

**CHARTER  
FOR THE  
CITY OF WESTLAKE, OHIO**

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EDITOR'S NOTE: The Westlake Charter was originally adopted on November 6, 1956. Dates appearing in parentheses following a heading indicate that those provisions were subsequently enacted or amended on the date given.

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**CHARTER  
FOR THE  
CITY OF WESTLAKE, OHIO**

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**PREAMBLE**

We, the people of Westlake in the County of Cuyahoga and State of Ohio, grateful to Almighty God for the freedoms we enjoy, in order to secure for ourselves the benefits of municipal home rule and exercise all the powers of local self-government, do adopt this Charter of our Municipality.

**ARTICLE I  
POWERS OF THE MUNICIPALITY**

**SECTION 1. POWERS.**

The Municipality of Westlake shall have all powers of local self-government and municipal home rule now or hereafter granted to municipalities by the Constitution and laws of Ohio.

**SECTION 2. MANNER OF EXERCISE.**

All such powers shall be exercised in the manner prescribed by this Charter or by ordinance of the Council created hereby. The powers of the Municipality may also be exercised, except as a contrary intent or implication appears in this Charter or in the ordinances of the Council, in such manner as may now or may hereafter be provided by the general laws of Ohio.

**ARTICLE II  
THE MAYOR**

**SECTION 1. QUALIFICATIONS.**

The Mayor shall be a qualified elector of the Municipality and a resident thereof for eighteen consecutive months immediately prior to the date of election. During his term of office he shall continue to be a resident and qualified elector of the Municipality. He shall hold no other public office or full time public or private employment that would interfere with his duties as Mayor of the City of Westlake, except Notary Public or a member of the State Militia or Reserve Corps of the United States. He shall not be interested in the profits or emoluments of any contract, job, work or service with or for the Municipality as provided by the general laws of Ohio. If the Mayor shall cease to be a qualified elector or resident of the Municipality, his office shall immediately become vacant. Failure of the Mayor to possess the other qualifications for office set forth in this section shall be grounds for his removal from office pursuant to Article II, Section 3 of this Charter.

(Amended 11-2-10.)

**SECTION 2. POWERS.**

The chief executive authority of the Municipality shall be vested in the Mayor. As administrator of the City government, the Mayor shall appoint all department heads and the Mayor's office staff. The Mayor shall exercise control over and be responsible to the electors of the City for the operation of all departments and divisions.

The Mayor shall be chief conservator of the peace within the Municipality and shall serve as its Director of Public Safety. The Mayor shall see that all laws, ordinances and resolutions are faithfully obeyed and enforced. The Mayor shall have the power to appoint, promote, transfer, reduce or remove any officer or employee to the extent and under the circumstances permitted by this Charter or the laws of the State of Ohio, where it is beyond the scope of this Charter to provide. (Amended 11-7-00.)

**SECTION 3. REMOVAL.**

Council may, by a two-thirds (2/3) vote of the members of Council after public hearing, expel or remove the Mayor from office for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for conviction while in office of a crime involving moral turpitude; for absence without justifiable excuse from three consecutive regular Council meetings; or for mental or physical disability rendering it impossible for him to perform the duties of Mayor. Prior to any such action by Council, the Mayor shall be notified in writing of the charge against him at least ten (10) days in advance of any hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge. (Amended Nov. 2, 1965.)

**SECTION 4. TERM OF OFFICE.**

The Mayor shall be elected for a term of four years, to commence the first day of January after his election. The annual salary of the Mayor for the term commencing January 1, 1994 and for each succeeding term thereafter, shall be fixed by Council at least forty-five (45) days prior to the time a person is required to file nominating petitions for the office of Mayor for that particular term, and may be increased but shall not be decreased during the term it was set. (Amended Nov. 6, 1990.)

**SECTION 5. DUTIES.**

(a) Attendance at Council Meetings. The Mayor shall be an ex-officio member of Council and shall sit with that body, with the right to introduce ordinances, resolutions and motions and discuss all matters coming before Council. He shall not have a vote in Council. The Mayor may require whatever department heads or other officials he has appointed to attend Council meetings and provide advice and opinions as may be requested by the Mayor or Council.

(b) Execution of Documents. The Mayor shall sign, on behalf of the Municipality, all contracts, conveyances, evidences of indebtedness and all other instruments to which the Municipality is a party.

(c) Veto. If the Mayor approves any ordinance or resolution, he shall approve it within ten (10) days after its passage or adoption by the Council. The Mayor may veto any ordinance or resolution passed by Council. The Mayor may approve or disapprove the whole or any item or part of any ordinance or resolution appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. In case of a veto, the matter shall be returned to Council with a statement in writing by the Mayor of his objections, which shall be entered into the official journal. Council shall vote on such ordinance or resolution not later than the second regular meeting after receipt of such veto. Council may override the Mayor's veto by a two-thirds (2/3) vote of all Members and upon receiving such an affirmative vote, the ordinance or resolution shall then take effect as if it had received the signature of the Mayor. If any ordinance or resolution shall not be signed or vetoed by the Mayor within ten (10) days after passage, it shall become effective as if he had signed it on the last day of said ten-day period. (Amended 11-2-10.)

(d) Enforcement of Contracts. The Mayor shall see that all terms and conditions imposed in favor of the Municipality or its residents in any franchise or contract to which this Municipality is a party are faithfully kept and performed.

(e) Reports. Reports and advice of all appointed officials, as provided elsewhere in this Charter, shall be submitted first to the Mayor for his written approval. (Amended Nov. 2, 1965.)

(f) Ceremonial Duties. The Mayor shall be recognized as the official and ceremonial head of Government by the Governor for military purposes and by the courts for the purpose of serving civil processes.

#### **SECTION 6. VACANCY IN OFFICE OF MAYOR.**

(a) Absence. When the Mayor is temporarily absent from the Municipality or is unable for any cause to perform his duties, the Mayor shall appoint from the department heads presently serving an individual to serve as Acting Mayor with the same rights, powers and duties as the Mayor during the term of his temporary absence. If the event that the Mayor is unable for any reason to make such appointment of an Acting Mayor, the President of Council or the individual acting in the capacity of President of City Council shall make such temporary appointment. (Amended 11-7-00.)

(b) Vacancy. In the event the office of Mayor shall become vacant for any reason, the President of Council shall become Acting Mayor for a period not to exceed six (6) months to permit a duly elected successor to be chosen. In the event the President of Council, for any reason, cannot assume the office of Acting Mayor, the Director of Law shall assume the office. In the event the Director of Law, for any reason, cannot assume the office of Acting Mayor, Council shall select from the remaining Directors one who need not be a resident of the City of Westlake, to act as Acting Mayor. During his term of service an Acting Mayor shall be paid the salary of the Acting Mayor and may retain his original elected or appointed position at no additional compensation. The Council shall, within fourteen (14) days after the vacancy occurs, provide for a special election, with no preliminary primary, to be held within one hundred twenty (120) days from the date of the vacancy to fill such vacancy.

The candidates for the special election shall be chosen in the following described manner:

- (1) Any candidate who files a nominating petition that is signed by not less than five hundred (500) qualified electors shall be a candidate at the special election.
- (2) Unless otherwise provided by the Constitution or the general laws of the State of Ohio, all candidates must file their nominating petitions not later than 4:00 p.m. of the 60th day before the day of the special election. The person receiving the largest number of votes in the special election shall become Mayor and take office upon certification by the Board of Elections, and he shall serve for the unexpired term of office. He may be a candidate to succeed himself. (Amended 11-2-10.)

### **ARTICLE III THE COUNCIL**

#### **SECTION 1. NUMBER AND TERM.**

Except as otherwise provided in this Charter and by the Constitution of the State of Ohio, all legislative powers of the Municipality shall be vested in a Council of seven (7) members, consisting of a President and six (6) ward Councilmen.

