall have the power to assess taxes and levy and collect rents, tolls, and excises. The annual ad valorem tax levy shall not exceed two percent of the assessed value of all real and personal property subject to taxation in the city.

State Law reference— Mandatory that Charter provide for annually levying and collecting taxes, MCL 117.3(g), MSA 5.2073(g).

- **Section 12.2. - Subjects of taxation.**



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The subjects of ad valorem taxation shall be the same for municipal purposes as for state, county, and school purposes under the general law. Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by statute.

State Law reference— Mandatory that Charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under general law, MCL 117.3(f), MSA 5.2073(f); property subject to taxation, MCL 211.1 et seq., MSA 7.1 et seq.

- **Section 12.3. - Exemptions.**

No exemptions from taxation shall be allowed except as expressly required or permitted by law.

State Law reference— Property exempt from taxation, MCL 211.7 et seq., MSA 7.7 et seq.

- **Section 12.4. - Tax day.**

Subject to the exceptions provided or permitted by law, the taxable status of persons and property shall be determined as of the thirty-first day of December, or such other date as may subsequently be required by law, which shall be deemed the tax day.

State Law reference— Designation of tax day, MCL 211.2, MSA 7.2; time, place and method of assessment, MCL 211.10 et seq., MSA 7.10 et seq.

- **Section 12.5. - Preparation of the assessment roll.**

(a)

On or before the first Monday in March in each year, the Assessor shall prepare and certify an assessment roll of all property in the City. Such roll shall be prepared as required by the general property tax act. Values shall be estimated according to recognized methods of systematic assessment.

(b)

On or before the first Monday in March the Assessor shall give, by first class mail, a notice of any change from the previous year in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

State Law reference— Mandatory that Charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073(i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.



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- **Section 12.6. - Board of review.**

(a)

A Board of Review is hereby created, composed of three freeholders of the City who have the qualifications of holding elective City office, as set forth in [Section 4.4](#) of this Charter, and who, during their term of office, shall not be city officers or employees or be nominees or candidates for elective City office. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation.

(b)

The members of the Board of Review shall be appointed by the Council, and may be removed for reasons of nonfeasance or misfeasance by the vote of five members of the Council. The first members shall be appointed within thirty (30) days after the effective date of this Charter for terms expiring on January 1, 1967, 1968, and 1969. Thereafter, one member shall be appointed in the month of December of each year, for a term of three years, commencing on the following January first. The Council shall fix the compensation of the members of the Board.

(c)

The Board shall, annually, on the first day of its meeting, select one of its members chairman for the ensuing year. The Assessor shall be Clerk of the Board, and shall be entitled to be heard at its sessions, but shall have no vote on any proposition or question. A majority of the members of the Board shall constitute a quorum.

State Law reference— Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a).

- **Section 12.7. - Duties and functions of the board of review.**

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are conferred by law upon and required of boards of review in townships, except as otherwise provided in this Charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and, if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after that day shall be considered by the Board in making its decisions. Except as otherwise provided by law no person, other than the Board of Review, shall make or authorize any change upon, or addition or corrections to, the assessment



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roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings of the Board and to enter therein all resolutions and decisions of the Board.

- **Section 12.8. - Meetings of the board of review.**

(a)

The Board of Review shall convene in its first session as provided by state law each year at such time of day and place as shall be designated by the Council and shall remain in session for at least six hours, two (2) of which shall be evening hours, for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over and decreased from the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing or decreasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owner as shown by such roll, by first class mail, mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place, and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

(b)

The Board of Review shall convene in its second session as provided by state law each year at such time of day and place as shall be designated by the Council and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than four hours. At the second session, the Board may not increase or decrease any assessment or add any property to the rolls, except in those cases in which the Board resolves at its first session to consider such increase or decrease or addition at its second session.

State Law reference— Mandatory that Charter provide for meeting of board of review, MCL 117.3(i), MSA 5.2073(i).

- **Section 12.9. - Notice of meetings.**

Notice of the time and place of the annual meetings of the Board of Review shall be published by the Assessor not less than one week prior to each session of the Board.

- **Section 12.10. - Certification of roll.**

After the Board of Review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the



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effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

State Law reference— Completion of review of assessments prior to first Monday in April required, MCL 211.30a, MSA 7.30(1).

