

Wayland Charter Commission Preliminary Report



TO: All Wayland Voters

FROM: WAYLAND CHARTER COMMISSION

At the annual town election in the spring of 1989, by vote of 2254 to 782, the town created a charter commission and elected nine members. As required by law, the commission herewith publishes its preliminary report, including a proposed charter.

A public hearing will be held on Thursday, September 13, 1990, at 8 p.m. in the hearing room in the town building. If needed the hearing will be continued on Saturday, September 15 at 9 a.m. in the same location.

It is of the utmost importance that all voters study the proposed charter, attend the public hearing, and promptly convey to the commission their views respecting this charter, preferably in writing. Your response will assist us in making appropriate revisions to improve the charter.

The commission's final report, including the final draft of the proposed charter, will be delivered to the board of selectmen by October 26, 1990. The selectmen will distribute a copy to each household or boxholder at least two weeks before the 1991 election. At the annual election in the spring of 1991 the following question will be on the ballot: "Shall the town approve the new charter recommended by the charter commission summarized below? Yes ☐ No ☐." Because the summary will be brief, we recommend that voters read the charter before the vote.

The Wayland Charter Commission

Dunbar Holmes, Chair
W.H. Duke Irvine, Vice Chair
Mary M. Antes, Clerk
Patricia Abramson
Dennis J. Berry
Robert T. Lavin
Jean B. Pratt
Josephine W. Shane
John B. Wilson

August 1990

Wayland

Charter Commission

Preliminary Report

It is desirable to adopt a charter whether or not it makes changes in town government. A charter puts the basic structure in one document. It also permits the town, now or later, to make certain changes that would otherwise require approval of the General Court. However, we interpret the vote in favor of the creation of this commission as indicating that the voters want some changes. Also, we believe voters differ widely regarding the general direction that change should take and the specific changes. Some voters want no change. Others would eliminate town meeting and substitute a town council and manager. We have given a great deal of study and thought to the numerous issues involved and have varying views as to what would be best for the town. We interviewed town officials, boards, and committees. We studied the charters of many other towns and sought the advice of their charter commissions. To ascertain the views of Wayland voters, we published in newspapers studies of numerous issues, soliciting voter comment. We published and distributed a questionnaire and tabulated the results. We held a number of public hearings on particular issues. The commission has held regular open meetings, initially bi-monthly, then weekly, and finally twice a week. We have endeavored to draft a charter that will give Wayland the best possible government.

It is essential that all voters study the proposed charter, attend the public hearing, and convey their views respecting the proposed charter to the commission. This will enable us to determine what changes would improve the final draft in order to get a favorable vote.

The proposed charter retains our traditional form of government, direct control by the voters through open town meeting and the election of the board of selectmen and other decision-making boards and officials. It makes two basic changes:

- (1) The role of the selectmen is expanded, thereby centralizing management. This should clarify responsibility and facilitate economies and efficiencies. Specific changes include:
 - (a) A reduction in the number of town boards. The operational functions of the town are currently managed by thirteen independent boards, all but two being elected (See section 5-1). On July 1, 1994 the board of road commissioners and the park and recreation commission cease to exist and their functions are assumed by the board of selectmen.
 - (b) A reduction in the number of officials and board members who are elected, henceforth to be appointed by the board of selectmen. Currently, in addition to the moderator, the board of selectmen, and the school committee, all of whom must be elected, we now elect the town clerk and nine boards, a total of 48 elected officials. Under the charter the board of selectmen appoint the board of health, the commissioners of trust funds, and two of the five members of the planning board. Also, the number of library trustees is reduced from 6 to 5.

These changes reduce the number of elected officials from 48 to 31, a reduction of 17. We believe this in itself will be beneficial. It should please voters who are now unhappy at the large number of candidates they know nothing about. Reducing the number of openings should result in more contested elections, which have been infrequent in recent years. Also, there are citizens who would accept appointment to a position but would not run for office. Finally, where particular qualifications may be necessary or desirable, appointment may be more appropriate.

- (2) Creation of the position of town administrator. Town government is growing increasingly complex and it is essential that we have a well qualified person to handle the day to day administration. Having specified powers and responsibilities, which the executive secretary does not have, will enable the administrator to be more effective; and we will attract and retain competent people. We believe this will also encourage more people to run for selectman.

A listing of changes made by the proposed charter is found in section 8-2. Some of the more significant changes, in addition to those described above, are:

Two sessions of town meeting, one in the spring for the budget and other financial matters and one in the fall for other matters, such as zoning and by-law changes. (2-4)

Terms of all elected officials to begin after town meeting. (2-4)

The option of holding town election after the annual town meeting. This would permit discussion of override questions at town meeting. (2-4)

Finance committee members, now appointed by the selectmen, to be appointed by a committee consisting of the moderator, the chairman of selectmen, and the chairman of the finance committee. (3-4-2)

Provision for a public safety department to include the fire and police departments under one director. This would take effect only at such time as the board of selectmen appoint a director of public safety. It is our hope and expectation that this will lead in time to economies and efficiencies. (5-4)

Limitation of the number of consecutive terms of volunteer elected officials. (7-2-1)

Provision for recall of elected officials. (7-2-3)

Many town charters contain considerable detail. We think it best to restrict the charter to basic provisions, leaving details to the judgment of officials or to town by-law provisions. One important subject, budget procedure, is covered in detail in most charters. While we think the charter might well prescribe some requirements, we decided that this matter should, for the present, be left to be worked out by the finance committee, the selectmen, and the town administrator. The budget process in Wayland differs from that of many other towns. We are hesitant to prescribe changes, particularly in view of the fact that procedures suitable in the past may now be obsolete under the impact of Proposition Two and One-half. Accordingly, we suggest that in due course more detailed budget procedures might be prescribed by by-law, or perhaps eventually by amendment to this charter. The charter requires periodic review of the charter and of town by-laws.

We considered the possibility of offering alternate charters. This was tried by six towns and in every case no charter was approved. On reflection we realized that this would be the inevitable result since a majority vote is required to adopt a charter.

