

CITY CHARTER

City of New Buffalo,
Berrien County,
Michigan

Approved: October 21, 1965;

Sections 3.3 and 3.4 amended: March 13, 1967;

Section 3.5 amended: March 12, 2001; and,

Sections 12.1(b), 12.1(c), 12.2, 12.3(b), and 12.3(c) amended: May 3, 2005.

Section 3.4 amended: November 13, 2015

Section 3.14 amended: November 13, 2015

Section 3.17 amended: November 13, 2015

Section 5.1 amended: November 13, 2015

Electronic version updated: November 2015

Editor's notes. -- This Part contains the Charter of the City, which was adopted by the electors at a special election held October 18, 1965, under the provisions of the Home Rule City Act, Michigan Statutes Annotated, section 5. 2071 et seq. For constitutional authority of the City in connection with this Charter, see Constitution, art. VII, § 22.

A uniform system of capitalization has been employed and obvious misspellings have been corrected. Amendments are indicated by an historical citation in parentheses following each amended section. Words in brackets have been inserted for clarity.

PREAMBLE

We, the people of the City of New Buffalo, Berrien County, Michigan, in order to procure the fullest benefits of local self-government under the Constitution and laws of the State of Michigan do hereby ordain and establish this Charter.

CHAPTER 1

ORGANIZATION AND POWERS

Section 1.1. Name.

The municipal corporation created by vote of the electors March 8, 1965, and known as the City of New Buffalo, Berrien County, Michigan, shall continue as a body corporate under the same name.

Section 1.2. Boundaries.

The City shall embrace the territory constituting the City of New Buffalo on the effective date of this Charter, together with such annexations thereto and less any detachments therefrom that may be made from time to time. Upon annexation or detachment of territory, the boundaries shall be deemed to be changed without amendment of this Section. The Clerk shall maintain and keep available in his office an official description and map of the current boundaries of the City for public inspection and distribution.

Section 1.3. General Powers.

Unless otherwise provided or limited in this Charter, the City and its officers shall be vested with all of the powers, privileges and immunities, expressed or implied, which cities and their officers are permitted to exercise or provide for in their Charters under the Constitution and laws of the State of Michigan and of the United States of America. This shall include all powers, privileges and immunities which cities have or may have under and by virtue of Act No. 279, Public Acts of 1909, as amended, [*Editor's note. -- The Home Rule City Act; see M. S. A. , § 5. 2071 et seq.*] and also all powers, privileges and immunities conferred upon cities by Act No. 215, Public Acts of 1895, as amended, commonly known as the Fourth Class City Act. [*Editor's note. -- See M. S. A. , § 5. 1591 et seq.*]

Section 1.4. Retirement System.

The City shall have the power to create and establish a Retirement System for the officers and employees of the City; to provide pensions, annuities and other benefits for the officers and employees of the City and their beneficiaries; to create a Board of Trustees to administer the Retirement System and to prescribe the powers and duties of such Board; to provide for contributions to the Retirement System by the City and by the officers and employees of the City; to provide for the investment and reinvestment of monies and other assets for the Retirement System; and to do and accomplish all other acts necessary in the creation and operation of such system.

Section 1.5. Merit or Civil Service System.

The City may maintain, amend and improve the merit or civil service system presently in effect. The purpose of the system is to afford all interested persons a fair and equal opportunity for public service, to establish conditions of service which will attract employees of character and capacity, and to increase the efficiency of City Departments by the improvement of methods of personnel administration.

Section 1.6. Independent Boards.

The Council may establish by ordinance independent boards or commissions, such as Planning, Zoning, Civil Service, Harbor Development and Improvement, Recreation and Public Housing, whenever the same are authorized and permitted by law. As far as possible, the terms of all members of independent boards or commissions shall expire at the same time. New appointments shall also be made at the same time as far as possible.

Section 1.7. Inter-Governmental Contracts.

The City shall have power to join with any governmental unit or agency, or with any number or combination thereof by contract or otherwise as may be permitted by law, to perform jointly, or by one or more of them, for or on behalf of the other or others, any power or duty which is permitted to be so performed by law or which is possessed or imposed on each governmental unit or agency.

CHAPTER 2 ELECTIONS

Section 2.1. Qualification of Electors.

All residents of the City of New Buffalo having the qualification of electors in the State of Michigan shall be electors of the City.

Section 2.2. Election Procedure.

The election of all City officers shall be on a non-partisan basis. General election statutes shall apply to and control, as near as may be, all procedures relating to registrations and City elections except as such statutes relate to political parties or partisan procedures, and except as otherwise provided in this Charter. [*Editor's note: As to "Michigan Election Law," see M. S. A. , § 6. 1001 et seq.*]

Section 2.3. Wards and Precincts.

The City of New Buffalo shall consist of one ward and one voting precinct. The Council may by ordinance increase the number of election precincts but shall make no change less than sixty days before any election.

Section 2.4. Regular Elections

A regular City election shall be held on the ~~second Monday of March, 1966, and on the second Monday of March~~* of every year thereafter, at such place or places as shall be designated by the Council. [**Editor's note: Per State law, (PA 523 of 2012) Effective: March 27, 2013, authorizes (but does not require) cities that hold annual or odd-year elections to move to the November general election date, by adoption of a resolution by the City Council. Election date changes take effect after December 31 in the year in which the resolution is adopted. City Council passed the resolution on September 17, 2013 to move the elections to the even year November general election date*]

Section 2.5. Special Elections.

Special City elections shall be held when called by resolution of the Council at least forty-five days in advance of such election, or when required by this Charter or the general laws of the state. Any resolutions calling a Special Election shall set forth the purpose of such election.

Section 2.6. Election Registration.

The general election laws of the State of Michigan shall apply to and control all procedures relating to registration and City elections except as herein otherwise specifically provided.

Section 2.7. Election Commission.

An Election Commission is hereby created consisting of the Clerk, the Assessor and the City Attorney of which the Clerk shall be Chairman. The Commission shall have charge of all activities and duties required by State Law and this Charter relating to the conduct of elections in the City. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed. The compensation of the Commissioners shall be determined in advance by the Council and shall be a fixed amount for each election.

Section 2.8. Notice of Elections.

Notice of the time and place of holding any election and of the officers to be elected and the questions to be voted upon, shall be given by the Clerk as required by the general election law.

Section 2.9. Voting Hours.

The polls of all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at State elections unless otherwise permitted by law and changed by the Council.

Section 2.10. Nominations.

The method of nomination of all officers provided for in this Charter who are elected by the electors of the City shall be by petition. Petitions shall be signed by not less than twenty-five nor more than fifty qualified registered electors of the City of New Buffalo. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office at said election. Where any signature appears on more petitions than there are candidates to be elected to said office, such names shall be counted only in the order of the respective dates of signing as shown on the petition. The petitions shall be filed with the Clerk ~~at least twenty days and not more than thirty days prior to the date of holding the election.~~* The Clerk shall publish notice of the last day permitted for filing nomination petitions, at least one week before, and no more than three weeks before, such day. [**Editor's note: Per the State of Michigan, Section 168.551, city clerks shall receive nominating petitions or filing fees filed under this act up to 4 p.m., eastern standard time, of the fifteenth Tuesday before the August primary.*]

Section 2.11. Form of Petition.

