

10.500

**CHAPTER 5
OFFICERS AND EMPLOYEES: GENERAL PROVISIONS**

10.501

Sec. 5.1. ELIGIBILITY FOR OFFICE AND EMPLOYMENT IN THE CITY.

- a. No person shall hold any elective office in the city unless he is a resident of the city, and was a registered elector on the last day for filing petitions for such office or at the time of his appointment to fill a vacancy.
- b. Each member of a city board or commission created by, or pursuant to, this Charter shall have resided in the city for at least thirty (30) days immediately prior to the day of his appointment and shall be a qualified and registered elector of the city on such day and throughout the tenure of office.
(char. eff. Nov. 25, 1974)

10.502

Sec. 5.2. VACANCIES IN OFFICE.

After notice and hearing, any city office shall be declared vacant by the council upon the occurrence of one or more of the following events before the expiration of the term of such office.

- a. For any reason specified by statute or this Charter as creating a vacancy in office and for any reason specified for removal of municipal officers by the governor;
- b. If the officer shall absent himself continuously from the city for more than thirty (30) days without the permission of the council;
- c. If the officer shall be found guilty of any act of misconduct in office under the provisions of this Charter by any court or by the vote of five (5) or more members of the council at or following such hearing.

For the purposes of this section, written notice shall be given the officer ten (10) days before the hearing personally or by delivering the same at his last known place of residence. Such notice shall include a statement of reasons for the proposed removal. The hearing shall afford an opportunity to the officer, in person or by attorney, to cross-examine witnesses and present testimony in defense.
(char. eff. Nov. 25, 1974)

10.503

Sec. 5.3. RESIGNATIONS.

- a. Resignations of elective officers and members of a board or commission shall be made in writing and filed with the clerk and shall be acted upon by the council at its next regular meeting following the receipt thereof by the clerk.
- b. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.
(char. eff. Nov. 25, 1974)

10.504 **Sec. 5.4. FILLING VACANCIES.**

- a. Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.

- b. If a vacancy occurs in an elective office, the council shall, at a regular meeting and within sixty (60) days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of said office for a term expiring at the first regular council meeting to be held after January 1st of the year following the regular election, at which election such vacancy shall be filled for the balance of the unexpired term, if any, through the regular election procedure as provided elsewhere in the Charter. However, if any such vacancy is not filled within sixty (60) days or if three or more vacancies in the position of mayor and councilmen exist simultaneously, the clerk shall within ten (10) days call a special election to be held within ninety (90) days thereafter to fill such vacancies for the unexpired terms. Notwithstanding the foregoing, no vacancy in an elective office shall be filled in any manner if the term of office of the person whose office has become vacant expires within sixty (60) days after the vacancy occurs.
(char. eff. Nov. 25, 1974)

10.505 **Sec. 5.5. CHANGE IN TERM OF OFFICE OR COMPENSATION.**

Except by procedures provided this Charter, the terms of office of the elective officers and members of boards and commissions appointed for definite terms shall not be shortened. The terms of elective officers of the city shall not be extended beyond the period for which any such officer was elected, except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected and has qualified. The council shall not grant or authorize extra compensation to any officer or employee after the service has been rendered. The salary of any elective officer shall not be increased or decreased from the time of his election or appointment until the end of his term of office for which he was elected or appointed.
(char. eff. Nov. 25, 1974)

10.506 **Sec. 5.6. OATH OF OFFICE AND BOND.**

Every officer elected or appointed, before entering upon the duties of his office, shall take the constitutional oath of office and shall file the same with the clerk, together with any bond required by law or by the council. In case of failure to comply with the provisions of this section within ten (10) days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon be vacant. The council may, by resolution, extend the time in which such officer may qualify as set forth above, provided however, such extension does not conflict with the requirement of any statute.
(char. eff. Nov. 25, 1974)

10.507

Sec. 5.7. SURETY BONDS.

