

**Wayzata Charter Commission Meeting Agenda**  
**Wayzata City Hall Community Room, 600 Rice Street E., Wayzata, MN**  
**Monday, November 30, 2020**  
**9:00 AM**

**Pursuant to Minnesota Statute Sec. 13D.015, and the Executive Orders and Emergency Declarations related to the COVID19 pandemic, this Charter Commission meeting is being conducted by electronic means using the audio and video conferencing platform, Zoom. Members of the public may listen to the meeting by logging into Zoom, or by calling 312-626-6799 on a phone, and entering Zoom Meeting ID 916 2735 9354, Passcode 442504.**

1. Call to Order – Chair Dan Day
2. Roll Call
3. Approval of October 28, 2019 Charter Commission meeting minutes
4. New Business:
  - A. Election of Officers (Chair, Vice Chair and Secretary)
  - B. Update on commissioner terms
5. Other Business:
  - A. Charter Review/Discussion
6. Next meeting date (2021 Dates To Be Discussed)
7. Adjourn

Chair Day called the Charter Commission meeting to order at 9:05 a.m.

**ROLL CALL**

Members Present: Elaine Ambrose, David Bergersen, Dan Day, Mary Fadden, Kent Howe, and Paul Klapprich. Members Absent: Brian Botham, Mary Bader, Gary Orris.

City Staff present: City Clerk Kathy Leervig.

**APPROVAL OF NOVEMBER 26, 2018 CHARTER COMMISSION MEETING MINUTES:**

Commissioner Howe made a motion, seconded by Commissioner Fadden, to approve the November 26, 2018 meeting minutes as presented. The motion carried 6/0.

**NEW BUSINESS:**

**A. Update of Commissioner Terms**

Clerk Leervig stated that there are four members with term expiration dates of December 31, 2019. Commissioner Orris submitted an email earlier that he would not be reapplying. The other three commissioners have reapplied or expressed interest in reapplying. Clerk Leervig noted applications are due November 15.

**OTHER BUSINESS**

**A. Charter Review/Discussion**

Chair Day provided an update to the commission in which he presented the voting requirements to the council, per their direction, in February 2019. The council decided in May that no further action or research was necessary.

**NEXT MEETING DATE:**

Clerk Leervig noted that two meeting dates were selected in 2019 and one was cancelled. Staff is currently working thru the 2020 calendar dates and would select two dates for Charter Commission. Once the council approves the 2020 dates, the commission would be informed.

**OTHER BUSINESS:**

Chair Day asked if there were any questions or other items to be discussed. Commissioner Ambrose noted that former Commissioner David McGill should be recognized in the minutes following his recent passing. He served as chair of the commission and offered many contributions with his service to the commission, the city and community.

Commissioner Bergersen noted that he was unable to attend the last (his first meeting on the Charter Commission) last November. He asked Chair Day to explain the role of the chair and commissioners. Chair Day explained the roles noting that the commission

is responsible for making sure the charter is reviewed annually and updated as the council directs the commission. The commission then responds accordingly to that direction.

There being no further business, Commissioner Fadden made a motion, seconded by Commissioner Bergersen to adjourn the meeting. The motion carried 5/0. The meeting adjourned at 9:30 a.m.

Respectfully submitted,

Kathy Leervig  
City Clerk  
City of Wayzata

DRAFT

**REVISED CHARTER**

of the

**CITY OF WAYZATA**

Hennepin County, Minnesota

Effective

November 25, 2013

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# WAYZATA CITY CHARTER

## CHAPTER I

### General Provisions

#### **Section 1.      Name, Boundaries and Powers of the City.**

The City of Wayzata, Hennepin County, Minnesota shall continue to be a municipal corporation under that name and with the same boundaries as are now, or may be established.

The city shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitution of this state and of the United States. It is the intention of this charter to confer upon the city every power which it would have if it were specifically mentioned. The charter shall be construed liberally in favor of the city and the specific mention of particular municipal powers of the city to those mentioned. Unless granted to some other officer or body, all powers are vested in the city council.