Very few voters will favor every provision of this charter. We urge that you vote for adoption if you conclude that, on balance, the town will be better managed under the charter than without it.

Respectfully submitted,

The Wayland Charter Commission

Dunbar Holmes, Chair
W. H. Duke Irvine, Vice Chair
Mary M. Antes, Clerk
Patricia Abramson
Dennis J. Berry
Robert T. Lavin
Jean B. Pratt
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Index and Guide to Charter

ARTICLE 1 INCORPORATION; POWERS

This article states that the Town of Wayland, through the Charter, has and may exercise all the powers allowed a town in the Commonwealth of Massachusetts.

ARTICLE 2 TOWN MEETING

The voters control the town directly by voting at town meetings and by electing the governing officials.

Section 2-1 POWERS. Who may attend, vote. Quorum
Section 2-2 MODERATOR. Election, powers, absence, vacancy.
Section 2-3 COMMITTEES. Town meeting may create.
Section 2-4 REGULAR MEETINGS; ELECTIONS. When held.
Section 2-5 SPECIAL MEETINGS. When held. What may be considered.
Section 2-6 WARRANTS. Who may submit articles.
Section 2-7 CLERK OF MEETING. Duties. Absence of town clerk.

ARTICLE 3 BOARDS

This article provides for permanent elected and appointed volunteer boards to run the town.

Section 3-1 PREFACE
Section 3-2 GENERAL PROVISIONS Eligibility. Compensation. How selected. Terms of office. Vacancies. Powers and duties. Number of members. Associate members.

There follows a listing of all boards, number of members, terms of office if other than 3 years, how their powers and duties differ from those provided by statute or town by-law, and other special provisions applicable to the particular board.

Section 3-3 ELECTED BOARDS
3-3-1 Board of Selectmen
3-3-2 School Committee
3-3-3 Board of Road Commissioners
3-3-4 Planning Board
3-3-5 Board of Assessors
3-3-6 Housing Authority
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Section 3-4 APPOINTED BOARDS
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3-4-4 Historic District Commission
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3-4-7 Commissioners of Trust Funds
3-4-8 Waste Management Advisory Committee
3-4-9 Board of Appeals
3-4-10 Board of Health
3-4-11 Capital Planning Committee
3-4-12 Council on Aging
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ARTICLE 4 TOWN ADMINISTRATOR

This article creates the position of town administrator as chief administrative officer of the town under the authority of the Board of Selectmen.

Section 4-1 APPOINTMENT, TERM, COMPENSATION
Section 4-2 POWERS AND DUTIES
Section 4-3 REMOVAL AND SUSPENSION
Section 4-4 VACANCY

ARTICLE 5 OPERATIONAL ORGANIZATION

This article describes how the functions of town government will be organized.

Section 5-1 GENERAL Here are listed the operational functions of the town and the board having jurisdiction of each.

Section 5-2 FUNCTIONS UNDER BOARD OF SELECTMEN All functions not assigned to a particular board are under the jurisdiction of the board of selectmen. This section describes how these functions are to be organized and creates two new departments:

5-2-1 Finance Department
5-2-2 Public Safety Department

Section 5-3 TOWN CLERK

ARTICLE 6 FINANCE AND FISCAL PROCEDURES

This article outlines the financial operations of the town including the budget process.

Section 6-1 FISCAL YEAR
Section 6-2 BUDGET PROCESS
Section 6-3 CAPITAL IMPROVEMENT PROGRAM
Section 6-4 APPROVAL OF WARRANTS

ARTICLE 7 GENERAL

This article defines terms used in the charter, limits the terms of elected officials, and provides for periodic review of the charter.

Section 7-1 DEFINITIONS
Section 7-2 TENURE OF OFFICIALS
7-2-1 Limitation on consecutive terms of volunteers
7-2-2 Removal of appointed officials
7-2-3 Recall of elected officials
Section 7-3 CHANGES IN CHARTER AND BY-LAWS
7-3-1 Periodic review, by-laws
7-3-2 Periodic review, charter
7-3-3 Other activity

ARTICLE 8 TRANSITIONAL PROVISIONS

This article makes provision as to when and how changes made by the charter will be implemented.

Section 8-1 GENERAL PROVISIONS When the charter will be effective, continuation of existing laws, government, officials and employees, protection of status of existing employees and transfer of records and property.

Section 8-2 SPECIFIC PROVISIONS Here will be found a listing of changes made by the charter and specific provisions as to how and when these changes will be effected.

Town of Wayland Proposed Charter

ARTICLE 1 INCORPORATION; POWERS

SECTION 1-1 INCORPORATION

The inhabitants of the Town of Wayland within its territorial limits, as now or as may be hereafter established by law, shall continue to be a body corporate and politic with perpetual succession under the name: Town of Wayland

SECTION 1-2 SHORT TITLE

This charter shall be known and may be cited as the Wayland Home Rule Charter.

SECTION 1-3 POWERS

The town shall possess, exercise, and enjoy all powers possible under the constitution and statutes of the Commonwealth of Massachusetts as completely as though they were expressly enumerated herein.

SECTION 1-4 CONSTRUCTION

The powers of the town under this charter shall be construed liberally in favor of the town and the specific mention of particular powers shall not be construed as limiting in any measure the general powers of the town as stated herein.

SECTION 1-5 SEVERABILITY

If any provision of this charter is held invalid that shall not affect the other provisions. If the application of this charter to any person or circumstance is held invalid, the application of this charter, and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 1-6 INTERGOVERNMENTAL RELATIONS

The town may exercise, consistent with the provisions of law, any of its powers, or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any other government or any government agency.

ARTICLE 2 TOWN MEETING

SECTION 2-1 POWERS

The legislative powers of the town shall be exercised by town meeting open to all registered voters of the town. The town meeting shall possess and may exercise all powers possible under general law unless restricted by town by-law or this charter.

Persons other than voters may attend town meeting, with the approval of and subject to conditions prescribed by the moderator; and may speak, if approved by a majority vote of the town meeting.