- a. The council may, require any officer or employee to give a bond, to be approved by the city attorney, in such sum as the council determines. The bond shall be conditioned upon the faithful and proper performance of the duties of the office or employment concerned. All officers and employees who receive, distribute, or are responsible for city funds and/or investments shall be bonded. The resignation, removal, or discharge of any officer or employee, or the appointment of another person to the office or employment, shall not exonerate the officer or employee or his sureties from any liability incurred by them.
- b. All official bonds shall be corporate surety bonds and the premiums thereof shall be paid by the city. No official bonds shall be issued for a term exceeding three (3) years, except bonds which are required of officers serving times of office which are longer than three (3) years. No bond shall be renewed upon its expiration but a new bond shall be furnished in each case.
- c. The bonds of all officers and employees shall be filed with the clerk, except that the clerk's bond, unless he is covered within the scope of a blanket surety bond, shall be filed with the treasurer.
- d. The requirements of this section may be met by the purchase by the city of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employees of the city. Any officer or employee who is covered by a blanket surety bond need not be bonded individually for the purpose of qualifying for office.
(char. eff. Nov. 25, 1974)

10.508

Sec. 5.8. DELIVERY OF OFFICE.

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five (5) days, or sooner on demand, deliver to his successor in office, or to his superior, all the books, papers, monies and effects in his custody of such officer or employee. Any officer violating this provision may be proceeded against as public officers generally for like offense under statute.
(char. eff. Nov. 25, 1974)

10.509

Sec. 5.9. PECUNIARY INTEREST PROHIBITED.

- a. Except as permitted by this section no contract or purchase involving an amount in excess of Five hundred dollars (\$500.00) shall be made by the city in which any officer or any member of his family has any financial interest, direct or indirect. A "contract" shall for the purpose of this section include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for valuable consideration be paid by the city or is to be sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city. The term "member

of his family" shall include only the spouse, child, grandchild, father, mother, sister, brother and the spouse of any of them.

- b. Without limiting the generality of the paragraph (a) of this section, an officer shall be deemed to have a financial interest in a contract if he or any member of his family is an employee, partner, officer, director or sales representative of the person, firm or corporation with which such contract is made. Ownership, individually or in a fiduciary capacity, by an officer or member of his family of the securities of any corporation with which a contract is made, shall not be deemed to create a financial interest in said contract unless the aggregate amount of such securities or interest in such securities, so owned by such officer and the members of his family, shall amount to ten per cent (10%) of any class of the securities of such corporation then outstanding.
- c. A contract in which an officer or member of his family has a financial interest may be made by the city if the members of the council having no such interest shall unanimously determine that the best interests of the city will be served by the making of such contract, and if such contract is made after comparative prices are obtained.
- d. Any officer who knowingly permits the city to enter into any contract or purchase in which he has a financial interest without disclosing such interest to the council prior to the action of the council in authorizing such contract, shall be guilty of misconduct in office. Except in the instances specified in paragraph (c) of this section, the unanimous determination (by vote or written instrument) of all members of the council that in a particular case an officer or member of his family will not have a financial interest in any contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation.
- e. No officer shall stand as surety on any bond to the city or give bail for any other person which may be required by this Charter or any ordinance of the city. Any officer who violates the provisions of this paragraph shall be guilty of misconduct in office.
(char. eff. Nov. 25, 1974)

10.510

Sec. 5.10. COMPENSATION OF OFFICERS AND EMPLOYEES.

- a. The compensation of all officers and employees of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the council.
- b. Except as otherwise provided by law, the respective salaries and compensation of officers and employees as fixed by, or pursuant to this Charter shall be in full for all services to the city of such officers or employees and shall be in lieu of all fees, commissions, and other compensation receivable by such officers or employees for such services. Such fees, commissions and compensations shall belong to the city and shall be

collected and accounted for by such officers or employees and paid into the city treasury. A statement thereof shall be filed periodically with the city manager. The provisions of paragraph (b) of this section shall not apply to fees, commissions, or other compensation paid to such officers or employees for services performed for or on behalf of the city or other municipal subdivision of the state, provided said service is of a voluntary and emergency nature.

