

# **CITY CHARTER**

**EVART,  
MICHIGAN**

**Adopted April 4,  
1983**

## **PREAMBLE**

We, the people of the City of Ewart, County of Osceola, State of Michigan, pursuant to the authority granted by the Constitution and statutes of the State of Michigan in order to establish a city government, and to provide for and maintain the essential interest and welfare of all our people, do hereby ordain and establish this Charter of the City of Ewart, Michigan.

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## **CHAPTER I NAME AND BOUNDARIES**

**Section 1.1 (a)** The Municipal Corporation now existing and known as the **City of Evert** shall continue as a body corporate and shall include the territory constituting the City of Evert on the effective date of this charter, together with all territories that may be added in a manner prescribed by law.

**Section 1.1 (b)** The clerk shall maintain and keep available in his office for public inspection the official description and map of the current boundaries of the city.

**Section 1.2** The City shall consist of one ward.

## **CHAPTER II GENERAL MUNICIPAL POWERS**

### **GENERAL POWERS:**

**Section 2.1** The City of Evert and its officers shall be vested with any and all powers and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and laws of the State of Michigan, including all the powers and immunities which are granted to cities and officers of cities as fully and completely as though those powers and immunities were specifically enumerated in and provided for in this charter. In no case shall any enumeration of particular powers or immunities in this charter be held to be exclusive.

### **INTERGOVERNMENTAL COOPERATIONS:**

**Section 2.2** The city may join with any municipal corporation, or with any other unit or agency of government, whether local, state, or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate, or perform separately.

### **EXERCISE OF POWERS:**

**Section 2.3** Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the council shall select that procedure which it deems to be most expeditious and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city is set forth, either in this charter or in

any statute of the State of Michigan, the council shall prescribe by ordinance a reasonable procedure for the exercise thereof.

## **CHAPTER III ELECTIONS**

### **QUALIFICATIONS OF ELECTORS**

**Section 3.1** The residents of the city having the qualifications of electors in the State of Michigan shall be eligible to vote in the city.

### **ELECTION PRODEDURE:**

**Section 3.2** The general election laws shall apply to and control all procedures relating to city elections, including qualification of electors, establishment of precincts, verification of petitions, registration of voters, and voting hours. The clerk shall give public notice of each city election in the same manner as is required by law for the giving of public notice of general elections in the state.

### **PRECINCTS**

**Section 3.3** The election precincts of the city shall remain as they existed on the effective date of this charter unless altered by the city election commission in accordance with statutes.

### **ELECTION COMMISSION:**

**Section 3.4** An election commission is hereby created, consisting of the clerk and one other appointive city officer whom the council shall designate, and one other qualified registered elector whom the council shall designate, and such appointed persons shall serve at the pleasure of the council. The clerk shall be chairman. The commission shall have charge of all activities and duties required of it by state law and this charter related to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the election commission.

### **REGULAR ELECTIONS:**

**Section 3.5** A regular city election shall be held on the first Monday in April in each odd-numbered year.

### **SPECIAL ELECTIONS:**

**Section 3.6** Special city elections shall be held when called by resolution of the county at least sixty (60) days in advance of such election, or when required by law. Any resolution calling a special city election shall set forth the purpose of such election.

## **ELECTIVE OFFICERS AND TERMS OF OFFICE:**

**Section 3.7** At each regular city election, there shall be elected a mayor and two (2) councilmen and a city clerk, and such additional number of councilmen as may be required to fill vacancies pursuant to the provisions of this charter. The mayor and city clerk shall serve for a term of two (2) years. The two (2) councilmen receiving the highest number of votes shall be elected for four (4) years. Any additional council positions that must be filled at such election because of vacancies shall be filled by those candidates receiving the next highest number of votes, in order, for a term of two (2) years. The term of office of the mayor, councilmen and city clerk shall commence on the second Monday next following the date of the regular city election at which they were elected, at eight o'clock (8:00) P.M., local time.

## **NOMINATIONS PROCEDURE:**

**Section 3.8** The candidates for elective office shall be nominated from the city at large by petitions, blanks for which shall be furnished by the clerk. The candidate may use his own petition blanks, providing they conform substantially with state statutes. Each such petition shall be signed by not less than twenty-five (25) nor more than fifty (50) registered electors of the city, and shall be filed at the clerk's office before four o'clock (4:00) P.M., local time, on or before the seventh (7<sup>th</sup>) Tuesday prior to the date of such election.

Each elector signing shall add his residential street and number and the date of signature. No electors shall sign petitions for more candidates for any office than the number to be elected to such office, and should he do so, the signatures bearing the most recent date shall be invalidated, and if he should sign more than one on the same date neither shall be validated. No petition shall be left for signatures in any public place unless accompanied by the circulator of the petition. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate.

## **APPROVAL OF PETITIONS:**

**Section 3.9** The clerk shall accept only nomination petitions which conform substantially with the forms provided by him and which contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices as set forth in this charter. The clerk shall forthwith after the filing of the petitions notify in writing and candidates whose failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements.

Withdrawal of a candidate's name from consideration on the ballot must be made in writing and in conformance with the time allowed by statute.

### **FORM OF BALLOT:**

**Section 3.10** The ballots for all elections under this charter shall conform to the printing and numbering of ballots as required by statute, except that no party designation or emblem shall appear on any city ballot.

### **CANVASS OF VOTES:**

**Section 3.11** The Board of Canvassers designated by statute as being permitted to cities for canvass of votes on candidates and issues shall canvass the votes of all city elections in accordance with statute.

### **TIE VOTE:**

**Section 3.12** If in any city election there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes; the determination of the election of such candidates by lot will be as provided by state statute.

### **RECOUNT:**

**Section 3.13** 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.

### **RECALL:**

**Section 3.14** Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by state law.

## **CHAPTER IV**

### **THE ELECTIVE OFFICERS OF THE CITY OF EVART THE CITY COUNCIL**

#### **ELECTIVE OFFICERS:**

**Section 4.1** The legislative power of the city, except as reserved by this charter, shall be vested in a council consisting of a mayor and four (4) councilmen elected at large on a nonpartisan basis and a city clerk. The council shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers.

#### **QUALIFICATIONS:**

**Section 4.2** Each elective city official must be a duly registered elector in the city, and shall have been a resident of the city for six (6) months immediately prior to the election at which he is a candidate for office.

#### **TERM OF OFFICE:**

**Section 4.3** The mayor, city clerk and councilmen shall hold office for his elected term from the second Monday following the city election at which he was elected.

#### **NOTICE OF ELECTION:**

**Section 4.4** Notice of the election of any officer of the city shall be given him by the clerk, in writing, within seven (7) days after the canvass of the vote by which he was elected. If within ten (10) days from the date of notice, such officer shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall, for good cause, extend the time in which such officer may qualify as above set forth.

#### **OATH OF OFFICE:**

**Section 4.5** Each elective or appointive officer of the city, before entering upon the duties of this office and within the time specified in this charter, shall take and subscribe to the oath of office prescribed by the state constitution, which shall be filed and kept in the office of the clerk.