The term of the six ward Council members shall begin on January 1st following the election and certification by the Cuyahoga County Board of Elections of the results of the election for members of Council and the ward Council members shall serve for a term of four years beginning with the term to commence on January 1, 2002.

The term of President of Council shall begin on January 1st following the election and certification by the Cuyahoga County Board of Elections of the results of the election of the office of President of Council and the President of Council shall serve for a term of four (4) years beginning with the term to commence on January 1, 2002.  
(Amended 11-7-00.)

#### **SECTION 2. QUALIFICATIONS.**

Each member of Council shall be a qualified elector of his or her ward, a resident of Westlake for eighteen (18) consecutive months immediately prior to the date of the election and, during the term of office, shall continue to be a resident of that ward and a qualified elector. The President of Council shall be a qualified elector and a resident of Westlake for eighteen (18) consecutive months immediately prior to the date of the election, and while in office, shall continue to be a resident and qualified voter. No member of Council shall be directly or indirectly interested in the profits or emoluments of any contract, work or service with or for the Municipality as provided by law.  
(Amended 11-2-10.)

**SECTION 3. DUTIES OF COUNCIL.**

(a) General Duties. All legislative powers of the Municipality, except as limited by this Charter, shall be vested in the Council, and in furtherance thereof it shall originate, introduce and pass ordinances and adopt resolutions; fix the salaries of all employees of the Municipality whether elected or appointed; require and fix bond for the faithful discharge of the duties of office by officers and employees; (the premium of any bond required by Council may be paid by the Municipality); adopt a budget; provide for an annual financial audit by the State; authorize the issuance of bonds under State law; and perform such other duties and exercise such other rights, not inconsistent with this Charter, as now or hereafter granted to the legislative authority of any municipality of Ohio.

Salaries paid to members of Council may neither be increased nor decreased during the term in which such legislation changing the salaries of councilmembers is adopted. Any change in the salaries of members of Council for the succeeding term of Council must be effective at least 45 days prior to the date a person is required to file for candidacy of the office of Council. (Amended Nov. 4, 1980.)

(b) Validation of Actions. All ordinances passed and resolutions adopted by Council shall be signed by the President of Council, or President pro tem., attested by the Clerk and presented to the Mayor within five (5) days after their passage by the Council. (Amended Nov. 7, 1972.)

(c) Redividing the City into Wards. The wards as presently constituted shall remain the same and the Council by the first regular meeting of March, 1983 and, from that point on, each four (4) years and six (6) years respectively shall redivide the City into six wards. The wards so formed shall be compact and contiguous with no more than five percent (5%) variation in population between them. Wherever practical, ward boundaries shall follow natural boundaries or street lines. All votes by Council on ward boundary changes shall be taken only at regular meetings of Council and a two-thirds (2/3) vote of Council is required for passage of said boundary changes.

Upon failure of the Council to redivide the City within the period provided, if redivision is necessary, the Director of Law shall redivide it as herein provided and he shall file such plan with the Clerk of Council within thirty (30) days. This plan shall thereupon become the new division by wards of the City.

The division of the City into wards existing at the time of adoption of this amendment shall continue until changed as provided herein.

No change in ward boundaries by either the Council or the Law Director shall be made in such a manner so as to result in an incumbent Councilperson no longer residing in the ward from which that Councilperson was last elected.

(Amended Nov. 4, 1980.)

**SECTION 4. PRESIDENT OF COUNCIL.**

(a) Separate Office. The President of Council shall be elected by the voters. Candidates for such office shall file specifically for that office in accordance with Article VII of this Charter.

(Amended Nov. 7, 1972.)

(b) Duties. The President of Council shall be vested with all the rights and perform all duties and functions of any member of Council, and in addition, shall preside at all meetings of Council at which he is present. He shall supervise the Clerk of Council and all other employees of Council.

(Amended Nov. 7, 1972.)

(c) Vacancy in Office. In case of a vacancy, the President shall be elected by Council from among its members and the one so elected shall vacate his office as Councilman and shall serve for the unexpired term of such President.

(Amended Nov. 7, 1972.)

**SECTION 5. REMOVAL.**

The Council shall be the judge of the election and qualifications of its own members, including the President of Council. Council may, by a two-thirds (2/3) vote of the members of Council, after public hearing, expel or remove from office the President or any member of Council for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for conviction while in office of a crime involving moral turpitude; for persistent failure to abide by the rules, ordinances and resolution of Council; for absence without justifiable excuse from three consecutive regular Council meetings; or for mental or physical disability rendering it impossible for him to perform the duties of his office. The charged Council member shall not be entitled to vote as to his own expulsion. Prior to any such action by Council, the President or member of Council so charged shall be notified in writing of the charge against him at least ten (10) days in advance of the hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge.

(Amended 11-2-10.)

**SECTION 6. VACANCIES.**

Vacancies in Council shall be filled for the unexpired term by an appointment made by a majority vote of all remaining members of Council. Such appointment shall be made within thirty (30) days after the next regular meeting following receipt of official notification of such vacancy. If Council fails to fill the vacancy within said thirty (30) day period the Mayor shall make the appointment.

**SECTION 7. CLERK AND OTHER EMPLOYEES.**

(a) Council may, by ordinance, provide for the appointment by its members of a Clerk, fix the terms and conditions of office for such Clerk and compensation and qualifications therefor. Council may employ any other employees it may deem necessary for the proper discharge of its duties. Any person employed by the Council shall serve at the pleasure of the Council.

(b) All notices or other communications to Council shall be presented to the Clerk of Council.

(Amended Nov. 7, 1972.)

**SECTION 8. MEETINGS.**

(a) Regular Meetings. At eight o'clock p.m. local time (8:00 p.m.) on the second day of January following a regular municipal election, or if such day be a Sunday, on the day following, the Council shall convene and organize. Thereafter, the Council shall meet the first and third Thursdays of each calendar month at eight p.m. (8:00 p.m.) local time, unless the regular meeting shall fall on a legal holiday, then such regular meeting shall be held on the succeeding Tuesday. Council may recess during the month of July or August subject to call of the Mayor.

(Amended Nov. 7, 1972.)

(b) Public Meetings. All meetings of the Council or of its committees shall be open to the public.

(Amended Nov. 7, 1972.)

(c) Special Meetings. Special meetings may be called by the Mayor, President of Council or any three members of Council. There shall be given at least twenty-four (24) hours' notice in writing of such special meeting, served personally on each member of Council or at his usual place of residence. Such notice shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.

(Amended Nov. 7, 1972.)

(d) Compel Attendance. The attendance at any special meeting of the Council shall be considered as a waiver of notice required by the preceding subsection and if all members of Council are present the meeting may proceed as a duly called special meeting.

(Amended Nov. 7, 1972.)

(e) Emergency Meetings. Emergency meetings may be called by the Mayor or President of Council by written notice served personally on each member of Council or left at his usual place of residence at any time up to the time of the meeting. Such notice shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.

(Amended Nov. 7, 1972.)

**SECTION 9. QUORUM.**

A majority of the members of Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution. The Council shall adopt its own rules, regulations, and/or bylaws.

**SECTION 10. PROCEDURE.**

All legislative action shall be by ordinance or resolution except when otherwise required by the Constitution or the laws of the State of Ohio. The Council shall keep a journal of its proceedings which shall be a public record. The vote shall be taken by yeas or nays and entered upon the journal; and no ordinance or resolution shall be passed without the concurrence of a majority of the members of Council. Every proposed ordinance or resolution, before passage, shall be read at

three separate meetings unless two-thirds (2/3) of the members of Council dispense with the rule. All ordinances, resolutions, statements, orders, proclamations, notice and reports required by law, by this Charter, or by ordinance to be published or posted shall be posted at the City Hall and the Porter Public Library for a period of not less than fifteen (15) days prior to the taking effect thereof, or in such manner as Council may hereinafter determine by ordinance, resolution or order; provided, that ordinances or resolutions which, pursuant to this Charter, are to take effect upon approval by the Mayor or upon passage after disapproval by the Mayor, may become effective prior to the expiration of the posting period.  
(Amended Nov. 6, 1990.)

