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one hundred and twenty-one B of the General Laws shall not exceed five percent of the town's equalized valuation as defined in section one of said chapter forty-four. Indebtedness incurred under this act shall also be subject to approval under section twenty-two of said chapter one hundred and twenty-one B in like manner as indebtedness incurred under said section twenty.

SECTION 10. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, excluding the state building code or any corresponding ordinance or regulation of the town, the provisions of this act shall be controlling.

SECTION 11. This act, being necessary for the welfare of the commonwealth and the town and its inhabitants, shall be liberally construed to effect the purpose thereof.

SECTION 12. This act shall take effect upon its passage.

Approved January 6, 1997.

Chapter 461. AN ACT ESTABLISHING THE WAYLAND WASTEWATER MANAGEMENT DISTRICT COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. It is hereby declared essential for the benefit of the people of the town of Wayland, in order that there be an increase in their welfare, prosperity, an improvement in their living conditions and greater protection of drinking water supplies, that said town through its commission establish an economical and efficient wastewater management system as needed and where appropriate; that accurate, appropriate, and self-sustaining fees, rates and charges for the wastewater collection, treatment and disposal services provided by the commission be established and that all consumers of such service, public and private, taxpayer and tax exempt, pay their fair share of the costs of such service; that the wastewater management system of said commission be operated in a modern, efficient and financially self-sustaining manner to further its sound financial, environmental and physical condition; that the remedying of failing or inadequate systems be facilitated; that the implementation and financing of on-site systems including alternative systems for single facilities be facilitated; that conservation of water sources be encouraged; that the implementation of Title V of the state environmental code be facilitated so as to protect and improve ground water supplying drinking water; that said town be provided a means to improve its treatment and disposal of wastewater and insure the continued availability of wastewater treatment and disposal services at sufficient rates; all to the public benefit and good, and to the extent and in the manner provided herein.

SECTION 2. This act shall be known and may be cited as the **Wayland Wastewater Management District Commission Act.**

SECTION 3. As used in this act, the following words shall, unless the context otherwise requires, have the following meanings:-

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"Board of health", the board of health of the town of **Wayland.**

"Bonds or bond", bonds, notes and other obligations or evidences of indebtedness of the town of **Wayland** issued for the commission under the provisions of this act.

"Commission", the wastewater management district commission of said town established by section four.

"Costs", applied to any extension, improvement or enlargement of the wastewater management system or to any other project of the commission financed under the provisions of this act; all or any part of the cost of acquisition, construction, reconstruction, alteration, and remodeling of such work, including, without limiting the generality of the foregoing, costs of labor, materials, machinery and equipment, lands, structures, and all rights of any kind in real and personal property, costs of demolitions or relocations, costs of removal or relocation of any public utilities facilities, financing charges and expenses, interest prior to, during and for a period after completion of such work, reserves for debt service and other capital and current expenses, costs of architectural, engineering, financial, legal and consulting services, costs of plans, specifications, appraisals, surveys, inspections, financial and feasibility studies, expenses of organization, administration and operations prior to the commencement of and during such work, costs of equipment and supplies and advance training of operating personnel and other expenses of completing and commencing operation of such work, working capital, and other expenses, necessary or incidental, to the acquisition, construction, financing and placing in operation of such work.

"Current expenses", the commission's current expenses, whether or not annually recurring, relative to maintaining, repairing and operating the wastewater management system and any other properties of said commission, including, without limiting the generality of the foregoing, administrative, general system payments and other employee benefits, engineering expenses for maintenance, operation and repairs, legal, financial and auditing expenses, insurance and surety bond premiums, fees and expenses of trustees and paying agents, payments to others for services rendered to said commission, taxes which may be **lawfully** imposed upon said commission or its income or operations or the property under its control, and other current expenses required or permitted by law to be paid by said commission, including the funding of reasonable reserves for maintenance, repair, replacements or operations.