#### **Section 2.      Form of Government.**

The form of government established by this charter shall be known as the "Council-Manager Plan." All discretionary powers of the city, both legislative and executive, shall vest in and be exercised by the council. It shall have complete control over the city administration, but shall exercise this control exclusively through the city manager and shall not itself attempt to perform any administrative work.

#### **Section 3.      Charter Commission.**

There shall be at all times, a charter commission for the City of Wayzata, formed and operating pursuant to current statutes of the State of Minnesota. The mayor and council shall, at the first regular meeting of the council in January of each year, make such provisions as may be necessary to maintain a complete charter commission. The charter commission shall meet annually, at such time and place as it may determine, and

may meet at such other times and places it deems necessary.

## CHAPTER II

### Officers, Nominations and Elections

#### **Section 4.      Elective Officers.**

There shall be elected at large in the City of Wayzata a mayor and four council members, who together shall constitute the Wayzata City Council.

#### **Section 5.      Elections.**

The regular municipal elections shall be held annually on the first Tuesday after the first Monday of November at such place or places as the city council may designate. At least fifteen days prior public notice shall be given by the secretary of the council of the time and place of holding regular and special elections, and of the officers to be elected and the propositions to be voted upon, but failure to give such notice of regular election shall not invalidate such election.

#### **Section 6.      Candidates for Elective Offices.**

Any person eligible and desiring to be a candidate for an elective office shall file an affidavit of candidacy with the office of the city manager within the time frame specified in state statutes. If no affidavit of candidacy is filed for an office to be voted on at the election, the city council promptly by motion may nominate one person for the office; this person shall file an affidavit of candidacy within two days following adoption of the motion in order to have the candidate's name placed on the ballot. The ballots shall be prepared in a manner consistent with state statutes and shall include the names of all persons whose affidavits of candidacy have been properly filed.

#### **Section 7.      Affidavits of Candidacy.**

The affidavit of candidacy shall be executed by the candidate and state the office for which the person desires to be a candidate and that the person is a qualified voter in the City of Wayzata and has not filed

as a candidate for any other office at the same election. The fee to be paid the city upon filing an affidavit of candidacy for city office shall be the sum of \$5.00.

**Section 8. Judges and Clerks of Election.**

The council shall at least twenty-five days before each regular or special election, appoint such judges and clerks of the election as may be provided by ordinance.

**Section 9. Procedure at Election.**

The conduct of elections may be regulated by ordinance, subject to the provisions of this charter. The election laws of the state shall govern in all matters not otherwise provided for in this charter or the ordinances passed thereunder.

**Section 10. Canvass of Election.**

The council shall meet and canvass the election returns after the polls have closed at any regular or special election within the time frame provided under state law. The city manager shall present a certificate of election under the seal of the city to each person elected.

**Section 11. Calling Special Elections.**

The council may by a resolution passed by a vote of four-fifths of its members call a special election for any purpose not forbidden by law and fix the time and place of holding the same.

**Section 12. Term of Office.**

The term of office of the mayor and the council members shall be four years. All elective officers shall take office on the first day of January following their election and qualification. All officers in office when this charter takes effect shall remain in office for their full terms and shall continue to govern the city in the usual manner until their successors have been elected and qualified. Elective officers shall be elected for only the offices the terms of which have expired at the time, or in the case of vacancy, for the remainder of the term.

**Section 13. Vacancies.**

Council may deem an elective office vacant in case of failure of the person elected to qualify within fifteen days after official canvass of the election at which he or she is elected, or by reason of death, resignation, removal from the city, conviction of a felony, removal from office, or failure to perform the duties of the office

for a period of six weeks or for other recurring absenteeism without good cause. If a vacancy occurs in an elective office, the council shall forthwith appoint an eligible person to fill the office until the next general municipal election, when the office shall be filled by election for the remainder of the term, if any; if not, then for a full term. The council may also deem a temporary vacancy upon the request of a council member seeking a temporary leave of absence for a reasonable time period and for reasons of health, personal matters or military service. If a temporary vacancy occurs on council, the council shall forthwith appoint an eligible person to fill the council seat until such time as the council member on leave returns to resume his or her seat for the remainder of his or her term. In case of a tie vote in the council after three rounds of voting on an appointment to fill a vacancy on the council, the mayor shall make the appointment.

