

# **City of Onaway Charter**

## **City of Onaway Charter**

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## AMENDMENTS

1. Section 2.06 ( c ) was amended on November 2, 2004 and states as follows:

### Section 2.06 ( c ) Filling of Vacancy

A vacancy in the City Commission shall be filled for the Remainder of the unexpired term, if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy. The City Commission by majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office, or the term expires, whichever shall occur first. Notwithstanding the requirement of Section 2.11, if at any time the membership of the Commission is reduced to less than three, the remaining members may by majority action appoint additional members to raise the membership to three.

2. Section 2.02 ( c ) was amended on November 6, 2007 and states as follows:

### Section 2.02 ( c ) Election and Terms

An annual election of Commission members shall be held on the first Tuesday following the first Monday in November. At the election there shall be elected the successors in office for those Commission members whose terms of office then expire, and persons to fill all vacancies in elective offices. Commission members, other than the Mayor, shall be elected for a term of two years, and their terms, as well as the Mayor's term, shall begin on the first day of November after their election. All persons elected to the City Commission on November 3, 2009 and thereafter, including the Mayor, shall begin their term of office at noon on the first day of January following their election.

# **Onaway City Charter**

## **Article I.**

### **Powers of the City**

#### **Section 1.01. Powers of the City.**

The City of Onaway shall have all powers possible for a Home Rule City under the constitution and laws of the State of Michigan as fully and completely as though they were specifically enumerated in this charter.

#### **Section 1.02. Construction.**

The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

#### **Section 1.03. Intergovernmental Relations.**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any of its agencies.

#### **Section 1.04. Public Peace, Health, and Safety.**

The City may expend funds or enter into contracts with private organizations or other units of government for services considered necessary by the City Commission, for the peace, health, and safety of persons and property.

## **Article II.**

### **City Commission**

#### **Section 2.01. General Powers and Duties.**

All powers of the City shall be vested in the City Commission, except as otherwise provided by law or this charter, and the Commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

#### **Section 2.02. Composition, Eligibility, Election and Terms.**

(a) **Composition.**

There shall be a City Commission composed of the mayor and four members, who shall be elected on a non-partisan ballot; two Commission members shall be elected every other year by the voters of the City at large and the mayor shall be elected as provided in sec. 2.03.

(b) **Eligibility.**

Only registered voters of the City shall be eligible to hold the office of Commission member or mayor.

(c) **Election and Terms:**

\* An annual election of Commission members shall be held on the first Tuesday following the first Monday in November. At the election there shall be elected the successors in office for those Commission members whose terms of office then expire, and persons to fill all vacancies in elective offices. Commission members shall be elected for a term of two years, and their term shall begin on the first day of November after their election.

(d) **Nomination.**

The mayor and Commissioners shall be nominated by petition, the required number of signatures to be prescribed by the state election law. Petitions shall be due by 4:00 pm or the first Tuesday after the first Monday in August, which shall place the name of the candidate on the November General Election ballot.

\* Section 2.02(c) was amended on November 6, 2007

### **Section 2.03. Mayor.**

The Mayor shall be elected for a term of three years. The Mayor shall be a member of the City Commission and shall preside at meetings of the Commission, represent the City in intergovernmental relationships, appoint with the advice and consent of the Commission the members of advisory boards and commissions, and perform other duties specified by the Commission. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The Commission shall elect from among its members a Deputy Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term.

### **Section 2.04. Compensation; Expenses.**

The City Commission may determine the salary or per diem of the Mayor and Commission members by ordinance, but no ordinance increasing such salary or per diem shall become effective until the date of commencement of the terms of Commission members at the next regular election.

### **Section 2.05. Prohibitions.**

#### **(a) Holding Other Office.**

Except where authorized by law, no Commission member shall hold any other elected public office during the term for which the member was elected to the Commission. No Commission member shall hold any other City office or employment during the terms in which the member was elected to the Commission. Nothing in this section shall be construed to prohibit the Commission from selecting any current or former Commission member to represent the City on the governing board on any regional or other intergovernmental agency.

#### **(b) Interference with Administration.**

Except for the purpose of inquiries and investigations under section 2.09, the Commission or its member shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately.

**Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.**

(a) **Vacancies.**

The office of a Commission member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) **Forfeiture of Office.**

A commission member shall forfeit that office if the Commission member:

- (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or law.
- (2) Violates any express prohibition of this charter.
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend four consecutive regular meetings of the Commission without being excused by the Commission.

(c) **Filling of Vacancies.**

\* A vacancy in the City commission shall be filled for the remainder of the un-expired term, if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy, but the Commission by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the un-expired term takes office. Notwithstanding the requirement of section 2.11, if at any time the membership of the Commission is reduced to less than three, the remaining members may by majority action appoint additional members to raise the membership to three.