- **Section 12.11. - Clerk to certify tax levy.**

Within three days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed, or charged upon the said roll against any property or any person in accordance with the provisions of this Charter or any ordinance of the City.

- **Section 12.12. - City tax roll.**

After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll," and upon receiving the certification of the several amounts to be raised, as provided in [Section 12.11](#), the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed, or reassessed against persons or property. He shall also spread thereon the amounts of the general ad valorem City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the City.

State Law reference— Avoidance of fractions, MCL 211.39, MSA 7.80.

- **Section 12.13. - Tax roll certified for collections.**

After spreading the taxes the Assessor shall certify the tax roll and attach his warrant thereto directing and requiring the Treasurer to collect prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to him, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before June first the roll shall be delivered to the Treasurer for collection.

State Law reference— Collection of taxes, MCL 211.44 et seq., MSA 7.87 et seq.



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- **Section 12.14. - Tax lien on property.**

On July first the taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property, for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances, and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

- **Section 12.15. - Tax payment due: Notification thereof.**

(a)

City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes, but he shall (1) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof, and (2) mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed.

(b)

Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late payment or nonpayment of the same.

- **Section 12.16. - Collection charges on late payment of taxes.**

No penalty shall be charged for city taxes paid on or before the 1st day of August. The Council shall provide, by Ordinance, the tax payment schedule for city taxes paid after the 1st day of August, and the amount of penalty, collection fee, or interest charges to be added thereafter. Such charges shall belong to the City and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added.

- **Section 12.17. - Failure or refusal to pay personal property tax.**

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt.



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He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm or corporation to whom it is assessed.

State Law reference— Failure or refusal to pay tax, MCL 211.47, MSA 7.91.

- **Section 12.18. - Collection of delinquent taxes.**

All City taxes on real property remaining uncollected by the Treasurer on the first day of March following the date when said roll was received by him shall be returned to the County Treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and county taxes, and shall be declared delinquent as of March first of each year. Such returns shall include all the additional assessments, charges and fees hereinbefore provided which shall be added to the amount assessed in said tax roll against each property or person. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the Treasurer of the County of Allegan is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner provided by statute for the collection of delinquent township, school and county taxes.

State Law reference— Return of delinquent taxes, MCL 211.55 et seq., MSA 7.99 et seq.

- **Section 12.19. - State, county and school taxes.**

For the purpose of assessing and collecting taxes for state, county, and school purposes, the City shall be considered the same as a township, and all provisions of law relative to the collection of and accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as are granted and imposed upon township treasurers by law.

State Law reference— Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i).

- **CHAPTER 13. - SPECIAL ASSESSMENTS^[6]**

Footnotes:



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State Law reference— Power re assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084; notices and hearings, MCL 211.741 et seq., MSA 5.3534(1) et seq., deferment for older persons, MCL 211.761 et seq., MSA 5.3536(1) et seq.

- **Section 13.1. - General powers relative to special assessments.**

The Council shall have the power to provide for assessing and reassessing the costs, or any portion thereof, of public improvement to a special assessment district and to determine, by resolution, with or without a petition that the whole or any part of the expense of any public improvement be defrayed by special assessment upon the property especially benefited in proportion to the benefits derived or to be derived.

The Council shall, in the exercise of its powers of financing the whole or a part of the cost of public improvements by special assessments upon districts benefited thereby, have power to provide for the following, but this list shall not be exclusive:

(a)

Install and connect sewers and water supply facilities on and to property within the City and finance the same in whole or in part by special assessments;

(b)

Construct, establish and extend facilities for the storage and parking of vehicles within its corporate limits as a public improvement, and finance the same in whole or in part by special assessments;

(c)

Establish, construct and extend street improvements and facilities including constructing, grading and widening and, but not limited to, the paving of streets, alleys, curbs, and gutters, storm sewers, sanitary sewers and water mains, and constructing and maintaining sidewalks;

(d)

Provide for the assessment of single lots when any expenditure is made on any separate or single lot, parcel of land, or lands, or premises, which the City is authorized to charge and collect as a special assessment against the same;

(e)



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Provide for the assessment of the cost of construction, removal, or abatement of any condition which the Council determines to be a public hazard or nuisance which is dangerous to the health, safety or welfare of the inhabitants of the City;

(f)

For installing a boulevard lighting system on any street as a public improvement;

(g)

All real property, including such as is exempt from taxation by law, shall be liable for the cost of public improvements benefiting such property, unless specifically exempted from special assessments by law.