The presence of one hundred voters shall constitute a quorum, except that no quorum shall be required for a motion to adjourn.

SECTION 2-2 MODERATOR

A moderator shall be elected to serve for a term of three years, which term shall commence the day after the ballot, any conflicting provision of Section 2-4 to be inapplicable.

The moderator shall be the presiding officer at all town meetings. The moderator shall regulate the proceedings in all respects, decide all questions of order, and make public declaration of all votes.

Whenever the moderator is absent, the town clerk or a member of the board of selectmen shall preside during the election of an acting moderator who shall serve with all the powers of the moderator during the absence of the moderator.

A vacancy in the office of moderator shall remain vacant until the next annual election, at which time a moderator shall be elected for the regular term herein provided. Until the election of a new moderator the town meeting duties of the moderator shall be performed by an acting moderator elected at each meeting as herein provided. Other duties of the moderator, including the making of appointments, shall be performed by the acting moderator elected at the most recent town meeting, or by the board of selectmen.

SECTION 2-3 COMMITTEES

Town meeting may create committees that shall report to the next annual town meeting and shall then terminate, unless continued by town meeting vote.

SECTION 2-4 REGULAR MEETINGS; ELECTION OF OFFICERS

Town meeting shall meet in regular sessions twice in each calendar year. The first regular meeting, to be held during March, April, or May and deemed the annual meeting, shall be primarily concerned with the determination of matters involving the raising, appropriation, or expenditure of town funds, including, but not limited to, the adoption of an annual operating budget. It shall include the election of officers and the determination of all matters placed on the official ballot at such election. The second regular meeting, to be held during the last four calendar months, shall have all the powers of the annual meeting.

The board of selectmen shall fix the date of each meeting, including the date of the annual election, within the limits prescribed by this charter or by town by-law; and shall publicly announce each such date at least 120 days prior thereto, at the same time announcing the last day for submitting warrant articles, which shall be no more than 90 days prior to the meeting.

The annual official ballot for the election of officers and other matters may be held before, during, or after the annual meeting. If held after the annual meeting, the terms of office of those elected shall commence and the terms of those replaced shall end the day after the ballot. If held before or during the annual meeting, said terms shall commence and end the day after the conclusion of the annual meeting.

SECTION 2-5 SPECIAL MEETINGS

Special town meetings may be called by the board of selectmen and shall be called upon the written request of at least two hundred registered voters.

Unless inserted in the warrant pursuant to a petition for a special meeting by 200 voters, no article calling for the appropriation of town funds shall be considered at a special town meeting unless the proposed expenditure has been recommended by the board of selectmen and the finance committee.

The board of selectmen shall publicly announce the date of each special town meeting at least 45 days prior thereto, at the same time announcing the last day for submitting warrant articles, which shall not be less than 10 days after the date of the announcement.

SECTION 2-6 WARRANTS

Every town meeting shall be called by a warrant issued by the board of selectmen that shall state the time and place of the meeting and, by separate articles, the subject matter to be acted upon. There shall be included in the warrant all articles submitted to the board of selectmen in writing within the time specified in section 2-4: (a), for regular town meetings, by the moderator, the town clerk, any multiple member body established by this charter, town by-law, or town meeting, acting by a majority of its members, or by a petition signed by ten voters, or (b), for special meetings, by a petition signed by one hundred voters. Articles so submitted may be accompanied by a written explanation of the article.

Within seven (7) days after receipt, the board of selectmen shall post the articles on the town bulletin board and refer it to such officials, boards, and committees as may be concerned with its subject matter or appropriate to make a recommendation with respect thereto.

SECTION 2-7 CLERK OF THE MEETING

The town clerk shall serve as clerk of town meeting, give notice of all adjourned sessions thereof, record its proceedings, and perform such additional duties as may be prescribed by general law, this charter, town by-law, or town meeting vote.

Whenever the town clerk is absent, the meeting shall elect an acting clerk.

ARTICLE 3 BOARDS

SECTION 3-1 PREFACE

This article provides for the permanent boards (variously named board, committee, council, or commission, but herein called "boards") whose members are volunteers, their compensation, if any, being nominal or honorary.

Additional committees may be created by town meeting, under section 2-3, or by the board of selectmen, under section 3-2(c).

SECTION 3-2 GENERAL PROVISIONS

- (a) **ELIGIBILITY.** Only a registered voter may be an elected board member.
- (b) **COMPENSATION.** Board members shall receive such compensation as may be appropriated annually for such purpose, either in the budget or under separate

article, as determined by the board of selectmen; but no appointed member of a board may be a compensated town employee under that board.

- (c) **METHOD OF SELECTION.** Board members listed in this Article as elective shall be elected by ballot as provided in section 2-4. Other traditional volunteer officers may be elected by ballot or by oral vote at the annual town meeting. Board members listed in this Article as appointive shall be appointed by the board of selectmen, unless otherwise specified. Their terms of office shall commence on July 1 and end June 30, but they shall remain in office until a successor is appointed. Terms of office shall be staggered so that the smallest number of members possible take office each year.
- (d) **VACANCIES.**
- (1) **BOARD OF SELECTMEN.** The remaining members of the board may call a special election to fill the vacancy and shall do so upon the written request of at least two hundred voters; otherwise the vacancy shall be filled at the next annual election.
- (2) **OTHER BOARDS.** A vacancy of an elective member shall be filled by appointment by a majority of all of the board of selectmen and the remaining members of the board in which the vacancy exists. A vacancy of an appointive member shall be filled by the appointing authority. In either case the person appointed shall serve until the next annual election to be held not less than ninety (90) days after the appointment.
- (e) **POWERS AND DUTIES.** Each board shall have the powers and duties assigned to it by statute or town by-law, as modified or supplemented by the provisions of this charter.
- (f) **SIZE OF BOARDS.** The number of members of any board other than the Housing Authority and the Registrars of Voters may be changed by by-law, provided the number specified is uneven and provided the proportion of members elective and appointive remains as herein provided.
- (g) **ASSOCIATE MEMBERS.** If requested by any board named in this Article, the board of selectmen may appoint to that board any number of associate, non-voting, members to serve for terms the same as regular members.