**Section 14. Salaries of Elected Officers.**

The Mayor and Council members shall receive such compensation as is fixed by the council in accordance with law. The mayor and council members shall receive such compensation for each meeting (not to exceed two meetings per calendar month) as is fixed by the council in accordance with law. They may be reimbursed for reasonable expenses incurred with performance of the duties of their office.

**Section 15. Reserved.**

## CHAPTER III

### Legislation and Administration

**Section 16. Presiding Officer.**

The mayor shall preside at council meetings. At the first regular meeting of the council, the council shall elect one of its own members as mayor pro-tem. The mayor pro-tem shall preside at the meetings of the council in the absence of the mayor and shall be acting mayor with full power as mayor during the mayor's disability or absence from the city. Should the mayor and the mayor pro-tem be disabled, absent from the city, or otherwise unavailable during an emergency, any other member of the council may fulfill the duties of the mayor. The mayor shall be recognized as the official head of the city



for all ceremonial purposes, by the courts for the purpose of serving process, and by the governor for the purposes of martial law.

**Section 17. Council Meetings.**

All meetings of the council shall be held at a time and place designated by resolution. The council shall keep a journal of its proceedings, which shall be a public record. It shall hold at least one regular meeting each month and may hold other meetings as provided by its rules. At any meeting of the council a majority of the members shall constitute a quorum, but a smaller number may adjourn from time to time. The council may provide by resolution a means by which any number of council members may compel the attendance of absent members. All meetings of the council shall be open to the public, except as allowed by state statute.

**Section 18. Commissions.**

The council shall itself be, and shall perform the duties and exercise the powers of, the local board of health, park board, and sinking fund commission. It may, however, create and appoint a city planning commission and such permanent or temporary commissions as it so desires with advisory powers to investigate any subject of interest to the municipality. Such commissions may be given the power to administer oaths, and to require the attendance of witnesses and the production of books, papers, and other documentary evidence.

**Section 19. Secretary of Council.**

The council may designate any official or employee of the city, or member of the council, to act as secretary of the council. In lieu of any such designation, the city clerk shall be the secretary of the council. The secretary shall keep such records and perform such other duties as may be required by this charter or by vote of the council.

**Section 20. Ordinances, Resolutions and Motions.**

Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of council members on any action shall be recorded in accordance with state statute. Any action not required by this charter or by state statute to be taken by ordinance may be taken by resolution. Administrative business may be transacted by motion. Except as otherwise provided in this charter, state law, or ordinance of the city, an affirmative vote of a majority of all members of the

council shall be required for the passage of all ordinances, resolutions and motions.

**Section 21. Enacting Clause.**

The enacting clause of all ordinances shall be in the words: "The City of Wayzata Ordains."

**Section 22. Filing and Reading Ordinances.**

Every ordinance other than an emergency ordinance shall be presented in writing and read at two consecutive regular meetings or adjourned regular meetings of the council. These meetings will be at least one week apart. A resolution may be adopted at the same meeting at which it is introduced. An emergency ordinance is one for the immediate preservation of the public peace, health, morals, safety or welfare, in which the emergency is defined and declared in a preamble thereto, separately voted upon. Such preamble shall receive the affirmative vote of at least four-fifths of the members of the council. No grant of any franchise shall be construed to be an emergency ordinance.

**Section 23. Signature and Publication of Ordinances.**

Every ordinance, except as otherwise provided in this charter, shall be signed by the mayor or by the mayor pro-tem in the mayor's absence, attested by the secretary, published and recorded by the city manager in a properly indexed book kept for that purpose. Every ordinance not so published and recorded shall be void.

**Section 24. When Ordinances and Resolutions Take Effect.**

Resolutions and emergency ordinances shall be effective immediately upon passage or at a later date stated in the resolution or emergency ordinance. Every other ordinance shall take effect after passage and publication or at such later date as specified in the ordinance. Every ordinance and resolution adopted by the voters of the city shall take effect immediately upon its adoption or at such later date as stated in the ordinance or resolution.

**Section 25. Amendment, Revision and Codification of Ordinances and Resolutions.**

Every ordinance or resolution amending or repealing all or part of a previous ordinance or resolution shall give the number, if any, and the title of the ordinance or

resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone, but the amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate, by appropriate type or symbols, matters to be omitted or added.