The form of petition shall be similar to that used for State and County officers with no references to political parties. Official petition forms shall be prepared and furnished by the Clerk. Before the Clerk shall furnish any nomination petitions to any person, he shall enter thereon in ink the name of the person desiring to become a candidate for office, or the person in whose behalf the petition is to be circulated and the name of the office for which he is to be a candidate.

Section 2.12. Approval of Petition.

The Clerk shall accept for filing only nomination petitions on official blanks containing the required number of signatures for candidates having the qualifications required by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall, forthwith after the filing of a petition, determine the sufficiency of the signature on each petition filed, and if he finds that any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition. Each petition which is found by the Clerk to contain the required number of signatures of registered electors for candidates shall be marked "In Order", with the date thereof, and he shall so notify the candidate whose name appears thereon, in writing.

Section 2.13. Public Inspection of Petitions.

All nomination petitions shall be open to public inspection in the office of the Clerk as soon as the Clerk has determined the sufficiency or insufficiency of the petitions.

Section 2.14. Form of Ballots.

The form of the ballot used in any City election shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any City ballot. The names of qualified candidates or nominees for each office shall be listed in a single column and shall be rotated systematically on the ballots. In all other respects the printing and numbering of ballots shall conform to the general laws of the state relating to elections.

Section 2.15. Canvass of Votes.

A board of four canvassers shall be appointed by the Council pursuant to Act No. 65 (Extra Session) of

the Public Acts of 1963. The Board of Canvassers shall convene on the first Thursday following each

election at the office of the City Clerk and publicly canvass the returns. The Clerk shall make under seal of the City duplicate certificates of the determination of the Board and shall file one certificate with the Clerk of Berrien County and the other in his own office.

Section 2.16. Tie Vote.

If at any City election there shall be no choice between candidates because two or more persons received an equal number of votes, the Election Commission shall name a date for the appearance of such persons for the purpose of determining the election of one of them by lot. Should any person fail or refuse to appear, in person or by representative, to determine the result of any tie at the time and place named, such determination shall be made by lot in his absence, at the direction and under the supervision of the Election Commission. Such determination shall be final.

Section 2.17. Recount.

A recount of the votes cast at any City election for any office or upon any proposition may be had in accordance with the general election laws of the State. Unless otherwise provided by statute the petition for a recount of the votes cast at any City election shall be filed with the Clerk within six days after the Board of Canvassers has made its official report of the result of the election at which such votes were cast, and any counter petition shall be filed within twenty-four hours thereafter.

Section 2.18. Recall.

Any elected official may be removed from office by the electors of the City in a manner provided by the general laws of the State. A vacancy created by the recall of any elected official shall be filled in the manner prescribed by law.

CHAPTER 3

THE COUNCIL, MAYOR AND MAYOR PRO TEM

Section 3.1. General power.

The government of the City, and all the powers thereof, except the judicial powers, shall be vested in the Council. The Council shall exercise such powers in the manner and through the agencies provided by law; shall exercise the management and control of all municipal property and the administration of the municipal government whether or not such powers be expressly enumerated in this Charter. It shall pass upon and secure the performance of any act necessary to advance the interests of the City, the good government and prosperity of the municipality and its inhabitants; and shall make all laws which may be necessary and proper for carrying into execution the powers granted to the City by law.

Section 3.2. Qualification.

In the case of Councilmen, a person shall be eligible for this office who is a duly registered elector in the City and has the qualifications of elective officers in general.

Section 3.3. Election of Council. [Amended March 13, 1967]

The electors of the City shall elect a City Council which shall consist of five members, one of whom shall serve as Mayor of the City. Each Councilman shall serve for a term of three years. Two Councilmen shall be elected each year except that one Councilman shall be elected every third year. The names of all candidates for Council shall appear on the same ballot and each elector shall be entitled to vote for not more than the number of candidates to be elected. The terms of all Councilmen shall expire at the next regular Council meeting following the regular election in which their successors are elected. *[Editor's note: Effective January 1, 2014, each councilman shall serve for a term of four years. Two Councilmen will be elected in the 2014 November general election with three councilmen elected in the 2016 November general election.]*

Section 3.4. Regular Meetings. [Amended March 13, 1967] [Amended November 13, 2015]

The Council shall provide by resolution for the place and day of its regular meetings and shall hold one regular meeting each month which shall be held at 6:30 P. M. If the time set for the holding of a regular meeting of the Council shall be a holiday, the regular meeting shall be held at the same hour and place on the next secular day which is not a holiday.

Section 3.5. Special Meetings. [Amended March 12, 2001]

Special meetings of the City Council shall be called by the Clerk on the written request of the Mayor, or any two members of the Council on at least eighteen (18) hours written notice to each member of the Council, served personally or left at his usual place of residence; but a special meeting of the City Council may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing.

Section 3.6. Business at Special Meetings.

No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council present consent thereto and all the members absent file their written consent.

Section 3.7. Meetings Open to the Public.

All regular and special meetings of the Council shall be open to the public and rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

Section 3.8. Quorum.

A majority of the Councilmen constitute a quorum for the transaction of business at all meetings of the Council but in the absence of a quorum a lesser number may adjourn any meeting to a later date.

Section 3.9. Rules of the Council.

The Council shall determine its own rules and order of business and shall keep a journal of all its proceedings in the English language which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances and upon the adoption of all resolutions shall be taken by "Yea" and "Nay" vote and entered upon the records. No member shall vote on any question in which he is financially interested (other than the common public interest) or any question concerning his own official conduct, but on all other questions each member of the Council who shall be recorded as present shall vote on all questions decided by the Council unless excused by the unanimous consent of the other members present. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

Section 3.10. Attendance at Meetings.

Absence from three consecutive regular meetings shall operate to vacate the seat of a member unless the absence is excused by the Council by resolution setting forth such excuse and entered upon the journal.

Section 3.11. Standing Committees.

There shall be no standing committees of the Council.

Section 3.12. Investigations.

The Council, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office, or officer of the City and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any officer of the City to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of any employee of the City, it shall constitute a misdemeanor.

Section 3.13. Health and Safety.

The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. Until otherwise provided by ordinance or resolution, the Council shall constitute the Board of Health of the City, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

Section 3.14. Publication of Council Proceedings. [Amended November 13, 2015]

The proceedings or an abstract of the proceedings of the Council shall be published on the official Website for the City of New Buffalo once within fifteen days after each Council meeting.

Section 3.15. Election of Mayor and Mayor Pro Tem.

At its regular meeting following each regular election the Council shall elect one of its members to serve as Mayor for a term expiring at the first Council meeting following the next regular City election. The Clerk shall preside at this meeting until the Mayor has been selected. At the same meeting the Council shall also elect one of its members to serve as Mayor Pro Tem for a term expiring at the first Council meeting following the next regular City election. [*Editor's note: Appointment of Mayor and Mayor Pro Tem will be at the regular meeting following each regular even year November Election.*]

Section 3.16. Duties of Mayor and Mayor Pro Tem.

Insofar as required by law, and for all ceremonial purposes, the Mayor of the City shall be executive head of the City.