SECTION 3-3 BOARDS HAVING MAJORITY OF MEMBERS ELECTED

The boards listed in this section 3-3 shall have the number of members shown after the name, all to be elected at large for terms of three years unless otherwise indicated.

SECTION 3-3-1 BOARD OF SELECTMEN - 5

- (a) **POWERS AND DUTIES.** The executive powers of the town, except as assigned to others by law or this charter, shall be vested in the board of selectmen. The principal function of the board shall be to formulate policies to guide those charged with the actual administration of the town. It shall also be the responsibility of the board to keep informed as to the operations of all town agencies, to exercise a leadership role in seeing that defects and deficiencies are corrected, and to promote cooperation among the various agencies.

The members of the board shall possess no individual authority except as granted by vote of the board.

The board shall be the licensing authority for the town and shall have power to issue all licenses authorized by law other than those that are the responsibility of others, to make all appropriate rules and regulations with respect thereto, and to attach conditions and impose restrictions as it considers to be in the public interest.

The board shall be responsible for the enforcement of this charter and all town by-laws.

- (b) **APPOINTMENTS.** The board shall appoint a town administrator pursuant to section 4-1, a town counsel, and all appointive officials provided for in this Article 3 (except as otherwise provided). The board may also appoint such additional committees as it deems desirable, specifying their composition, tenure, and responsibilities.
- (c) **INVESTIGATIONS.** The board may investigate or may authorize the town administrator to investigate the affairs of the town and the conduct of any official or agency, and for this purpose the board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of any such investigation shall be placed on file in the office of the town clerk and a report summarizing the investigation shall be printed in the next town report.

SECTION 3-3-2 SCHOOL COMMITTEE - 5

In addition to directing the operation of the school system, the school committee shall be responsible for the maintenance and repair of all school property; but this responsibility may, in whole or in part, be shared with or transferred to another town department by agreement between the school committee, the town administrator, and the board of selectmen.

SECTION 3-3-3 BOARD OF ROAD COMMISSIONERS - 3

On July 1, 1994 the board of road commissioners shall cease to exist and all of its powers, duties, and responsibilities shall be transferred to the board of selectmen.

SECTION 3-3-4 PLANNING BOARD - 5

Three members of the planning board shall be elected, two shall be appointed. There shall also be one associate member to be appointed by the board of selectmen to serve for a term of three years. The associate member may be assigned by the chairman of the planning board to sit as a member of the board whenever, for any reason, a regular member is not sitting.

The board shall have the responsibilities assigned to it by the subdivision control law and the zoning by-laws. It shall also make planning studies, recommend changes in the zoning by-law, and study and make recommendations to the board of appeals respecting applications for the special permits and variances.

SECTION 3-3-5 BOARD OF ASSESSORS - 3

SECTION 3-3-6 HOUSING AUTHORITY - 5

There shall be a housing authority of 5 members serving terms of five years. One member shall be appointed by the governor. The other four members shall be elected.

SECTION 3-3-7 LIBRARY TRUSTEES - 5

SECTION 3-3-8 PARK AND RECREATION COMMISSION - 3

On July 1, 1994 the park and recreation commission shall cease to exist and all of its powers, duties, and responsibilities shall be transferred to the board of selectmen.

At the same time a recreation advisory committee shall be created as provided in section 3-4-13.

SECTION 3-3-9 BOARD OF WATER COMMISSIONERS - 3

In accordance with section 6 of chapter 80 of the acts of 1878, which authorized the town water system, the commissioners shall have charge of the water works, and may exercise all the rights, powers, and authority granted to the town by that act relative to such duties, subject to such instructions as the town may from time to time impose by its vote.

SECTION 3-4 BOARDS HAVING MAJORITY OF MEMBERS APPOINTED

The boards listed in this section 3-4 shall have the number of members shown after the name, all to be appointed by the board of selectmen for terms of three years unless otherwise indicated.

SECTION 3-4-1 CONSERVATION COMMISSION - 7

SECTION 3-4-2 FINANCE COMMITTEE - 7

The members of the finance committee shall be appointed by a committee consisting of the moderator, the chair of the board of selectmen, and the chair of the finance committee (or an appointee of the finance committee, if the chair is a candidate for reappointment).

The finance committee shall perform the functions assigned to it under Article 6.

SECTION 3-4-3 HISTORICAL COMMISSION - 7

SECTION 3-4-4 HISTORIC DISTRICT COMMISSION - 7

SECTION 3-4-5 PERSONNEL BOARD - 5

There shall be a personnel board of 5 members appointed for terms of five years. The board shall have the responsibilities assigned to it by the town Personnel By-Laws.

SECTION 3-4-6 REGISTRARS OF VOTERS - 4

There shall be a board of registrars of voters consisting of the town clerk and three members appointed for terms of three years. Of the four members thus selected two shall always be registered as members of the Democratic Party and two shall always be registered as members of the Republican Party. Should a member other than the clerk change party registration that member shall cease to be a member and a new member shall be appointed. If the clerk should cease to be registered as a member of the Republican Party or the Democratic Party, the clerk shall cease to be a member and a replacement shall be appointed. If the clerk should change from Democrat to Republican, or visa versa, one other member shall be removed and a new member appointed so as to restore the balance of two members from each party.

SECTION 3-4-7 COMMISSIONERS OF TRUST FUNDS - 3

The commissioners of trust funds shall manage and distribute town trust funds. The town treasurer shall be the custodian of the funds and securities.

SECTION 3-4-8 WASTE MANAGEMENT ADVISORY COMMITTEE - 5

The waste management advisory committee shall study and make recommendations to the town administrator, the board of selectmen, and town meeting respecting all aspects of waste management. This committee shall not be responsible for the management of the town land-fill or any other town facility unless such responsibility is assigned to the committee by the town administrator and is accepted by the committee.