#### **SURETY BONDS:**

**Section 4.6** Any city officer may be required to give a bond to be approved by the council for the faithful performance of the duties of his office in such sum as the council shall determine, but all officers receiving or disbursing city funds shall be bonded. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by

the city. All official bonds shall be filed with the clerk, except that of the clerk, which shall be filed with the treasurer.

#### **VACANCY DEFINED:**

**Section 4.7** In addition to other provisions of this charter, a vacancy shall be deemed to exist in any elective office on the day when the officer dies, files his resignation with the city clerk, is removed from office, moves from the city, is convicted of a felony, or of misconduct in office under this charter, is judicially declared to be mentally incompetent, or is absent from three (3) consecutive regular meetings of the council, unless excused by the council for cause to be stated in the record of council proceedings.

#### **VACANCIES:**

**Section 4.8** Except as otherwise provided in this charter, any vacancy occurring in any elective office shall be filled within thirty (30) days after such vacancy shall have occurred by the concurring vote of at least three (3) members of the council. The person appointed by the council shall serve until the next general city election. If the council fails to make such appointment within the thirty (30) days following the occurrence of the vacancy, the election commission shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy and to be otherwise governed by the election provisions of this charter and state statutes.

#### **RESTRICTIONS CONCERNING OFFICERS:**

**Section 4.9** (a) Except where authorized by law, no councilman shall hold any other city office or city employment during the term for which he was elected to the council, and no former councilman shall hold any compensated appointive city office or city employment until one (1) year after the expiration of the term for which he was elected to the council. This shall not apply to appointed city boards or commissions, or volunteer firemen.

- (b) No individual member of the council shall in any manner dictate the appointment or removal of any city administrative officers or employees, but the councilman may express his views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (c) Except for the purpose of inquiries and investigations, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.
- (d) No incumbent elective city officer shall become a candidate for any elective city office, except to succeed himself, without first resigning from his then incumbent elective city office. Provided, that the provisions hereof shall not apply to any incumbent elective city officer whose term of office will expire with the election at which he is to be a candidate for another elective city office. No appointive

city officer or employee shall seek an elective office of the city unless he resigns from the position with the city.

- (e) No member of the council or of any board or commission of the city shall vote on any issue or matter in which he or a member of his family shall have a proprietary or financial interest or as the result of which he may receive or gain a financial benefit. If a question is raised under this section at any council, board or commission meeting, such specific question shall be resolved before the main question shall be voted on, but the council, board or commission member concerning whom the question was raise shall not vote on such determination.
- (f) In all roll call votes the names of the members shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote.
- (g) Unless the council shall by unanimous vote, which vote shall be recorded as part of the official proceedings, determine that the best interests of the city shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or city employment during the term for which said elective or appointive officer was elected or appointed: Spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them. 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 or appointment of said official or employed by the city at the time of adoption of this charter.

The provisions of this relationship, above, specifically applies to the prohibition of the employment of relatives to be directly under the supervision of another relative. Employment of another department than that of the relatives' supervision is permissible subject to review by the council.

## **SALARIES OF MEMBERS OF THE COUNCIL**

**Section 4.10** (a) Each member of the council and the city clerk shall receive as remuneration for his service to the city, a sum designated under the provisions of the local Compensation Commission Act for all regular or special city council meetings, payable quarterly. The local Compensation Commission shall provide for either an annual salary or for a per-meeting rate and specify it be only for actual attendance at meetings. The mayor shall receive an additional stipend, also designated by the local Compensation Commission, payable annually.

- (b) Provisions of this section shall be subject to the periodic review of the local Compensation Commission now established by ordinance in accordance with statute.

## **JUDGE QUALIFICATIONS OF MEMBERS:**

**Section 4.11** The council shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and required production of evidence. A

member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers for general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the Courts.

#### **ORGANIZATION OF THE COUNCIL:**

**Section 4.12** The council shall at its first meeting held following each regular city election, elect one of its members to serve as mayor pro tem, and shall, by resolution, set the times for holding regular meetings of the council. The mayor pro tem shall preside over the meetings of the council at the call for the mayor, or when, on account of absence from the city, disability, or otherwise, the mayor is temporarily unable to perform the duties of his office, and in case of vacancy in the office of mayor, until such vacancy is filled by the council. In the event of a vacancy occurring in the office of mayor or mayor pro tem, the council shall elect from its elected membership to fill such vacancy, but until such vacancy is filled, the senior member of the council from the standpoint of continuous service shall act as mayor pro tem. As between persons of equal seniority, the person who received the highest number of votes at the time of his last election shall act.

#### **MAYOR:**

**Section 4.13** The mayor shall be the executive officer of the city. He shall preside at all its meetings and shall speak and vote in such meetings as any other member of the council. He shall be the official head of the city for ceremonial purposes, and for the purposes of military law and the service of legal process upon the city.

#### **REGULAR MEETINGS OF THE COUNCIL:**

**Section 4.14** Regular meetings of the council shall be held at least twice in each calendar month at the usual place of holding meetings of the council. If any time set by resolution of the council for the holding of a regular meeting of the council shall be a holiday, then such regular meeting shall be held on the next following secular day which is not a holiday or on such other day as may be set by the council.

#### **SPECIAL MEETINGS OF THE COUNCIL:**

**Section 4.15** Special meetings of the council may be called by the clerk on the written request of the mayor or any three (3) members of the council or the city manager on eighteen (18) hours' written notice to each member of the council, designating the purpose of such meeting and served personally or left, at his usual place of residence by the clerk or someone designated by the clerk.

## **BUSINESS AT SPECIAL MEETINGS:**

**Section 4.16** No business shall be transacted at any special meeting of the council unless the same has been stated in the notice of such meeting.

## **MEETINGS TO BE PUBLIC:**

**Section 4.17** All regular and special meetings of the council shall be open to the public and the rules of order of the council shall provide that the citizens shall have a reasonable opportunity to be heard at any such meeting on matters within the jurisdiction of the council.

## **QUORUM:**

**Section 4.18** Three (3) members of the council shall be a quorum for the transaction of business, but in the absence of a quorum, two (2) or more members may adjourn any regular or special meeting to a later date.

## **RULES OF ORDER:**

**Section 4.19** The council shall determine its own rules and order of business and shall keep a written or printed 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 “Yes” and “No” votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state in such record. Each member of the council, who shall be recorded as present at any meeting shall be required to vote on all questions decided by the council at such meeting, unless excused by three (3) of the members present or in any case, where the matter personally affects the member not voting. A member not excused can be considered in violation of this charter when so determined by the council.

## **VOTE REQUIRED:**

**Section 4.20** Except as otherwise provided in this charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least three (3) members of the council.

## **INVESTIGATIONS:**

**Section 4.21** The council or its duly appointed representatives may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence to conduct formal investigation into the conduct of any department, office, or officer of the city and make investigations as to malfeasance, misfeasance, nonfeasance or irregularities in municipal affairs. Failure 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. The council shall give a reasonable time for such action.