\* Section 2.06 (c) was amended on November 2, 2004

### **Section 2.07. Judge of Qualifications.**

The City Commission shall be the judge of the election and qualifications of its members and of the grounds for the forfeiture of their office. The Commission shall have the power to set additional standards of conduct for its members beyond those specified in the charter and may provide for such penalties as it deems appropriate, including forfeiture of office. To exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Commission under this section shall be subject to judicial review.

### **Section 2.08. City Clerk.**

The City Commission shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Commission meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter or by the Commission or by state law.

### **Section 2.09. Investigations.**

The City commission may make investigations into the affairs of the City and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

### **Section 2.10. Independent Audit.**

The City commission shall provide for an independent audit performed biannually, or as required by stated law of all City accounts, and may provide for more frequent audits, as it deems necessary. Such audits shall be made by a certified public accountant or firm of accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Commission may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years. If the state makes such an audit, the Commission may accept it as satisfying the requirements of this section.



## **Section 2.11. Procedure.**

### **(a) Meetings.**

The commission shall meet regularly at least twice every month at such times and places as the Commission may prescribe by rule. Special meetings may be held on the call of the Mayor or of three or more members, under provisions of state law. All meetings shall be held in accordance with state law.

### **(b) Rules and Journal.**

The City commission shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings in the English language, which shall serve as a public record.

### **(c) Voting.**

Voting shall be by roll call and the ayes and nays shall be recorded in the journal. Three members of the Commission shall constitute a quorum. No action of the Commission except as provided in section 2.06, shall be binding unless adopted by the affirmative vote of two or more members of the Commission.

## **Section 2.12. Action Requiring an Ordinance.**

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the City Commission shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any City department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Grant, renew or extend a franchise;
- (4) Regulate land use and development; and
- (5) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the proceeding sentence may be done either by ordinance or resolution.

### **Section 2.13. Ordinances in General.**

#### **(a) Form.**

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in the title. The enacting clause shall be "The City of Onaway hereby ordains . . ." Any ordinance which repeals or amends an existing ordinance or part of the City code shall set out in full the ordinance, section or subsections to be repealed or amended.

#### **(b) Procedure.**

An ordinance may be introduced by any member at any regular or special meeting of the Commission. The commission may adopt the ordinance with or without amendment, or reject it. As soon as possible after its adoption, the Clerk shall have a notice of its adoption published, and the ordinance made available for public inspection.

#### **(c) Effective Date.**

Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

### **Section 2. 14. Emergency Ordinances.**

To meet a public emergency affecting life, health, property, or the public peace, the City Commission may adopt one or more emergency ordinances. An emergency ordinance shall be introduced and adopted in the same form as general ordinances, except that it shall plainly be designated as an emergency ordinance. It shall become effective immediately or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61<sup>st</sup> day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by an adoption of the repealing ordinance in the same manner specified in this section.

**Section 2. 15. Codes of Technical Regulations.**

The City Commissioners may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally. Copies of adopted codes shall be kept by the Clerk and made available for public inspection.

**Section 2. 16. Authentication and Recording.**

The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Commission.

## **Article III.**

### **Departments, Offices and Agencies**

#### **Section 3. 01. General Provisions.**

##### **(a) Creation of Departments.**

The City Commission may establish City departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to another.

##### **(b) Appointment of Officers.**

All departments, offices and agencies shall be administered by an officer appointed by the City Commission. Administrative officers may be recommended by the City Manager, and shall be subject to the direction and supervision of the City Manager. The Commission shall appoint a clerk, treasurer, assessor, Board of Review, and such other officers as the City Commission shall deem necessary, and shall establish their duties, compensation, and qualifications.

##### **(c) Removal of Officers.**

Officers appointed by the Commission may be suspended or removed at any time upon a majority vote of all the members elected.

#### **Section 3.02. Personnel System.**

All appointments and promotions of the City Officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

#### **Section 3.03. Legal Officer.**

There shall be a legal officer appointed by the City Commission. The legal officer shall serve as chief legal adviser to the Commission, the City Manager and all City departments, offices and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinance.

### **Section 3.04. Planning.**

Consistent with all applicable federal and state laws with respect to land use, development and environmental protection, the City Commission may:

- (1) Designate an agency or agencies to carry out planning function and such decision-making responsibilities as may be specified by ordinance;
- (2) Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan; and
- (3) Adopt development regulations, to be specified by ordinance, to implement the plan.

## **Article IV.**

### **Elections**

#### **Section 4.01. City Elections.**

(a) **Regular Elections.**

The regular city election shall be held at the time established by state law.

(b) **Registered Voter Defined.**

All citizens legally registered under the Constitution and laws of Michigan to vote in the City shall be registered voters within the meaning of this charter.

(c) **Conduct of Elections.**

The provisions of the general election laws of the State of Michigan shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation.

(d) **Wards.**

The entire City of Onaway shall constitute one ward, to be known as the first ward for the purpose of municipal elections.

#### **Section 4.02. Initiative, Recall, and Referendum.**

The powers of initiative, recall, and referendum are hereby reserved to the electors of the City. The provisions of the election law of the State of Michigan, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative, recall, and referendum under this charter.