The council may revise, rearrange and codify the ordinances of the city with the additions or deletions found necessary. The ordinance code may be prepared in book, pamphlet or continuously loose-leaf form. Copies of the code must be kept available at City Hall for public inspection or for distribution free or for a reasonable charge. The publication requirements of this Charter shall be satisfied by printing a notice in the official newspaper stating that (i) an ordinance is adopted, revised or recodified and (ii) copies are available in the office of the City Manager.

## CHAPTER IV

### Administration of City Affairs

#### **Section 26. The City Manager**

The city manager shall be the chief administrative officer of the city and shall be chosen by the council on the basis of training, experience and administrative qualifications; the choice shall not be limited to inhabitants of the city or state. The city manager shall be appointed for an indefinite period, and shall be removable by the council at any time. If removed at any time after one year of service the city manager may request written charges and a public hearing on the same before the council prior to the date on which the final removal shall take effect. Pending and during such hearing the council may suspend the city manager from office. During the absence or disability of the city manager, the duties of the office shall be performed by a properly qualified person designated by the council.

#### **Section 27. Powers and Duties of the City Manager.**

Subject to provisions of this charter and any regulations consistent therewith which may be adopted by the council, the city manager shall control and direct the administration of the city's affairs. The powers and duties of the city manager shall be:

- a) To see that this charter and the laws, ordinances and resolutions of the city are enforced;
- b) To appoint, and, except as herein provided, remove all heads of departments, and all subordinate officers and employees in the departments, all appointments to be based upon merit and fitness alone;
- c) To exercise control over all departments and divisions of the city administration created by this charter or which may be hereafter created by the council;
- d) To attend all meetings of the council, with the right to take part in the discussions but having no vote; but the council may at its discretion exclude the city manager from meetings when evaluation or removal of the city manager is considered;
- e) To recommend to the council for adoption such measures as may be deemed necessary for the welfare of the people and the efficient administration of the city's affairs;
- f) To keep the council fully advised as to the financial condition and needs of the city, and to prepare and to submit to the council the annual budget;
- g) To submit to the council for adoption an administrative code incorporating the details of administrative procedures, and to suggest amendments to the same; and
- h) To perform such other duties as may be prescribed by this charter or required by ordinance or resolutions adopted by the council.

#### **Section 28. Departments of Administration.**

The council may create or eliminate departments, divisions, and bureaus for the administration of the city's affairs and/or alter their powers and organization. It shall, in conjunction with the city manager, prepare and maintain an administrative code for the city, which may be amended by ordinance. Such administrative code shall establish the departments, divisions, and bureaus for the administration of the city's affairs, including the operations and duties related thereto, and shall be codified in the Wayzata City Code of Ordinances.

**Section 29. Subordinate Offices.**

There shall be such offices subordinate to the city manager as the council may deem appropriate, and the council may combine the duties of various offices as it may see fit.

**Section 29 (a). Assessor and Attorney.**

The council shall appoint a city attorney and an assessor to serve at the will of the council.

**Section 30. Purchases and Contracts.**

The city manager shall be the chief purchasing agent of the city. All purchases on behalf of the city and all contracts let by the city manager shall be subject to the approval of the council. Such approval must be given in advance whenever the amount of such purchase or contract exceeds the amount provided under state law, as amended from time to time, for statutory cities or such other amount as determined by city council by resolution. All contracts, bonds and instruments of every kind to which the city shall be a party shall be signed by the mayor on behalf of the city as well as by the city manager or city clerk, and shall be executed in the name of the city.

In all cases of work done by contract, or for the purchase of property of any kind, the Uniform Municipal Contracting Law, established by State Statute Chapter 471, shall apply, unless the Council by emergency ordinance shall provide otherwise.

**Section 31. Reserved**

**CHAPTER V**

**Taxation and Finance**

**Section 32. Council to Control Finances.**

The council shall have full authority over the financial affairs of the city, and shall provide for the collection of all revenue, the auditing and settlement of accounts, and the safekeeping and disbursement of public funds.