## **PUBLICATION OF COUNCIL PROCEEDINGS:**

**Section 4.22** The minutes of the council shall be published within twenty (20) days after the passage thereof. A synopsis of such minutes, prepared by the clerk and approved by the mayor, showing the substance of each separate proceedings of the council shall be a sufficient compliance with the requirements of this section.

## **DEPOSITORY OF CITY FUNDS:**

**Section 4.23** The council shall select annually one (1) or more depositories in which the funds of the city shall be deposited. Additions may be made at the discretion of the council during the year.

## **HEALTH:**

**Section 4.24** The council shall have and exercise within and for the city all the powers, privileges and immunities conferred upon boards of health and may enact such ordinances as may be deemed necessary for the preservation and protection of the health of the city's inhabitants.

## **LICENSES:**

**Section 4.25** The council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require an exact payment of such reasonable sums for any licenses as it may deem proper.

## **RIGHTS AS TO PROPERTY:**

**Section 4.26** The council shall have the power to acquire for the city by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits, and either within or without the County of Osceola, private property, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not; and shall have the power to maintain and operate the same to promote the public health, safety and welfare.

## **CEMETERIES:**

**Section 4.27** There shall be a cemetery commission consisting of at least three (3) members, one of whom shall be a member of the council. The council shall have power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of all cemeteries, together with the improvements thereon and appurtenances thereto, owned or hereafter acquired by the city either within or without its corporate limits. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the city belonging to, or under control of, any church or religious society, or any corporation,

company, or association. In any cemetery established or owned by the city, a plan for the perpetual care of all lots, plots, and lands therein shall be established.

#### **TRUSTS:**

**Section 4.28** The council may, in its discretion, receive and hold any property in trust for cemetery, park, or other municipal purposes. Any trust not existing for the benefit of the City of Ewart shall be continued to full force and in accordance with the cy pres doctrine.

#### **TRAFFIC VIOLATIONS BUREAU:**

**Section 4.29** The council shall have the power and authority to establish by ordinance a Traffic Violations Bureau, as provided by law, for the handling of such violations of ordinances and regulations of the city, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violation any of such ordinances may within the time specified in the notice of such charge answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a fine, in writing pleading guilty to the charge, waiving a hearing in court and pay such fine in court. Acceptance of the prescribed fine by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given receipt which so states. The creation of such a bureau shall not operate as to deprive any person of a full and impartial hearing in court should a person so choose.

#### **ADVISORY COMMITTEES OR BOARDS:**

**Section 4.30** The mayor, with the advice and consent of the city council may, from time to time, appoint such committees or boards as are deemed appropriate to advise and consult with them, and with appropriate departments, regarding any municipal activity. Such committees or boards shall be advisory, serve temporarily and without compensation unless otherwise provided by the city council.

**Section 4. 31 FURTHER FUNCTIONS AND DUTIES OF THE COUNCIL:** The council shall determine all matters of policy of the city and adopt ordinances and necessary rules and regulations to make the same effective. Further the council shall, subject to the limitations of law, raise revenues and make appropriations for the operation of the city government, provided for the public peace and health and safety of persons and property.

## **CHAPTER V**

### **LEGISLATION**

#### **PRIOR LEGISLATION:**

**Section 5.1** All valid ordinances, resolutions, rules and regulations of the City of Evert which are not inconsistent with this charter and which are in force and in effect on the effective date of this charter shall continue in full force and effect until repealed or amended. Those provisions of any effective, valid ordinance, resolution, rule or regulation which are inconsistent with this charter are hereby repealed.

#### **ORDINANCES:**

**Section 5.2** The style of all ordinances shall be, “The City of Evert ordains”. No ordinances shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised, altered, and published in full, except as otherwise provided in this charter. An ordinance may be repealed by reference to its number and title only. The effective date of any ordinance shall be prescribed therein.

#### **ORDINANCE RECORD:**

**Section 5.3** All ordinances when enacted shall be recorded by the clerk in a book called “The Ordinance Book”, and it shall be the duty of the mayor and the clerk to authenticate such record by their official signatures.

#### **PUBLICATION OF ORDINANCES:**

**Section 5.4** Except as otherwise provided in this charter, all ordinances when enacted shall be published forthwith by the clerk in the manner provided by this charter for publication of notices, or as otherwise provided by law, and the clerk shall enter his certificate as to the manner and date of publication under each ordinance in the ordinance book. The council may adopt any detailed technical regulations as a city ordinance by reference to any recognized standard code, official or unofficial, or if such a code be written in detail for the city and adopted as an ordinance, the publication of a sufficient number or copies in booklet form, available for public distribution at cost, shall be sufficient publication of such ordinance, and any amendment to our revision of such adopted code or detailed technical ordinance may be published in the same manner.

#### **COMPILATION AND REVISION:**

**Section 5.5** In the event of the codification of the ordinances, the deposit of fifty (50) printed copies in the office of the clerk, available for public inspection and sale at cost, shall constitute publication thereof.

## **PENALTIES:**

**Section 5.6** The council shall provide in each ordinance for the punishment of violations thereof, but, unless permitted by law, no such punishment, excluding the costs charged, shall exceed the maximum fine, or imprisonment, or both, provided by statute, in the discretion of the Court. Imprisonment for violations of ordinances may be in the city or county jail.

## **PUBLICATION OF NOTICES, PROCEEDINGS AND ORDINANCES:**

**Section 5.7** Notices or proceedings requiring publication, and all ordinances passed by the council shall, unless otherwise provided by this charter, be published once in a newspaper of general circulation in the city. In the case of notices or proceedings they may be published in synopsis form, and indicate that the detailed document is available for public inspection at any time at the clerk's office during normal business hours.

## **INITIATIVE AND REFERENDUM:**

**Section 5.8** An ordinance may be initiated by petition. A referendum on any ordinance enacted by the council may be had by a petition filed prior to twenty (20) days subsequent to enactment of the ordinance; as hereinafter provided.

## **PETITIONS:**

**Section 5.9** An initiatory or a referendary petition shall be signed By registered qualified electors of the city in number equal to fifteen percent (15%) of the active registration file of voters at the preceding state even-numbered year election prior to the filing of the petition. Before being circulated for signatures, all such petitions shall be approved as to form by the clerk. No such petition need be on one paper, but may be the aggregate of two or more petition papers each containing a copy of the issue. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date of his place of residence by street and number. To each petition paper there shall be attached a certificate by the circulator thereof, stating the number of singers thereto 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 circulator. Any such petition shall be filed with the Clerk who shall, within ten (10) days, determine the sufficiency thereof and so certify. In the case of initiatory petitions any signatures obtained more than ninety (90) days before filing of such petition with the clerk shall not be counted. If found to contain an insufficient number of signatures of qualified registered electors of the city, or to be improper as to form or compliance with the provisions of this section ten (10) days shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the clerk shall present the petition to the council at its next regular meeting. If found not to be in compliance with this section, no further action will be had with these petitions.