"Revenues", all revenues, rates, fees, charges, rents and other receipts derived from the operation of the wastewater management system and all other properties of said commission, including, without limiting the generality of the foregoing, bond proceeds, proceeds of any grant or loan to said commission, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

"Town", the town of **Wayland.**

"Wastewater management system", the wastewater collection, treatment and disposal systems sewing more than one facility as defined in Title V of the state environmental code to be constructed and or to be in the possession of and under the jurisdiction, control and **regulation** of said commission, but owned by said town, including all plants, works, **instrumentalities** or parts thereof, lands, easements, rights in land and water rights, rights of

way, contract rights, franchises and privileges, all publicly constructed main, trunk, intercepting, connecting, lateral, outlet and other sewers, outfalls, pumping and ventilating stations, disposal and treatment plants, or works, structures, equipment, vehicles, appliances, and other adjuncts thereto, and any other property or interests in property, real or personal, incidental to and included in such wastewater disposal systems, and all facilities, betterments, extensions, improvements and enlargements thereto hereafter constructed or acquired.

"Wastewater", greywater and blackwater from domestic, commercial and other non-industrial sources as defined in said Title V of the state environmental code.

SECTION 4. There is hereby established in the town of **Wayland** a commission to be known as the wastewater management district commission which shall have all the rights, powers, and duties specified in this act and the General Laws relating to town boards, and shall be subject to such instructions as said town may from time to time impose by vote of its town meeting.

Except as otherwise provided in this act, said commission shall consist of three members, each of whom shall be a resident of the town. The members shall be appointed by the board of selectmen within sixty days after the effective date of this act. The members shall include one member with extensive experience in the field of administration or business, and one member with extensive experience in the field of finance or accounting. Of the members first appointed, one shall serve in office for a term expiring on June thirtieth in the year following the effective date of this act, and one for a term expiring on June thirtieth, in the second year following the effective date of this act and one for a term expiring on June thirtieth, in the third year following the effective date of this act. Thereafter, the board of selectmen shall appoint successors for a term of three years or, in the case of an appointment to fill a vacancy, for the unexpired term, and until his successor is appointed and qualified. Any member of said commission shall be eligible for reappointment. Any member of said commission may be removed at any time for cause. No vacancy in the membership of said commission shall impair the right of a quorum to exercise the powers of said commission. Two members of said commission shall constitute a quorum and the **affirmative** vote of two members shall be necessary for any action taken by vote of said commission.

Said commission shall annually elect one of its members as chair. Said commission may establish, with the approval of said board of selectmen a reasonable per diem compensation for its members for attendance upon the business of said commission. Such amount may be payable to each member for one day in each month and for any additional days as may be approved by said board of selectmen. In addition, each member may be reimbursed for all reasonable and necessary expenses incurred in the discharge of official duties as approved by said commission.

SECTION 5. Said commission may appoint, employ and determine the compensation, duties and conditions of employment of an executive director and such other officers as said commission shall deem necessary, who shall not be members of said commission and who shall serve at the pleasure of said commission; provided, however, that

said commission may bind itself by contract to employ an executive director, and such other officers, but no such contract may be for a period of more than five years. The executive director shall be the chief executive **officer** of said commission and shall administer and direct its affairs as authorized or approved by said commission and shall have such of the powers and perform such of the duties of said commission as said commission may from time to time have delegated to him and not recalled. The executive director or designee as approved by said commission shall be the secretary of said commission and shall keep a record of the proceedings of said commission and shall be custodian of all books, documents and papers filed with said commission in the minute book or journal of said commission and its official seal. The executive director and any other officer designated by said commission for this purpose, each alone, may cause copies to be made of all minutes and other records and documents of said commission and may give certificates under its official seal to the effect that such copies are true copies, and all persons dealing with said commission may rely upon such certificates.

Said commission may from time to time hire, transfer or otherwise appoint or employ engineers and such other experts, and other consultants and employees as it deems necessary and determine their duties.