State Law reference— Permissible that Charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

- **Section 13.2. - Detailed procedure to be fixed by ordinance.**

(a)

The Council shall prescribe, by ordinance, the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in special assessment rolls, the number of installments in which special assessments may be paid, collection of assessments, refunds of excess moneys, and any other matters concerning the making and financing of improvements by the special assessment method.

(b)

Such ordinance shall be subject to the following provisions:

(1)

No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be adopted by the Council, until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding;

(2)



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No special assessment roll shall be finally confirmed, until after a meeting of the Council has been held for the purpose of reviewing such roll;

(3)

Ten days notice of each meeting of the Council for a public hearing on the advisability of proceeding with any public improvement and to review any special assessment roll shall be given prior to the date and time of such meeting, which notice shall be published and sent to all property owners in the proposed district, as shown by the current assessment roll of the City, by first class mail;

(4)

If, prior to the public hearing on the advisability of proceeding with the making of the improvement, written objections to the proposed improvement have been filed by the owners of property in the district which will be required to bear more than fifty per cent of the amount of such special assessment, the resolution determining to proceed with the improvement shall be adopted only by the affirmative vote of five or more members of the Council.

Editor's note— See Code of Ordinances, Chapter 15.

- **Section 13.3. - Additional assessments: correction of invalid special assessments.**

(a)

Additional pro rata assessments to defray the cost of any public improvement may be made when any special assessment roll and/or the proceeds of sale of special assessment bonds issued in anticipation thereof proves insufficient to pay for the improvement for which it was levied and the expenses incidental thereto, or to pay the principal and interest on bonds or other evidence of obligation issued therefor; provided, that the additional pro rata assessment shall not exceed fifteen per cent of the assessment as originally confirmed, unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of the review of the original special assessment roll.

(b)

Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for



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the original assessment, except respecting the correction of the proceedings for the purpose of making the proceedings legal. Whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or, if the payments exceed the amount of the reassessment, refunds shall be made.

(c)

No judgement or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceedings might have been lawfully assessed thereupon.

- **Section 13.4. - Disposition of excess special assessments.**

The excess by which any special assessment proves larger than the actual cost of the improvement and expense incidental thereto may be placed in the general fund of the City if such excess is five per cent or less of the assessment. If the assessment should prove larger than necessary by more than five per cent, the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current assessment roll of the City. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

- **Section 13.5. - Contested assessments: Limitations on suits and actions.**

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment: (a) unless, within thirty days after the confirmation of the special assessment roll, written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal; and (b) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

- **Section 13.6. - Special assessment accounts.**

Except as otherwise provided in this Charter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto and to repay any money borrowed therefor.

- **Section 13.7. - Failure to receive notice.**



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Failure to receive any notice required to be sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

- **Section 13.8. - Deferred payment of special assessments.**

The Council at a date no later than confirmation of the roll may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and Assessor, by reason of poverty, are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of such deferred payments, the City shall require mortgage security on the real property of the beneficiary, payable upon his death.

- **Section 13.9. - Special assessments a lien on property.**

Upon confirmation of each special assessment roll, the special assessments thereon shall become a debt to the City from the persons to whom they are assessed and, until paid, shall be a lien upon the property assessed for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as created by this Charter for City taxes.

The Council may provide by ordinance for fees, penalties or interest for late payments or nonpayment of special assessments, which fees, penalties and interest shall be a lien and shall be collected as are penalties charged on City taxes. The Council may provide that delinquent special assessments be placed upon the tax roll, together with any accrued fees, penalties and interest thereon to be collected in all respects as are city taxes and may make such other provision for the enforcement of the lien created by such special assessment.