## **COUNCIL PROCEDURE:**

**Section 5.10** Upon receiving a certified initiatory or referendary petition from the clerk, the council shall, within thirty (30) days, either, (a) if it be an initiatory petition, adopt the ordinance; (b) if it be a referendary petition, adopt the ordinance; or (c) if the council neither adopts or repeals the ordinance, as the case may be, the council shall submit the proposal to the electors.

## **SUBMISSION TO ELECTORS:**

**Section 5.11** When the provisions of this charter require the council 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. In any event, it shall be submitted at an election where there is sufficient time for the processing of the notice of registration and of election and providing for absentee ballots. The results shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

## **GENERAL PROVISIONS:**

**Section 5.12** The certification by the clerk of the sufficiency of a referendary petition shall automatically suspend the ordinance in question pending repeal by the council or final determination by the electors, as the case may be. An ordinance adopted by the electorate through initiatory proceedings, may not be amended or repealed by the council for a period of two (2) years, and then only by affirmative vote of not less than four (4) councilmen. Should two (2) or more ordinances adopted at the same election have conflicting provisions; the one receiving the highest vote shall prevail as to those provisions.

## CHAPTER VI

### THE ADMINISTRATIVE SERVICE

#### ADMINISTRATIVE OFFICERS:

**Section 6.1** The administrative officers of the city shall be a city manager, city treasurer, finance officer, if there be one, city attorney, assessor, police chief and such other administrative officials as may be established by the council.

#### CITY MANAGER:

**Section 6.2 (a)** The city manager shall be the chief administrative officer of the city government, in conformity with the provisions of this charter. He shall be selected by the council on the basis of training and ability alone, and need not be a resident of the city at the time of his appointment, but shall become a resident within ninety (90) days after his appointment, unless the time be extended by the council. He shall serve at the pleasure of, and be subject to removal by the council, but he shall not be removed from office during a period of sixty (60) days following any regular city election except by the affirmative vote of four (4) members of the council.

#### CITY MANAGER: FUNCTIONS AND DUTIES

**Section 6.3** The city manager shall be vested with all administrative powers of the city non inconsistent with the provisions of this charter. He shall perform the duties of his office under the authority of and be accountable to the council. It shall be the duty of the city manager to:

- (a) See that all laws and ordinances are enforced;
- (b) Supervise and coordinate the work of the administrative officers and departments of the city, except as otherwise provided in this charter, and except the work of the clerk in keeping the council records and as the clerical official of the council;
- (c) Prepare and administer the annual budget under policies formulated by the council and he shall keep the council advised as to the financial condition and needs of the city;
- (d) Establish and maintain a central purchasing service for the city and he or his authorized representative to be the purchasing agent for the city;
- (e) Subject to any employment ordinance of the city, employ or be responsible for the employment of all city employees, and supervise and coordinate the personnel policies and practices of the city;
- (f) Keep informed and report to the council concerning the work of the several offices and departments of the city and he may secure from the officers and heads of all administrative departments such information and special reports as he or the council may deem necessary;

- (g) In case of conflict of authority between officers and administrative departments, or in case of absence of administrative authority occasioned by inadequacy of charter or ordinance provisions, resolve the conflict or supply the necessary authority so far as may be consistent with law and the ordinances of the city, and direct the necessary action to be taken in conformance therewith, making a full report immediately to the council;
- (h) Attend all meetings of the council, with the right to be heard in all council proceedings, but without the right to vote;
- (i) Recommend to the council, from time to time, such measures as he deems necessary or appropriate for the improvement of the city or its services;
- (j) Prepare and maintain an administrative code defining the duties and functions of the several offices and departments of the city which, when adopted by the council, shall supplement this charter in establishing the duties and functions, as established in this charter, of each officer and department of the city;
- (k) Furnish the council with information concerning city affairs and prepare and submit such reports as may be required or which the council may request, including an annual report which shall consolidate the reports of the several departments;
- (l) See that the terms and conditions in any public utility franchise, or in any contract, are faithfully kept and performed;
- (m) Possess such other powers and perform such additional duties as may be granted to or required of him, from time to time by the council so far as may be consistent with the provisions of law;
- (n) Establish any rules necessary to carry out any of the foregoing duties.

#### **OFFICERS TO BE APPOINTED:**

**Section 6.4** The city council shall appoint a city treasurer, finance officer, if there be one, city attorney, assessor, police chief and such other administrative officials as may be established by the council. They shall serve for indefinite terms and may be removed by the council. The council, by resolution, shall set the salaries of the administrative officers.

#### **CITY CLERK:**

**Section 6.5** (a) The clerk shall be the clerk and clerical officer of the council. He shall attend all meetings of the council, and shall keep its journal.

- (b) Keep a record of all actions of the council at its regular and special meetings;
- (c) Have a power to administer all oath, required by law and by the ordinances of the city;
- (d) Be the custodian of the city seal, and shall affix the same to documents required to be sealed. He shall also be custodian of all papers, documents, and records pertaining to the city, the custody of which is not otherwise provided by this charter;

- (e) Give to the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts or agreements to which the city is a part;
- (f) Notify the council of the failure of any officer or employee required to take an oath of office or to furnish any bond required of him;
- (g) Certify all ordinances and resolutions adopted by the council;
- (h) The clerk shall perform all duties required of clerks by law and the ordinances of the city;
- (i) He shall be responsible for the conduct of elections in the city as required by law,
- (j) Perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the council.

**: CITY TREASURER**

**Section 6.6 (a)** The treasurer shall have the custody of all monies of the city and all evidences of value or indebtedness belonging to or held in trust by the city;

- (b) Keep and deposit all monies or funds in such manner and only in such places as the council may determined, and shall report the same in detail to the city council.
- (c) Have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and monies as are provided by law;
- (d) Perform such other duties in connection with his office as may be required by him by law, or ordinances or resolutions of the council, or by the city manager.

**DEPUTY CLERK OR TREASURER:**

**Section 6.7** The clerk and treasurer may appoint and remove their deputies, subject to the budget allowances therefore and the approval of the city council in case of appointments. Each deputy shall possess all powers and authorities of his superior officer.

**FINANCE OFFICER:**

**Section 6.8 (a)** The finance officer shall be the general accountant of the city, shall keep the books of account of the assets, receipts, and expenditures of the city, and shall keep the council and city manager informed as to the financial affairs of the city. The system of accounts shall conform to such uniform systems as may be required by law;

- (b) Balance all books of account of the city at the end of each calendar month, and shall make a report thereon, as soon as practical to the city manager;
- (c) Upon direction of the city manager, examine and audit all books of account kept by any official or department of the city;

- (d) When the council feels that a separate official is required, they may so designate by ordinance and the official will be an appointment.