SECTION 3-4-9 BOARD OF APPEALS - 3

The board of appeals shall serve as the zoning board of appeals under the state zoning enabling law and the town zoning by-law. The board shall also serve as the board of appeals required under the state subdivision control law (Mass. General Laws, Ch. 41, Section 81Z).

There shall also be 3 associate members appointed for terms of three years. Associate members may be designated by the chairman of the board to sit on the board whenever, for any reason, less than three regular members are available.

SECTION 3-4-10 BOARD OF HEALTH - 3**SECTION 3-4-11 CAPITAL PLANNING COMMITTEE - 5****SECTION 3-4-12 COUNCIL ON AGING - 9****SECTION 3-4-13 RECREATION ADVISORY COMMITTEE - 3**

This committee shall be created on July 1, 1994, when the park and recreation commission ceases to exist.

This committee shall advise the town administrator and the board of selectmen respecting the operation of recreation facilities and programs and shall have such other responsibilities as may be assigned to it by the board of selectmen.

ARTICLE 4 TOWN ADMINISTRATOR

SECTION 4-1 APPOINTMENT; TERM; COMPENSATION

The Board of Selectmen shall appoint a town administrator to serve either at will or under a written employment contract and shall fix the administrator's compensation annually, within the amount appropriated by the town.

SECTION 4-2 POWERS AND DUTIES**SECTION 4-2-1 GENERAL**

The town administrator shall be the chief administrative officer of the town and shall be responsible for administering and coordinating all employees, activities, and departments placed by general law, this charter, or by-law under the control of the board of selectmen or the town administrator.

He shall devote his full working time to the duties of his office; he shall not become a candidate for, or hold any elective office during his term of appointment; and he shall not engage in any business activity during his term that would interfere with his stated duties. He shall:

- (a) Attend all meetings of the board of selectmen, except when excused, and he shall have the right to speak but not to vote
- (b) Participate with the finance committee and the finance director in the preparation of the budget
- (c) Keep the board of selectmen informed about departmental operations
- (d) Coordinate the activities of all town boards, agencies, and committees
- (e) Keep the board of selectmen informed regarding the availability of state and federal funds and how such funds might relate to short and long range needs
- (f) Be responsible for the solicitation and preparation of applications for grants for the departments under the jurisdiction of the board of selectmen
- (g) As agent to the personnel board, be responsible for the day to day administration of the town's personnel system, and the administration and enforcement of collective bargaining agreements, the personnel by-laws, and rules and regulations adopted by the board of selectmen
- (h) Under the guidance of the personnel board, assist in the negotiation of collective bargaining contracts, unless the board of selectmen designate another negotiator
- (i) Develop, keep, and annually update a full and complete inventory of all real and personal property of the town, except school property
- (j) Perform such other duties as may be required by this charter, by-law, or vote of the board of selectmen

- (k) Where suitable, delegate any duties and responsibilities to an assistant or other town employee
- (l) Act as ombudsman to all citizens in their day-to-day contacts and dealings with the town, its officials, and boards

SECTION 4-2-2 APPOINTMENTS

Subject to the approval of the board of selectmen, the town administrator shall have the power to appoint and, except as may otherwise be provided by general law, this charter, or by-law, may suspend or remove: (a) police chief, (b) fire chief, (c) public safety director, (d) civil defense director, (e) finance director, (f) town accountant, (g) treasurer/collector, (h) assistant town administrator, (i) data processing manager, (j) town engineer, (k) director of municipal services, (l) other supervisory personnel including division and department managers under the administrative direction of the selectmen and town administrator.

The town administrator shall also have the power to appoint and, except as otherwise provided by general law, this charter, by-law, or collective bargaining agreements, may suspend or remove any town employee under the administrative direction of the board of selectmen and town administrator. All appointments, suspensions, or removals by the administrator shall be subject to reversal by vote of the board of selectmen within fourteen days of notification to the employee or prospective employee of hiring, suspension, or removal by the town administrator.

All appointments made under the provisions of this section shall be made on the basis of merit and fitness alone.

The town administrator shall fix the compensation of all town officers and employees appointed by him or her within the limits set by appropriation and applicable compensation plan.

SECTION 4-3 REMOVAL AND SUSPENSION

The board of selectmen may, by a vote of at least three members of the board, terminate and remove, or suspend the town administrator from office in accordance with the following procedure.

- (a) The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all its members that states the reason or reasons for removal. This preliminary resolution may suspend the town administrator for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered to the town administrator forthwith.
- (b) Within five (5) days after receipt of the preliminary resolution, the town administrator may request a public hearing by filing a written request for such hearing with the board of selectmen. This hearing shall be held at a meeting of the board of selectmen not later than thirty (30) days after the request has been filed. The town administrator may file a written statement with the board of selectmen responding to the reasons stated in the resolution of removal, provided the same is received at its office more than forty-eight (48) hours in advance of the public hearing.
- (c) The board of selectmen, by the affirmative vote of a majority of its members, may adopt a final resolution of removal, that may be made effective immediately. Such resolution may be adopted not less than ten (10) nor more than twenty-one (21) days after the date of delivery of the preliminary resolution to the town administrator, if the town administrator has not requested a public hearing; or, within ten (10) days following the close of the public hearing if one is held. Failure to adopt a final resolution within the time periods as provided in this section shall nullify the preliminary resolution of removal and the administrator shall, at the expiration of said time, forthwith resume the duties of the office.

The town administrator shall continue to receive a full salary until the effective date of a final resolution of removal.

The action of the board of selectmen in suspending or removing the town administrator shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the board of selectmen.

SECTION 4-4 VACANCY

- (a) When a vacancy arises in the office of town administrator, the board of selectmen shall fill the vacancy in an expeditious manner.
- (b) During any vacancy caused by absences, suspension, removal, resignation, or death, the board of selectmen may designate a town employee or other person as acting town administrator to exercise the powers and duties of the town administrator. The appointment shall be for a period not exceeding ninety days, and may be renewed for an additional period not exceeding ninety days.