- **Section 13.10. - Hazards and nuisances.**

When any lot, building, or structure within the City, because of age or dilapidation, the accumulation of refuse or debris, the uncontrolled growing of noxious weeds, or because of any other condition or happening becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health, safety, or welfare of the inhabitants of the City, or of those residing or habitually going near such lot, building, or structure, the Council may, after investigation, give notice to the owner or owners of the land upon which such nuisance exists, or to the owner or occupant of the building or structure itself, by posting notice upon the premises, by publication, by personal service, or by registered or certified mail addressed to the address set forth in the current assessment roll of the City, or the records of the Assessor, specifying the nature of the nuisance and requiring such owner or occupant to alter, repair, tear down, abate, or remove the nuisance within a time to be specified by the Council which shall be commensurate with the nature of the nuisance. If, at the expiration of



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the time limit in said notice, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known or cannot be found, the Council may order such hazard or nuisance abated by the proper department or agency of the City which is qualified to do the work required, or may do the work by contract or by hire, and the cost of such abatement may be assessed against the lot, premises, or description of real property upon which such hazard or nuisance is located, by special assessment.

- **CHAPTER 14. - CONTRACTS**

- **Section 14.1. - Contracting authority of Council.**

(a)

The power to authorize the making of contracts on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of the law.

(b)

All contracts, except as otherwise provided by ordinance in accordance with the provisions of [Section 14.2](#) hereof, shall be authorized by the Council and shall be signed on behalf of the City by the Mayor and the Clerk.

- **Section 14.2. - Purchase and sale of personal property.**

The Council shall establish, by ordinance, the procedures for the purchase and sale of personal property for the City, for the direction of the City Manager. The ordinance shall provide the dollar limit within which purchase of personal property may be made without the necessity of securing competitive bids, and the dollar limit within which purchases may be made without the necessity of prior Council approval. No purchase of personal property shall be made unless a sufficient unencumbered appropriation balance is available therefor.

- **Section 14.3. - Limitations on contractual power.**

(a)

The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten years as permitted by law, unless such contracts shall first receive the approval of a majority of the qualified electors voting thereon at a regular or special election.



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This qualification shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the City by law.

(b)

The City shall not have power to purchase, sell, or dispose of any real estate unless:

(1)

In case of sale, there shall be at least two published advertisements for bids prior to adoption of a resolution for sale or disposal;

(2)

Such action is approved by the affirmative vote of five or more members of the Council, and unless;

(3)

In the case of real estate owned by it, the resolution authorizing the sale, lease, or disposal thereof shall be completed in the manner in which it is finally passed and has remained on file with the Clerk for public inspection for twenty days before the final adoption or passage thereof.

(c)

Except as provided by ordinance authorized by [Section 14.3](#) of this chapter, each contract for construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public by the City Manager or his authorized representative at the time designated in the notice of letting and shall be reported by him to the Council at its next meeting. The Council may reject any or all bids, if deemed advisable. If, after ample opportunity for competitive bidding, no bids are received or such bids as were received were not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or authorize the City Manager or other proper official of the City to negotiate for a contract on the open market.

(d)

All contracts shall be in accordance with [Sections 4.11](#) and [5.10\(a\)](#) of this Charter.

- **Section 14.4. - Licenses and franchises remain in effect.**



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All licenses and franchises granted by the Village of Wayland and in force within the City when this Charter becomes law, shall remain in full force and effect until the expiration of the time for which they were respectively granted.

- **CHAPTER 15. - UTILITY FRANCHISES AND MUNICIPAL OWNERSHIP^[7]**

Footnotes:

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State Law reference— Mandates relative to public utilities, Mich. Const. 1963, Art. VIII, §§ 24, 25; permissible that Charter provide for operation of utilities, MCL 117.4c, 117.4f, MSA 5.2076, 5.2079.

- **Section 15.1. - General powers respecting utilities.**

The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, transportation, and garbage and rubbish disposal facilities, or any of them, to the municipality and its inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits as authorized by law.

- **Section 15.2. - Management of municipal utilities.**

All municipally owned or operated utilities shall be administered as a regular department of the City government, under the management and supervision of the City Manager.

- **Section 15.3. - Rates.**

(a)

The Council shall have the power to fix, from time to time, such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the City and others with such public utility services as the City may provide. There shall be no discrimination in such rates within



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any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the City.

(b)

The rates and charges for any municipal public utility shall be so fixed as to at least meet all the costs of such utility including depreciation.