- (a) He shall have an equal voice and vote in the proceedings of the Council, but shall have no veto power.
- (b) He shall be conservator of the peace, and may exercise within the City the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the City, and to suppress riot and disorderly conduct.
- (c) He shall exercise only such powers as the State law, this Charter, or the Council shall specifically confer upon, or require, of him.
- (d) The Mayor Pro Tem shall serve as executive head of the City in the absence of the Mayor and shall have all of the powers and duties of the Mayor in his absence.

Section 3.17. Compensation of Mayor and Councilmen. [Deleted November 13, 2015]

CHAPTER 4 ADMINISTRATIVE SERVICE

Section 4.1. Appointed Officers.

- (a) The administrative officers of the City shall be the City Manager, City Attorney, Clerk, Treasurer, Assessor, Police Chief, Fire Chief; and such additional administrative officers as may be created by ordinance. The Council may, by ordinance, create additional administrative officers and may, by ordinance, combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City; but the Council may not diminish the duties or responsibilities of the office of City Manager. The City Manager and City Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council.
- (b) All administrative officers of the City, except the City Manager and City Attorney, shall be appointed by the City Manager for indefinite terms of office, subject to confirmation by the Council. Such officers shall be responsible to the City Manager and shall serve at his pleasure. Their compensation shall be fixed by the City Manager in accordance with budget appropriations and subject to approval by the Council. Removal of such officers may be made by the [City] Manager with the confirmation of the Council, provided, however, that ten days' written notice to the officer affected be given, and any action taken by the Council be at a regularly scheduled meeting. The officer affected may be present and heard at such meeting.
- (c) Except as may be otherwise required by law, the Council shall establish, by ordinance, such departments of the City as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities, and responsibilities of the officers of each department. The City Manager may prescribe such duties and responsibilities of the officers of those departments responsible to him which are not inconsistent with this Charter or with any ordinance or resolution adopted concerning such duties and authorities under authority of this Charter.
- (d) All personnel employed by the City who are not elected officers of the City or declared to be administrative officers, or under the authority of, this Charter shall be deemed to be employees of the City. The head of each department shall have the power to hire and discharge the employees of his department upon the advice and consent of the City Manager, subject to the provisions of any merit or civil service system.

Section 4.2. City Manager: Appointment and Qualifications.

The Council shall appoint a City Manager within ninety days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Council, but he shall not be removed from office during a period of ninety days following any regular City election except by the affirmative vote of four members of the Council. He shall be selected solely on the basis of his executive and administrative qualifications with special reference to his training and experience. At the time of his appointment, he need not be a resident of the City or state, but during tenure of office he shall reside within the City. Removal of the City Manager may be made by the Council in its sole discretion, provided, however, that ten days' notice to the City Manager be given, and any action taken by the Council be at a regularly scheduled meeting. The City Manager affected may be present and be heard at such meeting.

Section 4.3. City Manager: Functions and Duties.

The City Manager shall be the chief administrative officer of the City government. His functions and duties shall be:

- (a) To be responsible to the Council for the efficient administration of all administrative departments of the City government, except the department under the direction of the [City] Attorney;
- (b) To see that all laws and ordinances are enforced;
- (c) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts, or agreements;
- (d) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- (e) To recommend an annual budget to the Council and to administer the budget as finally adopted, under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial conditions and needs of the City;
- (f) To attend Council meetings with the right to take part in discussions but not to vote, and to recommend to the Council for adoption such measures as he may deem necessary or expedient;
- (g) To exercise and perform all administrative functions of the City that are not imposed by this Charter upon some other official;
- (h) To be responsible for the maintenance of a system of accounts of the City; which system of accounts shall be in conformance with any uniform system required by law;
- (i) To perform such other duties as may be prescribed by this Charter or as may be required of him by ordinance or by direction of the Council.

Section 4.4. Acting City Manager.

The Council may appoint or designate an Acting City Manager during the period of a vacancy in the office or during the absence of the City Manager from the City, or during a period of illness or disability on the part of the City Manager. Such Acting Manager shall, while he is in such office, have all the responsibilities, duties, functions and authority of the City Manager.

Section 4.5. [City] Attorney: Function and Duties.

- (a) The Council shall appoint and fix the salary of the City Attorney who shall hold office at the pleasure of the Council and who need not be a resident of the City.
- (b) The [City] Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the Council. He shall advise any officer or department head of the City in matters relating to his official duties when so requested and shall file with the Clerk a copy of all written opinions given by him.
- (c) The [City] Attorney shall prosecute all Charter and ordinance violations and he shall conduct for the City such cases in court and before other legally constituted tribunals as the Council may request. He shall file with the Clerk copies of all records and files relating thereto as the Council may direct.
- (d) The [City] Attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the Council and shall promptly give his opinion as to the legality thereof.
- (e) The [City] Attorney shall call to the attention of the Council all matters of law, and changes or developments therein, affecting the City.
- (f) The [City] Attorney shall perform such other duties as may be prescribed for him by this Charter or by the Council.
- (g) Upon the recommendation of the [City] Attorney, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the [City] Attorney therein.

Section 4.6. City Clerk: Functions and Duties.

- (a) The City Clerk shall be Clerk of the Council. He shall attend all meetings of the Council and shall keep a permanent journal in the English language of its proceedings. He shall keep a record of all ordinances, resolutions and regulations of the Council.
- (b) He shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents and records pertaining to the City of New Buffalo, the custody of which is not otherwise provided for. He shall give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements.
- (c) He shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter, and shall accept no petitions for any purpose set forth in this Charter which are not on the forms provided by him for such purpose.
- (d) He shall certify by his signature all ordinances and resolutions enacted or passed by the Council, and perform any other duties required of him by the state law, this Charter, or by the Council.

Section 4.7. City Treasurer: Function and Duties.

- (a) The [City] Treasurer shall have the custody of all moneys of the City, the Clerk's bond, and all evidences of value belonging to the City, or held in trust by the City.
- (b) He shall receive all money belonging to and receivable by the City, including license fees, taxes, assessments, and all other charges belonging to and payable to the City and shall in all cases give a receipt therefor.
- (c) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine. He shall report the same in detail to the Council.
- (d) He shall have such powers and duties in regard to the collection and custody of City taxes and moneys as may be conferred upon him by this Charter or by State law.
- (e) He shall perform such other duties as may be prescribed for him by this Charter or by the Council or City Manager.

Section 4.8. City Assessor: Functions and Duties.

The City Assessor shall possess all powers vested in, and shall be charged with all duties imposed upon assessing officers by the general law of the State. He shall make and prepare all regular and assessment rolls in the manner prescribed by this Charter, by ordinance or by statute. He shall also perform such other duties as may be prescribed for him in this Charter or by the Council.

Section 4.9. Supervisors.

The City shall have the maximum number of representatives on the Berrien County Board of Supervisors as are permitted by law. Representatives shall be appointed by the first Council and thereafter by the Council at its first regular meeting in March of each year and shall serve at the pleasure of the Council. Representatives shall be qualified electors of the City and shall have resided in the City for at least two years prior to their appointment. The Council may appoint City officials including Councilmen or City employees as Supervisors as well as qualified electors of the City. In case any representative of the City on the Board of Supervisors shall be unable to attend any meeting of the Board for any reason, the Mayor may, in writing, appoint a qualified person to discharge the duties of the office during his inability to attend. Representatives of the City on the Board of Supervisors shall be entitled to retain any compensation and expense allowances paid to them as members of the Board of Supervisors.