SECTION 6. The commission shall have all the rights and powers necessary or convenient to carry out and effectuate this act, including, but without limiting the generality of the foregoing, the rights and powers:

(a) to adopt rules, regulations, and procedures in connection with the performance of its functions and duties, and regarding the use of, and connection to, the wastewater management system. Said commission may, by regulation, prescribe civil penalties, which shall enure to said town, in accordance with section ten of chapter eighty-three of the General Laws for the violation of any rule or regulation prescribed by said commission. Said commission may further assess fines not exceeding three hundred dollars for each violation of its rules and regulations in accordance with section twenty-one of chapter forty of the General Laws;

(b) to maintain an office in said town at such place or places as it may determine;

(c) to apply for, receive, accept, administer, expend and comply with the conditions, obligations and requirements respecting any grant, gift, loan, including without limitation any grant, gift or loan from agencies of local, state and federal governments, donation or appropriation of any property or money in aid of the purposes of said commission and to accept contributions of money, property, labor or other things of value;

(d) to acquire in the name of said town by purchase, lease, lease-purchase, sale and leaseback, gift or devise, or to obtain options for the acquisition of, any property, real or personal, tangible or intangible, or any interest therein, in the exercise of its powers and the performance of its duties;

(e) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any property, real or personal, tangible or intangible, or any interest therein, consistent with all requirements of the General Laws;

(f) to enter onto any land to make surveys, borings, soundings and examinations

thereon, provided that said commission, notwithstanding section three, shall make reimbursements for any injury or actual damage resulting to such lands and premises caused by any act of its authorized agents or employees and shall so far as possible restore the land to the same condition as prior to making of such surveys, borings, soundings and examinations; and to acquire by eminent domain any interest in real property within said town in the name of said commission in accordance with the provisions of chapters seventy-nine and chapter eighty A of the General Laws or any alternative method provided by law; provided, however, that said commission shall not exercise the power of eminent domain without the prior approval of the town meeting and the selectmen of said town. Said commission may order the removal or relocation of any conduits, pipes, wires, poles or other property located in public ways or places or in or upon private lands, which it deems to interfere with the laying out, construction or operation of any wastewater disposal project, and the proper authorities shall grant new locations for any such structure so removed or relocated, and the owner thereof may be reimbursed by said commission for reasonable cost of such removal or relocation. Such orders, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such tracks, pipes, conduits, wires, poles or other property in such public ways or places, and the private owner of any such structures in public ways or lands shall comply with any such order of said commission relating to any such structure in public ways or lands. If any such owner shall fail to comply with any such order of said commission relating to any such structure in public ways and places within a reasonable time, to be fixed in the order, said commission may discontinue and remove such tracks, conduits, pipes, wires, poles or other property, and may relocate the same, and the cost of such discontinuance, removal or relocation shall be repaid to said commission by owner. No such discontinuance, removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof, except for reimbursement of cost provided for above. This section shall not apply to facilities on property of the commonwealth under the control of the department of highways or the metropolitan district commission or installed under license or permits granted by said department or commission, except with its approval;

(g) to contract for and purchase wastewater disposal and treatment services from, and to provide wastewater disposal and treatment services to, any person, private or public corporation or public instrumentality or town, the commonwealth and the federal government when necessary or convenient for the operation of the wastewater management system;

(h) to construct, improve, extend, enlarge, maintain and repair the wastewater management system; provided, however, despite anything else in this act to the contrary, the power granted in this clause to construct, extend and enlarge the wastewater management system shall be limited in that the commission shall not provide service to:

(1) replace, repair or upgrade an existing facility's system at the same design flow unless and until the board of health has approved such replacement, repair or upgrade; unless there is a request by said board of health based on the need to protect the public health, welfare, or the environment, or unless the facility's system is provided for in a permit issued

by the Massachusetts department of environmental protection;

(2) a new facility's system or for an increase in design flow to an existing facility's system if that new system or increase in design flow could not have been permitted in the absence of this act, unless there is a request by said board of health based on the need to protect the public health, welfare, or the environment, or unless the facility's system is provided for in a permit issued by said department of environmental protection;

(i) to use monies borrowed or appropriated by said town for the purposes of this act;

(j) to make contracts of every name and nature and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes;

(k) to exercise the powers and privileges of, and to be subject to limitations upon towns and cities provided by the provisions of sections one to twenty-four, inclusive, and twenty-seven to twenty-nine, inclusive, of chapter eighty-three of the General Laws, insofar as such provisions may be applicable and are consistent with the provisions of this act;