- c. Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in or for any service on behalf of the city.
(char. eff. Nov. 25, 1974)

10.511 **Sec. 5.11. EMPLOYEE WELFARE BENEFITS.**

The council shall have the power to make available to the officers and employees of the city and of its departments and boards any recognized standard plan of group life, hospital, health or accident insurance.
(char. eff. Nov. 25, 1974)

10.512 **Sec. 5.12. ANTI-NEPOTISM.**

Unless the council shall by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served, the following relatives and their spouses (1) of any elective official or of his spouse, or (2) of the city manager or of his spouse, or (3) of any other appointive officer or of their spouse, are disqualified from holding any appointive office or employment of the City of Gaylord during the term of which said elective official was elected or during the tenure of office of the city manager or other appointed official, respectively: Child, grandchild, parent, grandparent, brother, sister, half-brother, and half-sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election of said elective official or the appointment of the city manager or other appointed officer, or in the case the relationship arises after the persons, were in each case, an officer of the city.
(char. eff. Nov. 25, 1974)

10.600

**CHAPTER 6
LEGISLATION**

10.601 **Sec. 6.1. EXISTING LEGISLATION.**

All ordinances, resolution, rules and regulations of the City of Gaylord which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until they expire, are amended or repealed. Any ordinance, resolution, rule or regulation which is inconsistent with this Charter is hereby repealed.
(char. eff. Nov. 25, 1974)

10.602 **Sec. 6.2. ORDINANCES AND RESOLUTIONS.**

All official action of the council shall be by ordinance or resolution adopted by no less than four (4) members of the council, unless otherwise required by law. All actions of the council which do not constitute ordinances shall be deemed to be resolutions. Action by resolution shall be limited to matters required or permitted to be done by law or pertaining to the internal administrative affairs or concerns of the city government. All other acts of the council and all acts carrying a penalty for violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number, and always by a code section number when the ordinances of the city are codified.
(char. eff. Nov. 25, 1974)

10.603 **Sec. 6.3. ENACTMENT, AMENDMENT, REPEAL AND EFFECTIVE DATE OF ORDINANCES.**

- a. Each proposed ordinances shall be introduced in written or printed form. The style of the ordinance shall be: "The City of Gaylord ordains:"
- b. No ordinance shall be passed at the same meeting at which it is introduced, unless the same is declared to be an emergency ordinance by a vote of not less than five (5) members of the council.
- c. An ordinance may be repealed or amended only by an ordinance passed in the manner provided in this section. An ordinance may be repealed by reference to its number and title only.
- d. If a section of an ordinance is amended, the section shall be reenacted and published at length.
- e. The effective date of all ordinances shall be stated therein, but shall not be earlier than twenty (20) days after enactment, unless it is declared by the affirmative vote of not less than five (5) members of the council to be an emergency ordinance.
(char. eff. Nov. 25, 1974)

10.604 **Sec. 6.4. PUBLICATION AND RECORDING OF ORDINANCE.**

- a. Before an ordinance may become operative, it shall be published. Any ordinance may be published by setting it forth as part of the published proceedings of the council for the meeting at which said ordinance was adopted, in subsequently published proceedings of meetings of the council, or solely in its complete text, but only after adoption by the council.

- b. All ordinances shall be recorded by the clerk in a book to be called "The Ordinance Book," and it shall be the duty of the mayor and the clerk to authenticate such records by their official signature thereon, but the failure to so record and authenticate any such ordinance shall not invalidate it or suspend its operation.
 (char. eff. Nov. 25, 1974)

10.605 **Sec. 6.5. PENALTIES FOR VIOLATIONS OF ORDINANCES.**

Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety (90) days, or both, in the discretion of the court: Said imprisonment may be either in the city or county jail, or in any workhouse in the state which is authorized by law to receive prisoners from the city.
(char. eff. Nov. 25, 1974)

10.606 **Sec. 6.6. ENACTMENT OF CODES BY REFERENCE.**

In accordance with the Provisions of law now or hereafter in effect, the council may enact technical codes or regulations which have been promulgated or enacted by the State of Michigan or the United States of America, or by any department, board, or other agency thereof, or by an organization or association which is organized and conducted for the purpose of developing any such code or technical regulations, by reference thereto in an adopting ordinance and without publishing any such code in full: Provided, that each statute or technical code or regulation is clearly identified in the ordinance adopting the same. The purpose of the code or regulations shall be published with the adopting ordinance and complete printed copies thereof shall be kept in the office of the clerk, available for inspection by and distribution to the public at all times. Such publication shall contain a notice stating that a complete copy of said code or regulation is available for public use and inspection at the office of the clerk.
(char. eff. Nov. 25, 1974)

10.607 **Sec. 6.7. SEVERABILITY OF ORDINANCES.**

Unless an ordinance shall expressly provide to the contrary, if any provision of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or applications, provided such remaining portions are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

(char. eff. Nov. 25, 1974)

10.608

Sec. 6.8. CODIFICATION OF ORDINANCES.