**SECTION 11. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.**

Each ordinance or resolution providing for the appropriation of money, or for an annual tax levy, or for improvements petitioned for by the owners of a majority of foot frontage of the property to be benefited and specially assessed therefor, and any emergency ordinance or resolution necessary for the immediate preservation of the public peace, health, or safety shall take effect, unless a later time be specified therein, upon its approval by the Mayor, or upon its passage after disapproval by the Mayor, as the case may be. No other ordinance or resolution shall go into effect earlier than thirty (30) days after its final passage by the Council. Each emergency measure shall contain a statement of the necessity for such emergency action and shall require the affirmative vote of five members of Council for its enactment. In the event that an ordinance or resolution containing an emergency clause receives less than five but more than three affirmative votes, the ordinance or resolution shall be effective in the same manner and at the same time as would legislation without an emergency clause become effective. No action of the Council authorizing any change in the boundaries of the Municipality or the surrender or joint exercise of any of its powers, or granting, renewing or extending any franchise or other special privilege, or contracting for the supply to the Municipality or its inhabitants of the product or service of any utility, whether municipally owned or not, or regulating the rate to be charged for its services, shall be designated an emergency measure, nor shall any ordinance referring to zoning or regulating the use or development of land be designated an emergency measure or enacted under suspension of the rule requiring three separate readings of ordinances as provided in Article III, Section 10 of this Charter.  
(Amended Nov. 4, 1980.)

**SECTION 12. CODIFICATION OF ORDINANCES.**

Ordinances may be revised, codified, rearranged and published in book form under appropriate title, chapters and sections and such revision and codification may be made in one ordinance containing one or more subjects.

**SECTION 13. ENACTMENT OF ZONING ORDINANCES.**

The Council may provide by ordinance for the procedure for the passage and amendment of any zoning ordinance, the maps and regulations thereof, and the publication of notice and public hearing thereof, provided that the minimum notice of the time and place of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the City. In the event it is proposed to re-zone or re-district ten or fewer parcels of land, as listed on the tax duplicate, then, in addition to the newspaper notice hereinbefore provided, notice of the time and place of such public hearing shall be given by first class mail, postage prepaid, ten (10) days before such hearing, to the record title holders of the property within or immediately adjacent to, adjoining, abutting on or directly across the street from such parcel or parcels. Record title holder shall mean the title holder of such property as disclosed by the records of the Auditor of Cuyahoga County, thirty (30) days immediately prior to the date of such public hearing. If the mailing address of such record title holder cannot be reasonably ascertained then the aforesaid newspaper notice of such hearing shall be deemed adequate notice. Nothing herein provided shall be construed as limiting the power of the Council to increase such notice requirements. (Amended Nov. 2, 1965.)

**ARTICLE IV  
ADMINISTRATIVE OFFICES****SECTION 1. SPECIFIC PROVISIONS.**

(a) Departments. A Department of Law, Department of Finance, and Department of Public Service are hereby established by this Charter and Council shall provide by ordinance for the organization thereof. Each department shall be headed by a director, except Police and Fire which shall be headed by chiefs. The Council may by ordinance provide for the establishment and organization of other departments or divisions thereof and may provide for the abolishment or combination of any department or division not established by this Charter. (Amended 11-2-10.)

(b) Boards and Commissions. A Board of Zoning Appeals, Planning Commission, Civil Service Commission and Board of Building Appeals are hereby established by this Charter. In addition to the boards and commissions so established by this Charter, Council may by ordinance provide for the establishment of additional boards and commissions and prescribe their powers and duties. Such additional boards and commissions may be abolished by Council. (Amended Nov. 2, 1965.)

**SECTION 2. GENERAL PROVISIONS.**

(a) Department Heads. All department heads except the Chiefs of Police and Fire, whose appointments shall be governed by applicable civil service laws, rules, and regulations, and the Director of Law, who shall be elected, shall be appointed by the Mayor subject to the confirmation by a majority of the members of Council. Dismissal of any department head by the Mayor, with the exception of the Director of Law who shall be elected, shall require the approval of a majority of the members of Council. The appointment or dismissal of the Police or Fire Chief shall be governed by applicable civil service laws, rules, and regulations. All department heads shall perform such duties consistent with their office as shall be required by this Charter, by ordinance, or as directed by the Mayor. (Amended Nov. 2, 2004.)

(b) Salary of Department Heads. The starting salary of each department head at the time of appointment shall be considered the base salary and there shall be no reduction of salary below the base salary during the appointee's tenure of office.

(Amended Nov. 7, 1972.)

(c) Board and Commission Appointees. Except as otherwise provided by this Charter, the Mayor shall appoint, dismiss, or suspend any members of the various boards and commissions subject to the confirmation of a majority of the members of Council. Such appointees shall be qualified electors of the City and shall reside in the City during their term of office. They shall serve without compensation unless otherwise provided by ordinance.

(Amended Nov. 7, 1972.)

(d) Continuation in Office. On January 1, 1966, the Board of Building and Zoning Appeals shall become the Board of Zoning Appeals. Each present member of the Board of Building and Zoning Appeals, Planning Commission, and Civil Service Commission shall continue to serve until the expiration of his present term or until the appointment of his successor has been confirmed by Council.

The terms of the members first appointed to the Board of Building Appeals shall commence January 1, 1966, and, except as provided in subsection (f) hereof, each member subsequently appointed to said Board and each member appointed to any other board or commission established by this Charter shall be appointed for a term of four years, which term shall commence upon the expiration of the term of his immediate predecessor on such board or commission.

(Amended Nov. 7, 1972.)

(e) Reappointment. A member of any board or commission established by this Charter shall be eligible for reappointment.

(Amended Nov. 7, 1972.)

(f) Vacancy. A vacancy occurring during the term of any member of a board or commission established by this Charter shall be filled for the unexpired term in the manner authorized for an original appointment.

(Amended Nov. 7, 1972.)

### **SECTION 3. DEPARTMENT OF FINANCE.**

(a) General Duties. The Department of Finance shall be headed by the Director of Finance who shall be the chief fiscal officer of the Municipality and of the several departments and offices thereof. He shall keep an accurate account of all taxes and assessments, of all the assets and liabilities of the Municipality, of all receipts and disbursements of the Municipality and of all appropriations made by the Council. He shall examine and approve, if in proper form, and if an appropriation has been duly made therefor, payrolls, bills, and other claims, and prepare and sign all warrants.

(Amended Nov. 2, 1965.)

(b) Appropriations and Reports. He shall be responsible for the preparation and submission of appropriation measures and shall assist the Mayor and Council in the preparation of estimates, budgets and other financial matters. He shall submit to Council through the Mayor at the second regular Council meeting of each succeeding month, a monthly statement showing:

- All receipts had during the preceding month.
- All disbursements made during the preceding month.
- A cumulative statement for each appropriation showing:
  - Amount of appropriation;
  - Amount expended against the appropriation at the end of the preceding month;
  - Balance remaining.

The foregoing statement shall be in such further sufficient detail as may be required by Council to show the exact financial condition of the Municipality.

(c) Collections. He shall be the collector and the custodian of all monies of the Municipality, including license fees, fines, court costs and waivers. He shall receive and preserve such monies in such manner and in such places as the Council shall direct. He shall also receive and disburse all other public monies coming into his hands, pursuant to such requests as may be prescribed by the authorities having lawful control over such funds.