#### **CITY ATTORNEY:**

**Section 6.9** (a) The city attorney shall be appointed by the council for an indefinite term, shall be responsible to and serve at the pleasure of the council and have his compensation fixed by the council;

- (b) The city attorney shall act as legal advisor of and be responsible to the council. He shall advise the city manager concerning legal problems affecting the city administration and any officer or department head of the city in matters relating to his official duties when so requested in writing, and shall file with the clerk a copy of all written opinions given by him;
- (c) Prosecute ordinance violations and shall represent the city in cases before the Courts and other tribunals;
- (d) Prepare or review all ordinances, regulations, deeds, contracts, bonds, and such other instruments as may be required by this charter or by the council, and shall promptly give his opinion as to the legality thereof;
- (e) Upon request of the council, he shall attend meetings of the council;
- (f) He shall defend all officers and employees in all actions arising out of the performance of their official duties as directed by the council;
- (g) He shall perform such other duties as may be prescribed for him by this charter or the council;
- (h) Upon the attorney's recommendation, 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 the city attorney.

#### **ASSESSOR:**

**Section 6.10** (a) The assessor shall possess all the power vested in and shall be charged with the duties imposed upon assessing officers by law;

- (b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the city;
- (c) He shall perform such other duties as may be prescribed by law or the ordinances of the city or by the city manager.

#### **CITY PLANNING:**

**Section 6.11** The council shall provide for and maintain a city planning commission which shall possess all of the powers and perform the functions of planning commissions as set forth by statute. The citizen members of the planning commissions shall be appointed by the mayor subject to confirmation by the council. The members of the commission shall serve without compensation except for necessary expenses in connection with their work.

### **ZONING BOARD OF APPEALS:**

Section 6.12 The members of the zoning board of appeals shall be appointed by the council. Their functions and duties shall be in accordance with statute.

### **ADDITIONAL ADMINISTRATIVE POWERS AND DUTIES:**

**Section 6.13** From time to time, upon recommendation of the city manager, the council may, by ordinance, prescribe additional administrative powers and duties or diminish any powers and duties in a manner not inconsistent with the charter, to be exercised and administered by appropriate officers and departments of the city.

### **MERIT SYSTEM OF PERSONNEL MANAGEMENT:**

**Section 6.14** The council may provide by ordinance for merit system of personnel management for the city.

### **EMPLOYEE BENEFITS:**

**Section 6.15** The council shall have the power to make available to the administrative officers and employees of the city and its departments, an actuarial pension plan, and any recognized standard group plan of life, hospital, health, or accident insurance or any one or more thereof.

## CHAPTER VII

### GENERAL FINANCE

#### **FISCAL YEAR:**

**Section 7.1** The fiscal year of the city shall begin on the first day of July each year.

#### **BUDGET PROCEDURE:**

**Section 7.2** On or before the second Monday in March of each year, each officer, department and board of the city, shall submit to the city manager an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The city manager shall compile and review such budget request and shall then prepare his budgetary recommendations and submit them to the city council at its meeting nearest to the third Monday in April of each year.

#### **BUDGET DOCUMENT:**

**Section 7.3** The budget document shall present a complete financial plan for the ensuing fiscal year and shall include those items required by the Uniform Budgeting and Accounting Act 621, of the Public Acts of 1978, as amended. Also to be included shall be such other support schedules as the council may deem necessary or the council may require.

#### **BUDGET HEARING:**

**Section 7.4** Before its final adoption, a public hearing on the budget proposal shall be held as provided by law. Notice of the time and place of holding such hearings shall be published by the clerk in a newspaper having general circulation in the city at least a week in advance thereof. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the clerk for a period not less than one (1) week prior to such public hearing.

#### **ADOPTION OF THE BUDGET:**

**Section 7.5** The council shall, not later than the second regular meeting in May adopt by resolution a budget for the ensuing fiscal year and make appropriations therefore. After consideration of probable other revenues, the council shall determine and declare the amount of money necessary to be raised by property taxation, which amount shall not be greater than otherwise limited in this charter or by general law.

#### **TRANSFER OF APPROPRIATIONS:**

**Section 7.6** 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 the money be incurred,

except pursuant to the budget appropriation. The council may transfer any unencumbered appropriation, balance or any portion thereof from one department, fund, or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year may be reappropriated during the next fiscal year as determined by the council.

#### **BUDGET CONTROL:**

**Section 7.7** The city manager shall submit to the council quarterly financial reports showing the relationship 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. If the revenues exceed the amounts estimated in the budget, the council may make supplemental appropriations. Expenditures shall not be charged directly to the contingency account except in those cases where there is no other logical account to which expenditures can be charged. Instead, a necessary part of the appropriation from the contingency account shall be transferred to the logical account, and expenditure charged to such account.

#### **INDEPENDENT AUDIT:**

**Section 7.8** An independent audit shall be made of all accounts of the city government annually and more frequently if deemed necessary by the council. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the council may determine. An annual report of the city business shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finance of the city government.

## **CHAPTER VIII**

### **TAXATION**

#### **POWER TO TAX:**

**Section 8.1** The city shall have power to assess, levy and collect taxes, rents, tolls, and excises. The subject to ad valorem taxation shall be the same as for state, county, and school purposes under general law. Except as otherwise provided by this charter, city taxes shall be levied, collected and returned in the manner provided by statute.

#### **TAX LIMITS:**

**Section 8.2** 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 one and one-half percent (1-1/2%), or fifteen (15) mills on the assessed value of all real and personal property in the city. There shall be no collection fee added to any tax billing.

#### **EXEMPTIONS:**

**Section 8.3** No exemptions from taxation shall be allowed except as expressly required or permitted by law.

#### **TAX DAY:**

**Section 8.4** Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the 31<sup>st</sup> day of December, or such other day as may subsequently be required by law, which shall be deemed Tax Day.

#### **ASSESSMENT ROLL:**

**Section 8.5** The assessor shall, in accordance with state law, make and certify an assessment roll of all persons and property in the city liable to taxation.

#### **BOARD OF REVIEW:**

**Section 8.6 (a)** The Board of Review shall consist of three (3) city residents who are electors of the city but not city officers or employees. The assessor is to be the clerk of the board of review and nonvoting. The board shall be entitled to such remuneration as shall be determined by the council.

## **DUTIES AND FUNCTIONS OF THE BOARD OF REVIEW:**

**Section 8.7** For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties in all respects are not conferred by law and required of boards of review in townships, except as otherwise provided by this charter. It shall hear the complaints of all persons considering themselves aggrieved by assessment, and if it shall appear that any person or property has been wrongfully assessed or omitted from the rolls, the boards 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 the tax day and no change in the status of any property after that day shall be considered by the board in making its decision. Except as otherwise provided by law, no person, other than the board of review, shall make or authorize any change upon or addition or correction to the assessment roll. It shall be the duty of the assessor to keep a permanent record of all the 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.

## **MEETINGS OF THE BOARD OF REVIEW:**

**Section 8.8** The board of review shall convene in accordance with statute each year to review and correct the assessment roll and shall remain in session for not less than two (20 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.

## **NOTICE OF MEETINGS:**

**Section 8.9** Notice of the time and the sessions of the board of review shall be published by the assessor at least ten (10) days prior to the meeting.

## **CERTIFICATION OF ROLL:**

**Section 8.10** The Board of review shall endorse the assessment roll as provided by statute. Such roll shall be the assessment roll of the city for all tax purposes.