ARTICLE 5 OPERATIONAL ORGANIZATION

SECTION 5-1 GENERAL

The operational functions of the town government shall be under the jurisdiction of the following boards established under Article 3:

Schools - School Committee

Highways and landfill - Board of Road Commissioners (until July 1, 1994)
Property assessments and tax rate determination - Board of Assessors
Public housing - Housing Authority
Library - Library Trustees
Recreation facilities and programs, duties of tree warden, and cemeteries -
Park and Recreation Commission (until July 1, 1994)
Water system - Board of Water Commissioners
Public health - Board of Health
Conservation - Conservation Commission
Planning, subdivision control - Planning Board
Senior citizens - Council on Aging
All other - Board of Selectmen

SECTION 5-2 FUNCTIONS UNDER BOARD OF SELECTMEN

The operational functions of the town government that are under the jurisdiction of the board of selectmen shall be organized within the framework of several departments and offices. These shall include, but not be limited to, a finance department, a public safety department, a town clerk office, a town counsel office, an engineering/inspection department, a veterans' services department, a data processing office, and such other departments and offices as shall be established in accordance with the provisions of section 4-2-2. Responsibility for the functions administered within the several departments and offices shall be vested in the town administrator. Except as otherwise provided in this charter, the town administrator, with the approval of the selectmen, shall designate those departments and offices to be supervised by a director, and those, if any, to be supervised by the town administrator. If designated to act as a director of one or more departments or offices, the town administrator shall serve in such capacity without additional compensation. Employees or officers of the town who are or may be designated as directors of departments or offices shall be appointed subject to the provisions of section 4-2-2.

The town administrator may, with the approval of the affirmative vote of at least three selectmen, establish, reorganize, consolidate, or abolish any department, office, or position placed by this charter under the direction and supervision of the administrator, except as otherwise provided by general law or this charter. By vote of at least three members, the board of selectmen may require the town administrator to submit a plan to establish, reorganize, consolidate, or abolish any department, office, or position placed by this charter under the administrator's direction and supervision except as otherwise provided by general law or this charter.

On July 1, 1994, when the board of road commissioners and the park and recreation commission cease to exist and their responsibilities are transferred to the board of selectmen, these functions shall be assigned to a new municipal services department or otherwise organized under the provisions of this section 5-2 and section 4-2-2. The board of selectmen may establish a municipal services advisory committee.

SECTION 5-2-1 FINANCE DEPARTMENT

- (a) A finance department shall include the operational functions of accounting, investing, assessments, tax and fee collections, receipts and disbursements, payroll, and others of a fiscal nature. The department director shall also function as the finance director and town accountant in accordance with the generally accepted definitions of those functions. The director shall assist in all of the tasks of developing the annual municipal budgets.
- (b) The department director shall monitor and insure compliance with legal requirements regarding the procurement of services, supplies, and equipment for all town departments and offices including those not under the jurisdiction of the selectmen.

SECTION 5-2-2 PUBLIC SAFETY DEPARTMENT

When the selectmen so determine, there shall be established a public safety department that shall be headed by a director of public safety, who shall have all the powers and duties of chief of police, fire chief, and civil defense director. The functions of the public safety department shall be to:

- (a) operate a full-time fire department including a volunteer force
- (b) operate a full-time police department including auxiliary police
- (c) provide emergency medical services
- (d) provide the function of civil defense
- (e) operate the joint communications system
- (f) provide the other services normally associated with police and fire protection functions

The public safety director shall be appointed by the board of selectmen. All employees of the department shall be appointed by the director, with the approval of the board of selectmen. Until the public safety department is established, all employees of the police department shall be appointed by the police chief and all employees of the fire department by the fire chief, in each case with the approval of the board of selectmen.

SECTION 5-3 TOWN CLERK

A town clerk shall be elected by ballot as provided in Section 2-4 for a term of three years. The clerk shall receive such compensation as may be appropriated annually for

that purpose, either in the budget or under separate article, as determined by the board of selectmen. A vacancy shall be filled by appointment by the board of selectmen, to serve until the next annual election which shall be held not less than ninety (90) days after the appointment. The town clerk shall have such responsibilities as may be assigned by vote of town meeting or the board of selectmen, in addition to those specified by law, including the town charter and by-laws.

ARTICLE 6 FINANCE AND FISCAL PROCEDURES

SECTION 6-1 FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is established by general law.

SECTION 6-2 BUDGET PROCESS

The budget process may be prescribed by town by-law.

Unless inconsistent with such by-law the following provisions shall control:

- (a) The finance committee, in consultation with the town administrator and the selectmen, shall issue guidelines and prescribe procedures for the development of a proposed budget, which shall include at least one public hearing.
- (b) The board of selectmen, in consultation with the town administrator and the finance committee, shall determine whether, when, and what override questions will be put to the voters.
- (c) The finance committee shall prepare the proposed budget and report that shall be printed in the warrant for the annual town meeting.

SECTION 6-3 CAPITAL IMPROVEMENT PROGRAM

The town administrator shall submit a capital improvement program to the board of selectmen and the finance committee at least one hundred fifty (150) days before the start of each fiscal year. It shall be based on material prepared by the capital planning committee established by by-law, if any, including:

- (a) a clear and concise general summary of its contents
- (b) a list of all capital improvements proposed to be undertaken during the ensuing five (5) years, with supporting information as to the need for each capital improvement
- (c) cost estimates, methods of financing, and recommended time schedules for each improvement
- (d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved

This information shall be revised annually by the town administrator with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

SECTION 6-4 APPROVAL OF WARRANTS

Warrants for the payment of town funds, prepared by the town accountant in accordance with the provisions of the general laws, shall be submitted to the town administrator. The approval of any such warrant by the town administrator and one selectman designated by the board of selectmen shall be sufficient to authorize payment by the town treasurer. In the event of the absence of the town administrator or a vacancy in the office, the board of selectmen shall approve all warrants.