(d) Certification. No contract, agreement or other obligation involving the expenditure of money shall be entered into by any officer of the Municipality, nor shall any ordinance, resolution, or order for the expenditure of money be passed by Council, unless he first certifies to Council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury, to the credit of the fund for which it is to be drawn, or in the process of collection, and not appropriated for any other purpose, which certificates shall be filed and immediately recorded. The sums so certified shall not thereafter be considered unappropriated until the Municipality is discharged from the contract, agreement or obligation.

(e) Funds Subject to Certification. All monies actually in the treasury to the credit of the fund from which they are to be drawn, and all monies applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation, from taxes or assessments or from sales or services, productions or from any City undertakings, fees, charges, accounts and bills receivable, or other credits in the process of collection; and all monies applicable to the payment of such obligation or appropriation, which are to be paid into the treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and the monies to be derived from lawfully authorized bonds sold and in the process of delivery shall, for the purpose of such certificate, be deemed in the treasury and subject to such certification.

(f) Failure to Comply. All contracts, agreements or other obligations and all ordinances, resolutions and orders entered into or passed contrary to the provisions of subsections (d) and (e) of this section of this Charter shall be void, and no person whomsoever shall have any claim or demand against the Municipality thereunder, nor shall the Council nor any officer of the Municipality waive or qualify the limits fixed by such ordinance, resolution or order or fasten upon the Municipality any liability whatever in excess of such limits, or release any party from an exact compliance with this Charter under such ordinance, resolution or order.

(g) Attendance at Council. He shall attend all meetings of the Council and he shall perform all other duties required by this Charter and by ordinance or resolution of Council.

**SECTION 4. DEPARTMENT OF LAW.**

The Department of Law shall be headed by the Director of Law and commencing with the regular municipal election in the year 2005, and every fourth (4th) year thereafter, he shall be elected for a term of four (4) years. The Director of Law's term shall commence and he shall assume office on the first day of January following his election and shall serve out his term or until his successor is elected and qualified, whichever occurs last. During his term of office he shall continue to be a resident and qualified elector of the municipality. The Director of Law shall appoint all assistant directors of law and office staff; assistant directors of law shall be subject to confirmation by a majority of the members of Council. The Director of Law shall be a qualified elector at the time of his election, shall have been a resident of the City for at least eighteen (18) months immediately preceding his election, an attorney at law duly admitted to the practice of law before the courts of the State of Ohio, and been engaged in the active practice of law in Ohio for a period of six (6) years next preceding his election. The annual salary for the Director of Law for the term commencing January 1, 2014 and each succeeding term thereafter shall be fixed by Council at least forty-five (45) days prior to the time a person is required to file nominating petitions for the office of Director of Law for that particular term. The annual salary may be increased but shall not be decreased during the term it was set.

He shall serve the Mayor, the various administrative departments, boards, and officers of the Municipality and the Council, as attorney and legal counsel, and shall represent the Municipality in all proceedings in courts of law and before any administrative body. He or his designee shall attend all Council meetings and Committee meetings of Council. He shall perform all other duties now or hereafter imposed by law upon directors of law of cities unless otherwise provided by ordinance of Council. He shall act as the Prosecuting Attorney of the City.

Council may, by a two-thirds (2/3) vote of the members of Council after public hearing, expel or remove the Director of Law from office for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for conviction while in office of a crime involving moral turpitude; or for mental or physical disability rendering it impossible for him to perform the duties of the Director of Law. Prior to any such action by Council, the Director of Law shall be notified in writing of the charge against him at least ten (10) days in advance of the hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge.

In the event the office of Director of Law shall become vacant, for any reason, the Mayor shall appoint an Acting Director of Law subject to confirmation of Council. The Acting Director of Law shall be an attorney-at-law licensed to practice before the Courts of the State of Ohio but need not be resident of the municipality. The Council shall, within fourteen (14) days after the vacancy occurs, provide for a special election, with no preliminary primary, to be held one hundred twenty (120) days from the date of the vacancy to fill such vacancy. (Amended 11-2-10.)

**SECTION 5. DEPARTMENT OF PUBLIC SERVICE.**

The Department of Public Service shall be headed by the Director of Public Service who shall manage, supervise and be responsible for the maintenance of public works, City buildings, streets, parks and other properties, and all Service Department equipment under his control. He shall perform such other duties and functions in connection with the public service of the City as provided by ordinance or at the direction of the Mayor. He shall consult with the Director of Engineering on all services concerning matters of utilities, drainage, and general problems where engineering or surveying is concerned. (Amended Nov. 2, 1965.)

**SECTION 6. DEPARTMENT OF ENGINEERING.**

The Department of Engineering shall be headed by the Director of Engineering who shall be responsible for the general engineering requirements of the City, and shall be a civil engineer licensed by the State of Ohio with a minimum of five (5) years' experience in municipal work. The general and specific duties of the Director of Engineering shall be established by ordinance or at the direction of the Mayor. (Amended Nov. 2, 1965.)

**SECTION 7. DEPARTMENT OF BUILDINGS, STRUCTURES AND INSPECTIONS.**

(a) General Duties. The Department of Buildings, Structures and Inspections shall be headed by the Director of Inspections who shall be responsible for inspections, issuance of permits and enforcement of building codes with regard to original construction, remodeling and repair of all buildings, fences, signs, billboards and other structures within the City. The Director shall perform such other duties and functions as may be prescribed by ordinance or by the Mayor. (Amended Nov. 2, 1965.)

(b) Qualifications. The Director of Inspections shall have at least ten years' experience in the building trades or related occupations, and shall be certified by the State of Ohio Board of Building Standards to exercise enforcement authority, to approve plans and specifications, and to make inspections under the Ohio Building Code, and shall, before assuming the duties of his office, execute a bond in such amount as may be fixed by Council. (Amended Nov. 6, 1990.)

**SECTION 8. DEPARTMENT OF PURCHASING.**

(a) General Duties. The Department of Purchasing shall be headed by the Director of Purchasing who shall make all purchases of supplies for the City. He shall contract for, purchase on specifications, store and distribute all supplies required by the City. He shall be responsible for the inspection of all supplies and determine quantity, quality, and conformation to specifications. He shall sell any equipment or supplies not needed for public use or that have become obsolete. When an expenditure of the City for the purchase of supplies is required by this Charter to be let by bids, the Director of Purchasing shall advertise for, receive, open, and present all bids to Council. (Amended Nov. 2, 1965.)

(b) Limitation on Purchases. The Director shall make no purchases except on authority of requisitions submitted by a department head and approved by the Mayor. Before any funds may be expended, the Director of Finance shall first certify that the City has sufficient funds to cover the purchase and that such funds have been lawfully appropriated or authorized. (Amended Nov. 2, 1965.)

(c) Inventory. All department heads shall submit to the Director of Purchasing annually an inventory of all municipal property in their care or control. It shall not be necessary to place valuations on the items in such inventory. (Amended Nov. 6, 1990.)

**SECTION 9. PLANNING COMMISSION.**

(a) Membership. The Planning Commission shall consist of one member of Council selected by the President of Council for such a term as Council shall determine, and four electors of the Municipality appointed by the Mayor subject to the approval of a majority of the members elected to Council. Appointed members shall hold no other municipal office or appointment, except one appointed member of the Planning Commission shall be appointed to the Board of Zoning Appeals. (Amended Nov. 2, 1965.)

(b) Vacancy. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment.