(l) to provide financing, technical and administrative assistance and to provide or cause to be provided maintenance for systems, including alternative systems, serving single facilities, as defined in Title V of the state environmental code;

(m) to administer and execute the provisions of section one hundred and twenty-seven B½ of chapter one hundred and eleven of the General Laws as they pertain to inadequate septic tanks; provided, however, that said board of health has first made findings consistent with its authority as provided in said section one hundred and twenty-seven B½ as to any affected owner;

(n) to create an overall wastewater policy and plan for said town;

(o) to do all things necessary, convenient or desirable for carrying out the purposes of this act or the powers expressly granted or necessarily implied in this act;

(p) consistent with the constitution and laws of the commonwealth, said commission shall have such other powers as may be necessary for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this act; provided, however, that nothing in this act shall impose any duty on said commission to maintain groundwater levels within or without the boundaries of said town.

SECTION 7. In addition to the powers of the commission otherwise provided herein, said commission shall have the following powers and shall be subject to the following limitations:

(a) Said commission is authorized and empowered to fix, revise, charge, collect and abate fees, rates, rents, assessments, delinquency charges and other charges for wastewater collection, treatment and disposal and other services, facilities and commodities furnished or supplied by it. Subject to paragraph (c), fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and revised by said commission at least annually in accordance with procedures to be established by said commission for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. Said commission shall hold at least one public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be delivered to the legislative and executive bodies of said town and be pub-

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lished in a newspaper of substantial circulation in said town at least one month in advance of the hearing. No later than the date of such publication, said commission shall make available to the public and deliver to the selectmen its most recent financial statement, the proposed schedule of fees, rates and charges and its proposed operating and capital budgets for its next fiscal year. Said commission may combine its fees, rates and other charges for wastewater services provided by it in a single schedule of charges. Fees, rates, rents, assessments, abatements and other charges established by said commission shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the commonwealth or any of its political subdivisions.

(b) Subject to paragraph (e), the fees, rates, rents, assessments and other charges established by the commission in accordance with paragraph (a) shall be so fixed and adjusted in respect to the aggregate thereof so as to provide revenues at least sufficient (i) to pay the current expenses of said commission, (ii) to pay the principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by said town for said commission as the same become due and payable, (iii) to create and maintain such reasonable reserves as may be reasonably required by any trust agreement or resolution securing bonds, (iv) to provide funds for paying the cost of all necessary repairs, replacements and renewals of the wastewater management system and (v) to pay or provide for any amounts which said commission may be obligated to pay or provide for by law or contract including any resolution or contract with or for the benefit of the holders of bonds issued for said commission. The annual operating budget of said commission shall be submitted to the finance committee for review and recommendation, and all funds expended by said commission shall be subject to appropriation by town meeting.

(c) Said commission shall undertake a study and examination of its estimated expenses and costs of constructing, maintaining, operating and improving the system, and shall prior to one year after the effective date of this act promulgate in accordance with paragraph (a) a schedule of fees, rents, rates and other charges sufficient thereafter to satisfy the requirements of paragraph (b). Such schedule shall become effective upon promulgation. Such schedule shall provide for the metering, monitoring and other measuring of, and charging for, wastewater management services provided by said commission to consumers of such services in said town, including said town, the commonwealth and all independent agencies and authorities of said town and the commonwealth, and any exemptions from such charges provided to the commonwealth or said town under any general or special law, are hereby declared inapplicable as of the date such schedule shall be in force; provided, however, that no betterment or special assessment shall be made by said commission under the authority of chapters forty, eighty, eighty-three of the General Laws or any other provision of law against property owned by the commonwealth or any town of the commonwealth, or any political subdivisions thereof.

(d) Said commission shall have the benefit, without further acceptance of sections sixteen A and sixteen B of said chapter eighty-three, to the extent applicable and consistent with this act. Applications for abatements in accordance with section sixteen E of said chapter eighty-three shall be made within thirty days after the date of such demand. Upon

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written application, said commission shall issue lien certificates in accordance with section twenty-three of chapter sixty of the General Laws. No recordation of certificates issued by said town pursuant to said section twenty-three of said chapter sixty shall affect liens for the unpaid fees, rates, rents, assessments, and other charges of said commission.