## **CLERK TO CERTIFY TAX LEVY:**

**Section 8.11** Within three (3) 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 the 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 said roll against any property or any person in accordance with the provisions of this charter or any ordinance of the city.

## **CITY TAX ROLL:**

**Section 8.12** The assessor shall prepare a copy of the assessment roll, to be known as the city tax roll, and upon receiving the certification of the several amounts to be raised, the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed, or re-assessed against persons or property. He shall also spread thereon the amounts of the general ad valorem city 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.

## **TAX ROLL CERTIFIED FOR COLLECTION:**

**Section 8.13** After spreading the taxes the assessor shall certify the tax roll and shall annex his warrant thereto, directing and requiring the treasurer to collect 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 of such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes, except he shall not add any collection fee or percentage for collection to such tax bills.

## **TAX LIEN:**

**Section 8.14** On July 1<sup>st</sup> of each year the taxes thus assessed shall become a debt due to the city from persons to whom assessed. The amounts and for all interest and charges thereon and all personal taxes shall become a 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 taxes, interest and charges are paid.

## **TAXES DUE NOTIFICATION THEREOF:**

**Section 8.15** City taxes shall be due on July 1<sup>st</sup> of each year. The treasurer shall not be required to call upon persons named in the city tax roll nor make personal demand for payment of taxes, but shall:

1. Publish between June 15<sup>th</sup> and July 1<sup>st</sup> notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof; and
2. Mail a tax bill to each person named in said roll. 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 no invalidate such taxes on said tax roll or release the person or property assessed from the penalties and fees provided in this chapter in case of late or nonpayment of same.

## **COLLECTION CHARGES ON LATE PAYMENT OF TAXES:**

**Section 8.16** No penalty shall be charged for city taxes paid on or before the 10<sup>th</sup> day of August. The council shall provide, by ordinance, the tax payment schedule for taxes paid after August 10<sup>th</sup>, and the amount of penalty. Collection fee, or interest charges, if any, to be paid thereafter in an amount not to exceed the limit allowed by statute. Such charges shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added.

## **COLLECTION OF DELINQUENT TAXES:**

**Section 8.17** All city taxes on real property remaining uncollected by the treasurer on the 1<sup>st</sup> day of March, or such date established by statute, following the date when said roll was received by him shall be returned to the county treasurer in the same manner and with like effect as returned by township treasurers of township, school and county taxes. Such return should be made upon a delinquent tax roll to be prepared by the treasurer and shall include all the additional charges and assessments hereinbefore provided; such charges shall be added to the amount assessed in said tax roll against each description. Taxes thus returned shall be collected in the same manner as other taxes returned to the county treasurer in accordance with the provisions of the general laws of the state, and shall be and remain a lien upon the property against which they are assessed until paid.

## **FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX:**

**Section 8.18** If any person, firm, or corporation shall neglect or refuse to pay any personal property tax assessed to him or them, the treasurer shall collect the same by seizing the personal properties 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 the statute.

## **STATE, COUNTY, AND SCHOOL TAXES:**

**Section 8.19** The levy, collection and return of state, county, and school taxes shall be in conformity with the general laws of the state.

## **CHAPTER IX BORROWING AUTHORITY**

### **GENERAL BORROWING:**

**Section 9.1** Subject to applicable provisions of law and this charter, the council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law any may authorize the issuance of bonds or other evidences of indebtedness therefore. Such bonds or other evidences of indebtedness shall include but not be limited to the following types:

- (a) General obligation bonds which pledge the full faith, credit, and resources of the city for payment of such obligations.
- (b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in Section 7.7.
- (c) In case of fire, flood, wind storm, or other calamity, emergency loans due in not more than five (5) years for the relief of inhabitants of the city and for the preservation of municipal property.
- (d) Special assessment bonds issued in anticipation of the payment of special assessment made for the purpose of defraying the cost of any public improvement, or in anticipation of payment of any combination of such special assessments; such special assessment bonds may be an obligation of the special assessment district or districts and a general obligation of the city.
- (e) Mortgage bonds for the acquiring, owning, purchasing construction, improving, or operating of any public utility which the city is authorized by this charter or by law to acquire or operate.
- (f) Bonds for the refunding of the funded indebtedness of the city.
- (g) Revenue bonds as authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the city.
- (h) Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the state or federal government which the city may be permitted by law to pledge for the payment of principal and interest thereof.
- (i) Budget bonds, which pledge the full faith, credit, and resources of the city, in an amount which, in any year together with the taxes levied for the same year, will not exceed the limit of taxation authorized by this charter.
- (j) Bonds which the city is, by any general law of the state, authorized to issue, now or hereafter, which shall pledge the full faith, credit, and resources of the city or be otherwise secured or payable as provided by law.

### **LIMITS OF BORROWING AUTHORITY:**

**Section 9.2** (a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum amount permitted by law, provided that in computing such

bonded indebtedness there shall be excluded money borrowed on notes issued in the anticipation of the collection of taxes, special assessment bonds even though they are a general obligation of the city mortgage bonds, revenue bonds, bonds in anticipation of state returned revenues to the extent permitted by law, and any other bonds or indebtedness excluded by law from such limitation. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.

- (b) The amount of emergency loans which may be made under the provisions of this charter may not exceed the maximum amount permitted by law, and such loans may be made even if it causes the indebtedness of the city to exceed the limit of the net bonded indebtedness fixed in this charter or by law.
- (c) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within the time limited by law, such authorization shall be null and void.
- (d) The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such issues, filing of petitions for a referendum on such issuance holding such referendum, and other applicable procedural requirements.

#### **PREPARATION AND RECORD OF BONDS:**

**Section 9.3** Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the council may authorize the use of said funds for the retirement of bonds of such issue or for any other purpose permitted by law. All bonds or 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 signature of the mayor and the clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

## **CHAPTER X**

### **SPECIAL ASSESSMENT**

#### **SPECIAL ASSESSMENTS: GENERAL POWERS:**

**Section 10.1** The council shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in a special district and shall so declare by resolution or resolutions shall state that estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the city, the number of installments in which assessments shall be levied and whether the assessments shall be based upon special benefits, frontage, area, valuation or other factors permitted by law, or a combination thereof. The council shall also have the power of reassessment with respect to any such public improvement.

#### **PROCEDURE FIXED BY ORDINANCE:**

**Section 10.2** The council shall prescribe by ordinance the complete special assessment or reassessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings on necessity and on confirmation of the assessment rolls, and making and confirming of the assessment rolls, correction of errors, the collection of special assessments, and any other matters concerning the making and financing of improvements by special assessment.

#### **IMPLEMENTATION OF THE CHAPTER:**

**Section 10.3** The city council shall have and is hereby given the power to pass ordinances implanting the provisions of this chapter and detailing the procedure relative thereto.