(c) Duties. The Planning Commission shall meet at least once a month. It shall be the function and duty of the Planning Commission to act as the platting commissioner of the Municipality and as such it shall have control of planning and shall provide regulations covering the platting of all lands within the Municipality so as to secure the harmonious development and to provide for the coordination of streets with other streets and with the official Municipal Plan and to provide for open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population. It shall make such regulations as it deems necessary as to the manner in which streets and other public ways shall be graded and improved; the manner in which and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed, or establish any other conditions precedent to the approval of a proposed plat. The Commission shall make plans and maps of the whole or any portion of the Municipality and of any land outside the Municipality which, in the opinion of the Commission, bears a relation to the planning of the Municipality and to make changes in, additions to, and estimates of such plans or maps when it deems the same advisable. It shall have such powers as may be conferred on it by ordinance of the Council concerning the plan, design, location, removal, relocation and alteration of any public building or structure or those located on public streets or property, the location, relocation, widening, extension and vacation of streets, parkways, playgrounds and other public places, the zoning and rezoning of the Municipality for any lawful purpose and such other powers as now or may hereafter be conferred upon it by ordinance of the Council or the general laws of Ohio. All plans and recommendations made by the Planning Commission shall be submitted to Council for approval before the same shall be considered as official, unless Council shall, by ordinance, specifically waive this requirement and grant to the Planning Commission the power to finally determine any matter properly before it. (Amended Nov. 6, 1990.)

(d) Funds. A sufficient sum shall be appropriated by the Council each year to carry out the planning provisions of this Charter.

(e) Mandatory Referral. No public building, street, boulevard, parkway, park, playground, bridge, tunnel, publicly or privately owned utility or part thereof shall be constructed or authorized to be constructed in the Municipality, nor shall any street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, nor shall any street, avenue, parkway, boulevard or alley be widened, narrowed, relocated, vacated, or its use changed, or any ordinance referring to zoning or other regulations controlling the use or development of land, be adopted unless and until it shall have been submitted to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall be acted upon by it within sixty (60) days from the date of referral unless a different period of time be provided by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. Any provision or any resolution, ordinance or order disapproved by formal action of the

Planning Commission shall require a two-thirds (2/3) vote of all members of the Council for adoption or authorization. If any plan, design or other proposal concerning the character, extent, location, or use of any public improvement or public property or change thereof within the territorial limits of the Municipality does not, under the law or Charter provision covering same, fall within the province of the Council or other official or agency of the Municipality, then the submission to the Planning Commission shall be by the State, County, District, School, Township or other official body, board, or commission having jurisdiction over such public improvement or property in accordance with the provisions of the general law of the State of Ohio. The Planning Commission's disapproval may be overruled at any time after seven (7) days' written notice by the excepting body to the Planning Commission stating the reason for such exception. Such overruling disapproval must be adopted by at least two-thirds (2/3) of such excepting body.

#### **SECTION 10. BOARD OF ZONING APPEALS.**

(a) Membership. There shall be a Board of Zoning Appeals which shall consist of five (5) members, one of which shall be a member of the Planning Commission, appointed by the Mayor with the approval of a majority of members of Council. Members of this Board shall hold no other municipal office or appointment, except as a member of the Planning Commission. (Amended Nov. 2, 1965.)

(b) Powers. It shall be the duty of the Board of Zoning Appeals to hear and decide applications for exceptions to and variances from the zoning ordinances of the Municipality and to hear and decide all appeals from orders, decisions and regulations of municipal administrative officials or agencies in regard to the zoning ordinances. The Board shall not permit any exception or variance from the zoning ordinances unless it finds that a practical difficulty or unnecessary hardship would exist as a result of the literal application of the zoning ordinances because of some peculiarity of the property in question as distinct from the other properties in the same district. In such cases the granting of the exception or variance must not be detrimental to the public welfare or injurious to the property in the immediate surrounding area, and must be in keeping with the general purpose, intent and objective of the municipal zoning ordinances. (Amended Nov. 2, 1965.)

#### **SECTION 11. BOARD OF BUILDING APPEALS.**

(a) Membership. There shall be a Board of Building Appeals which shall consist of not less than five (5) or more than nine (9) members appointed by the Mayor, subject to the approval by a majority of the members of City Council. The members shall be of such experience and occupation as determined by the Mayor and approved by Council. (Amended 11-7-00.)

(b) Powers. The Board shall hear and decide appeals from any order, decision or determination of any administrative official or agency of the Municipality relating to the interpretation or application of the Building Code or such other related ordinances as may be determined by Council. The Board shall have no jurisdiction or authority with respect to the zoning ordinances of the Municipality but shall otherwise have such additional powers and duties as Council may provide by ordinance.  
(Amended Nov. 2, 1965.)

#### **SECTION 12. CIVIL SERVICE COMMISSION.**

(a) Membership. The Civil Service Commission shall consist of three electors of the Municipality not holding other municipal office or appointment, not more than two (2) members of which shall be members of the same political party. A vacancy occurring during the term of any member of the Commission shall be filled for the unexpired term in the manner authorized for an original appointment.  
(Amended Nov. 2, 1965.)

(b) Officers. The Commission shall designate one of its members as Chairman and may appoint a Clerk who need not be a member of the Commission and may hold other municipal office or appointment.  
(Amended Nov. 2, 1965.)

(c) Classification of Service. The Civil Service of the Municipality is hereby divided into the Classified and Unclassified Service. The Classified Service shall include: Police Officers, Firefighters/Paramedics and other sworn members of the Departments of Police and Fire. The Unclassified Service shall include all other positions not specifically included in the Classified Service by this provision or other provisions of the Charter of the City of Westlake.

(d) Duties. The Commission shall provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the Classified Service of the Municipality and for appeals from the action of the Mayor or an official designated by the Mayor in any case of transfer, reduction, removal or other disciplinary action in excess of two (2) days suspension from employment, and the action of the Commission on any such appeal shall be final. The Commission shall keep a record of all public proceedings which shall be available for public inspection. Any person who has taken an examination for appointment or promotion in the Classified Service may inspect his own examination paper. The Commission shall have the authority to adopt rules to govern its proceedings and fulfill its duties hereunder and such rules may conflict with provisions of State law and in such event, rules adopted by the Commission shall supersede provisions of State law and shall be determinative and govern the Commission's proceedings. (Amended 11-7-00.)

(e) Funds. A sufficient sum shall be appropriated by the Council to carry out the civil service provisions of this Charter.  
(Amended Nov. 2, 1965.)

### **SECTION 13. RIGHTS RETAINED BY PEOPLE.**

(a) Neither the Council, the Mayor, any Board, including Boards of Appeal, or Commissions, appointed pursuant to this Charter, or any ordinance or resolution, whether proposed by Council or by initiative petition, or otherwise, of this Municipality, nor any other agent, employee, person or organization acting for or on behalf of this Municipality, by whatever authority or purported authority, shall by ordinance, resolution, motion, proclamation, statement, legislative or administrative action, or variance effect a change in:

- (1) the zoning classification or district of any property or area in the City of Westlake to allow multi-family dwellings thereon;
- (2) or grant any zoning classification or variation which would increase the density permitted on any property in any residential district;
- (3) or grant a zoning classification or variation or conditional use which would permit commercial development consisting of establishments for retail sales, commonly known as shopping developments, by whatever name called, consisting of thirty (30) acres or more. In computing the acreage for purposes of this provision, the computation shall include contiguous land which is already zoned for shopping center development;

unless the change or grant, after its adoption in accordance with applicable administrative or legislative procedures, is approved at a regularly scheduled general election of the Municipality, State of Ohio or County of Cuyahoga, by a majority vote of electors voting thereon.  
(Amended 11-7-00.)

(b) This amendment shall be severable and, if any section, subsection, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other section, subsection, part, word or application thereof.  
(Amended 5-8-84.)

## **ARTICLE V FINANCE**

### **SECTION 1. ANNUAL APPROPRIATION ESTIMATE.**

(a) Fiscal Year. Unless by ordinance otherwise provided, the fiscal year shall be the same as established for municipalities by the general law of Ohio.