CHAPTER 5 OFFICERS AND EMPLOYEES GENERAL PROVISIONS

Section 5.1. Eligibility for Office and Employment in the City. [Amended November 13, 2015]

- (a) No person shall hold any elective office in the City unless he was a resident of the City for at least one year immediately prior to, and was a registered elector on, the last day for filing petitions for such office or prior to the time of his appointment to fill a vacancy.
- (b) No person shall be eligible for any elective or appointive City office who is in default to the City. Any person who has not paid his City taxes or any special assessments when due shall be deemed to be in default to the City.
- (c) Each member of a City Board or Commission created by, or pursuant to, this Charter shall have resided in the City for at least one year immediately prior to the day of his appointment and shall be a qualified and registered elector of the City on such day and throughout his tenure of office.

Section 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 by statute for removal of municipal officers by the governor;
- (b) If the officer shall absent himself continuously from the City for more than sixty days without the permission of the Council;
- (c) If the officer shall be found guilty of any act constituting misconduct in office under the provisions of this Charter by any court or by the vote of four or more members of the Council at or following such hearing.

For the purposes of this section, notice shall be given to the officer ten 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.

Section 5.3. Resignations.

- (a) Resignations of elective officers and of members of Boards and Commissions shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following 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.

Section 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, within sixty days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of said office for the balance of the unexpired term of the officer whose position has become vacant. However, if any such vacancy is not so filled within sixty days, or if three or more vacancies in the positions of Mayor and Councilmen exist simultaneously, the Clerk shall within ten days call a special election to be held within sixty 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 days after the vacancy occurs.

Section 5.5. Change in Term of Office or Compensation.

Except by procedures provided in this Charter, the terms of office of the elective officers and of 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.

Section 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 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, unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Section 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 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 years, except bonds which are required of officers serving terms of office which are longer than three 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.

Section 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 days, or sooner on demand, deliver to his successor in office, or to his superior, all the books, papers, moneys, and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute.

Section 5.9. Pecuniary Interest Prohibited.

No officer of the City shall have any financial interest, directly or indirectly, (other than the common public interest) in the profits of any contract job, work, or service to be performed for the City nor shall he

stand as surety or give any bail or sign any bail or appearance bond required by the ordinances of the City. The foregoing prohibitions, as the same may apply to any Councilman, shall not apply if the Council shall declare in its records, by the unanimous vote of the remaining members of the Council that the best interests of the City are to be served by the waiving of any such prohibition. No officer of the City shall personally, or as an agent, provide any bond which is subject to approval by the Council. Any officer of the City who violates the provisions of this section shall be guilty of misconduct in office.

Section 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 be 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 by the County of Berrien to any officer or employee serving as a City representative on the Board of Supervisors or to the Constable.
- (c) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses actually incurred in or for any service on behalf of the City.

Section 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.

Section 5.12. Anti-nepotism.

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, are disqualified from holding any appointive office or employment of the City of New Buffalo during the term for which said elective official was elected or during the tenure of office of the City Manager, 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 said City Manager, or in the case the relationship arises after the persons were, in each case, an officer of the City.

CHAPTER 6 JUSTICE COURT

[Editor's note. --The former justice court of the City was abolished pursuant to M.S.A., § 27A. 9921 to 27A. 9930. Accordingly, the provisions of this chapter, relating thereto, have not been set forth herein.]

CHAPTER 7 LEGISLATION

Section 7.1. Existing Legislation.

All ordinances, resolutions, rules and regulations of the Village of New Buffalo 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.

Section 7.2. Ordinances and Resolutions.

All official action of the Council shall be by ordinance or resolution adopted by not less than three 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 so done by law or pertaining to the internal affairs or concerns of the City government. All other acts of the Council and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number, and by a code section number when the codification of the ordinances is completed.

Section 7.3. Enactment, Amendment, Repeal and Effective Date of Ordinances.

- (a) Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be: "The City of New Buffalo 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 four 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 days after enactment, unless it is declared by the affirmative vote of not less than four members of the Council to be an emergency ordinance.

Section 7.4. Publication and Recording of Ordinances.

- (a) Before an ordinance may become operative, it shall be published. Any ordinance may be published by setting it forth in full as a part of the published proceedings of the Council for either the meeting at which it was introduced or at which it was adopted, or as a part of the summary of the proceedings of either of such meetings.
- (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 Clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate any such ordinance shall not invalidate it or suspend its operation.

Section 7.5. 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, including the costs charged for the prosecution thereof, shall not exceed a fine of One Hundred Dollars or imprisonment for ninety 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.

Section 7.6. Vacating of Public Places.

Council action to vacate, discontinue or abolish any highway, street, lane, alley or other public place or part thereof shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall appoint a time when it shall meet and hear objections thereto; and notice of the time, place and purpose of such meeting shall be published either separately or as a part of the Proceedings of the Council. Objections to any such proposed resolution may be filed with the Clerk in writing, and if any objections shall be filed, the highway, street, lane, alley or other public place or part thereof shall not be vacated, discontinued or abolished except by a vote of four of the members of the Council.

Section 7.7. 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 any 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.

Section 7.8. Severability of Ordinances.

Unless an ordinance shall expressly provide to the contrary, if any portion 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 effect 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.

Section 7.9. Codification of Ordinance.

- (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 of the codification thereof, and of provisions adopted by reference in accordance with Section 7. 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.

Section 7.10. Initiative and Referendum.

An ordinance may be initiated by petition, or a referendum on an ordinance enactment may be had, by petition as hereafter provided.

Section 7.11. Initiatory and Referendary Petitions.

- (a) An initiatory or a referendary petition shall be signed by not less than ten percent 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 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.

Section 7.12. Council Procedure on Initiatory and Referendary Petitions.

Upon the 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.

Section 7.13. 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 the case of an initiatory petition, 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 the Council does not enact the ordinance, then the Council shall call for a special election within ninety days from such date, The result 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.

Section 7.14. 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 percent 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 the date of filing the petition with the Clerk, shall automatically suspend the operation of the ordinance in question, 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 re-enacted 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.

CHAPTER 8 GENERAL FINANCE – BUDGET, AUDIT

Section 8.1. Fiscal Year.

The Fiscal year of the City shall begin on the 1st day of July and end on the 30th. day of June of the following year. Such year shall also constitute the budget year of the City government.

Section 8.2. Budget Procedure.

On or before the fifteenth day of March of each year, the City Manager shall prepare a complete itemized budget for the next fiscal year based upon information submitted to him by the various City officers and department heads which he shall submit to the Council on or before its first regular meeting in April. The proposed budget shall include:

- (a) Detailed estimates, with his supporting explanations, of all proposed expenditures for each department, office and agency of the City, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to January first and estimated expenditures for the balance of the current fiscal year;
- (b) Statements of the bonded and other indebtedness of the City showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (c) Detailed estimates of all anticipated revenues of the City from sources other than taxes, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to January first, and estimated revenues for the balance of the current fiscal year;
- (d) An estimate of the balance or deficit for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting information as the Council may request.

Section 8.3. Budget Document.