## **Article V.**

### **City Manager**

#### **Section 5.01. Appointment; Qualifications; Compensation.**

The City Commission by a majority vote of its total membership shall appoint a City Manager for an indefinite term and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications.

#### **Section 5.02. Powers and Duties of the City Manager.**

The City Manager shall be the Chief administrative officer of the City, responsible to the Commission for the administration of all City affairs placed in the Manager's charge by or under this charter. The City Manager shall:

- (1) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this charter or by law;
- (2) Attend all City Commission meetings. The City Manager shall have the right to take part in the discussion but shall not vote;
- (3) See that all laws, provisions of this charter and acts of the City Commission, subject to enforcement by the City Manager or by officers subject to the Manager's direction and supervision, are faithfully executed;
- (4) Prepare and submit the annual budget to the City Commission;
- (5) Submit to the City Commission and make available to the public a complete report on the finances and administrative activities of the City after each month;
- (6) Make other reports as the City Commission may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;
- (7) Keep the City Commission fully advised as to the financial condition and future needs of the City;
- (8) Make recommendations to the City Commission concerning the affairs of the City;
- (9) Serve as Police Commissioner;
- (10) Provide staff support services for the Mayor and Commission members; and
- (11) Perform such other duties as are specified in this charter or may be required by the City Commission.

The City Manager shall hold no position, administrative or elective, within the City government, beyond the City Manager.

## **Article VI**

### **Financial Procedures**

#### **Section 6.01. Fiscal Year.**

The fiscal year of the City shall begin on the first day of April and end on the last day of March.

#### **Section 6.02. Submission of Budget and Budget Message.**

On or before the first meeting in February of each year, the City Manager shall submit to the City Commission a budget for the ensuing fiscal year and an accompanying message.

#### **Section 6.03. Budget Message.**

The City Manager's message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues with the reasons for such changes, summarize the City's debt position and include such other material as the City Manager deems desirable, or the City Commission requests.

#### **Section 6.04. Budget.**

The budget shall provide a complete financial plan of all the City funds and activities for the ensuing fiscal year, which shall utilize a system of accounts that conforms with a uniform system of accounts as required by state law. The budget shall show in detail all estimated income, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual budgeted income and expenditures for the current fiscal year. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance, exclusive of reserves.



### **Section 6.05. Commission Action on Budget.**

(a) **Notice and Hearing.** The City Commission shall publish in one or more newspapers of general circulation in the City the general summary of the budget and a notice stating:

- (1) The times and places where copies of the budget and message are available for public inspection, and
- (2) The time and place for a public hearing on the budget.

(b) **Amendment Before Adoption.**

After the public hearing, the City Commission may adopt the budget with or without amendment. In amending the budget, it may add or decrease programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income plus carried forward fund balance, exclusive of reserves.

(c) **Adoption.**

The City commission shall adopt the budget on or before the last day of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect, until the Commission adopts a final budget.

### **Section 6.06. Amendments After Adoption.**

(a) **Supplemental Appropriations.**

If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Commission by ordinance may make supplemental appropriations for the year up to the amount of excess.

(b) **Reduction of Appropriations.**

If at any time during the fiscal year it appears probable to the City Manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the Manager shall report to the City Commission without delay, indicating the estimated amount of the deficit, any remedial action taken by the Manager and recommendations as to any other steps to be taken. The Commission shall then take such further actions as it deems necessary to prevent or reduce any deficit and for that purpose may reduce one or more appropriations.

(c) **Transfer of Appropriations.**

At any time during the fiscal year the City Commission may by resolution transfer part or all of the unencumbered appropriation balance from department or major organizational unit to the appropriation for other departments or major organizational units, and may transfer part or all of unencumbered appropriation balances among programs within departments or major organizational units.

**Section 6.07. Lapse of Appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed.

**Section 6.08. Administration of the Budget.**

The City Commission may establish additional procedures for administration of the budget by ordinance or resolution.

**Section 6.09. Taxation; Subjects.**

The subjects of taxation for municipal purposes shall be the same as for state, county, and school purposes under the general law of the State of Michigan.

**Section 6.10. Tax Procedure.**

The levy, collection, and return of state, county, and school taxes; the preparation of the assessment roll, the meeting of the Board of Review, and confirmation of the assessment roll shall all be as mandated by State Law.

**Section 6.11. Tax Levy.**

The City commission shall annually levy and collect taxes in a sum not to exceed 2% of the assessed value of the real and personal property in the City. The Commission may levy and collect taxes for municipal purposes in a sum not to exceed 1% of the assessed value of the real and personal property in the City, subject to section 1a of chapter 7 of the Municipal Finance Act, Act. No. 202 of the Public Acts of 1943, as amended.

## **Article VII.**

### **Transition/Separability Provision.**

#### **Section 7.01. Schedule.**

These amendments shall take effect for all purposes on and after the date of its adoption by the voters.

#### **Section 7.02. Separability.**

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