(b) Estimates. The Mayor with the assistance of the Finance Director shall prepare and submit to Council not less than one hundred and twenty (120) days before the end of each fiscal year an estimate of revenue and expenditures for the succeeding fiscal year. The head of each department, board and commission shall submit to the Mayor the necessary information for such estimates. The estimate shall consist of: estimate of revenue from all sources and comparative statement for the current year and one preceding year; estimate of expenses of each department and activity of the Municipality and comparative statement for the current year and one preceding year; amount of debt and schedule of maturities of outstanding bonds and notes; value of current inventory or supplies; and amount of unencumbered balance in each bond and improvement fund.  
(Amended Nov. 8, 1960.)

**SECTION 2. APPROPRIATION ORDINANCE.**

Council shall adopt an annual appropriation ordinance within ninety (90) days after the receipt of a Certificate of resources from the County Auditor or from the beginning of the fiscal year, whichever shall last occur. Council may make one or more preliminary appropriations for current expenses until the annual appropriation ordinance is in effect.

**SECTION 3. TRANSFERS AND BALANCES.**

The Council may transfer any part of an unencumbered balance of an appropriation of any fund allowed by law to any purpose or object for which the appropriation for the current year has proven insufficient, except that no transfer shall be of monies raised or appropriated for the payment of any bond or note of the Municipality until all indebtedness, interest and other obligations which must lawfully be paid from such monies has been paid.

**SECTION 4. PAYMENT OF CLAIMS.**

No money shall be drawn from the treasury nor shall an obligation for expenditure be incurred except in accordance with appropriations made by Council. Claims shall be approved in writing by the head or acting head of the department for which the obligation was incurred.

**SECTION 5. PUBLIC BIDDING.**

(a) Bidding Required. Each net expenditure by the Municipality exceeding the greater of the current statutory limit prescribed by the statutes of the State of Ohio or an amount annually established by Council by ordinance, shall be made to the lowest, most responsible and most responsive bidder, after public advertising in a manner prescribed by City Council. City Council shall not be required to accept any bid.

(b) Waiver of Requirement. The Council, by majority vote, may authorize expenditures exceeding the financial limitations established in paragraph (a) above without public advertising in the following specific cases: acquisition, sale, lease or other disposal of real estate; discharge of non-contractual claims against the Municipality; for personal service agreements; for the joint use of facilities with other political subdivisions; for the products or services of public utilities; in situations where the Council has determine that the vendor or supplier is the sole source of the product or service to be purchased; and in the event of an emergency or catastrophe to protect the public health, safety, welfare and property.

(Amended 11-7-00.)

**SECTION 6. PUBLIC IMPROVEMENTS.**

Public improvements of all kinds may be made by the appropriate department either by the direct appointment of the necessary labor and purchase of supplies and materials in the manner herein provided with a separate account as to each improvement so made, or by contract let as provided in Section 5 of this Article of this Charter either for a closed price or upon a unit basis.

## ARTICLE VI TAXATION

### SECTION 1. LIMITATION ON THE RATE OF TAXATION.

The aggregate amount of taxes which may be levied by the taxing authority of the City without a vote of the people, on any taxable property assessed and listed for taxation according to value, for all purposes of the City, except as otherwise provided herein, shall not in any one year exceed eight and seven-tenths (8.7) mills for each dollar of assessed valuation. Of said total maximum levy, an amount shall annually be levied sufficient to pay the interest, sinking fund and retirement charges on all notes and bonds of the City heretofore or hereafter authorized to be issued without the authority of the electors, which levy shall be placed before and in preference to all other levies and for the full amount thereof. Of the remaining portion of said total maximum levy, an amount shall annually be levied sufficient to provide the amounts required by law for police and firemen's pensions; and the balance thereof, but not to exceed eight and two-hundredths (8.02) mills, may be levied annually for the purpose of paying the current operating expenses of the City.

There shall be levied annually outside of the eight and seven-tenths (8.7) mill limitation hereinbefore provided, but subject to the ten (10) mill limitation imposed by the Constitution and laws of the State of Ohio, such tax as may be necessary to pay the interest, sinking fund and retirement charges on all notes and bonds of the City authorized to be issued after June 1, 1984, without the authority of the electors in anticipation of the levy and collection of special assessments for improvements contracted for subsequent to such date.  
(Amended 5-8-84.)

### SECTION 2. SUBMISSION OF EXTRA LEVY TO VOTE.

At least sixty (60) days prior to a general, regular municipal or any special election, Council may declare by resolution, adopted by a vote of two-thirds (2/3) of all the members elected thereto, that the amount of taxes permitted by the Constitution without a vote of the electors will be insufficient to provide an adequate amount for the necessary requirements of the City and that it is necessary to levy a tax in excess of such limitation for any municipal purpose specified in such resolution and permitted by law. Such resolution shall be confined to a single purpose, shall specify the exact amount of additional levy required, the purpose thereof and the number of years, not exceeding five (5), it shall be in effect, which may or may not include a levy on the duplicate for the current year. A majority of those voting thereon in any election will be sufficient for its passage.  
(Amended Nov. 4, 1958.)

### SECTION 3. OTHER TAXES.

The Council shall have the power to levy such other taxes as may be lawful in accordance with the provisions of the Constitution and the laws of the State of Ohio.  
(Amended Nov. 4, 1958.)

**SECTION 4. LEVY OF TAXES FOR POLICE AND FIRE.**

Commencing with the tax list and duplicate for the year 2011 and for a period of five years thereafter, the taxing authority of the City may levy in each year a tax in an amount not to exceed in each such year (nine-tenths of one mill) 0.9 mill for each dollar of assessed valuation upon all property in the City assessed and listed for taxation according to value for the purpose of providing funds to pay for the salaries and other expenses of the Police and Fire Departments. This amount of taxes in each year so levied pursuant to this section shall not be subject to the limitations on the rate of taxation provided in this Charter and shall be in addition to any taxes levied by Council pursuant to any provision of this Charter or the general laws of the State of Ohio. This tax may be renewed only upon approval by the affirmative vote of a majority of the electors voting thereon. (Amended 11-8-11.)

**SECTION 5. LIMITATION ON THE RATE OF TAXATION.**

Notwithstanding any other provision of this article or of this Charter, the taxing authority of the City may, by affirmative vote of two-thirds (2/3) of its members, provide that for any City fiscal year the limitations on the rate of taxation set forth in Section 1 shall be those declared necessary by the taxing authority, in its sole discretion, and not to exceed the limitations provided for by this Charter on the date of its amendment on November 4, 1958. (Added 11-8-05.)

**ARTICLE VII  
NOMINATIONS AND ELECTIONS****SECTION 1. MUNICIPAL ELECTIONS.**

A general municipal election for the purpose of the election of officers provided for in this Charter shall be held on the first Tuesday after the first Monday in November in odd number years every four years commencing with the year 2001. Elections so held for the purpose of the election of the officers of the City of Westlake provided for in this Charter shall be known as regular municipal elections. Such other elections shall be held as required by law or provided for in this Charter. (Amended 5-6-03.)

**SECTION 2. NONPARTISAN PRIMARY ELECTIONS.**

Commencing with the year 2001, on the first Tuesday after the first Monday in May, prior to each regularly scheduled municipal election, primary elections shall be held for the purpose of nominating persons without regard to political parties, for elections to offices provided by this Charter. The names of two (2) persons receiving the highest number of votes for each office shall be nominated to be candidates for such office at the next succeeding regular municipal elections. In case there shall not be for any office more than two (2) persons who have filed petitions as provided for in this Charter to be candidates at such primary election, then said persons shall be nominated as the candidates at the next succeeding regular municipal election and the primary for that particular office shall not be held. (Amended 11-7-00.)