(e) Said town is hereby authorized to establish an Enterprise Fund in accordance with the provisions of section fifty-three F½ of chapter forty-four of the General Laws for the operation of the wastewater management system.

(f) On or before one year after the effective date of this act and annually thereafter, said commission shall prepare a proposed capital improvement program for the next three succeeding fiscal years of said commission and shall adopt a capital improvement budget for the next succeeding fiscal year. Such program and budget shall include a description of the projects proposed to be undertaken during such periods, the costs proposed to be incurred on such projects, the method of financing such costs and an estimate of the effect, if any, that such costs will have on the current or projected fees, rates, rents and other charges of said commission. The program and budget shall be annually prepared and the budget shall be presented for approval to the town meeting without review or approval of the board of selectmen. Said commission shall submit its capital budget to the finance committee for review and recommendation. Said commission shall hold at least one public hearing on the proposed capital improvement program and budget prior to adoption, which hearing may be combined with a hearing provided in paragraph (a), notice of which shall be delivered to said board of selectmen and be published in a newspaper of substantial circulation in said town at least one month in advance of the hearing. No later than the date of such publication said commission shall make available to the public and deliver to said board of selectmen copies of the proposed program and budget. Said town may incur debt for development of the wastewater management system in accordance with chapter forty-four of the General Laws.

(g) Any wastewater management system, as defined in section three, shall be subject to the rules and regulations of said board of health of said town, applicable laws of the commonwealth and any approvals required thereunder.

(h) The activities of said commission shall be consistent with the official planning documents adopted from time to time by said town boards and commissions including, without limitation, said town of Wayland Open Space and Recreation Plan.

(i) No owner of a home, facility or lot who can demonstrate compliance with Title V of the state environmental code and the regulations of said board of health shall be compelled to join the wastewater management system unless required to do so by said board of health or otherwise required to do so by law. Notwithstanding the provisions of section three of chapter eighty-three of the General Laws, said commission shall not be required to connect any home, facility or lot to the wastewater management system.

SECTION 8. The principal of, premium, if any, and interest on all notes and bonds issued by said town for said commission, unless otherwise provided by said town, shall be payable solely from the funds provided therefor from revenues as herein provided, but shall be general obligations of said town for payment of which the full faith and credit of said town shall be pledged.

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SECTION 9. Insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation, or law of said town other than rules and regulations of the board of health, the provisions of this act shall be controlling.

SECTION 10. This act, being necessary for the welfare of the town of **Wayland** and its inhabitants, shall be liberally construed to effect its purposes.

SECTION 11. This act shall be construed in all respects so as to meet all constitutional requirements. In **carrying** out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 12. This act shall take effect upon its passage.

Approved January 6, 1997.

Chapter 462. AN ACT RELATIVE TO CERTAIN INDUSTRIAL PROPERTY IN THE TOWN OF CHARLTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the United States Generating Company's electric generation facility located in the town of Charlton shall be exempt from local property taxation; provided, however, that said exemption shall be allowed for a period not to exceed twenty-five years from the effective date of this act; and, provided further, that said facility shall be exempt only if the owner thereof has entered into an agreement with the board of selectmen and the board of assessors of said town of Charlton, which boards are hereby jointly authorized to enter into such agreement for and on behalf of the town upon such terms as is deemed to be in the town's best interests, whereby said company shall: (1) forego obtaining manufacturing corporation classification and local property taxation exemption pursuant to paragraph (3) of the clause Sixteenth of section five of chapter fifty-nine of the General Laws, and (2) make a payment in lieu of taxes. Any such payment in lieu of taxes shall be greater than the local property tax and manufacturing equipment excise that the company would pay as a manufacturing corporation so classified. For the purposes of this section, electric generation facility shall mean all real property, including land, and all personal property used in connection with the production of electricity.

Approved January 6, 1997.