The budget document shall present a complete financial plan for the ensuing fiscal year and shall contain such detail as the Council may request or as the City Manager believes necessary. It shall include at least:

- (a) Estimates of all proposed expenditures for each department and office of the City showing the expenditures for corresponding items for the current and last preceding fiscal year;
- (b) Statements of the bonded and other indebtedness of the City showing the debt redemption and interest requirements;
- (c) Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with comparative statements for previous years and the current fiscal year;
- (d) Statements of the estimated balance of surplus or deficit, as the case may be, for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues necessary to meet the proposed expenditures.

Section 8.4. Budget Hearings.

A public hearing on the budget shall be held before its final adoption at such time and place as the Council shall direct, and notice of such public hearing shall be published at least one week in advance by the Clerk. A copy of the proposed budget shall be on file and available to the public for inspection during the office hours at the office of the Clerk for a period of not less than one week prior to such public hearing.

Section 8.5. Adoption of Budget.

Not later than the regular monthly meeting in May, the Council shall, by resolution, adopt the budget for the next fiscal year and shall in such resolution, provide for a levy of the amount necessary to be raised by tax upon real and personal property for municipal purposes.

Section 8.6. Transfers of Appropriations.

After the budget has been adopted no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred except pursuant to the budget appropriations. The Council may transfer any unencumbered appropriation balance or any portion thereof from one department, fund, or agency to another. The balance of any appropriation which has not been encumbered at the end of the fiscal year shall revert to the general fund and may be reappropriated during the next fiscal year.

Section 8.7. Budget Control.

At least once each month during the fiscal year, and more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income.

Section 8.8. Depository.

The Council shall designate a depository or depositories for City funds, and shall provide for the regular deposit of all City moneys. The Council shall provide for such security for City deposits as is authorized or permitted by the general laws of the State, except that personal surety bonds shall not be deemed proper security. City funds may be withdrawn from such depository on the signature of such person or persons as the Council shall, by resolution, determine.

Section 8.9. Independent Audit; Annual Report.

- (a) An independent audit shall be made of all City accounts at least annually, and more frequently if deemed necessary by the Council. Such audit shall be made by Certified Public Accountants, experienced in municipal accounting, selected by the Council.
- (b) The City Manager shall prepare an annual report of the affairs of the City, including a financial report.
- (c) Copies of such audit and annual report shall be made available for public inspection at the office of the City Manager.

CHAPTER 9 GENERAL TAXATION

Section 9.1. Power to Tax.

The City shall have the power to assess, levy and collect taxes, rents, tolls and excises. The subjects of ad valorem taxation shall be the same as for State, County and School purposes under the general law. Except as otherwise provided by this Charter, City taxes shall be levied, collected and returned in the manner provided by State statute.

Section 9.2. Tax limits.

Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds and exclusive of any other levies authorized by law to be made beyond Charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed two percent of (twenty mills on) the assessed value of all real and personal property in the City.

Section 9.3. Exemptions.

No exemptions from taxation shall be allowed except as expressly required or permitted by State statutes.

Section 9.4. Tax Day.

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the first day of January, which shall be deemed the Tax Day.

Section 9.5. Preparation of the Assessment Roll.

On or before the first Monday in March in each year the Assessor shall prepare and certify an assessment roll of all property in the City liable to taxation. Such roll shall be prepared in accordance with statute and this Charter. The roll shall show separate figures for the value of the land and of the building improvements. On or before the first Monday in March the Assessor shall give either by first class mail or personally, a notice of any increase in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

Section 9.6. Board of Review.

The Board of Review shall consist of three qualified freeholders who are electors of the City but not City officers or employees and are to be appointed annually by the City Council. The Assessor is to be Clerk of the Board of Review and nonvoting. The Board shall be entitled to such remuneration as shall be determined by the Council.

Section 9.7. Duties and Functions of the Board of Review.

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are conferred by law upon and required of Boards of Review in Townships, except as otherwise provided in this Charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and, if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases, the roll shall be reviewed according to the facts existing on tax day and no change in the status of any property after that day shall be considered by the Board in making its decisions. Except as otherwise provided by law, no person, other than the Board of Review, shall make or authorize

any change upon, or addition or corrections, to the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings of the Board and to enter therein all resolutions and decisions of the Board. Such proceedings shall be filed in the office of the Clerk not later than the first day of September following the meeting of the Board of Review.

Section 9.8. Meetings of the Board of Review.

The Board of Review shall convene on the third Monday in March of each year to review and correct the assessment roll and shall remain in session for not less than two days. It shall choose its own chairman and a majority of its members shall constitute a quorum. On or before the first Monday in April the Board of Review shall endorse the assessment roll as provided hereafter.

Section 9.9. Notice of Meetings.

Notice of the time and place of the sessions of the Board of Review shall be published by the City Clerk at least ten days prior to the third Monday in March.

Section 9.10. Endorsement of Roll.

After the Board of Review has completed its review of the assessment roll, its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the City for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

Section 9.11. Validity of Assessment Roll.

Upon the completion of the assessment roll, and from and after midnight ending the last day of the meeting of the Board of Review, it shall be the assessment roll of the City for County, School and City taxes, and for other taxes on real and personal property that may be authorized by law. It shall be presumed by all Courts and Tribunals to be valid, and shall not be set aside, except for cause set forth by law.

Section 9.12. Clerk to Certify Tax Levy.

Within three days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor the total amount which the Council determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires or orders to be assessed, reassessed, or charged upon the said roll against any property or any person in accordance with the provisions of this Charter or any ordinance of the City.

Section 9.13. City Tax Roll.

After the Board of Review has completed its review of the assessment roll, the Assessor shall prepare a copy of the assessment roll, to be known as the "City Tax Roll". Upon receiving the certification of the several amounts to be raised, as provided in section 9.12, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed, or reassessed against persons or property. He shall also spread thereon the amounts of the general ad valorem City tax, County tax, and School tax, according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the City.

Section 9.14. Tax Roll Certified for Collection.

After spreading the taxes the Assessor shall certify the tax roll, and shall annex his warrant thereto directing and requiring the Treasurer to collect, prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax,

charge, or assessment, and granting to him, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by Township Treasurers for the collection of taxes. On or before June fifteenth, the roll shall be delivered to the Treasurer for collection.

Section 9.15. Tax Lien on Property.

On July first the taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon, and all personal taxes shall become a debt of, and first lien on all personal property of, such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

Section 9.16. Personal Property; Jeopardy Assessment.

If the Treasurer finds or reasonably believes that any person who is, or may be, liable for taxes upon personal property, the taxable situs of which was in the City on Tax Day, intends to depart from the City; or to remove therefrom personal property, which is, or may be, liable for taxation; or to conceal himself or his property; or to do any other act tending to prejudice, or to render wholly or partly ineffectual the proceeding to collect such tax, unless proceedings therefor be brought without delay, he shall proceed to collect the same as a jeopardy assessment in the manner provided by Law.

Section 9.17. Taxes Due and Notification Thereof.

City taxes shall be due on July first of each year. The Treasurer shall not be required to call upon the persons named in the City Tax Roll, nor to make personal demand for the payment of taxes, but he shall (a) publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same, and (b) mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed. Failure on the part of the Treasurer to publish said notice or mail such bills shall not invalidate the taxes on said Tax Roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late payment or nonpayment of the same.