## **CHAPTER XI**

### **UTILITIES**

#### **GENERAL POWERS RESPECTING UTILITIES:**

**Section 11.1** The city shall possess and hereby reserves to itself all the powers granted to cities by law to require, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including, but not by way of limitation, public utilities for supply water, light, head, power, gas, sewage treatment, transportation, and garbage and refuse disposal facilities, or any of them to the municipality and its inhabitants thereof; and also to sell deliver water, light, heat, power, gas and other public utility services without its corporate limits as authorized by law.

#### **ACQUISITION OF PRIVATE PROPERTY:**

**Section 11.2** Private property may be taken and appropriated, either within or without the city for any public use in connection with any acquisition, enlargement or extension of public utilities for supplying water, light, head, power, gas, and sewage and garbage disposal facilities, or any of them; for the purpose of opening, widening, altering, and extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures; for public grounds, parking spaces, parks, market places and spaces; for the improvement of waters and water courses within the city; for sewers, drains and ditches; for public hospitals, and public cemeteries; and for other lawful and necessary public uses, and may hold the same. The ownership of such property shall be acquired by the city by negotiation and purchase, or in any other manner permitted by the general laws of the state for the taking of private property for public use.

#### **CONTROL OF UTILITIES:**

**Section 11.3** The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control and operation of any public utilities which the city may, in any manner acquire, own, or operate and all fixtures, appurtenances, apparatus, building, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the city by the provisions of this charter and by statute.

## **MANAGEMENT OF UTILITIES:**

**Section 11.4** 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.

## **RATES AND CHARGES:**

**Section 11.5** The council shall have the power to establish from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the city and others with water or sewage disposal, with electricity for light, heat, and power and with such other utility services as the city may acquire or provide.

## **UTILITY CHARGES – COLLECTION:**

**Section 11.6** The council shall provide, by ordinance, for the collection of all public utility charges made by the city and for such purpose shall have all the power granted to cities by statute. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the city any sums due on utility bills, which are not covered by deposits, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the city for the collection of the same in any court of competent jurisdiction.

## **ACCOUNTS:**

**Section 11.7** Separate accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in such manner as to show the true and complete financial result of such city ownership or operation, or both, including all assets, liabilities, revenues, and expenses. These accounts shall show the actual cost to the city of each such public utility, the cost of all extensions, additions, and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and all operating expenses. They shall show as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other city department. They shall also show a proper allowance, for depreciation, and insurance. The council shall annually cause to be made a report showing the financial results of such city ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the council shall deem expedient.

## **DISPOSAL OF PLANTS AND PROPERTY:**

**Section 11.8** The city shall not sell, exchange, lease, or in any way alien or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, unless and except the proposition for such purpose shall first have been submitted, at a special election held for the purpose in the manner provided in this charter, to the qualified voters of the city and approved by

them by a majority vote of the electors voting thereon. All contracts, negotiations, grants, leases or other forms of transfer in violation of this provision, shall be void and of no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any articles or equipment of any city owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

## CHAPTER XII

### FRANCHISES, CONTRACTS AND PERMITS

#### FRANCHISES:

**Section 12.1** No franchise ordinance which is not revocable at the will of the council shall be granted or become operative for acquiring any public utility furnishing light, heat or power, or grant any public utility franchise unless the proposition shall first have been approved by three-fifths (3/5) of the electors voting thereon at a regular or special election as required by law.

The city may not sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon.

All irrevocable public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application thereof has been filed with the council, nor until a full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved as provided therein.

No such ordinance shall be submitted to the electors at an election to be held less than sixty (60) days after the grantee named therein has filed its unconditional acceptance of all the terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the council, shall have been paid to the city treasurer by the grantee. No exclusive franchise shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years. No such franchise shall be transferable, directly or indirectly, except with the approval of the council expressed by ordinance.

#### RIGHT OF REGULATION:

**Section 12.2** All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the right of the city (a) to repeal the same for misuse or nonuse, or for failure to comply with the provisions thereof; (b) to require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency; (c) to unjust discrimination in service or rates; (d) to make independent audit and examination of accounts at any time, and to require reports annually; (e) to require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; (f) to impose such other regulations as may be determined by the council to be conducive to safety, welfare, and accommodation of the public.

## **RATES OF FRANCHISED UTILITIES:**

**Section 12.3** The rates charged by public utilities under the supervision of state regulatory agencies shall be fixed by such agencies. The rates not preempted by the state for public utilities shall be set, after public hearing, by the city council.

## **PURCHASE – CONDEMNATION:**

**Section 12.4** The city shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of state, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill, or prospective profits.

## **REVOCABLE PERMITS:**

**Section 12.5** Temporary permits for public utilities, revocable at any time at the will of the council, may be granted by the council by resolution on such terms and conditions as it shall determine, provided that such permits, shall in no event be construed to be franchises or amendments to franchise.

## **USE OF STREETS BY UTILITY:**

**Section 12.6** Every public utility franchise shall be subject to the right of the city to use, control and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use and may be required by the city 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 reasonable practice and upon payment of a reasonable rental therefore; provided, that, in the absence of agreement, upon application by any public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore, which award shall be final.

## **CONTRACTING AUTHORITY OF COUNCIL:**

**Section 12.7** The power to authorize the making of contracts on behalf of the city is vested in the council, and shall be exercised in accordance with the provisions of the law. All contracts, except as otherwise provided by ordinance in accordance with the provisions of this charter, shall be authorized by the council, and shall be signed on behalf of the city by the mayor and the clerk.

## **PURCHASE AND SALE OF PROPERTY:**

**Section 12.8** The council shall establish by ordinance the procedures for the purchase or sale of personal property for the city for the direction of the city manager. The ordinance shall provide a dollar limit within which purchases of property may be made without the necessity of securing competitive bids, and the dollar limit within which the purchases may be made without the necessity of prior council approval.

## **LIMITATIONS OF CONTRACTUAL POWER:**

**Section 12.9** (a) The council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten (10) years, unless such contract shall first receive the approval of the majority of the qualified electors voting thereon at a regular or special election. This qualification shall not apply to any contract for services with a public utility, or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

- (b) Except as provided by ordinance authorized in this charter, each contract for construction of public improvements or for the purchase or sale of personal property, shall be let after opportunity for competition.
- (c) All bids shall be opened and read aloud in public by the city manager or his authorized representative at the time designated in the notice or letting, and shall be reported by him to the council at its next regular meeting. The council may reject any or all bids if deemed advisable. If, after ample opportunity for competitive bidding, no bids are received, or such bids as are received are not satisfactory to the council, the council may either endeavor to obtain new competitive bids or authorize the city manager, or other proper officials of the city, to negotiate or contract on the open market.

## **OFFICIAL INTEREST IN CONTRACTS:**

**Section 12.10** No person holding any elective or appointive office of the city shall take any official action on any city contract in which he shall have a direct personal interest in the profits to be derived therefore or be a bondsman or surety on any contract or bond given to the city. The provisions for handling this shall be in accordance with Act 317, of the Public Acts of 1968, as amended. Any officer violating the provisions of this section shall be deemed guilty of misconduct in office and upon conviction shall forfeit his office.