(c)

Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other City departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

- **Section 15.4. - Collection of municipal utility rates and charges.**

(a)

The Council shall provide by ordinance for the collection of all public utility rates and charges of the City, and for such purpose shall have all the power granted to cities by statute.

(b)

That, except as otherwise provided by law, the City shall have as security for collection of charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service and shall be enforced in the manner provided in such ordinance.

(c)

The ordinance shall specify the terms and conditions under which utility services may be discontinued in case of delinquency in paying of such rates and charges, and, that suit may be instituted by the City before a competent tribunal for the collection of such rates and charges.

- **Section 15.5. - Disposal of utility plants and property.**

Unless approved by the affirmative vote of a majority of the electors voting thereon at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property,



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easements, equipment, privilege, or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect as against the City. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any City owned public utility which are worn out or useless or which have been, or could with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. The provisions of this section shall not extend to vacation or abandonment of streets as provided by law.

- **Section 15.6. - Public utility franchises.**

(a)

Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted only by ordinance. No franchise shall be granted for a longer period than thirty years.

(b)

No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after application therefor has been filed with the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all the terms of such franchise. No special election for such purpose shall be ordered, unless the expense of holding such election, as determined by the Council, shall have been first paid to the Treasurer by the grantee.

(c)

A franchise ordinance, or renewal or extension thereof, or amendment thereto, which is subject to revocation at the will of the Council may be enacted by the Council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the Clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.

State Law reference— Franchises limited to thirty years, Mich. Const. 1963, Art. VII, § 30; submittal to electors required if irrevocable, Mich. Const. 1963, Art. VII, § 25; expenses of special election to be paid by grantee, MCL 117.5(i), MSA 5.2084(i).



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- **Section 15.7. - Conditions of public utility franchises.**

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the City, but this enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision within the power of the City to impose or require:

(a)

To repeal the same for misuse, nonuse, or failure to comply with the provisions thereof;

(b)

To require adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

(c)

To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(d)

To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(e)

To use, control, and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;

(f)

To impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

- **Section 15.8. - Use of public places by utilities.**

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and other public places as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use. Every such



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public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, and other public places of the City by the City and by other public utilities insofar as such joint use may be reasonably practical and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

State Law reference— Permissible that Charter provide for use of public places by public utilities, MCL 117.4h(2), MSA 5.2081(2).

- **Section 15.9. - Rates for franchised utilities.**

The rates charged by public utilities under the supervision of state regulatory agencies shall be fixed by such agency. The rates not preempted by the state for public utilities shall be set, after public hearing, by the City Council.

- **Section 15.10. - Sale and assignment of franchises.**

The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the Council consents. Nothing in this Section shall limit the right of the grantee of any public utility franchise to mortgage its property or franchise nor shall this restrict the right of the purchaser, upon foreclosure sale, to operate the same, except that such mortgagee or purchaser shall be subject to the terms of the franchise and provisions of this Charter.

- **CHAPTER 16. - SCHEDULE**

- **Section 16.1. - Purpose and status of schedule chapter.**

The purpose of this chapter is to inaugurate the government of the City of Wayland under this Charter and to provide for the transition from the former governments of the Village of Wayland and the Township of Wayland to the new city status under this Charter. It shall constitute a part of the Charter of the City of Wayland only to the extent and for the time required to accomplish that end.

- **Section 16.2. - Election to adopt charter.**

This Charter shall be submitted to a vote of the qualified electors of the territory comprising the proposed City of Wayland at an election to be held on Monday, January 17, 1966 between the hours



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of 7:00 o'clock A.M. and 8:00 o'clock P.M. All provisions for such election shall be held in the manner provided by law, except as in this Charter provided. Proper and sufficient notice of such election and of the registration therefor shall be given by the Secretary of the Charter Commission as provided by law. If, at such election, a majority of the qualified electors of the proposed City, voting on the issue, vote in favor of the adoption of this Charter, the Secretary of the Charter Commission shall do and perform all other acts which are required by law to carry this Charter into effect and to consummate the incorporation of the City.

The election shall be conducted by the officers of the Township of Wayland charged with the conduct and supervision of elections following usual election procedure.