Section 9.18. Collection Fees and Interest.

All taxes paid on or before October first of each year shall be collected by the Treasurer without additional charge. On October first he shall add to all the taxes paid thereafter a collection fee equal to one-half of one percent of the amount of said taxes, and on the first of each succeeding month he shall add an additional one-half of one percent of said taxes as a collection fee. Such collection fees shall belong to the City and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

Section 9.19. Failure or Refusal to Pay Personal Property Tax.

If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the State, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue the person, firm or corporation to whom it is assessed in accordance with statute.

Section 9.20. Collection of Delinquent Taxes.

All taxes and charges, together with fees, penalties and interest upon real property on the tax roll, remaining uncollected by the Treasurer on the first day of March following the date when the roll was received by him shall be returned to the County Treasurer, to the extent and in the same manner and with like effect as provided by law for returns by Township Treasurers of Township and County taxes. Such returns shall include all the additional assessments, charges, fees, penalties and interest hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes, assessments and charges thus returned shall be collected in the same manner as other taxes returned to the County Treasurer are collected in accordance with law, and shall be and remain a lien upon the property against which they are assessed until paid.

Section 9.21. State, County and School Taxes.

For the purpose of assessing and collecting taxes for State, County and School purposes, the City shall be considered the same as a Township, and all provisions of law relative to the collection of an accounting for such taxes shall apply. For these purposes the Treasurer shall perform the same duties and have the same powers as are granted and imposed upon Township Treasurers by law.

Section 9.22. Protection of City Lien.

The City shall have power to acquire, by purchase, any premises within the City at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the City for taxes, or special assessments, or both, on said premises and the lien for other charges, collection charges and interest, and may hold, lease, or sell the same for purpose of securing therefrom the amount of such taxes, special assessments, charges, collection charges and interest, together with any incidental expense incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of such liens shall be deemed to be for public purpose.

CHAPTER 10

GENERAL FINANCE – BORROWING POWER

Section 10.1. General Borrowing.

Subject to the applicable provisions of State law and this Charter, the Council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit, and resources of the City for the payment of the obligation created therefor.

Section 10.2. Limitation on Indebtedness.

The City may not incur indebtedness by the issue of bonds or otherwise, in any sum which, including existing indebtedness, shall exceed ten percent of the assessed valuation of the real and personal property within the City subject to taxation as shown by the last preceding assessment roll of the City; provided, however, that in the case of fire, flood or other calamity requiring an emergency fund for the relief of the inhabitants of the City or for the repairing or rebuilding of any municipal building, works, bridges or streets, the legislative body of the City may borrow money due in not more than five years and in the amount not exceeding three-eighths of one percent of the assessed valuation of all the real and personal property in the City, notwithstanding such loan may increase the indebtedness of the City beyond the limitation fixed in this Charter; Provided, further, that in computing the net bonded indebtedness for the purposes hereof, bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the City, mortgage bonds which are secured only by a mortgage on the property or franchises of the public utility, and bonds issued to refund moneys advanced or paid on special assessments for water main extensions, shall not be included, and the resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

Section 10.3. Preparation and Record.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of misconduct in office. All bonds and other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Clerk, under the seal of the City. Interest coupons may be executed with the facsimile signatures of the Mayor and Clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk. Upon payment of any bond or other evidence of indebtedness, the same shall be marked “cancelled”.

Section 10.4. Unissued Bonds.

No unissued bonds of the City shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized.

CHAPTER 11 SPECIAL ASSESSMENTS

Section 11.1. General Power Relative to Special Assessment.

The Council shall have the power to determine the necessity of any local or public improvement with or without a petition therefor and to determine that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited, provided that all special assessments levied shall be in proportion to the benefits derived from the improvement.

Section 11.2. Procedure to be Fixed by Ordinance.

The Council shall prescribe by ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice of hearings, making and confirming assessment rolls, and the correction of errors therein, collection of special assessments, and any other matters concerning the making of improvement by the special assessment method, subject to the provisions of this chapter.

Section 11.3. Objection to Improvement.

If, at or prior to final confirmation of any special assessment, more than fifty percent of the number of owners of privately owned real property to be assessed for any improvement, or in case of paving or similar improvements more than fifty percent of the number of owners of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this chapter without a four-fifths vote of the members of the Council, provided that this section shall not apply to sidewalk construction.

Section 11.4. Contested Assessments.

Except and unless notice is given to the Council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any pavement, sewer, or other public improvement, the construction of any sidewalk, or the removal or abatement of any public hazard or nuisance, within ten days after the date of the meeting of the Council at which it is finally determined to proceed with the making of the improvement in question, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessments; and regardless of whether or not any public improvement is completed in any special district, no owner of real property located in such district shall be entitled to commence any suit or action for the purpose of contesting or enjoining the collection of any such special assessments after he has received the benefits from the substantial completion of that portion of such public improvement for which he is assessed.

Section 11.5. Reassessments for Benefits.

Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed or not, and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for in an original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be

deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the persons making such payments.

Section 11.6. Delinquent Special Assessments.

Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for State and County taxes, and by this Charter for City taxes, until paid. From such date and after confirmation as shall be fixed by the Council, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessments beginning on the following October first of each year, as are provided by this Charter to be collected on delinquent City taxes. Such delinquent special assessments shall be subject to the same penalties, and the lands upon which the same are a lien shall be subject to sale therefor, the same as are delinquent City taxes and the lands upon which they constitute a lien.

Section 11.7. Preservation of Lien.

No judgment or decree, or any act of the Council vacating a special assessment shall destroy or impair the lien of the City upon the premises assessed, for such amount of the assessment as may be equitably charged against the same, or as by a regular vote or proceeding might have been lawfully assessed thereon.

CHAPTER 12 CONTRACTS AND LEASES

Section 12.1. Purchase and Sale of Property. [Amended May 3, 2005]

- (a) The City Manager shall be responsible for the purchase and sale of all City property.
- (b) Comparative prices shall be obtained for the purchase or sale in amount not in excess of an amount as prescribed by ordinance of all materials, supplies, and public improvements, except (1) in the employment of professional services and (2) when the City Manager shall determine that no advantage to the City would result.
- (c) In all sales or purchases in excess of an amount as prescribed by ordinance, (1) the sale or purchase shall be approved by the Council, (2) shall comply with the requirements of section 12.1(b). No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in the ordinance. The Council may authorize the making of public improvements or the performance of any City work by any City agency without competitive bidding.
- (d) Purchases shall be made from the lowest qualified bidder meeting specifications, unless the Council shall determine that the public interest will be better served by accepting a higher bid; sales shall be made to the bidder whose bid is most advantageous to the City. In any case where a bid, other than the lowest, is accepted, the Council shall set forth its reasons therefor in its resolution accepting such bid.
- (e) All purchases and sales shall be evidenced by written contract or purchase order.
- (f) The City may not sell any park, cemetery, or any part thereof, except in accordance with restriction placed thereon by law.
- (g) The City may not sell, exchange, or lease any real estate or any interest therein, except by the affirmative vote of four or more members of the Council.