**Section 33. System of Taxation.**

Subject to the state constitution, and except as forbidden by it or by state law, the council shall have power to provide, by ordinance, for a system of local taxation. The authority of taxation includes the power to assess, levy, and collect taxes on subjects or objects of taxation except as limited or prohibited by the state constitution, by this charter or by laws imposing restrictions upon the city.

**Section 34. Fiscal Period.**

The fiscal period of the city shall be the calendar year.

**Section 35. Preparation of the Annual Budget.**

The city manager shall prepare the estimates for the annual budget and submit the budget to the council for approval. The estimates of expenditures shall be arranged in a manner consistent with generally accepted accounting principles and guidelines established by the State Auditor's Office.

**Section 36. Passage of the Budget.**

The budget shall be the principal item of business at a regular meeting of the city council in August or September each year. The council shall hold adjourned meetings until all budget items have been considered. The final budget resolution shall be adopted not later than December 31 each year.

At the budget meetings, budget items shall be explained to the extent required by the council. Interested citizens will be given time to comment and to ask questions. The final budget shall itemize projected revenue amounts and sources, projected expenditure amounts and purposes, and be passed by the council in resolution form.

The budget resolution shall contain a contingency line item which may be used for any lawful purpose as approved by a four-fifths vote of all the council. The contingency amount shall be determined by the council and shall not exceed ten percent of the total budget. .

**Section 37. Alterations in the Budget.**

The council shall have no power to increase the adopted budget except to the extent bonds or emergency debt certificates have been authorized in the manner provided in this chapter or by State law; or to the extent actual receipts exceed estimated revenue. The sum fixed in the budget shall be appropriated as of the first day of

January for the purposes named therein. The council may, by resolution passed by a four-fifths vote of all its members, adjust salaries or the sums appropriated for any other purpose. The council may, by resolution passed by a four-fifths vote, transfer any portion of unencumbered balance of an appropriation to any other purpose or object, but no such transfer shall be made in any other manner.

**Section 38. Enforcement of the Budget.**

It shall be the duty of the city manager to enforce the provisions of the budget. The city manager shall not approve any expenditure or any contract involving any expenditure unless there is a sufficient amount remaining in the budget.

**Section 39. Levy and Collection of Taxes.**

By December 31, the council shall by resolution levy the taxes necessary to meet the requirements of the budget for the coming year, taking into account estimated revenues from sources other than taxation. By December 31, the city manager shall send to the county auditor a statement of all taxes and assessments levied. The taxes and assessments included in this resolution shall be enforced and collected by the county as real estate taxes.

**Section 40. Board of Equalization.**

The council shall constitute a board of equalization and shall meet in the usual place for holding council meetings on a date established by the city council in each year, to equalize the assessments according to law. Public notice of such meeting shall be given at least ten days prior to the date fixed, as provided by law. The assessor shall be in attendance but shall have no vote.

**Section 41. Receipts.**

All income of the city from any source shall be paid to the City of Wayzata. Duplicate receipts will be created with one copy of the receipt kept as a permanent record. All money shall be deposited promptly in depositories designated by the council. All depositories shall furnish a surety bond or collateral, in an amount adequate to protect the city. Money deposited in any bank shall not be in excess of the bond or collateral furnished, plus the amount of such deposit covered by federal deposit insurance. Under the direction of the council, funds not presently needed for other purposes may be invested or reinvested in authorized financial instruments.

**Section 42. Disbursements.**

Except for payments which may be made by wire transfer, disbursements of city funds must be made by check bearing the manual or facsimile signature of the mayor and the city manager. The city manager must institute safeguards to ensure that checks are issued only by authorized individuals, for properly authorized public purposes and in compliance with this charter. Each check must specify the purpose for which the disbursement is made and the fund from which it is drawn, or a check register must be prepared which contains this information. A check may not be issued until the claim to which it relates has been supported by an itemized bill, payroll, or time-sheet approved and signed by the responsible city officer or authorized city employee who vouches for its correctness and reasonableness. The council may by ordinance or resolution make further regulations for the safekeeping and disbursement of city funds.

**Section 43. Funds.**

There must be maintained in the city treasury a general fund and the funds required by law, ordinance, the budget resolution or other resolution. The council may make inter-fund loans and transfers except from trust or agency funds or where prohibited by this charter or law.