- **Section 16.3. - Form of ballot.**

The form of the ballot for the submission of this Charter shall be as follows:

Instructions: A cross (X) in the square before the word "Yes" is in favor of the proposed Charter, and a cross (X) in the square before the word "No" is against the proposed Charter.

Shall the proposed Charter of the City of Wayland which was drafted by the Charter Commission elected May 18, 1965, be adopted?

() Yes

() No

- **Section 16.4. - Election of officers.**

(a)

At the election upon the adoption of this Charter, the first elective officers of the City under this Charter shall be elected, viz: a Mayor and six (6) councilmen and two (2) Justices of the Peace to be elected from the City at large. The three councilmen receiving the highest number of votes shall hold office beginning on the effective date of this Charter and extending to the Monday next following the regular City election on the first Monday in April, 1968. The next three candidates for councilmen having the highest number of votes shall have terms beginning on the effective date of this Charter and extending until the Monday election on the first Monday in April, 1967. The two candidates for the County Board of Supervisors having the highest number of votes shall be declared elected Supervisors on the effective date of this Charter and extending until the Monday following the regular City election on the first Monday in April, 1967. The Mayors, Assessors and Treasurers terms



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of office shall begin on the effective date of this Charter and extend to the Monday next following the regular City election on the first Monday in April, 1968. The Justices of the Peace terms of office will commence on the effective date of this Charter and each shall hold office until the election, qualification and assumption on July 4, 1970 of his successor, following the regular City election held in 1970. The two candidates having the highest number of votes shall be declared elected as Justices. Thereafter, the successors of all such officers shall be elected at the regular City elections provided by this Charter, and shall hold office for the terms established thereby.

The nomination and election of such first elective officers shall be nonpartisan, and no primary shall be held in connection therewith.

(b)

Candidates for such offices shall be nominated by the filing of petitions signed by not less than thirty (30) nor more than sixty (60) of the qualified and registered electors of the territory comprising the proposed City of Wayland, and filed with the Secretary of the Charter Commission not later than four (4:00) o'clock P.M. Eastern Standard Time on Monday, July 25, 1966, at the office of the Township Clerk of Wayland Township. The Township Clerk shall publish notice of the last day and time for filing such nomination petition which notice shall be published in the Wayland Globe on or before July 13, 1966. Such petitions shall be in the form designated by the Secretary of State for the use in the nomination of nonpartisan judicial officers. The manner of approval of nomination petitions and those who qualify to sign shall be in general as outlined in [Section 10.7](#) through [10.9](#), inclusive, of this Charter.

(c)

The Wayland Township Clerk shall conduct the election, shall appoint and supervise the Election Inspectors for the election and shall perform the duties required by law respecting such election. The District Board of Canvassers shall canvass the votes cast at said election.

(d)

Monday, the 15th Day of August, 1966 shall be the last day of registration for such election. The Clerk of Wayland Township will act as registrar for the purpose of registering the electors of the proposed City for the special election to be held on September 12, 1966. Those persons presently registered in Wayland Township in the area proposed for incorporation into the new City will be eligible to vote without further registration if their registrations are in order under the law.

- **Section 16.5. - Form of ballot for city officers.**



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At the election held for the first City officers, the names of several candidates for such offices shall be placed on ballots containing no party designation with respect to the candidate and in the following order: Candidates for the office of Mayor, candidates for the office of Councilman, candidates for the office of Treasurer, Assessor and Supervisors, in that order, and candidates for the office of Justice of the Peace. The names of candidates on such ballot shall be rotated so that the name of each candidate for an office will head the list of names of candidates for that office approximately an equal number of times.

- **Section 16.6. - Voting at charter election.**

Each person voting at the election of the adoption of this Charter may, in addition to voting on the adoption of this Charter, vote for a Mayor, six Councilmen, a Treasurer, an Assessor, two Supervisors, and two Justices of the Peace.

- **Section 16.7. - Canvass of votes.**

(a)

The Charter Commission shall appoint a District Board of Canvassers under the provisions of the Michigan election laws who shall meet at 4:00 o'clock P.M. at the Village Hall on the Thursday next following the election on the adoption of this Charter, and canvass the votes cast at such election.