**SECTION 3. DECLARATION OF CANDIDACY.**

Any persons desiring to become a candidate for election to any office to be voted for at the next succeeding regular municipal election shall, not later than 4:00 p.m. of the 60th day before primary election day, file a nominating petition. Such petition shall require signatures of registered electors and shall be accompanied by the written acceptance of the nominees. The petition for offices of Mayor, President of Council and Director of Law shall be signed by not less than five hundred (500) qualified electors. The petition for office of Ward Councilman shall be signed by not less than one hundred (100) qualified electors of the ward in which election is sought. Petitions shall be circulated by a qualified elector of the City of Westlake. (Amended 11-2-10.)

**SECTION 4. QUALIFICATIONS OF CANDIDATES.**

(EDITOR'S NOTE: The provisions of Section 4 were repealed on November 4, 1980.)

**SECTION 5. DESIGNATION OF CANDIDATES.**

(EDITOR'S NOTE: The provisions of Section 5 were repealed on November 6, 1990.)

**SECTION 6. INDEPENDENT CANDIDATES.**

(EDITOR'S NOTE: The provisions of Section 6 were repealed on November 6, 1990.)

**SECTION 7. ELECTION PROCEDURES.**

(a) Write-in votes for a municipal candidate in the City of Westlake shall not be permitted at a general election unless no person files for a particular municipal office and no person is duly nominated at a municipal primary. The procedures for filing as a write-in when permitted under this section shall be determined by the laws of the State of Ohio and the Cuyahoga County Board of Elections. The ballots used in the primary and general municipal election shall be without party mark or designation. The names of all candidates shall be placed upon the same ballot and should be rotated in a manner provided by the laws of Ohio. Any person may vote in any municipal election if such person is a registered voter with the County election authorities as prescribed by the laws of the State of Ohio.

(b) If a person nominated as a candidate for election to a municipal office in the City of Westlake withdraws as such candidate, is disqualified as a candidate or dies prior to the 45th day before the day of the general election, the vacancy so created shall be filled by a majority of the Candidates Committee created by designation on the nominating petition for that candidate required under Section 3 of Article VII of this Charter. The name and residence address of the replacement candidate shall be certified in writing and under oath to the Cuyahoga County Board of Elections not later than the 40th day before the general election.

(Amended 11-7-00.)

**ARTICLE VIII  
INITIATIVE, REFERENDUM, RECALL****SECTION 1. INITIATIVE.**

The electors shall have the power to propose any ordinance or resolution except an ordinance appropriating money or authorizing the levy of taxes and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution shall be submitted to the Clerk of Council by petition signed by electors of the City, at least equal in number to three percent (3%) of the registered electors as shown by those registered and qualified to vote in the last regular municipal election. When so submitted, the Clerk of Council shall determine the sufficiency thereof and if sufficient the Council shall take final action, either enacting, amending or rejecting the proposed ordinance, within forty (40) days after submission. If Council fails to pass such proposed ordinance or resolution or passes it in some form different from that set forth in the petition therefor, the petitioners through the committee named on such petition within thirty (30) days of action or failure to act of the Council may file an additional petition signed by registered electors of the City of Westlake at least equal in number to three percent (3%) of the registered electors of the City of Westlake as shown by those registered and qualified to vote in the last regular municipal election. Thereupon, Council shall provide for submitting the petitioned ordinance or resolution to the electors at the next county wide general election, or regular municipal election occurring more than ninety (90) days after the filing of such petition. If such petition is signed by at least twenty percent (20%) of the registered electors as set forth herein, the date of such election may be fixed in the petition, which may be a special election to be held at any time more than ninety (90) days after filing of the additional petition signatures. (Amended 5-6-03.)

**SECTION 2. REFERENDUM.**

(a) Within thirty (30) days after the enactment by Council of any ordinance or resolution which is subject to referendum under this Charter or under the laws of the State of Ohio, a petition signed by registered electors of the City of Westlake at least equal in number to six percent (6%) of the registered electors as shown by those registered and qualified to vote at the last regular municipal election, may be filed with the Clerk of Council, requesting the ordinance or resolution be repealed or submitted to a vote of the electors. When said petition is filed, the Clerk of Council shall first ascertain the sufficiency of the petition, and, if found sufficient, the Council shall thereupon, within thirty (30) days after the filing of such petition, reconsider such ordinance or resolution. If Council fails to repeal said ordinance or resolution within thirty (30) days, the Council shall submit such ordinance or resolution to a vote of the electors at the next countywide general or regular municipal election occurring more than ninety (90) days after the filing of such petition. If such petition is signed by at least twenty percent (20%) of the registered electors of the City of Westlake as shown by those electors registered and qualified to vote at the last regular municipal election, the date of such election may be fixed therein, which may be a special election to be held any time more than ninety (90) days after the filing of such petition. (Amended 5-6-03.)

(b) When a referendum petition is filed with the Clerk of Council, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. there is a final determination of insufficiency of the petition; or,
  2. the petitioners' committee withdraws the petition; or,
  3. Council repeals the ordinance; or,
  4. the vote of the referendum has been certified.
- (Amended Nov. 4, 1980.)

**SECTION 3. RECALL.**

Electors shall have the power to remove from office by recall election, any elected officer of the Municipality. After an elected officer has served six months of his term, a petition demanding his recall and removal, may be filed with the Clerk of Council. Such petition shall be signed by at least twenty-five percent (25%) of the total electors voting at the last preceding regular municipal election. If the Clerk shall find the petition sufficient he shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought and make a record of such delivery. If such officer shall not resign within five (5) days after the day on which such delivery shall have been made, the Council shall fix a day for holding a recall election not less than thirty (30) days, nor more than forty-five (45) days from the date of delivery. If a majority of the votes cast shall be voted affirmatively, such officer shall remain in office. If a majority of the votes cast shall be voted negatively, such officer shall be considered as removed, his office shall be deemed vacant and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby.

**SECTION 4. GENERAL PROVISIONS.**

An initiative, referendum or recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain in the case of the initiative or referendum a full and correct copy of the title and text of the proposed or referred ordinance or resolution, and in the case of the recall, the name and office of the person whose removal is sought and a statement in not more than 200 words of the grounds for the removal. The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general law regulating initiative and referendum petitions, shall apply in the case of initiative, referendum and recall in this Municipality, except as otherwise provided in this Charter. Each circulation of any such petition must be by an elector of the City of Westlake. (Amended Nov. 7, 1995.)

**ARTICLE IX  
AMENDMENTS TO CHARTER****SECTION 1. INDEXING.**

(a) System Used. The indexing system of this Charter shall be as follows: Articles numbered I, II, III, etc.; sections numbered 1, 2, 3, etc.; subsections lettered (a), (b), (c), etc.

(b) Severability. Any word, phrase, clause, sentence, subsection, section, or article of this Charter may be amended as, or in, the manner hereinafter provided.

**SECTION 2. AMENDMENTS.**

The Council may, by affirmative vote of two-thirds (2/3) of its members, submit any proposed amendment to this Charter or a revised Charter or amended Charter to the electors. Amendments to this Charter shall also be submitted to the electors of the City by the Council when the Council receives a petition setting forth any such proposed amendment signed by qualified electors of a number not less than ten percent (10%) of the number of votes cast at the last preceding general municipal election. Such petitions shall be required to be filed in the manner and form prescribed herein for the submission of ordinances by initiative petition. The amendment shall be submitted to the electors at the next regular municipal election scheduled or otherwise in accordance with the laws and Constitution of the State of Ohio. Not less than thirty (30) days prior to such election, the Clerk of Council shall mail a copy of the proposed amendment or revised or amended Charter to each elector whose name appears in registration books of the last general or regular municipal election held in the Municipality, or give notice of the same in such other manner as may be provided by general law. If any such proposed amendment shall be approved by a majority of the electors voting thereon, it shall become a part of this Charter; except that, if two or more inconsistent proposed amendments on the same subject are submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of this Charter. (Amended 11-2-10.)