**Section 44. Accounts and Reports.**

The city manager shall be the chief accounting officer of the city. The council may prescribe and enforce proper accounting methods, forms, blanks and other devices consistent with the law, this charter and the ordinances passed under it. The city manager shall submit to the council an annual statement of all funds and such other information relative to the finances of the city as the council may require. The accounts of all city officers who receive or have custody of public funds shall be audited annually by a competent public accountant or by the state auditor, and an annual statement showing the receipts and disbursements of the city shall be published.

**Section 45. Bonded Debt.**

The city may borrow money and issue and sell bonds for any and all of the purposes authorized and subject to the limitations and procedural requirements now or hereafter provided by the laws of the State of Minnesota applicable to cities of the same class, and subject to the further provisions of this section. No bonds shall be issued to pay current expenses. A resolution submitting

the proposition of issuance of bonds to the electors of the city shall be adopted only by a vote of four-fifths of all the members of the council. In cases where an election on bonds is not required by law, the issuance thereof shall be authorized by ordinance adopted by a four-fifths vote of all the members of the council and stating the maximum amount and purpose or purposes of the issue. The form and details of bonds, and all covenants to be made by the city for the security thereof may be established by the council by resolution adopted after the bonds have been authorized by the electors or by ordinance. The full faith and credit of the city shall be pledged for the payment of all bonds, except that when net revenues to be derived from the operation of any public utility or combined utility or revenue-producing enterprise of the city are pledged for the payment of bonds issued for the acquisition or betterment of such utility or enterprise, such bonds may in the discretion of the council be issued as general obligations of the city or may be made payable solely from said net revenues. No election shall be required for the authorization of bonds for the following purposes:

- 1) Extending, enlarging or improving water, light, heat, power and sewage disposal plants and systems, or any of them, owned and operated by the city, and acquiring property needed in connection therewith.
- 2) Acquiring property, real or personal, for any municipal purpose, provided that the total amount of bonds authorized for this purpose without an election which are outstanding at any time shall not exceed one-half of one percent (.5%) of the estimated market value of the city.
- 3) For any purpose authorized by the laws of the State of Minnesota, when such laws permit the issuance of bonds for such purpose without an election.

**Section 46.**      **Reserved.**

**Section 47.**      **Reserved.**

**Section 48.**      **Reserved.**

**Section 49.**      **Reserved**

**Section 50.**      **Certificates of Indebtedness.**

In addition to bonds, the city may issue certificates of indebtedness, for the payment of which its full faith and credit shall be pledged, for the following purposes and subject to the following conditions:

- 1) If in any year the receipts of the city become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should make necessary extraordinary expenditures, the council may by a resolution approved by four-fifths of all the members thereof authorize the sale of emergency debt certificates to run not to exceed eighteen months. A tax sufficient to redeem all such certificates at maturity shall be levied as a part of the budget of the next year following the issuance of such certificate.
- 2) At any time after the first day of the year following the making of an annual tax levy, the council may by a resolution approved by four-fifths of all the members thereof authorize the sale of tax anticipation certificates to an amount not exceeding and in anticipation of the collection of the taxes so levied which are not yet collected. The certificates shall mature not later than the first day of April of the year following the year of issuance. The proceeds of said taxes shall be irrevocably pledged for the payment of the principal of and interest on said certificates when due, but if the collection of said taxes should be insufficient to make such payment in full, the same shall be made from any other available funds of the city, and the city shall levy additional taxes in amount sufficient to restore said deficiency. These certificates shall not be included within the net debt of the city for the purpose of charter or statutory debt limitations.
- 3) The certificates authorized in this section may be sold in such manner and upon such terms as shall be directed by the council, and no election shall be required for the authorization thereof.

CHAPTER VI

Franchises

Public Improvements

**Section 51. City Plans.**

The city council shall, prepare, amend and adopt action plans for the future physical development and redevelopment of the city consistent with the city's Comprehensive Plan. The council may include provisions for the planning and development of new areas, for the planning and location of public buildings, parks, playgrounds, bridges, streets, and other public facilities, as well as for all other matters which may seem essential to such plans.