Section 12.2. Opening and acceptance of bids. [Amended May 3, 2005]

Except as provided by section 12.1 of this Chapter, each contract for public improvements or for the purchase of personal property shall be let only after opportunity for competitive bidding. All bids shall be opened in public in a place designated in the notice for competitive bids by the Clerk or the purchasing officer at the time designated in the notice that such bids will be received and shall be reported by him to the Council at its next meeting. The Council may reject any or all bids or parts of bids, if deemed advisable. When one or more parts of a bid are rejected, the Council may accept any part or parts which are not rejected. If, after two or more opportunities for competitive bidding have been had, with like notice and opportunity for bidding in each case, no bids have been received or the bids that have been received were not satisfactory to the Council and were rejected by it, the Council may endeavor to obtain new bids or may authorize the purchasing officer or proper official of the City to negotiate in the open market for a contract. If the Council shall accept any bid, other than the lowest bid according to specifications, the reason for such action shall be set forth in the resolution accepting such bid.

Section 12.3. Contracts. [Amended May 3, 2005]

- (a) The authority to contract on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of law; provided, that purchases and sales may be made by the City Manager, subject to the provisions of section 12.1.
- (b) Any contract or agreement in an amount of such an amount as prescribed by ordinance, made with form or terms other than the standard City purchase order form, shall, before execution, be submitted to the [City] Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk, together with a copy of the opinion.

- (c) Before any contract, agreement, or purchase order which obligates the City to pay an amount of such an amount as prescribed by ordinance is executed the accounting officer of the City shall first certify that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds, by special assessments, or for some purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing or purchase of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement. Certification by the accounting officer of the City shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment or rider thereto.
- (d) No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this section.
- (e) No contract shall be altered or amended, after the same has been made, except upon authority of the Council; provided that, the City Manager may alter or amend contracts for those purchases and sales made by him under the authority of section 12.1.
- (f) No compensation shall be paid to any contractor except in accordance with the terms of the contract made with him.
- (g) No contract shall be made with any person who is in default to the City.

Section 12.4. Restriction on Powers to Lease Property.

- (a) Any agreement or contract for the renting or leasing of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the Council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.
- (b) The transfer or assignment of any agreement or contract for such renting or leasing of public property may be made only upon approval of the Council but the approval of such transfer shall not be subject to referendum.
- (c) Rentals and leases, and renewals thereof, shall be for a fair consideration as determined by the Council.

CHAPTER 13 UTILITIES

A – MUNICIPAL UTILITIES

Section 13.1. General Powers Respecting Utilities.

The City shall possess and hereby reserves to itself all the powers granted to cities by statute and constitution to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and constitution.

Section 13.2. Management of Public Utilities.

All municipally owned or operated utilities shall be administered as a regular department of the City government under the management and supervision of the City Manager.

Section 13.3. Rates.

The Council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the City and others with such public utility services as the City may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the City.

Section 13.4. Utility Rates and Charges: Collection.

The Council shall provide by ordinance for the collection of all public utility rates and charges of the City. Such ordinance shall provide at least:

- (a) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.
- (b) That suit may be instituted by the City before a competent tribunal for the collection of such rates or charges.

With respect to the collection of rates charged for water the City shall have all the powers granted to cities by Act No. 178 of the Public Acts of 1939.

Section 13.5. Disposal of Utility Plants and Property.

Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the City shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privileges or assets belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and no effect as against the City. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any City owned public utility which are worn out or useless or which have been, or could with advantage to the service, be replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacation or abandonment of streets, as provided by statute.

Section 13.6. Utility Finances.

The rates and charges for any municipal public utility for the furnishing of water, light, heat, power or gas shall be so fixed as to at least meet all the costs of such utility.

Transactions pertaining to the ownership and operation by the City of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other City departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the result of its operation, which report shall be available for inspection at the office of the Clerk.

B – PRIVATELY OWNED UTILITIES – FRANCHISES

Section 13.7. Franchise Required.

No person, partnership, association or corporation operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of the City for wires, poles, pipes, tracks or conduits without the consent of the Council; nor may it transact a local business in the City without first obtaining a franchise therefor from the City.

Section 13.8. Regulatory Powers.

The City shall have the right (a) to regulate public utilities; (b) to regulate the location of poles and other facilities used by public utilities, and (c) to require that wires in streets and alleys be placed underground.

Section 13.9. Permit Revocable.

The Council may grant a permit at any time in or upon any street, alley, or public place; provided, that such permit shall be revocable by the Council at its pleasure at any time, whether such right to revoke be expressly reserved in said permit or not.

Section 13.10. Franchise Elect.

No public utility franchise which is not revocable at the will of the City, shall be granted unless the same shall have received the affirmative vote of three-fifths of the electors of the City voting thereon at a regular or special municipal election. No franchise shall be submitted under the provisions of this Charter, to the electors at a special election, unless the cost of holding the election, as determined by the Council, shall be paid to the Treasurer in advance of calling said election by the grantee in such franchise.

Section 13.11. Franchise Term.

No franchise shall be granted by the City for a longer period than thirty years. No exclusive franchise shall ever be granted to any person, firm or corporation.

Section 13.12. Further Regulatory Powers.

The grant of every franchise shall be subject to the right of the City whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience. Such right of the City shall include but shall not be limited to the following, viz:

(a) To repeal the same for misuse, or nonuse, or for failure to comply with the provisions thereof;

- (b) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (c) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys and public places of the City, by the City and other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided that, in event of the inability of the parties to agree, upon application by either party, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- (d) To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the City, as shall arise from its use thereof and to protect and save the City harmless from all damages arising from said use.

Section 13.13. Franchise Conveyed by Ordinance.

All contracts, granting or giving any original franchise, or extending or renewing or amending any existing franchise, shall be made by ordinance and not otherwise. Every such ordinance granting a franchise shall be accepted in writing by the grantee before said ordinance takes effect, and if it is to be submitted to the electors, it shall be so accepted before its submission. Such acceptance shall be filed with the Clerk. Any noncompliance with this section shall automatically annul such franchise.

Section 13.14. Ordinance Regulation.

The Council may by ordinance provide for efficient inspection and regulation of all public utilities operated in the City. It is the intention of this section to provide means for securing to the City efficient service from all public utilities operated in the City and the proper observance of the conditions imposed by franchise, the Charter and ordinances of the City and law of the State.

Section 13.15. Repeal and Termination of Franchise; Acquisition of Utility Property.

All ordinances granting franchises, or extensions or renewals thereof, shall reserve to the City the right to terminate the same and to purchase all the property of the utility in the streets and highways in the City and elsewhere, used in or useful for the operation of the utility, at a price either fixed by the ordinance or to be fixed in the manner provided by the ordinance granting the same. Nothing in such ordinance shall prevent the City from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative to the power to purchase reserved in the ordinance granting such franchise, extension or renewal as hereinbefore provided. Upon the acquisition by the City of the property of any utility by purchase, condemnation or otherwise, all CT franchises, extensions and renewals shall at once terminate.

Section 13.16. Franchise ordinance required.