**ARTICLE X  
CHARTER REVIEW COMMITTEE**

**SECTION 1. REVIEW.**

At the second meeting of Council in January 1, 1979, and each ten (10) years thereafter, a Charter Review Committee of nine (9) members shall be appointed.

The Committee shall consist of six (6) members to be appointed, one from each ward by the ward Councilman, who shall reside within his ward, and three members to be appointed by the Mayor, for a total of nine (9) members. The Chairman shall be selected by the Committee from its members by majority vote.

The Committee shall review the Charter and submit all recommended changes or alteration to Council for its consideration for submission to the electorate by the first meeting in February of the following year. Council shall review the recommendations of the Charter Review Committee and approve or disapprove each individual recommendation. Council thereafter shall submit to the electors the recommended changes or alterations it has approved, pursuant to Article XVIII, Section 9, of the Constitution of the State of Ohio.

The members shall serve without compensation unless otherwise provided by ordinance. The Council shall provide appropriations for a clerk, and sufficient funds to operate the Committee.

(Amended Nov. 4, 1980.)

**ARTICLE XI  
GENERAL PROVISIONS**

**SECTION 1. EFFECTIVE DATE OF CHARTER.**

For the purpose of nominating and electing officers of the Municipality, including the abolition of primary elections and fixing the compensation of those elected in 1957, this Charter shall be in effect from and after the time of its approval by the electors of the Municipality; and for all other purposes it shall be in effect on and after the first day of January, 1957, and continue in effect regardless of any change of the classification by law of this Municipality.

**SECTION 2. EFFECT OF CHARTER UPON EXISTING LAWS  
AND RIGHTS.**

The adoption of this Charter shall not affect any pre-existing rights of the Municipality, nor any right or liability or pending suit or prosecution either on behalf of or against the Municipality, nor any franchise granted by the Municipality nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears herein, all acts of the Council of this Municipality shall continue in effect until lawfully amended or repealed.

**SECTION 3. SAVING CLAUSE.**

The determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

**SECTION 4. INTERPRETATION OF CHARTER.**

The article and section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

**SECTION 5. FRANCHISES.**

The Council may by ordinance grant a nonexclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under, over or above any public street or real estate within the Municipality for a period not in excess of twenty-five (25) years; and it may prescribe in the ordinance the kind or quality of service or product to be furnished, the rate or rates to be charged therefor, and such other terms as Council shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. No consent of the owner of property abutting on any public street or real estate shall be necessary to the effectiveness of any such grant, amendment or renewal.

All such grants, amendments and renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the operation of such utilities with reference to such streets and public real estate, including the right to require such reconstruction, relocation, alteration or removal of structures and equipment used in such streets or public realty as shall, in the opinion of Council, be necessary in the public interest.

**SECTION 6. CONTINUANCE OF PRESENT OFFICERS.**

(a) Continuance of Officers. All persons who are appointees, employees or nonelected officials of the Municipality at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made otherwise in accordance with the provisions of this Charter. When such provisions shall have been made, the term of any such appointee, employee or nonelected official shall expire.

(b) Abolish Duties. The powers which are conferred, and the duties which are imposed upon any appointee, employee or nonelected official, commission, board, department, or division of the Municipality under the laws of the State, shall, if such office, department, or division be abolished by this Charter, be thereafter exercised and discharged by the officer, board, department or division upon whom are imposed corresponding functions, powers and duties hereunder.

**SECTION 7. OATH OF OFFICE.**

Every elected official or officer of the Municipality shall, before entering upon the duties of his office, take an oath, or affirm, that he will in all respects faithfully discharge the duties of his office, that he will profess loyalty to the Constitution of the United States of America, to the Constitution of the State of Ohio, and that he will uphold this Charter and all the laws of this Municipality.

**SECTION 8. REFERENCES TO GENDER.**

All references in this Charter to the male gender shall also include and be read as the female gender when and where appropriate.  
(Added Nov. 4, 1980.)

**SECTION 9. CONFLICT OF INTEREST: PERSONAL FINANCIAL INTEREST.**

Any City employee who has a financial interest, either directly as a sole owner, general or limited partner, an associate for business purposes or by ownership of stock in any corporation, or indirectly by reason of a member of the immediate family of the employee being a sole owner general or limited partner, an associate for business purposes or by ownership of stock in any corporation, in any contract with the City, or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City employee in the making of such sale or in the making or performance of any contract. Any City employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City, shall render the contract or sale voidable by the Council.

Council shall provide by ordinance for all procedures necessary to implement and further define, as required, this Charter provision including but not limited to procedures for disclosures of interests and procedures for hearings of an officer or employee charged with a violation of this Charter provision.

(Added Nov. 4, 1980.)

**SECTION 10. MEETINGS OF GOVERNMENTAL BODIES TO BE PUBLIC;  
EXCEPTION.**

(a) This Section 10 shall be known as the Sunshine Law and shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings, unless the subject matter is specifically excepted by law.

(b) As used in this section:

- (1) "Public body" means the Council, board, commission, committee (including a Committee of the Council), or similar decision making body of this City.
- (2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members, be it known as a committee meeting, work session, executive session, educational meeting, or by whatever other name called.

(c) All minutes of any public body are declared to be public meetings open to the public at all times.

The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under subsection (e) of this section.

(d) Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media, except in the event of an emergency requiring immediate official action. In the event of an emergency the member or members calling the meeting shall notify the news media immediately of the time, place, and purpose of the meeting.

The rules shall provide that any person may, upon request and payment of a reasonable fee, obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(e) The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

- (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of his official duties or for his removal from office. If a public body holds an executive session pursuant to the division (e)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (e)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.
- (2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, or private interest is adverse to the general public interest. No member of a public body shall use this diversion as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bonafide purchasers, lessees, or transferees of the property is concerned.

- (3) Conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action.
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
- (5) Matters required to be kept confidential by federal law or rules or State statutes.
- (6) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.  
(Amended Nov. 6, 1990.)

(f) An ordinance, resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. An ordinance, resolution, rule, or formal action adopted in an open meeting that results from deliberation in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in subsection (e) of this section and conducted at an executive session held in compliance with this section.

Any person may bring an action to enforce the provisions of this section. Upon proof of a violation or threatened violation of this section in an action brought by any person, the Court of Common Pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

If the Court of Common Peas issues an injunction pursuant to this section, the court may award to the party that sought the injunction all court costs and reasonable attorney's fees and also shall order the public body that it enjoins to pay a civil forfeiture of one hundred dollars. If the Court of Common Pleas does not issue an injunction pursuant to this section and the court determines at that time that the bringing of the action was frivolous conduct as defined in division (A) of Section 2323.51 of the Revised Code, the court may award to the public body all court costs and reasonable attorney's fees.

Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

A member of a public body who knowingly violates any injunction issued pursuant to this subsection may be removed from office by an action brought in the Court of Common Pleas for the purpose by the prosecuting attorney or the attorney general.

If any other provision of this Charter, any ordinance, resolution, or rule of this City, any law of the State of Ohio, or any other law, rule or regulation, whether in effect at this time or hereafter in effect, requires greater disclosure or recordation of meetings of governmental bodies than do the provisions of this Section 10, then such other provision shall control. Furthermore, any and all records of this City which are now or subsequently entitled to be open for public inspection under any statute of the State of Ohio or under any other law, rule, or regulation, shall in fact be open to public inspection.

(Amended Nov. 6, 1990.)

(g) This amendment shall be severable and, if any section, sub-section, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other section, subsection, part, word or application thereof.

(Added Nov. 3, 1981.)