(b)

The Board of Canvassers shall also canvass the votes cast for the several first city officers. Should this Charter be adopted those declared to be elected and their terms of office shall be as specified in [Section 16.4](#) of this Schedule. In any event both the canvass of votes on the adoption of this Charter and the votes on city officers shall be canvassed and reported to the proper officials. The duties and tenure of office of the District Board of Canvassers shall terminate with the election scheduled herein.

- **Section 16.8. - Effective date of charter.**

If the canvass of votes upon the adoption of this Charter shows it to have been adopted, it shall take effect and become law as the Charter of the City of Wayland for all purposes on Saturday, October 1st, 1966, at 12:01 o'clock A.M. at which time the control of the officers of the Village of Wayland and the Township of Wayland over any of that part of the new City shall cease and be superceded by that of the officers of the City of Wayland.

- **Section 16.9. - First meeting of city officers.**



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On or before the effective date of this Charter, each person who is elected to an office of the City shall appear before the Clerk of the Village of Wayland and take and subscribe to his oath of office. The officer receiving such oath shall file the subscribed copy of such oath with the City Clerk within ten days after the effective date of the Charter. The first officers of the City shall assemble at 8:00 o'clock, P.M., Eastern Standard Time, on Saturday, October 1st, 1966, in the Village Hall of the City of Wayland. The meeting shall be called to order by the Chairman of the Charter Commission, who shall introduce the new City officials to the public, and call the meeting of the Council to order. He shall then turn the meeting over to the Mayor and the Council shall proceed with the business before it.

- **Section 16.10. - Continuation of appointed officers.**

Except as otherwise provided herein, after the effective date of this Charter, all appointive officers and all employees of the Village shall continue in that City office or employment which they held in the Village prior to the effective date of this Charter and they shall be subject in all respects to the provisions of this Charter; except that any officer or employee who holds a position which this Charter provides be held at the pleasure of the appointing officer or body shall hold such position only at such pleasure regardless of the term for which originally elected or appointed.

- **Section 16.11. - Council action.**

In all cases involving the transition of the Village government to City government, which are not covered by this Chapter, the Council shall supply necessary details and procedures and may adopt such rules, regulations, resolutions, and ordinances as may be required therefor.

- **Section 16.12. - Fiscal year; city budget.**

The Council shall have the authority to continue under the former Village budget until the end of the Village fiscal year ending February 28, 1967. The Council shall on the recommendation of the City Manager make an interim budget required to defray the cost of operating the City from February 28, 1967 to June 30, 1967, in order to bring the city's financial plan in conformity with the fiscal year herein provided.

- **Section 16.13. - Council meetings.**

Until otherwise provided by Ordinance, regular meetings of the Council shall be held in the established Council Chamber in the City Hall on the first and third Mondays of each calendar month at 7:30 P.M.

- **Section 16.14. - Boards and Commissions.**



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The present Boards and Commissions established by the Village of Wayland shall continue under the Ordinance establishing them unless in conflict with this Charter. The terms of office of the members of such Boards and Commissions shall continue as established and they shall continue in office until their successors are appointed in accordance with the terms of office established in the Ordinance creating them.

- **Section 16.15. - State constitution.**

It is recognized that, at the time of the drafting and adoption of this Charter, and on its effective date, the new State Constitution is in the process of being implemented by the State Legislature. It is the intent of this Charter and those voting for its adoption that the City Council shall have the authority to make full use of such implementation as necessary by Ordinance and no amendment of this Charter shall be required to make the provisions of this Section effective.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of Wayland held on the 7th day of June, 1966, at the usual place of meeting of the Commission, the following members of the Charter Commission were present: Commissioners DeWeerd, Gurney, LaValley, Mauchmar, Reno, Rugaber, Weaver, and Wilson.

At such meeting the following resolution was offered by Commissioner Reno and supported by Commissioner Gurney:

Resolved, That the Charter Commission of the City of Wayland does hereby adopt the foregoing instrument as the Charter of the City of Wayland, and the Secretary of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended for his approval.

The vote on the adoption of the resolution was as follows:

Ayes: DeWeerd, Gurney, LaValley, Mauchmar, Reno, Rugaber, Weaver and Wilson.

Nays: None

Absent: Bergstrom

Charter Adopted by voters: September 12, 1966