No ordinance granting such franchise, or extension or renewal thereof, shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such franchise, extension or renewal, except that, unless otherwise provided in such ordinance, the utility shall be entitled to the return of the proportionate amount for the unused period of any compensation paid to the City for such franchise, extension or renewal except that, unless otherwise provided in such ordinance, the utility shall be entitled to the return of the proportionate amount for the unused period of any compensation paid to the City for such franchise, extension or renewal.

CHAPTER 14 MISCELLANEOUS

Section 14.1. Liability.

The City shall not be liable for damages sustained by any person either to his person or property by reason of the negligence of the City, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk, within sixty days after the injury resulting in such damages shall have occurred, a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the City liable for such damages as may have been sustained by him. Such notice shall also comply with the provisions of Section 8, Chapter XXII, Act No. 283, Public Acts of 1909, as amended.

Section 14.2. Records to be Public.

All City records shall be public and shall be available for inspection at reasonable times.

Section 14.3. Plats.

No lands or premises shall be laid out, divided, and platted into lots, streets, and alleys within the City except by permission and approval of the Council by resolution passed for that purpose; nor until the proprietor shall file with the Clerk a correct survey, plan and map of such ground and subdivisions thereof, platted and subdivided as provided by the Council, and made to its satisfaction; showing also the relative position and location of such lots, streets and alleys with respect to the adjacent lots and streets of the City; nor shall the City by reason of the approval of any such plat be responsible for the improvement, care and repairs of any streets and alleys shown thereon, excepting such of them as the Council shall accept and confirm by ordinance or resolution. No plat shall be approved by the Council wherein the lots and subdivisions thereof are described by metes and bounds.

Section 14.4. Amendments.

This Charter may be amended at any time in the manner provided in Act No. 279 of the Public Acts, of 1909, as amended. Should two or more amendments, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

Section 14.5. Franchises, Ordinances and Regulations.

All franchises, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force on the effective date of this Charter shall continue in full force until repealed or amended by action of the proper authorities.

CHAPTER 15 SCHEDULE

Section 15.1. Purpose and Status of Schedule Charter.

The purpose of this Schedule Chapter is to inaugurate the government of the City of New Buffalo under this Charter and to provide for transition of the government from a Village to a City. It shall constitute a part of this Charter only to the extent and for the time required to accomplish that end.

Section 15.2. Submission.

This Charter shall be submitted to the electors of the territory constituting the City of New Buffalo and for approval or rejection at an election to be held on Monday, the 18th day of October, 1965. The canvass of the vote shall be made by the Village Council.

Section 15.3. Form of Ballot.

The form of the question on the adoption of this Charter shall be as follows:

Shall the proposed Charter for the City of New Buffalo as drafted by the Charter Commission elected March 8, 1965, be adopted?

YES NO

Section 15.4. Effective Date.

If this Charter is approved at said election, it shall take effect on Monday, November 1, 1965, at 12:01 A.M.

Section 15.5. First Election of Office.

At the election upon the adoption of this Charter, the first elective officers of the City, namely, five Councilmen and a Justice of the Peace, shall also be elected. The Justice of the Peace shall serve until April 1, 1966. The expiration of the first terms of the individual Councilmen shall be determined by the number of votes which they receive. The candidate receiving the highest number of votes shall serve until the third Monday of March, 1968. The two candidates receiving the next highest number of votes at said election shall serve until the third Monday of March, 1967, and the two candidates receiving the next highest number of votes shall serve until the third Monday of March, 1966. At the election in 1966 and thereafter, Councilmen shall be elected as provided in section 3. 3 of this Charter. The last day for filing nomination petitions shall be September 28, 1965.

Section 15.6. First Meeting of City Officers.

The Council first elected under this Charter shall assemble by 8:00 P.M. on the 2nd day of November, 1965. This meeting shall be called to order by the chairman of the Charter Commission, who shall introduce the new City officials to the public, and call the Clerk to chair the meeting. At such meeting, the Council shall determine and set the times of its regular meetings, and do and perform such acts as are required to establish the government of the City. The Village Clerk shall act as Clerk of the City Council until otherwise provided for. At the time the elective officers of the City of New Buffalo assume the duties of the offices to which they were elected as herein required, the Village Council having control of the City shall cease to be and the office of each and every member thereto and of all other officers of the Village shall terminate, and the control of such former Village Council over the territory which formerly was the Village, shall cease and be superseded by that of the City of New Buffalo.

Section 15.7. City Supervisors.

The Supervisors representing the City and its inhabitants under the previous Village Charter shall be and remain such Supervisors for the City of New Buffalo for the balance of the terms for which they were severally elected or appointed and until their successors assume such office in accordance with the provisions of this Charter.

Section 15.8. Continuation of Appointed Officers and Employees.

After the effective date of this Charter all appointive officers and all employees of the City shall continue in the office or employment which they held prior to the effective date of the Charter as though they had been appointed or employed in the manner provided in this Charter and they shall in all respects be subject to the provisions of this Charter; except members of the Village Board of Review whose terms shall terminate on December 31, 1965, and except officers or employees who hold positions which this Charter provides are held at the pleasure of an appointing officer or body.

Section 15.9. Township Assets.

On the effective date of this Charter, all rights, assets, obligations and liabilities of the former Village of New Buffalo, the officers thereof, and the rights and liabilities of the Township of New Buffalo and of the officers thereof over that part of the Township included within the City of New Buffalo shall cease and the assets and liabilities of said Township shall be divided and apportioned between the City and the Township in accordance with the provisions of the laws of Michigan.

Section 15.10. Council action.

In all cases involving the transition of the Village government under the previous Charter to that of the City government under this Charter which are not covered by this Schedule [chapter], the Council shall supply necessary details and procedures and may adopt such rules, regulations and ordinances as may be required therefor.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of New Buffalo held on the 15th day of July, 1965, at the City Hall in the City of New Buffalo, Berrien County, Michigan, the following members of the Charter Commission were present:

Commissioners:	Edward L. Hruda, Chairman Andrew Krycka Alvin Schroeter George Slechta Ellis D. Williamson Dale Siebenmark Richard Graham Berniece Herrbach, Clerk
Absent:	Commissioner Anton Carson

At such meeting the following Resolution was offered by Commissioner Williamson, seconded by Mr. Slechta:

RESOLVED, That the Charter Commission of the City of New Buffalo does hereby adopt the foregoing instrument as the proposed Charter of the City of New Buffalo for submission to the electors of the City, and the Clerk of this Commission is hereby instructed to transmit the same to the Governor of the State of Michigan in accordance with the provisions of Act No. 279 of the Public Acts of 1909, as amended, for his approval.

The vote on the adoption of this Resolution was as follows:

Ayes:	8
Nays:	0
Absent:	1

The Chairman declared the Resolution adopted.

S/Berniece Herrbach, Clerk of the Charter Commission for the City of New Buffalo, Michigan

Attest: S/Edward L. Hruda, Chairman.

CERTIFICATE OF ADOPTION

I, Burnette Nichols, hereby certify that the foregoing charter was submitted to the electors of the City of New Buffalo at a Special Election held October 18, 1965; that the total number of voters voting thereon was 597; that the number who voted "yes" and in favor of the adoption of said charter was 410; and that the number who voted "no" and against the adoption of said charter was 170, all of which fully appears in the canvass of said vote now on file in my office.

Dated: October 21, 1965

S/Burnette Nichols
Clerk of the City
of New Buffalo.