**Section 52. Public Improvements and Special Assessments**

The city shall have power to make any and every type of public improvement as allowed by the laws of the state, and to levy special assessments upon properties benefited.

**Section 53. Improvements.**

The council may adopt a comprehensive ordinance prescribing the procedure which shall be followed in making all improvements and making assessments and such ordinance when adopted shall supplant all other provisions of the law on the same subject and may be amended only by a vote of four-fifths of all the members of the council. Such ordinance shall provide for such notice and hearing in the ordering of improvements and the making of assessments as shall be necessary to meet constitutional requirements. All plans, specifications, maps, charts, and field notes prepared by order of the council shall be the property of the city.

**Section 54. Eminent Domain.**

Condemnation proceedings by this city shall be carried out as provided in Minnesota Statutes, Chapter 117 as amended.

**Section 55. Definition of Franchise.**

The word "franchise" as used in this chapter shall be construed to include all privileges granted to any person or entity in, over, upon, or under any of the highways or public places of the city, whether such privileges have been or shall hereafter be granted either by the city or by the State of Minnesota.

**Section 56. Franchise Ordinances.**

The council may grant franchises by ordinance adopted by a four-fifths vote of all its members, but in no case shall a franchise be adopted by an emergency ordinance. Franchise rights shall always be subject to the superior right of the city and public to use streets and public places. Unless prohibited by applicable state or federal laws, any person or entity desiring to make use of the streets or public places by placing in, over, upon, or under any street or public place any permanent or semipermanent fixtures for the purposes of transportation, utilities, communications, or other similar uses, or for any other purpose, shall be required to obtain a franchise from the city before proceeding to make such use of the street or public places, or before proceeding to place such fixtures in such places.

**Section 57. Term Limited.**

All franchises shall be granted for a fixed term not to exceed twenty-five years.

**Section 58. Rates and Charges.**

Every grantee of a franchise to operate a public utility shall give service at rates approved by the city.

**Section 59. Conditions of Franchise.**

Every franchise which does not contain the provisions prescribed in this section shall be absolutely void and incapable of ratification by estoppel or otherwise. Every franchise shall contain the following provisions:

## CHAPTER VIII

### Miscellaneous and Transitory Provisions

- a) That the grantee shall be subject to and will perform all the terms of Chapter VII of the City Charter.
- b) That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and the grantee shall have no right to receive, upon condemnation proceedings brought by the city to acquire the public utility exercising such franchise, any return on account of the franchise or its value.
- c) That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed in the office of the city manager an instrument, duly executed, reciting the fact of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.
- d) A provision for the acceptance of the franchise in writing by the grantee within thirty days after its passage.

#### **Section 60. Further Provisions in Franchises.**

The city shall have the right to insert in any franchise such conditions and restrictions as the council may deem proper to protect the city's interests. Nothing contained in this charter shall limit any right or power possessed by the city over existing franchises.

#### **Section 61. Acceptance of Franchise.**

Every ordinance granting any franchise shall contain all the terms and conditions of the franchise writing, signed by all parties and filed with the city manager. The grantee shall bear the cost of publication of franchise ordinances and shall guarantee such payment in a manner satisfactory to the council before the ordinance is passed.

#### **Section 62. Renewals or Extensions.**

Every extension, renewal or modification of any existing franchise or of any franchise granted shall be subject to the same limitations and granted in the same manner as a new franchise.

#### **Section 63. Charter a Public Act**

This charter shall be a public act and need not be pleaded nor proved in any case. It shall take effect thirty days from and after its adoption by the voters of the city. Amendments to the charter shall be adopted and take effect in accordance with State Statute Chapter 410.12, as amended.

#### **Section 64. Oath of Office.**

Before assuming the duties of an office, each elected or appointed officer of the city shall appear before the city manager and take and subscribe the oath of office prescribed by law and file the same with the city manager. Every officer of the city shall hold over until a successor has been elected or appointed and has become fully qualified. The officer shall deliver to the successor, all official books, papers, and records regardless of form.

#### **Section 65. Official Bonds/Insurance**

Adequate faithful performance bonds/insurance coverage shall be purchased to protect the City from dishonesty and malfeasance by employees and elected officials.