- a. Immediately after the effective date of this Charter, the council shall direct and within three years, complete the codification of the ordinances of the city and shall provide for the publication of subsequent amendments thereto so that such amendments may readily be made a part of such code and maintain the same in current form. Any such codification may include provisions not previously contained in ordinances of the city.
- b. The council shall provide for making printed copies of the codification available for public inspection and for distribution to the public at a reasonable charge therefor and shall publish notice of the printing and availability of such codification before the effective date thereof. Such making available of printed copies of the codification and notice thereof shall constitute the due and legal publication of any such codification and the provisions thereof, as required by law, other provisions of this Charter for the publication of ordinances notwithstanding.
- c. The copies of the ordinances and the codification thereof, and of provisions adopted by reference in accordance with Section 6.7 may be certified by the clerk and, when so certified, shall be competent evidence in all courts and other legally established tribunals as to the matter contained therein. (char. eff. Nov. 25, 1974)

10.609

Sec. 6.9. INITIATIVE AND REFERENDUM.

An ordinance may be initiated by petition, or referendum or an ordinance enactment may be had, by petition as hereafter provided.
(char. eff. Nov. 25, 1974)

10.610

Sec. 6.10. INITIATORY AND REFERENDARY PETITION.

- a. An initiatory or a referendary petition shall be signed by not less than ten per cent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within sixty days before the date of filing the petition with the clerk. Any such petition shall be addressed to the council and may be the aggregate of two or more petition papers which are identical as to content, except as to signatures, and simultaneously filed by one person. An initiatory petition shall set forth, in full, the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance or part thereof, or code sections it proposes to have repealed.
- b. Each signer of a petition shall sign his name, and shall place thereon after his name, the date, and his place of residence by street and number, or by other customary residential designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of

signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the city clerk who shall, within fifteen days canvass the signatures thereon. If the petition does not contain a sufficient number of registered electors of the city, the clerk shall notify, forthwith, by registered or certified mail, the person filing such petition and fifteen days from such notification shall be allowed for filing of supplemental petition papers. When a petition with sufficient signatures is filed as required and allowed by this section, the clerk shall present the petition to the council at its next regular meeting.
(char. eff. Nov. 25, 1974)

10.611 Sec. 6.11. COUNCIL PROCEDURE ON INITIATORY AND REFERENDARY PETITIONS.

Upon presentation to the council of an initiatory or referendary petition by the clerk, the council shall, within thirty days, unless otherwise provided by law, either:

- a. Adopt the ordinance as submitted by an initiatory petition;
- b. Repeal the ordinance, or part thereof, referred to by a referendary petition; or
- c. Determine to submit the proposal provided for in the petition to the electors.
(char. eff. Nov. 25, 1974)

10.612 Sec. 6.12. SUBMISSION OF INITIATORY AND REFERENDARY ORDINANCES TO ELECTORS.

Should the council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, in the discretion of the council, at a special election called for that specific purpose. In those cases where the initiatory petition contains a number of signatures equal to twenty-five per cent of the registered electors of the city as of the date of the last regular city election, and if no election is to be held in the city for any other purpose within one hundred fifty days from the time the petition is presented to the council and if the council does not enact the ordinance, then the council shall call for a special election within ninety days from such date. The results of all elections, held under the provisions of this section shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law or the terms of this Charter.
(char. eff. Nov. 25, 1974)

10.613 Sec. 6.13. ORDINANCE SUSPENDED: MISCELLANEOUS PROVISIONS ON INITIATORY AND REFERENDARY PETITIONS.

- a. The presentation to the council by the clerk of a valid and sufficient referendary petition, containing a number of signatures equal to twenty-five per cent of the registered electors of the city as of the date of the last regular city election, which signatures have been obtained within sixty days before filing the petition with the clerk, shall automatically suspend the operation of

the ordinance in questions, pending repeal by the council or final determination by the electors.

- b. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the council for a period of two years after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted by the council for a period of two years after the date of the election at which it was repealed. Any such ordinance may be adopted, amended, or repealed at any time by appropriate referendum or initiatory procedure in accordance with the foregoing provisions of this chapter or if submitted to the electorate by the council on its own motion.
- c. If two or more initiated ordinances, adopted at the same election, shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.
(char. eff. Nov. 25, 1974)