ARTICLE 7 GENERAL PROVISIONS

SECTION 7-1 DEFINITIONS

Unless another meaning is clearly apparent from the context, the following words as used in this charter shall have the meaning indicated.

- (a) CHARTER - The word "charter" shall mean this charter, including any amendments that may be adopted.
- (b) DAYS - When the time set is less than seven days the word "days" shall mean business days, not including Saturdays, Sundays, and legal holidays; when the time set is seven days or more, every day shall be counted.
- (c) VOTERS - The word "voters" shall mean registered voters of the Town of Wayland.
- (d) BOARD - The word "board" shall include committee, commission, council, and similar names for multimember bodies.
- (e) VOLUNTEER - The word "volunteer" shall mean an official or board member whose compensation, if any, is nominal or honorary.

- (f) OFFICE, OFFICIAL - The words "office" and "official" shall include board membership and a member of a board.
- (g) AGENCY - The words "town agency" or "agency" shall mean any board, commission, committee, authority, department or office, whether elected or appointed.
- (h) MULTIPLE MEMBER BODY - The words "multiple member body" shall mean any town agency consisting of two or more persons, whether elected or appointed.

SECTION 7-2 TENURE OF OFFICIALS

SECTION 7-2-1 LIMITATION ON TERMS.

No volunteer officer or board member elected for terms of less than five years shall serve more than three consecutive elected terms as a particular officer or member of a particular board; and those elected for terms of five or more years shall serve no more than two consecutive terms.

SECTION 7-2-2 REMOVAL OF APPOINTED OFFICIALS

Any appointed volunteer officer or board member may be removed by the appointing authority, for cause, that shall include failure to attend meetings.

SECTION 7-2-3 RECALL OF ELECTED OFFICIALS

- (a) Any person who holds an elected town office may be recalled from the office by the voters as herein provided.
- (b) A recall affidavit, signed by at least fifty voters in each of the precincts into which the town is divided, may be filed with the town clerk. The affidavit shall contain the name of the officer whose recall is sought and a statement of the grounds for recall. The board of registrars of voters shall certify such affidavit with regard to the sufficiency and validity of the signatures of voters. Within five (5) days following such filing, the town clerk shall deliver to the first ten persons named on such affidavit, petition blanks demanding said recall, printed forms of which the town clerk shall keep available. The petition forms may be completed by printing or typewriting. The petitions shall be addressed to the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit. The forms shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. A copy of the petition shall be entered into the record book to be kept in the office of the town clerk.

The recall petitions shall be returned to the office of the town clerk within fourteen (14) days following the date they are issued, signed by at least fifteen (15) percent of the voters.

The town clerk shall, within three (3) days following such filing, submit the petitions to the board of registrars of voters which shall forthwith certify thereon the number of signatures that are the names of voters.

- (c) If the petitions shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with a certificate to the board of selectmen. Upon its receipt of the certified petition, the board of selectmen shall forthwith give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign from office within five (5) days following delivery of said notice, the board of selectmen shall order a special election to be held not less than forty-five (45) nor more than sixty (60) days after the date of the certification of the town clerk that the petition is sufficient; provided, however, that if a regular annual town election is to be held within ninety (90) days following the date of said certificate, the recall election shall be held in conjunction therewith and not at a special election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.
- (d) An officer sought to be recalled may be a candidate to succeed to the same office. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same shall all be in conformity with the provisions of law relating to town elections generally, unless otherwise provided in this section.
- (e) Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of (name of officer)
Against the recall of (name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word "candidates" and the names of candidates arranged by a lottery drawn by the board of registrars of voters. If at least twenty-five (25) percent of the voters vote, either for or against recall of a particular officer, and if a majority of the votes cast favor recall, the officer shall be deemed to be recalled and the ballots for candidates shall then be counted and the candidate receiving the highest number of votes shall be declared elected.

- (f) The incumbent shall continue to hold office and perform the duties until the recall election. If not then recalled, the officer shall continue in office for the remainder of the unexpired term.

If the officer is recalled, the office shall be deemed vacant upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

SECTION 7-3 CHANGES IN CHARTER AND BY-LAWS

SECTION 7-3-1 PERIODIC REVIEW OF BY-LAWS

At least once in every five (5) years, in years ending with a six and a one, the board of selectmen shall appoint a special committee to review the then existing by-laws of the town for the purpose of determining if any amendment, revision, recodification, or other activity may be necessary or desirable.

Such review shall be conducted with the assistance of town counsel or special counsel if the selectmen so direct. A report of the committee with recommendations shall be submitted to the selectmen for action as they feel appropriate not more than nine (9) months after the date the committee is appointed.

SECTION 7-3-2 PERIODIC REVIEW OF CHARTER

At least once in every ten (10) years, in years ending with a one, the selectmen shall appoint a special committee that shall review the then existing charter of the town for the purpose of determining if any amendment or revision is necessary or desirable.

A report of the committee with recommendations shall be submitted to the selectmen for action as they feel appropriate not more than eighteen (18) months after the date the committee is appointed. Such report shall be likewise published by the selectmen in an appropriate publication of general circulation throughout the town.

SECTION 7-3-3 OTHER ACTIVITY

Nothing in the preceding two sections, or elsewhere in this charter, shall restrict the rights of the selectmen, any other group, or any individual to take action to amend the by-laws or this charter under the procedures set out in the Massachusetts General Laws.

Nothing in the preceding two sections, or elsewhere in this charter, shall purport to expand or alter the powers of the selectmen, any other group, or any individual in the amendment of by-laws or this charter. All such amendments of whatever nature shall take place pursuant to the procedures set out in the Massachusetts General Laws.

ARTICLE 8 TRANSITIONAL PROVISIONS

SECTION 8-1 GENERAL PROVISIONS

SECTION 8-1-1 EFFECTIVE DATE

This charter shall become effective upon adoption by the voters, except as otherwise provided in this article.