#### **Section 66. Officers Not to Accept Favors.**

No officer or employee of the city shall solicit or receive any pay, commission, money or thing of value or derive any benefit, profit or advantage, directly or indirectly, from or by reason of any improvement, alteration or repair required by the city, or any contract to which the city shall be a party, except the lawful compensation or salary as such officer or employee, or except as his or her property may be benefited incidentally by the making of public improvements. No officer or employee of the city, except as otherwise provided by law, shall solicit, accept, or receive directly or indirectly from any public utility company or the grantee of any franchise any service upon terms more favorable than those granted to the public generally.

**Section 67. Forfeiture of Office.**

Any willful violation or omission by any elected officer to perform the provisions of this charter or the lawfully enacted ordinances shall constitute malfeasance or nonfeasance in office. The District Court of Hennepin County is given exclusive jurisdiction to try such cases, upon the written complaint of any fifty legal voters. Such cases shall be preference cases and shall be tried in a summary manner within thirty days after the complaint is filed. A judgment of conviction by the court shall mean an immediate forfeiture of office.

**Section 68. Official Publication.**

The council shall designate as an official newspaper any newspaper of general circulation in this city for the purpose of publishing notices. Whenever any public notice or publication shall be required either by this charter or by any ordinance of the city, such notice or publication may be given by publication in such official newspaper, public posting and/or by mail to affected parties.

**Section 69. Application of General Laws.**

All general laws of the state applicable to cities of the class to which the City of Wayzata belongs, not inconsistent with the provision of this charter, shall apply to the City of Wayzata and shall be construed as supplementary to the provisions of this charter. All acts and parts of acts giving the city authority and powers to be exercised outside of the corporate limits are hereby expressly retained.

**Section 70. Vacation of Streets.**

The council shall have the exclusive power, by ordinance passed by a unanimous vote of all the members thereof, to vacate or discontinue highways, streets and alleys within the city. Such vacations may be made only after notice and hearing of affected property owners and upon such further terms and by such procedure as the council may, by ordinance, prescribe. A record of each such vacation shall be filed in the office of the Register of Deeds of Hennepin County.

**Section 71. Adverse Possession.**

No right, title, estate or easement of the city in any property shall be lost by adverse possession or occupancy, and no statute of limitations shall operate against the city in favor of any person occupying any

public property or highway, whether or not such property or highway shall have been improved.

**Section 72. Damage Suits.**

No action shall be maintained against the city on account of any injuries or damages to persons or property unless such action shall be commenced within one year from the occurrence of such injury or damage, nor unless notice shall have been given in writing to the city manager within thirty days after the occurrence of such injury or damage, stating the time when and the specific place where and the circumstances under which the same occurred and that the person injured or damaged will claim damages of the city therefor, and the amount of such claim. The time given for giving such notice shall not include any period of time next succeeding the occurrence of the injury and not in excess of 90 days during which the person injured is incapacitated from giving such notice by reason of the injury sustained.

**Section 73. Recovery of Judgment.**

If any judgment shall be recovered in any action against the city for any injury or damage caused by any construction, excavation, opening or defect in any public place, caused or occasioned by the act or omission of any person, firm, association or corporation, the city shall have the right to recover the amount of the judgment from the person or persons responsible for such defect.

**Section 74. Ordinances to Carry Out Charter.**

The council shall by ordinance make such rules and regulations as may be necessary to carry out and make effective the provisions of this charter.

**Section 75. Existing Ordinances Continued.**

All ordinances not inconsistent with the provisions of this charter and in force when this charter takes effect are hereby continued in full force and effect until amended or repealed by the council.

**Section 76. Pending Condemnation and Assessments.**

Any condemnation or assessment proceedings in progress when this charter takes effect shall be completed under the laws under which such proceedings were begun. All assessments made by the city prior to the time when this charter goes into effect shall be



collected and the lien thereof enforced in the same manner as if this charter had not been adopted.

**Section 77.     Reserved**

**Section 78.     Rights and Liabilities.**

The City of Wayzata shall remain vested with and continue to have, hold and enjoy all property, property rights, rights of action, and rights of every kind now belonging to or pertaining to the city and shall be subject to all liabilities which now exist against the city.

(Revised Charter of the City of Wayzata,  
November 25, 2013)

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