## **CHAPTER XIII**

### **MUNICIPAL RIGHTS AND LIABILITIES**

#### **RIGHTS, LIABILITIES, REMEDIES:**

**Section 13.1** All rights and properties of any kind and description which were vested in the City of Evert at the time of the adoption of this charter shall continue, and no rights or liabilities, either in favor of or against the city at the time of the adoption of this charter, and no suit or prosecution of any kind shall be in any manner affected by the adoption of this charter, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the city and all taxes levied and uncollected at the time of the adoption of this charter shall be collected the same as if such change had not been made: provided, that when a different remedy is given in this charter, which can be made applicable to any rights existing at the time of the adoption of this charter, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

#### **LIABILITY FOR DAMAGES:**

**Section 13.2** The city shall not be liable for unliquidated damages for injuries to persons or property unless the person or persons claiming such damages, or someone in his or their behalf, shall file a claim in writing with the clerk. Such claim shall be verified by the claimant or claimants, or some person having knowledge of the facts, who shall specify the time and place, the nature and extent of the injury sustained, the manner in which it occurred, the special grounds upon which the claim of liability on the part of the city shall be asserted, the names and addresses of all known witnesses, the name of the attending physician, if any, and an itemized statement of the amount claimed. Upon filing such claim, the city shall investigate the same and may require the claimant to produce all witnesses for examination under oath. No action shall be maintained in any case unless the same be brought within the statutory period stated by the general laws of the state after such injury or damages shall have been received.

#### **STATEMENT OF OFFICERS:**

**Section 13.3** No officer of the city shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement which is contrary to any public record of the city. Any such representation shall be void and of no effect as against the city.

## CHAPTER XIV

### GENERAL PROVISIONS AND DEFINITIONS

#### PUBLIC RECORDS:

**Section 14.1** All public records of the city shall be available to the public, except any of a personal nature on personnel which may be protected by statute or decency, and shall be in the English language.

#### HEADINGS:

**Section 14.2** The chapter and section headings used in this charter are for convenience only and shall not be considered to be a part of this charter.

#### DEFINITIONS AND INTERPRETATIONS:

**Section 14.3** Except as otherwise specifically provided or indicated by the context of this charter:

- (a) The word “state” shall mean the State of Michigan;
- (b) The word “City” shall mean the City of Evart;
- (c) The word “council” shall mean the city Council of the City of Evart;
- (d) The word “Officer” shall include, but shall not be limited to the mayor, the members of the council, and, as herein provided, the administrative officers, deputy administrative officer, and members of city boards and commissions created by or pursuant to this charter;
- (e) The word “person” may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;
- (f) The words “printed” and “printing” shall include printing, engraving, stencil, duplicating, lithographing, typewriting, photostating, or any similar method.
- (g) Except in reference to signatures, the words “written” and “in writing” shall include handwritten script, printing, typewriting, and teletype and telegraphic communications;
- (h) The words “publish” or “published” shall include publication of any matter, required to be published, in the manner provided by law, or where there is no applicable law, in one or more newspapers of general circulation in the city, qualified by law for publication of legal notices or in accordance with this charter;
- (i) The words “public utility” shall include all common carriers in the public streets; water, sewage disposal, electric light and power, gas, telephone and telegraph lines and systems, cable television, garbage and refuse collection and disposal and reduction plants, transportation, and such other different enterprises as the council may determine or designate;
- (j) All words indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of happening of any event or requirement to which any provision of this charter is applied;

- (k) The singular shall include the plural, and plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter;
- (l) All references to statutes shall be considered to be references to such statutes as amended.

**AMENDMENTS:**

**Section 14.4** This charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

**EFFECT OF ILLIGALITY OF ANY PART OF CHARTER:**

**Section 14.5** Should any provision or section, or portion thereof, of this charter be held by a Court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or section.

## **CHAPTER XV**

### **PURPOSE AND STATUS OF SCHEDULE CHAPTER:**

Section 15.1 The purpose of this schedule chapter is to inaugurate the government of the City of Evert under this charter and provide the transition from the government of the city under the previous charter to that under this charter. It shall constitute a part of this charter only to the extent and for the time required to accomplish that end.

### **ELECTION TO ADOPT CHARTER:**

**Section 15.2** This charter shall be submitted to a vote of the registered electors of the territory comprising the City of Evert at a special election to be held on Monday, April 4, 1983 between the hours of 7:00A.M. and 8:00 P.M., local time. The provisions for the submission of the question of adopting this charter at such election shall be made in a manner provided by law. The election shall be conducted by the clerk, if it at said election a majority of the electors voting thereon shall vote in favor of the adoption of this charter, then the clerk shall perform all other acts required by law to carry this charter into effect.

### **FORM OF BALLOT:**

**Section 15.3** The form of the question of submission of this charter shall be as follows: "Shall the proposed Charter of the City of Evert drafted by the Charter Commission elected August 5, 1980, be adopted?"

### **EFFECTIVE DATE OF CHARTER:**

**Section 15.4** If the canvass upon the adoption of this charter shows it to have been adopted, it shall take effect and become law as the Charter of the City of Evert for all purposes on Friday, July 1, 1983, at 12:01 o'clock A.M., local time.

### **CONTINUATION OF OFFICERS AND EMPLOYEES:**

**Section 15.5** Except as otherwise provided in this charter, all elective and appointive officers and employees of the City of Evert shall continue in that city office or employment that they now hold.

### **BOARDS AND COMMISSIONS:**

**Section 15.6** The present boards and commission now established shall continue under the terms of the ordinance establishing them.

## **COUNCIL ACTION:**

**Section 15.7** In all cases involving the transition of the city government from that under the previous charter to that under this charter, which are not covered by this schedule, the council shall supply the necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefore.

## **RESOLUTION OF ADOPTION**

At a meeting on January, 1983, the Charter Commission elected on August 5, 1980 to draft a City Charter for the City of Evert, adopted the following resolution:

**RESOLVED**, that the proposed Charter for the City of Evert prepared by the Charter Commission after months of careful study, discussion and deliberation, be approved by members of this Commission. That the City Clerk of the City of Evert is hereby instructed to transmit the same to the Governor of the State of Michigan in accordance with the provisions of Act 279 of the Public Acts of 1909, as amended, for his approval.

The vote on the adoption of the resolution was as follows:

Ayes: 7

Nays: 0

Absent: 1

M. Ann Pattee, City Clerk

Attested by the following Commissioners:

Ann Feikema, Chairman  
Lola J. Callaghan, Vice-Chairman  
Virginia A. Cook  
Phyllis Corey  
Marguerite Fox  
Cassie E. Rohen  
Bettye J. Roth  
Beverly Stevens

Eva Clarady moved from the community and was replaced by Beverly Stevens by appointment of the Commission.

Martha E. Scott moved from the community and was not replaced.

I hereby certify that this is a true copy of the signatures appended hereto:

Martha Ann Pattee, City Clerk

I hereby certify that the above Commissioners were those duly elected to the City of Evert Charter Commission on August 5, 1980.

Martha Ann Pattee, City Clerk