SECTION 8-1-2 EXISTING LAWS

Except to the extent specifically or by implication repealed, modified, or superseded by provisions of this charter, or inconsistent therewith: (a) all general laws of general application or heretofore accepted by this town shall continue to be applicable, and (b) all special acts pertaining to the town, all town by-laws, rules, regulations, resolutions, and votes of town meeting shall continue in full force and effect; but to the extent any conflict with the provisions of this charter, the charter shall govern.

SECTION 8-1-3 CONTINUATION OF GOVERNMENT

Except as otherwise specifically or by clear implication provided in this charter, all offices, boards, committees, departments, and other agencies of the town shall continue in existence, with their existing powers, duties, and authority, until their duties have been transferred to and assumed by another town office, board, committee department, or agency.

SECTION 8-1-4 EXISTING OFFICIALS AND EMPLOYEES

Each official or employee of the town whose status may be affected by the provisions of this charter shall not cease to hold office or employment by reason of any provision of this charter or cease to perform the duties of the office or employment until provision shall have been made in accordance with this charter for the performance of those duties by another.

Full time employees whose position may be affected by the provisions of this charter shall be retained in a capacity as similar to that person's former capacity as is practical and none shall suffer loss of pay grade or length of service thereby.

SECTION 8-1-5 TRANSFER OF RECORDS AND PROPERTY

All records, property, and equipment of any office, board, committee, department, or agency, or part thereof, the powers and duties of which have been assigned in whole or in part to another agency, shall be transferred forthwith to that agency.

SECTION 8-2 SPECIFIC PROVISIONS

CHAPTER CHANGES

APPLICABLE PROVISIONS

Section 2-2

Moderator - 3 year term

Effective at 1992 election

Section 2-4

Two regular meeting sessions
Spring meeting in March,
April, or May.

Effective in year 1992
Delete first sentence of by-law section 1-1.

Election may be before,
during, or after annual meeting

Delete second sentence of section 1-1 of by-law.

Last day to submit articles
to be not over 90 days before a regular
meeting.

Delete from section 1-3 of by-law the
words "on or before December 15 or
such earlier time as may be fixed by the
board of selectmen."

If election is before or during the annual
meeting, terms of office will begin
the day after the conclusion
of town meeting.

Effective for 1992 election.

Section 2-5

Last day to submit articles for special
town meetings to be not less than 10
days after announcement.

No transitional provision required.

Section 2-6

Warrants shall include all
articles submitted by officials and
boards.

No transitional provision required.

Section 3-3-3

Board of road commissioners
will cease to exist July 1, 1994.

In 1994 there shall be no election of
board members. The terms of all
incumbent members will extend to July
1, 1994 and shall then end.

Section 3-3-4

Two members of the planning board will
be appointed instead of elected, all
terms will be 3 instead of 5 years, and
an associate members will be added.

All terms three years:
1991 - elect one member
- appoint associate
1992 - appoint one member
1993 - elect one member
1994 - elect one member
- appoint one member
- appoint associate
1995 - appoint one member
- elect one member

Section 3-3-7

Number of library trustees
reduced from 6 to 5.

At the 1992 election elect only one
member instead of two.

Section 3-3-8

The park and recreation commission will
have 3 members instead of 5 and it will
cease to exist July 1, 1994.

In 1992 elect one member only. In 1992
elect a new member (or members) only
to the extent necessary to have a full
complement of three members. In 1994
there will be no election of board
members. The terms of all incumbent
members will extend to July 1, 1994 and
will then end.

Section 3-4-2

All members of the finance committee
will serve terms of three years and may
be reappointed. Appointments will be
made by a committee rather than by the
Selectmen.

Beginning in 1991 appointments will be
made by the committee, all for terms of
three years. In 1991 appoint two
members. In 1992 appoint three
members. In 1993 appoint two members.
Delete from section 4-1 of the town
by-laws the words "appointed by the

board of selectmen as herein after
provided", and the third, fourth, and fifth
sentences. Delete section 4-2 of the
by-laws.

Section 3-4-7

The commissioners of trust funds to be
appointed instead of elected.

Commencing in 1992 appoint one each
year.

Section 3-4-8

The waste management advisory
committee is new.

On July 1, 1991 appoint five members:
two for three years
two for two years
one for one year

Section 3-4-9

Board of appeals. There is no
substantive change but the by-law has
inconsistent provisions.

Delete article 14 of the town by-law.

Section 3-4-10

Members of the board of health to be
appointed instead of elected.

Start appointing members in 1992, one
each year.

Section 3-4-13

The recreation advisory committee will
be new.

On July 1, 1994, three members will be
appointed, one for 3 years, one for 2
years, and one for 1 year.

Article 4

Town administrator is a new position.

Article 4 will be fully effective on the
appointment of an administrator. Until
then all powers and duties assigned to
the administrator in article 4 or
elsewhere may be exercised by the board
of selectmen or may be assigned by that
board to the executive secretary or other
town official.

Section 4-1

~~Appointment of town administrator.~~

~~The board of selectmen shall appoint a
town administrator no later than July 1,
1992. At or prior to the spring 1992
meeting this position shall be added to
the wage and salary plan.~~

Section 5-2-1

The position of director of the finance
department is new.

Upon adoption of the charter, the
incumbent finance director and town
accountant will also be the director of
the finance department. By the spring
1992 regular town meeting this
combined position will be added to the
wage and salary plan.

Section 5-2-2

The public safety department and
position of public safety director are
new.

Section 5-2-2 will become effective only
when one person has been appointed
public safety director or is named both
police chief and fire chief. Until then,
the fire and police departments will
operate as separate departments. By the
spring 1992 regular meeting the position
of public safety director shall be added
to the wage and salary plan.

Section 7-2-1

This section limits the number of
consecutive terms elected officials and
board members may serve.

This section will apply only to terms
commencing after the year 1991.

Section 7-2-2

This section provides for the removal of
appointed officials.

This section will be effective on the
adoption of this charter but only for
causes occurring thereafter.

Section 7-2-3

This section provides for recall of
elected officials.

This section will be effective upon
adoption of this charter but will be
applicable only to persons elected after
1991.

